

## **BILL ANALYSIS**

C.S.H.B. 2256  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been noted that the natural gas severance tax is levied on the market value of natural gas at the wellhead the taxable value of which is determined by subtracting the producer's costs incurred to get the gas to market from the producer's gross receipts from the sale of the gas. It has been suggested that allowing these deductions is intended to equalize the tax burden for those producers selling at or near the point of production with those who have to treat the gas and send it farther away to market. Concerns have been raised regarding the lack of guidance for the comptroller of public accounts when calculating the percentages of the numerous marketing costs that may be deducted. C.S.H.B. 2256 seeks to eliminate burdensome practices for the comptroller and taxpayer by authorizing the comptroller to enter into an agreement with a taxpayer to perform a managed audit of a natural gas severance tax return.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTIONS 1 and 2 of this bill.

### **ANALYSIS**

C.S.H.B. 2256 amends the Tax Code to authorize a person who filed a gas production tax producer's report or first purchaser's report and remitted gas production tax in error to the state to compute the amount of overpayment using a sampling of marketing cost transactions if the comptroller of public accounts approves the sampling method.

C.S.H.B. 2256 authorizes the person to obtain reimbursement for amounts determined to have been overpaid by taking a credit on one or more of such reports or by filing a claim for refund with the comptroller within the applicable limitation period. The bill requires the person to record the method by which the computation of the overpayment is performed and to make available on request by the comptroller the records on which the computation is based. The bill authorizes the comptroller to adopt rules specifying additional procedures that must be followed in connection with claiming such a credit.

C.S.H.B. 2256 authorizes the comptroller to authorize, in a written agreement, a taxpayer to conduct a managed audit to determine a taxpayer's gas production tax liability. The bill requires the agreement to be signed by an authorized representative of the comptroller and the taxpayer and to specify the period to be audited and the procedure to be followed. The bill establishes that the decision to authorize or not authorize a managed audit rests solely with the comptroller. The bill authorizes the comptroller, in determining whether to authorize a managed audit, to consider:

- the taxpayer's history of tax compliance;
- whether the taxpayer has sufficient time and resources to conduct the audit;
- the sufficiency and availability of the taxpayer's tax records;
- the taxpayer's ability to pay any liability arising as a result of the audit; and
- any other factor the comptroller determines is relevant.

C.S.H.B. 2256 authorizes a managed audit to be limited to one or more factors affecting a taxpayer's liability for the gas production tax, including gross value of gas produced, exempt interest, marketing costs of gas produced, gas used to power operations at a well or lease, or tax reimbursement paid by a purchaser to a producer. The bill authorizes the comptroller to examine records and perform reviews that the comptroller determines are necessary before the managed audit is finalized to verify the results of the audit.

C.S.H.B. 2256 prohibits the comptroller from assessing a penalty and authorizes the comptroller to waive all or part of the interest that would otherwise accrue on any amount identified to be due in a managed audit, unless the audit or such reviewed information discloses fraud or wilful evasion of the tax. These provisions do not apply to any amount collected by the taxpayer that was a tax or represented to be a tax but that was not remitted to the state.

C.S.H.B. 2256 entitles the taxpayer to a refund of any tax overpayment disclosed by the managed audit and authorizes the comptroller to adopt rules and establish procedures to administer the bill's provisions regarding a managed audit, including procedures that must be followed when conducting a managed audit.

#### **EFFECTIVE DATE**

September 1, 2019.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2256 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the method by which a person may compute the amount of overpayment from a method using a selected marketing cost sampling that must comply with certain generally accepted sampling methods and be approved by the comptroller to a method using a sampling of marketing cost transactions approved by the comptroller.

The substitute includes an authorization for the comptroller to consider certain prescribed factors in determining whether to authorize a managed audit. The substitute includes an authorization for a managed audit to be limited to one or more factors affecting a taxpayer's liability for tax.

The substitute does not include an authorization for the comptroller to authorize the use of a selected marketing cost sampling in a managed audit under certain conditions. The substitute includes an authorization for the comptroller to adopt rules and procedures to administer the bill's provisions regarding a managed audit, including procedures that must be followed when conducting an audit under the bill's provisions.