

By: Thompson of Harris, et al.

H.B. No. 1923

Substitute the following for H.B. No. 1923:

By: Hilderbran

C.S.H.B. No. 1923

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the administration, collection, and enforcement of  
3 sales and use taxes.

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

5 SECTION 1. Section 151.023(b), Tax Code, is amended to read  
6 as follows:

7 (b) For the purpose of determining the amount of tax  
8 collected and payable to the state and a municipality, county, or  
9 other local governmental entity, the amount of tax accruing and  
10 due, and whether a tax liability has been incurred under this  
11 chapter and Chapter 321, 322, or 323, the comptroller or a person  
12 authorized by the comptroller may:

13 (1) inspect at any time during business hours any  
14 business premises where a taxable event has occurred and examine,  
15 copy, and photograph the books, returns, records, papers, and  
16 equipment relating to the conduct in question; and

17 (2) require by delivery of written notice to the  
18 taxpayer or to an employee, representative, or agent of the  
19 taxpayer that, not later than the 10th working day after the date  
20 the notice is delivered, the taxpayer produce to an agent or  
21 designated representative of the comptroller for inspection the  
22 books, records, papers, and returns relating to the taxable  
23 activity stated in the notice.

24 SECTION 2. Section 151.027(c), Tax Code, is amended to read

1 as follows:

2 (c) This section does not prohibit:

3 (1) the examination of information, if authorized by  
4 the comptroller, by another state officer or law enforcement  
5 officer, by a tax official of another state, by a tax official of  
6 the United Mexican States, or by an official of the United States if  
7 a reciprocal agreement exists;

8 (2) the delivery to a taxpayer, or a taxpayer's  
9 authorized representative, of a copy of a report or other paper  
10 filed by the taxpayer under this chapter;

11 (3) the publication of statistics classified to  
12 prevent the identification of a particular report or items in a  
13 particular report;

14 (4) the use of records, reports, or information  
15 secured, derived, or obtained by the attorney general or the  
16 comptroller in an action under this chapter against the same  
17 taxpayer who furnished the information;

18 (5) the delivery to a successor, receiver, executor,  
19 administrator, assignee, or guarantor of a taxpayer of information  
20 about items included in the measure and amounts of any unpaid tax or  
21 amounts of tax, penalties, and interest required to be collected;

22 (6) the delivery of information, including complete  
23 audit and tax compliance information, to a municipality, county, or  
24 other local governmental entity in accordance with Section 321.302,  
25 321.3022, 322.2022, or 323.3022; or

26 (7) the release of information in or derived from a  
27 record, report, or other instrument required to be furnished under

1 this chapter by a governmental body, as that term is defined in  
2 Section 552.003, Government Code.

3 SECTION 3. Section 321.302, Tax Code, is amended by  
4 amending Subsections (b) and (c) and adding Subsections (e) and (f)  
5 to read as follows:

6 (b) If a municipality requests an additional report, the  
7 comptroller shall make an additional quarterly report to the  
8 municipality including the name, address, and account number, if  
9 any, of, and the amount of tax received and the amount due to the  
10 municipality from, each person doing business in the municipality  
11 who has failed to pay the tax under this chapter to the municipality  
12 or under Chapter 151. The additional report must also include  
13 statements:

14 (1) showing whether or not there has been a partial tax  
15 payment, and, if so, the proportional allocation to the  
16 municipality of the partial payment, by the delinquent taxpayer;

17 (2) showing whether or not the taxpayer is delinquent  
18 in the payment of sales and use taxes to the state; ~~and~~

19 (3) describing the steps taken by the comptroller to  
20 collect the delinquent taxes; and

21 (4) showing the tax periods covered by the  
22 delinquencies and the amount of delinquency in each period.

23 (c) If a municipality determines that a person doing  
24 business in the municipality has wholly or partly collected or  
25 reported taxes incorrectly under this chapter ~~[is not included in a~~  
26 ~~comptroller's report]~~, the municipality shall report to the  
27 comptroller the name and address of the person. Within 120 ~~[90]~~

1 days after receiving the report from a municipality, the  
2 comptroller shall send to the municipality:

3 (1) an explanation as to why the person is not  
4 obligated for the municipal tax;

5 (2) a statement that the person is obligated for the  
6 municipal tax and the tax is delinquent that includes:

7 (A) a description of the action the comptroller  
8 is taking to collect the delinquent tax;

9 (B) the date by which the comptroller will begin  
10 the initial review; and

11 (C) the date and periods covered by the most  
12 recent audit of the person by the comptroller if the comptroller has  
13 conducted an audit of the person during the previous 10 years, or a  
14 statement that the comptroller has not conducted an audit of the  
15 person during the previous 10 years; ~~or~~

16 (3) a certification that the person is obligated for  
17 the municipal tax, the periods for which the person is obligated,  
18 ~~and that~~ the ~~full~~ amount of the tax due in each period that the  
19 person is obligated, and a statement as to whether the tax due has  
20 been credited to the municipality's account; or

21 (4) an acknowledgment that by providing the report to  
22 the comptroller, the municipality has reserved the right to receive  
23 from the comptroller any tax due to the municipality and collected  
24 by the comptroller from the person that is the subject of the report  
25 for the four years preceding the date the comptroller received the  
26 report from the municipality.

27 (e) If a municipality disagrees with a determination made by

1 the comptroller under Subsection (c) regarding a taxpayer's  
2 obligation or delinquency or the amount of tax due that has been  
3 credited to the municipality's account, the municipality may  
4 petition the comptroller for a redetermination under Section  
5 111.009. For purposes of that section and any related provisions in  
6 Chapter 111, a municipality is a party having a direct interest in  
7 the comptroller's determination.

8 (f) The comptroller may set and collect from the  
9 municipality or other local governmental entity reasonable fees to  
10 cover the expense of compiling and providing information or  
11 providing access to the administrative process authorized by this  
12 section.

13 SECTION 4. Sections 321.3022(a-1), (c), and (f), Tax Code,  
14 are amended to read as follows:

15 (a-1) Except as otherwise provided by this section, the  
16 comptroller on request shall provide to a municipality or other  
17 local governmental entity that has adopted a tax under this  
18 chapter:

19 (1) information relating to the amount of tax paid to  
20 the municipality or other local governmental entity under this  
21 chapter during the preceding or current calendar year by each  
22 person doing business in the municipality or other local  
23 governmental entity who annually remits to the comptroller state  
24 and local sales tax payments of more than \$5,000; ~~and~~

25 (2) information relating to the gross sales, taxable  
26 sales, and taxable purchases by each person doing business in the  
27 municipality by individual outlet as reported to the comptroller on

1 a sales and use tax return; and

2 (3) any other information as provided by this section.

3 (c) The comptroller on request shall provide to a  
4 municipality or other local governmental entity a sales and use tax  
5 audit report, including any supporting documentation, related to  
6 applicable local sales tax collections and corrections [~~shall~~  
7 ~~provide the information under Subsection (b) as an aggregate total~~  
8 ~~for all persons doing business in the defined area without~~  
9 ~~disclosing individual tax payments~~].

10 (f) Information received by a municipality or other local  
11 governmental entity under this section is confidential, is not open  
12 to public inspection, and may be used only for the purpose of  
13 economic forecasting, for determining a taxpayer's compliance with  
14 Sections 321.203 and 321.205, for internal auditing of a tax paid to  
15 the municipality or other local governmental entity under this  
16 chapter, or for the purpose described in Subsection (g).

17 SECTION 5. This Act takes effect September 1, 2013.