By:  Perry S.B. No. 296

(In the Senate - Filed January 7, 2021; March 3, 2021, read first time and referred to Committee on Finance; April 21, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 14, Nays 0; April 21, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Nelson               X

Lucio                X

Bettencourt          X

Buckingham           X

Campbell             X

Creighton            X

Hancock              X

Huffman              X

Kolkhorst            X

Nichols              X

Perry                X

Schwertner           X

Taylor               X

West                 X

Whitmire                       X

COMMITTEE SUBSTITUTE FOR S.B. No. 296 By:  Perry

A BILL TO BE ENTITLED

AN ACT

relating to the date by which a seller must provide resale and exemption certificates to the comptroller in connection with a sales and use tax audit.

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

SECTION 1.  Section 151.054, Tax Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e)  Properly completed resale or exemption certificates should be in the possession of the seller at the time the nontaxable transaction occurs. If the seller is not in possession of these certificates within 90 [~~60~~] days from the date written notice requiring possession of them is given to the seller by the comptroller or a later date agreed to by the comptroller and the seller, deductions claimed by the seller that require delivery of the certificates shall be disallowed. [~~If the seller delivers the certificates to the comptroller within the 60-day period, the comptroller may verify the reason or basis for exemption claimed in the certificates before allowing any deductions.~~] A deduction may not be granted on the basis of certificates delivered to the comptroller after the 90-day [~~60-day~~] period or, if applicable, the date agreed to by the comptroller and the seller.

(f)  Before allowing a deduction, the comptroller may verify the reason or basis for exemption claimed in a resale or exemption certificate delivered to the comptroller during the period provided by Subsection (e).

SECTION 2.  Section 151.104, Tax Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d)  Properly executed resale or exemption certificates should be in possession of the seller at the time the nontaxable transaction occurs. If the seller is not in possession of these certificates within 90 [~~60~~] days from the date written notice requiring possession of them is given to the seller by the comptroller or a later date agreed to by the comptroller and the seller, deductions claimed by the seller that require delivery of the certificates shall be disallowed. [~~If the seller acquires certificates within the 60-day period, the comptroller may verify the reason or basis for exemption claimed in the certificates before allowing any deductions.~~] A deduction may not be granted on the basis of certificates obtained after the 90-day [~~60-day~~] period or, if applicable, the date agreed to by the comptroller and the seller.

(e)  Before allowing a deduction, the comptroller may verify the reason or basis for exemption claimed in a resale or exemption certificate acquired by the seller during the period provided by Subsection (d).

SECTION 3.  Sections 151.054 and 151.104, Tax Code, as amended by this Act, apply to an audit of a seller's sales transactions that is pending on or commenced on or after the effective date of this Act.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

\* \* \* \* \*