

By: Burnam

H.B. No. 381

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of a personal income tax on income that exceeds \$250,000 to provide property tax relief and fund public education; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Tax Code, is amended by adding Subtitle L to read as follows:

SUBTITLE L. PERSONAL INCOME TAX

CHAPTER 261. PERSONAL INCOME TAX

SUBCHAPTER A. IMPOSITION OF TAX

Sec. 261.001. TAX IMPOSED. (a) A tax is imposed for each tax year:

(1) on the taxable income that exceeds \$250,000 of every resident of this state; and

(2) on the taxable income that exceeds \$250,000 derived from sources in this state of every nonresident.

(b) The tax rates for an individual are:

(1) for taxable income that exceeds \$250,000 but does not exceed \$500,000, four percent of the taxable income that exceeds \$250,000 but does not exceed \$500,000;

(2) for taxable income that exceeds \$500,000 but does not exceed \$1 million, \$10,000 plus five percent of the taxable income that exceeds \$500,000 but does not exceed \$1 million; or

(3) for taxable income that exceeds \$1 million,

\$35,000 plus six percent of the taxable income that exceeds \$1 million.

Sec. 261.002. JOINT RETURN. If persons subject to the tax under this chapter file a joint federal income tax return, they may file a joint return under this chapter but they may not combine their incomes, deductions, exemptions, or credits for the purpose of determining the amount of tax owed. The separate incomes of each joint filer are taxed as individual incomes under Section 261.001.

Sec. 261.003. MEANING OF TERMS. (a) In this chapter:

(1) an individual is a resident of this state if the individual:

(A) is domiciled in this state, unless the individual does not maintain a permanent abode in this state and does maintain a permanent abode elsewhere and spends, in the aggregate, not more than 30 days of the tax year in this state; or

(B) is not domiciled in this state but maintains a permanent abode in this state and spends, in the aggregate, more than 183 days of the tax year in this state; and

(2) an individual is a nonresident if the individual is not a resident of this state.

(b) Any term used in this chapter and not defined by or for purposes of this chapter has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required. Any reference in this chapter to federal law means the provisions of the Internal Revenue Code of 1986 and other provisions of federal laws relating to federal income taxes.

[Sections 261.004-261.050 reserved for expansion]

SUBCHAPTER B. COMPUTATION OF TAXABLE INCOME

Sec. 261.051. TAXABLE INCOME. The taxable income of a resident of this state is the resident's federal adjusted gross income as defined by federal law.

Sec. 261.052. CREDIT FOR INCOME TAX PAID TO ANOTHER STATE.

(a) A resident individual is allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on the individual for the tax year by another state of the United States on income that is derived from sources in that state and that is subject to tax under this chapter.

(b) The credit provided by this section may not exceed an amount equal to the tax otherwise due under this chapter multiplied by a fraction, the numerator of which is the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction as modified by this subchapter and the denominator of which is the taxpayer's entire adjusted gross income as modified by this subchapter.

Sec. 261.053. DUAL RESIDENCE; REDUCTION OF TAX. If a taxpayer is a resident of this state and is regarded as a resident of another jurisdiction for purposes of personal income taxation, the comptroller shall reduce the tax on that portion of the taxpayer's income that is subject to tax in both jurisdictions solely by virtue of dual residence. The reduction is an amount equal to the lower of the two taxes applicable to the income taxed twice multiplied by a fraction, the numerator of which is the tax imposed by this state on the income taxed twice and the denominator

of which is the combined taxes of the two jurisdictions on the income taxed twice.

Sec. 261.054. NONRESIDENT INDIVIDUALS--TAXABLE INCOME.

The taxable income of a nonresident individual is that part of the individual's federal adjusted gross income derived from sources in this state determined under Section 261.055.

Sec. 261.055. ADJUSTED GROSS INCOME FROM SOURCES IN THIS STATE--NONRESIDENT. (a) The adjusted gross income of a nonresident derived from sources in this state is the net amount of items of income, gain, loss, and deduction entering into the nonresident's federal adjusted gross income that are derived from or connected with sources in this state, including:

(1) the nonresident's distributive share of partnership income and deductions determined under Section 261.403; and

(2) the nonresident's share of estate or trust income and deductions derived from sources in this state.

(b) Items of income, gain, loss, and deduction derived from or connected with sources in this state are those items attributable to:

(1) the ownership or disposition of an interest in real or tangible personal property in this state; and

(2) a business, trade, profession, or occupation conducted in this state.

(c) Income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, constitutes income derived from

1 sources in this state only to the extent that the income is from
2 property used in a business, trade, profession, or occupation
3 carried on in this state.

4 (d) Deductions for capital losses, net long-term capital
5 gains, and net operating losses derived from or connected with
6 sources in this state are determined in the same manner as the
7 corresponding federal deductions. However, the extent to which the
8 deductions are derived from or connected with sources in this state
9 is determined under the comptroller's rules.

10 (e) For a nonresident individual who is a shareholder of a
11 corporation that is an electing small business corporation for
12 federal income tax purposes, the undistributed taxable income of
13 the corporation does not constitute income derived from sources in
14 this state and a net operating loss of the corporation does not
15 constitute a loss or deduction connected with sources in this
16 state.

17 (f) If a business, trade, profession, or occupation is
18 carried on partly in and partly outside this state, the items of
19 income and deduction derived from or connected with sources in this
20 state are determined by apportionment and allocation consistent
21 with Chapter 141 under the comptroller's rules.

22 (g) Compensation paid by the United States for service in
23 the armed forces of the United States performed by a nonresident is
24 not income derived from sources in this state.

25 [Sections 261.056-261.100 reserved for expansion]

26 SUBCHAPTER C. [RESERVED]

27 [Sections 261.101-261.200 reserved for expansion]

1 SUBCHAPTER D. ACCOUNTING PERIODS AND METHODS

2 Sec. 261.201. PERIOD FOR COMPUTATION OF TAXABLE INCOME.

3 (a) For purposes of the tax imposed by this chapter, a taxpayer's
4 tax year is the same as the taxpayer's tax year for federal income
5 tax purposes.

6 (b) If a taxpayer's tax year is changed for federal income
7 tax purposes, the taxpayer's tax year for purposes of the tax
8 imposed by this chapter is similarly changed.

9 Sec. 261.202. METHODS OF ACCOUNTING. (a) A taxpayer's
10 method of accounting is the same as the taxpayer's method of
11 accounting for federal income tax purposes. If a single method of
12 accounting has not been regularly used by the taxpayer, taxable
13 income for purposes of this chapter shall be computed under any
14 method that in the opinion of the comptroller fairly reflects
15 income.

16 (b) If a taxpayer's method of accounting is changed for
17 federal income tax purposes, the taxpayer's method of accounting
18 for purposes of this chapter is changed in the same manner.

19 Sec. 261.203. ADJUSTMENTS. In computing a taxpayer's
20 taxable income for any tax year under a method of accounting
21 different from the method under which the taxpayer's taxable income
22 for the previous year was computed, there shall be taken into
23 account those adjustments that are determined, under rules
24 prescribed by the comptroller, to be necessary solely by reason of
25 the change in order to prevent amounts from being duplicated or
26 omitted.

27 Sec. 261.204. LIMITATION ON ADDITIONAL TAX. (a) If a

1 taxpayer's method of accounting is changed, other than from an
2 accrual to an installment method, an additional tax that results
3 from adjustments determined to be necessary solely because of the
4 change may not be greater than if those adjustments were ratably
5 allocated and included for the tax year of the change and not more
6 than two preceding tax years during which the taxpayer used the
7 method of accounting from which the change is made.

8 (b) If a taxpayer's method of accounting is changed from an
9 accrual to an installment method, an additional tax for the year of
10 the change of method and for a subsequent year that is attributable
11 to the receipt of installment payments properly accrued in a prior
12 year is reduced by the portion of tax for any prior tax year
13 attributable to the accrual of the installment payments, under
14 rules adopted by the comptroller.

15 [Sections 261.205-261.400 reserved for expansion]

16 SUBCHAPTER E. PARTNERS AND PARTNERSHIPS

17 Sec. 261.401. ENTITY NOT TAXABLE. A partnership as an
18 entity is not subject to the tax imposed by this chapter. Persons
19 carrying on business as partners are liable for the tax imposed by
20 this chapter only in their separate or individual capacities.

21 Sec. 261.402. RESIDENT PARTNER--ADJUSTED GROSS INCOME. (a)
22 Partnership income, gain, loss, or deduction is allocated in
23 accordance with each partner's distributive share for federal
24 income tax purposes.

25 (b) Each item of partnership income, gain, loss, or
26 deduction has the same character for a partner under this chapter as
27 it has for federal income tax purposes. If an item is not

characterized for federal income tax purposes, it has the same character for a partner as if the partner realized the item directly from the source from which the partnership realized the item or the partner incurred the item in the same manner as the partnership incurred the item.

(c) If a partner's distributive share of an item of partnership income, gain, loss, or deduction is determined for federal income tax purposes by a special provision in the partnership agreement with respect to the item, and the principal purpose of the provision is the avoidance or evasion of tax under this chapter, the partner's distributive share of the item for purposes of the tax under this chapter is determined in accordance with the method of determining the partner's distributive share of the taxable income or loss of the partnership generally, excluding those items requiring separate computation under Section 702, Internal Revenue Code of 1986.

Sec. 261.403. NONRESIDENT PARTNER--ADJUSTED GROSS INCOME FROM SOURCES IN THIS STATE. (a) In determining the adjusted gross income of a nonresident partner of any partnership, there shall be included only that part derived from or connected with sources in this state of the partner's distributive share of items of partnership income, gain, loss, and deduction entering into the partner's federal adjusted gross income, as that part is determined under rules adopted by the comptroller consistent with the rules adopted under Section 261.055.

(b) Except as authorized by Subsection (c), in determining the sources of a nonresident partner's income, no effect is given to

1 a provision in the partnership agreement that:

2 (1) characterizes payments to the partner as being for
3 services or for the use of capital;

4 (2) allocates to the partner, as income or gain from
5 sources outside this state, a greater proportion of the partner's
6 distributive share of partnership income or gain than the ratio of
7 partnership income or gain from sources outside this state to
8 partnership income or gain from all sources; or

9 (3) allocates to the partner a greater proportion of a
10 partnership item of loss or deduction connected with sources in
11 this state than the partner's proportionate share, for federal
12 income tax purposes, of partnership loss or deduction generally.

13 (c) The comptroller may, on application, authorize the use
14 of other appropriate and equitable methods of determining a
15 nonresident partner's portion of partnership items derived from or
16 connected with sources in this state on terms the comptroller may
17 require.

18 (d) A nonresident partner's distributive share of items of
19 income, gain, loss, or deduction is determined under Section
20 261.402(a). The character of partnership items for a nonresident
21 partner is determined under Section 261.402(b). The effect of a
22 special provision in a partnership agreement, other than a
23 provision described by Subsection (b), having as a principal
24 purpose the avoidance or evasion of tax under this chapter is
25 determined under Section 261.402(c).

26 [Sections 261.404-261.500 reserved for expansion]

1 SUBCHAPTER F. TAX RETURNS AND PAYMENTS

2 Sec. 261.501. PERSONS REQUIRED TO MAKE RETURNS OF INCOME.

3 An individual who has adjusted gross income from sources in this
4 state in excess of \$250,000 shall file a state income tax return.

5 Sec. 261.502. RETURNS BY FIDUCIARIES. (a) The executor,
6 administrator, or other person charged with the care of a
7 decedent's property shall file a state income tax return for the
8 decedent if the decedent had adjusted gross income from sources in
9 this state in excess of \$250,000. A decedent's final return is due
10 when it would have been due if the decedent had not died.

11 (b) An individual's authorized agent, guardian, conservator
12 or fiduciary or another person charged with the care of the
13 individual or the individual's property, other than a receiver in
14 possession of only a part of the individual's property, shall file a
15 state income tax return for an individual who is unable to make a
16 return because of minority or other disability if the individual
17 has adjusted gross income from sources in this state in excess of
18 \$250,000.

19 (c) If two or more fiduciaries are acting jointly, any one
20 of them may file the return.

21 Sec. 261.503. NOTICE OF QUALIFICATION AS RECEIVER. A
22 receiver, trustee in bankruptcy, assignee for benefit of creditors,
23 or other similar fiduciary shall give notice of the person's
24 qualification to the comptroller, as may be required by rule.

25 Sec. 261.504. CHANGE OF STATUS AS RESIDENT OR NONRESIDENT
26 DURING YEAR. (a) If the status of an individual changes during the
27 individual's tax year from resident to nonresident or from

1 nonresident to resident, the comptroller by rule may require the
2 individual to file one return for the portion of the year during
3 which the individual is a resident and one for the portion of the
4 year during which the individual is a nonresident.

5 (b) Except as provided by Subsection (c), the taxable income
6 of an individual is determined as provided by Section 261.051 for
7 residents and Section 261.054 for nonresidents as if the
8 individual's tax year for federal income tax purposes were limited
9 to the period of the individual's resident and nonresident status
10 respectively.

11 (c) If an individual's residency status changes during a tax
12 year, the individual shall include in taxable income for the period
13 before the change an item of income, gain, loss, or deduction that:

14 (1) was accrued by the individual before the change;
15 and

16 (2) would otherwise be includable or allowed after the
17 change.

18 (d) If two returns are required to be filed under this
19 section, the total of the taxes due may not be less than would be due
20 if the total of the taxable incomes reported on the two returns were
21 includable in one return.

22 Sec. 261.505. TIME AND PLACE FOR FILING RETURNS AND PAYING
23 TAX. (a) A person required to make and file an income tax return
24 required by this chapter shall:

25 (1) file the return not later than the 15th day of the
26 fourth month following the end of the taxpayer's tax year; and

27 (2) pay a tax due to the comptroller not later than the

1 last day the filing of the return is allowed without penalty,
2 excluding an extension of time for filing the return.

3 (b) The comptroller by rule shall prescribe the place for
4 filing a return, statement, or other document required by this
5 chapter and for the payment of a tax.

6 Sec. 261.506. ESTIMATED TAX. (a) An individual subject to
7 the income tax imposed by this chapter shall make estimated
8 payments of the tax. Section 6654, Internal Revenue Code of 1986,
9 other than Subsections (a), (b), (d)(2), and (e) of that section,
10 governing the payment of estimated federal income taxes on
11 individuals applies to the payments required by this section,
12 including exemptions from the estimated tax payment requirement.
13 For purposes of this section, a reference in Section 6654, Internal
14 Revenue Code of 1986, to:

15 (1) the federal income tax imposed on an individual
16 means the tax imposed by this chapter; and

17 (2) a power or duty given to the United States
18 secretary of the treasury means a power or duty assigned to the
19 comptroller.

20 (b) The comptroller shall adopt rules to administer this
21 section.

22 (c) Payment of the estimated tax or an installment is
23 considered payment on account of the tax imposed by this chapter.

24 Sec. 261.507. EXTENSION OF TIME FOR FILING AND PAYMENT. (a)
25 The comptroller, on terms the comptroller may require, may grant a
26 reasonable extension of time for payment of tax or an installment,
27 or for filing a return, statement, or other document required under

1 this chapter. Except for an extension for a taxpayer who is outside
2 the United States, an extension for filing a return, statement, or
3 document may not exceed six months.

4 (b) If the time for the payment of an amount of tax is
5 extended, the comptroller may require the taxpayer to furnish a
6 bond or other security in an amount that does not exceed twice the
7 amount of tax for which the extension of time for payment is
8 granted, on terms the comptroller may require.

9 Sec. 261.508. CHANGE OF ELECTION. An election expressly
10 authorized by this chapter may be changed as authorized by the
11 comptroller or by comptroller rule.

12 Sec. 261.509. SIGNING OF RETURNS AND OTHER DOCUMENTS. (a)
13 A return, statement, or other document required to be made or filed
14 under this chapter must be signed as provided by the comptroller.
15 An individual's name signed to a return, statement, or other
16 document is prima facie evidence that the individual signed the
17 return, statement, or other document.

18 (b) A return, statement, or other document required of a
19 partnership must be signed by at least one partner. A partner's
20 name signed to a return, statement, or other document is prima facie
21 evidence that the partner is authorized to sign on behalf of the
22 partnership.

23 (c) The making or filing of a return, statement, or other
24 document or copy required to be made or filed under this chapter,
25 including a copy of a federal income tax return, constitutes a
26 certification by the person making or filing the return, statement,
27 or other document or copy that the statements contained in it are

true and that a copy filed is a true copy.

[Sections 261.510-261.520 reserved for expansion]

SUBCHAPTER G. INFORMATION RETURNS

Sec. 261.521. GENERAL REQUIREMENTS. The comptroller by rule may require the keeping of records, the content and form of returns and statements, and the filing of copies of federal income tax returns and determinations. The comptroller may require a person, by rule or by notice served on the person, to make returns, provide statements, or keep records, as the comptroller considers sufficient to show whether the person is liable under this chapter for tax or for the collection of tax.

Sec. 261.522. REPORT OF CHANGE IN FEDERAL TAXABLE INCOME.

(a) If the amount of a taxpayer's federal taxable income reported on the taxpayer's federal income tax return for a tax year is changed or corrected by the United States Internal Revenue Service or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer shall:

(1) report the change or correction in federal taxable income not later than the 90th day after the final determination of the change, correction, or renegotiation, or as required by the comptroller; and

(2) concede the accuracy of the determination or state in what way it is erroneous.

(b) A taxpayer filing an amended federal income tax return shall also file, not later than the 90th day after filing the federal return, an amended return under this chapter, and shall

1 give any information required by the comptroller.

2 (c) The comptroller by rule may prescribe exceptions to the
3 requirements of this section.

4 [Sections 261.523-261.600 reserved for expansion]

5 SUBCHAPTER H. ADDITIONS TO TAX; PENALTIES

6 Sec. 261.601. FAILURE TO FILE TAX RETURN. (a) A person who
7 does not file a return required under this chapter on or before the
8 prescribed date is subject to the following penalty based on a
9 percentage of the full amount of tax owed on the prescribed day:

10 (1) if the return is filed not later than the 30th day
11 after the prescribed date, five percent;

12 (2) if the return is filed later than the 30th day
13 after the prescribed date, but not later than the 60th day after the
14 prescribed date, 10 percent;

15 (3) if the return is filed later than the 60th day
16 after the prescribed date, but not later than the 90th day after the
17 prescribed date, 15 percent;

18 (4) if the return is filed later than the 90th day
19 after the prescribed date, but not later than the 120th day after
20 the prescribed date, 20 percent; or

21 (5) if the return is filed later than the 120th day
22 after the prescribed date, 25 percent.

23 (b) The prescribed date is determined with regard to an
24 extension of time for filing.

25 (c) In determining the amount owed on the prescribed date,
26 the taxpayer is entitled to credit for a portion of the tax paid on
27 or before the prescribed date and other credit that may be claimed

1 on the return.

2 (d) The penalty required by this section does not apply if
3 the taxpayer shows that the failure to file a return was not the
4 result of wilful neglect before the prescribed date or at any time
5 during the delinquency and that good cause for the failure existed
6 at all times before filing.

7 Sec. 261.602. FAILURE TO PAY TAX. (a) A person who does not
8 pay any amount of tax owed by the person on the prescribed date
9 shall pay, in addition to all other penalties and interest, a
10 penalty of 10 percent of the amount of the tax due on the prescribed
11 date.

12 (b) The prescribed date is determined with regard to
13 extensions of time allowed by the comptroller.

14 (c) A failure to pay all or part of an estimated tax is
15 considered to be an underpayment of estimated tax. The comptroller
16 by rule shall prescribe the method of determining the amount and
17 period of underpayment.

18 Sec. 261.603. PENALTIES AND INTEREST TREATED AS TAX. The
19 taxpayer shall pay penalties and interest provided by this
20 subchapter on receiving notice and demand. The comptroller shall
21 assess and collect and the taxpayer shall pay penalties and
22 interest in the same manner as other taxes. The comptroller may
23 issue a deficiency notice for all or part of a penalty or interest
24 along with or separate from the amount of tax owed in the absence of
25 penalties or interest.

26 [Sections 261.604-261.630 reserved for expansion]

1 SUBCHAPTER I. CREDITS AND REFUNDS

2 Sec. 261.631. CREDITS AND REFUNDS. (a) Within the
3 applicable period of limitations, the comptroller may credit an
4 overpayment of income tax and interest on the overpayment against a
5 tax liability to this state of the person who made the overpayment.
6 The comptroller shall refund the balance out of the proceeds of the
7 tax retained by the comptroller.

8 (b) The comptroller may prescribe rules that allow the
9 comptroller to credit against the estimated tax for a tax year the
10 amount determined to be an overpayment of the income tax for a
11 preceding tax year.

12 (c) If an amount of income tax is assessed and collected
13 after the expiration of the period of limitations, the amount
14 collected is an overpayment.

15 Sec. 261.632. ABATEMENTS. (a) The comptroller may abate
16 any unpaid portion of a tax or a tax liability that is excessive in
17 amount, that is assessed after the expiration of the applicable
18 period of limitations, or that is erroneously or illegally
19 assessed.

20 (b) The comptroller may abate the unpaid portion of a tax or
21 a tax liability if the comptroller determines under rules
22 prescribed by the comptroller that the administration and
23 collection costs involved would not warrant collection of the
24 amount due.

25 Sec. 261.633. EXTENDED LIMITATION PERIOD. (a) If a
26 taxpayer is required by Section 261.522 to report a change or
27 correction in federal taxable income reported on a federal income

1 tax return, to report a change or correction that is treated in the
2 same manner as if it were an overpayment for federal income tax
3 purposes, or to file an amended return with the comptroller, a claim
4 for credit or refund of a resulting overpayment of tax must be filed
5 by the taxpayer not later than the second anniversary of the date
6 the notice of the change or correction or the amended return was
7 required to be filed with the comptroller. If the report or amended
8 return required by Section 261.522 is not filed within the period
9 prescribed by that section, interest on a resulting refund or
10 credit does not accrue after the period. The amount of credit or
11 refund may not exceed the amount of the reduction in tax
12 attributable to the federal change, correction, or amendment to
13 items on the taxpayer's amended federal income tax return. This
14 subsection does not affect the time within which or the amount for
15 which a claim for credit or refund may be filed under a provision
16 other than this section.

17 (b) A taxpayer may file a claim for credit or refund, under
18 rules adopted by the comptroller, not later than the seventh
19 anniversary of the due date of the return for the period with
20 respect to which the claim is made if the claim relates to an
21 overpayment of tax resulting from:

22 (1) the deduction of:

23 (A) a debt that became worthless; or

24 (B) a loss from the worthlessness of a security;

25 or

26 (2) the effect that a deduction described by
27 Subdivision (1) has on the application to the taxpayer of a

carryover.

(c) If a claim for credit or refund relates to an overpayment attributable to a net operating loss carryback, the claim may be made, under rules adopted by the comptroller, not later than the 15th day of the 40th month following the end of the tax year of the net operating loss that resulted in the carryback or the period prescribed by Section 111.104, whichever expires later.

[Sections 261.634-261.650 reserved for expansion]

SUBCHAPTER J. MISCELLANEOUS ENFORCEMENT PROVISIONS

Sec. 261.651. TAXPAYER NOT RESIDENT. If notice and demand for the payment of a tax is given to a nonresident and it appears to the comptroller that it is not practicable to locate property of the taxpayer sufficient in amount to cover the amount of tax due, the comptroller may authorize the institution of any available action or proceeding to collect or enforce the claim in any place by any procedure by which a civil judgment of a court of record of this state could be collected or enforced. The comptroller may designate agents or retain counsel outside this state for the purpose of collecting taxes due under this chapter and require of them bonds or other security for the faithful performance of their duties. The comptroller may enter into agreements with the tax department of another state for the collection of taxes from persons found in this state who are delinquent in the payment of income taxes imposed by that state on the condition that the other state provides similar assistance in the collection of taxes from persons found in that state who are delinquent in the payment of taxes imposed by this chapter.

1 Sec. 261.652. INCOME TAX CLAIMS OF OTHER STATES. The courts
2 of this state shall recognize and enforce liabilities for personal
3 income taxes lawfully imposed by another state if that state
4 recognizes and enforces liabilities under this chapter, and the
5 authorized officer of the other state may sue for the collection of
6 personal income tax in the courts of this state. A certificate by
7 the secretary of state of the other state that an officer suing for
8 the collection of the tax is authorized to collect the tax is
9 conclusive proof of the officer's authority. In this section,
10 "taxes" includes additions to tax, interest, and penalties.

11 Sec. 261.653. ORDER TO COMPEL COMPLIANCE. (a) On
12 application of the attorney general, a judge of a court that has
13 personal jurisdiction over a taxpayer or other person who
14 intentionally or knowingly refuses to file a tax return required by
15 this chapter may, by order, direct the person to file the return. A
16 person who fails or refuses to obey the order is guilty of contempt
17 of court.

18 (b) If any person intentionally or knowingly refuses to make
19 available any books, papers, records, or memoranda for examination
20 by the comptroller or wilfully refuses to attend and testify, in
21 accordance with the powers conferred on the comptroller by Chapter
22 111, on application of the comptroller, a judge of a court that has
23 personal jurisdiction over the person may by order direct the
24 person to comply with the comptroller's request for books, papers,
25 records, or memoranda or for the person's attendance and testimony.
26 If the books, papers, records, or memoranda required by the
27 comptroller are in the custody of a corporation, the order of the

1 court may be directed to any principal officer of the corporation.
2 A person who fails or refuses to obey the order is guilty of
3 contempt of court.

4 Sec. 261.654. TRANSFEREES. (a) In this section,
5 "transferee" includes an heir or a recipient of a donation, legacy,
6 devise, or distribution.

7 (b) If a transferee of a taxpayer's property is liable at
8 law or in equity for any tax, addition to tax, penalty, or interest
9 owed by the taxpayer under this chapter, the provisions and
10 limitations of this chapter apply to the transferee as if the
11 transferee were the taxpayer except as otherwise provided by this
12 section.

13 (c) The comptroller may not assess tax liability against a
14 transferee of a taxpayer's property after:

15 (1) the first anniversary of the expiration of the
16 period of limitation against the taxpayer if the transferee is the
17 initial transferee;

18 (2) the first anniversary of the expiration of the
19 period of limitation against the preceding transferee, but not
20 later than the third anniversary of the expiration of the period of
21 limitation for assessment against the taxpayer, if the transferee
22 is not the initial transferee; or

23 (3) notwithstanding Subdivisions (1) and (2), if
24 before the expiration of the period of limitation under Subdivision
25 (1) or (2) a proceeding for the collection of the liability has been
26 initiated against the taxpayer or the last preceding transferee,
27 the first anniversary of the date on which the proceeding is

1 terminated.

2 (d) If, before the expiration of the period of limitation
3 applicable to a transferee, the comptroller and the transferee
4 consent in writing to an assessment after that time, the liability
5 may be assessed at any time before the expiration of the agreed
6 period. The period of limitation on credit or refund to the
7 transferee of overpayments of tax made by the transferee or by the
8 taxpayer to which the transferee is legally entitled is extended by
9 an agreement under this subsection and any extension of the
10 agreement.

11 (e) If a person dies, the period of limitation for
12 assessment against that person is the period that would be in effect
13 had death not occurred.

14 Sec. 261.655. JEOPARDY DETERMINATIONS. (a) If the
15 comptroller issues a jeopardy determination for a tax for a current
16 period, the comptroller shall terminate the tax period of the
17 taxpayer immediately, and the notice and demand for a return and
18 immediate payment of the tax shall apply to the terminated period
19 and to income accrued and deductions incurred on or before the
20 termination date if not otherwise properly includable or deductible
21 for the period.

22 (b) The comptroller may abate the jeopardy determination if
23 the comptroller finds that jeopardy does not exist.

24 Sec. 261.656. BANKRUPTCY OR RECEIVERSHIP. (a) The
25 comptroller may immediately assess any deficiency determined by the
26 comptroller, together with additions to tax and interest provided
27 by law, on the adjudication of bankruptcy of any taxpayer in any

1 bankruptcy proceeding or the appointment of a receiver for any
2 taxpayer in any receivership proceeding before any court of the
3 United States or any state or territory.

4 (b) The comptroller may present a claim for a deficiency,
5 addition to tax, or interest to the court before which a bankruptcy
6 or receivership proceeding is pending regardless of whether the
7 taxpayer is contesting the deficiency, addition to tax, or interest
8 under Chapter 111 or 112. A taxpayer may not contest a proposed
9 assessment under Chapter 111 after the taxpayer is adjudged
10 bankrupt or a receiver is appointed for the taxpayer.

11 Sec. 261.657. EVIDENCE OF RELATED FEDERAL DETERMINATION.
12 Evidence of a federal determination relevant to the taxes imposed
13 by this chapter is admissible in an administrative or judicial
14 proceeding relating to those taxes.

15 [Sections 261.658-261.670 reserved for expansion]

16 SUBCHAPTER K. OFFENSES

17 Sec. 261.671. ATTEMPT TO EVADE OR DEFEAT TAX. (a) A person
18 commits an offense if the person intentionally or knowingly
19 attempts in any manner to evade or defeat a tax imposed by this
20 chapter or the payment of tax imposed by this chapter.

21 (b) An offense under this section is a felony of the third
22 degree.

23 Sec. 261.672. FAILURE TO PAY. (a) A person commits an
24 offense if the person is required under this chapter to pay a tax
25 imposed by this chapter and the person intentionally or knowingly
26 fails to pay the tax.

27 (b) An offense under this section is a felony of the third

1 degree.

2 Sec. 261.673. FAILURE TO FILE RETURN, KEEP RECORDS, SUPPLY
3 INFORMATION, OR PAY TAX. (a) A person commits an offense if the
4 person is required under this chapter to pay a tax, or required by
5 this chapter or rule adopted under this chapter to make a return, to
6 keep records, or to supply information, and the person
7 intentionally or knowingly fails to pay the tax, make the return,
8 keep the records, or supply the information at the time or times
9 required by law.

10 (b) An offense under this section is a Class A misdemeanor.

11 [Sections 261.674-261.680 reserved for expansion]

12 SUBCHAPTER L. POWERS OF COMPTROLLER

13 Sec. 261.681. COOPERATION WITH OTHER JURISDICTIONS. The
14 comptroller may permit the United States secretary of the treasury
15 or the secretary's delegate, or the proper officer of any state or
16 other jurisdiction imposing an income tax on the incomes of
17 individuals, or the authorized representative of either officer, to
18 inspect the income tax returns of an individual, or may furnish to
19 the officer or authorized representative an abstract of the return
20 of income of an individual or supply the officer with information
21 concerning an item of income contained in a return, or disclosed by
22 the report of an investigation of the income or return of income of
23 an individual, but permission may be granted only if the statutes of
24 the United States or of the other jurisdiction, as applicable,
25 grant substantially similar privileges to the comptroller.

26 Sec. 261.682. COOPERATION WITH OTHER TAX OFFICIALS OF THIS
27 STATE. The comptroller may permit other tax officials of this state

to inspect tax returns and reports filed under this chapter but the inspection is permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by rule of the comptroller.

Sec. 261.683. CONTRACT WITH SECRETARY OF TREASURY FOR COLLECTION OF TAX. The comptroller may enter into an agreement with the United States secretary of the treasury or the secretary's delegate under which, to the extent provided by the terms of the agreement, the secretary or delegate will administer, enforce, and collect a tax imposed by this chapter on behalf of this state. The cost of the services performed by the secretary or delegate in administering, enforcing, or collecting the tax under the terms of the agreement may be paid from the appropriations for the general operations of the comptroller.

Sec. 261.684. ARMED FORCES RELIEF PROVISIONS. (a) The period of service in the armed forces of the United States in a combat zone plus a period of continuous hospitalization outside this state attributable to that service plus the next 180 days is disregarded in determining, under rules of the comptroller, whether an act required by this chapter was performed by a taxpayer or the taxpayer's representative within the time prescribed.

(b) If an individual dies during an induction period while in active service as a member of the armed forces of the United States and the death occurred while the individual was serving in a combat zone or as a result of wounds, disease, or injury incurred while serving, the tax imposed by this chapter does not apply to the tax year in which the individual dies or to any prior tax year

1 ending on or after the first day the individual served in a combat
2 zone.

3 Sec. 261.685. DISPOSITION OF PROCEEDS. The revenue from
4 the tax imposed by this chapter shall be deposited as follows:

5 (1) two-thirds of the revenue shall be deposited to
6 the credit of a special account in the general revenue fund and may
7 be appropriated only for the purpose of reducing the rate of ad
8 valorem maintenance and operations taxes levied for the support of
9 primary and secondary education in the manner provided by Sections
10 24(h) and (i), Article VIII, Texas Constitution, for the reduction
11 of that rate; and

12 (2) one-third to the credit of the foundation school
13 fund.

14 SECTION 2. Section 111.201, Tax Code, is amended to read as
15 follows:

16 Sec. 111.201. ASSESSMENT LIMITATION. (a) No tax imposed by
17 this title may be assessed after four years from the date that the
18 tax becomes due and payable except as provided by Subsection (b).

19 (b) Except as otherwise provided by Chapter 261, a tax
20 imposed by that chapter may not be assessed after six years from the
21 date the tax becomes due and payable.

22 SECTION 3. A referendum as required by Section 24, Article
23 VIII, Texas Constitution, on the adoption of the income tax under
24 this Act shall be submitted to the voters at an election to be held
25 November 5, 2013. The ballot for the referendum shall be printed to
26 permit voting for or against the proposition: "The adoption of a
27 personal income tax at graduated rates of four percent to six

1 percent for taxable income in excess of \$250,000."

2 SECTION 4. (a) Except as provided by Subsection (b) of this
3 section, this Act applies to income earned, accrued, or received on
4 or after the effective date of this Act.

5 (b) Income, deductions, losses, credits against income, or
6 other adjustments allowed in determining the amount of tax under
7 this Act or the amount of federal adjusted gross income under this
8 Act, including carryovers, are not prohibited in computing the
9 taxes for a tax period beginning on January 1, 2014, because those
10 adjustments may have accrued or otherwise originated before the
11 effective date of this Act.

12 (c) In 2014, the comptroller by rule may suspend the
13 application of Section 261.506, Tax Code, as added by this Act,
14 wholly or partly and may extend the deadlines for estimated tax
15 payments under that section.

16 SECTION 5. (a) Except as provided by Section 6 of this Act,
17 if the proposition in Section 3 of this Act is approved, this Act
18 takes effect January 1, 2014.

19 (b) Except as provided by Section 6 of this Act, if the
20 proposition in Section 3 of this Act is not approved, this Act has
21 no effect.

22 SECTION 6. Section 3 of this Act takes effect September 1,
23 2013.