

By: Sanford

H.B. No. 2623

A BILL TO BE ENTITLED

AN ACT

relating to suits for tax refunds.

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

SECTION 1. Sections [112.151\(a\)](#), (c), (d), and (f), Tax Code, are amended to read as follows:

(a) A person may sue the comptroller to recover an amount of tax, penalty, or interest that has been the subject of a tax refund claim filed under Section [111.104](#) if ~~[the person has]:~~

(1) the comptroller has issued a written denial of the ~~[filed a]~~ tax refund claim in the manner described by Subsection (f)(1) or (2) [under Section [111.104](#) of this code]; and

(2) the person has ~~[filed, as provided by Section [111.105](#) of this code, a motion for rehearing that has been denied by the comptroller, and~~

~~(3)]~~ paid any additional tax found due in a jeopardy or deficiency determination that applies to the tax liability period covered in the tax refund claim.

(c) The suit must be filed on or before the 90th day ~~[expiration of 30 days]~~ after the issue date of the written denial of the tax refund claim ~~[motion for rehearing or it is barred]~~.

(d) The amount of the refund sought must be set out in the original petition. A copy of the tax refund claim and, as applicable, the comptroller's written denial of the claim or the motion for rehearing filed under Section [111.105](#) ~~[of this code]~~

1 must be attached to the original petition filed with the court and
2 to the copies of the original petition served on the comptroller and
3 the attorney general.

4 (f) For purposes of this section, the issue date of the
5 written denial of a tax refund claim is the later of:

6 (1) the date the comptroller denies in writing all or
7 part of a tax refund claim following an informal review as provided
8 by Section 111.1042; or

9 (2) if the person files a motion for rehearing as
10 provided by Section 111.105, the date the motion for rehearing is
11 denied in writing [~~A taxpayer shall produce contemporaneous records~~
12 ~~and supporting documentation appropriate to the tax or fee for the~~
13 ~~transactions in question to substantiate and enable verification of~~
14 ~~a taxpayer's claim relating to the amount of the tax, penalty, or~~
15 ~~interest that has been assessed or collected or will be refunded, as~~
16 ~~required by Section 111.0041].~~

17 SECTION 2. Section 112.152, Tax Code, is amended to read as
18 follows:

19 Sec. 112.152. ISSUES IN SUIT. (a) The grounds of error
20 contained in the tax refund claim or the motion for rehearing, as
21 applicable, are the only issues that may be raised in a suit under
22 this subchapter.

23 (b) The suit applies only to a tax liability period included
24 [~~considered~~] in the tax refund claim or comptroller's decision, as
25 applicable.

26 SECTION 3. Section 112.156, Tax Code, is amended to read as
27 follows:

1 Sec. 112.156. RES JUDICATA. The rule of res judicata
2 applies in a suit under this subchapter [~~only~~] if the issues [~~and~~
3 ~~the tax liability periods~~] in controversy are the same as were
4 decided in a previous final judgment entered in a Texas court of
5 record in a suit between the same parties.

6 SECTION 4. This Act applies to a claim for a refund that is
7 pending on or after the effective date of this Act, without regard
8 to whether the taxes that are the subject of the claim were due
9 before, on, or after that date.

10 SECTION 5. This Act takes effect September 1, 2021.