

By: Sanford

H.B. No. 2256

Substitute the following for H.B. No. 2256:

By: Wray

C.S.H.B. No. 2256

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures for tax auditing, determining amounts of
3 overpayments, and obtaining reimbursements of overpayments of gas
4 production taxes.

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

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

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

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

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

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

24 (e) The comptroller may adopt rules specifying additional

1 procedures that must be followed in connection with claiming a
2 credit under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (1) gross value of gas produced;

7 (2) exempt interest;

8 (3) marketing costs of gas produced;

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

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

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

15 (g) Unless the audit or information reviewed by the
16 comptroller under Subsection (f) discloses fraud or wilful evasion
17 of the tax, the comptroller may not assess a penalty and may waive
18 all or part of the interest that would otherwise accrue on any
19 amount identified to be due in a managed audit. This subsection does
20 not apply to any amount collected by the taxpayer that was a tax or
21 represented to be a tax but that was not remitted to this state.

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

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

1 section.

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

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