By:  Sanford (Senate Sponsor - Perry) H.B. No. 2256

(In the Senate - Received from the House May 6, 2019; May 6, 2019, read first time and referred to Committee on Finance; May 13, 2019, reported favorably by the following vote: Yeas 12, Nays 0; May 13, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Nelson               X

Hinojosa             X

Bettencourt          X

Birdwell             X

Campbell             X

Flores               X

Hancock              X

Huffman              X

Kolkhorst            X

Nichols                        X

Perry                X

Taylor               X

Watson               X

West                           X

Whitmire                       X

A BILL TO BE ENTITLED

AN ACT

relating to procedures for tax auditing, determining amounts of overpayments, and obtaining reimbursements of overpayments of gas production taxes.

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

SECTION 1.   Subchapter E, Chapter 201, Tax Code, is amended by adding Section 201.207 to read as follows:

Sec. 201.207.  DETERMINATION OF OVERPAID AMOUNTS. (a) This section applies to the tax paid under this chapter by a person who filed a report under Section 201.203 or 201.2035 and remitted tax in error to this state.

(b)  A person to whom this section applies may compute the amount of overpayment using a sampling of marketing cost transactions if the comptroller approves the sampling method.

(c)  The person may obtain reimbursement for amounts determined to have been overpaid by taking a credit on one or more reports filed under Section 201.203 or 201.2035 or by filing a claim for refund with the comptroller within the limitation period specified by Section 111.107 and Subchapter D, Chapter 111.

(d)  The person must record the method by which the computation of the overpayment is performed and must make available on request by the comptroller the records on which the computation is based.

(e)  The comptroller may adopt rules specifying additional procedures that must be followed in connection with claiming a credit under this section.

SECTION 2.   Subchapter G, Chapter 201, Tax Code, is amended by adding Section 201.3021 to read as follows:

Sec. 201.3021.  MANAGED AUDITS. (a) In this section, "managed audit" means a review and analysis of invoices, checks, accounting records, or other documents or information conducted by a taxpayer to determine a taxpayer's liability for tax under this chapter.

(b)  The comptroller may, in a written agreement, authorize a taxpayer to conduct a managed audit under this section. The agreement must:

(1)  be signed by an authorized representative of the comptroller and the taxpayer; and

(2)  specify the period to be audited and the procedure to be followed.

(c)  The decision to authorize or not authorize a managed audit rests solely with the comptroller.

(d)  In determining whether to authorize a managed audit under this section, the comptroller may consider:

(1)  the taxpayer's history of tax compliance;

(2)  whether the taxpayer has sufficient time and resources to conduct the audit;

(3)  the sufficiency and availability of the taxpayer's tax records;

(4)  the taxpayer's ability to pay any liability arising as a result of the audit; and

(5)  any other factor the comptroller determines is relevant.

(e)  A managed audit may be limited to one or more factors affecting a taxpayer's liability for tax under this chapter, including:

(1)  gross value of gas produced;

(2)  exempt interest;

(3)  marketing costs of gas produced;

(4)  gas used to power operations at a well or lease; or

(5)  tax reimbursement paid by a purchaser to a producer.

(f)  The comptroller may examine records and perform reviews that the comptroller determines are necessary before the audit is finalized to verify the results of the audit.

(g)  Unless the audit or information reviewed by the comptroller under Subsection (f) discloses fraud or wilful evasion of the tax, the comptroller may not assess a penalty and may waive all or part of the interest that would otherwise accrue on any amount identified to be due in a managed audit. This subsection does 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 this state.

(h)  Except as provided by Section 111.104(f), the taxpayer is entitled to a refund of any tax overpayment disclosed by a managed audit under this section.

(i)  The comptroller may adopt rules and establish procedures to administer this section, including procedures that must be followed when conducting a managed audit under this section.

SECTION 3.  The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 4.  This Act takes effect September 1, 2019.

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