

By: Perry

S.B. No. 903

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. Subchapter C, Chapter 111, Tax Code, is amended by adding Section 111.106 to read as follows:

Sec. 111.106. TAX REFUND: NOTICE OF INTENT TO BYPASS HEARING. (a) A person claiming a refund under Section 111.104 may file with the comptroller a notice of intent to bypass the hearing under Section 111.105. The notice of intent must:

(1) be filed on or before the 60th day after the date the comptroller issues a letter denying the claim for refund;

(2) be in writing;

(3) assert the material facts and each specific legal basis on which a refund is claimed; and

(4) specify the amount of the refund claimed.

(b) A person who files a notice of intent under Subsection (a) may bypass the hearing under Section 111.105 and bring a suit under Subchapter D, Chapter 112, if:

(1) the person participated in a conference under Subsection (c), in which case the suit must be filed on or before the 60th day after the date the conference concludes or a later date agreed to by the comptroller; or

(2) the comptroller does not provide notice in the time required by Subsection (d) that a conference is required, in

1 which case the suit must be filed on or before the 90th day after the
2 date the notice of intent was filed.

3 (c) The comptroller may require a conference between a
4 person who files a notice of intent under Subsection (a) and a
5 designated officer or employee of the comptroller to clarify any
6 fact or legal issue in dispute regarding the refund claim and to
7 discuss the availability of additional documentation that may
8 assist in resolving outstanding issues regarding the claim. The
9 person who filed the notice of intent may amend a material fact or
10 legal basis described by Subsection (a)(3) following the conference
11 if the comptroller agrees in writing to the amendment.

12 (d) If the comptroller requires a conference under
13 Subsection (c), the comptroller shall notify the person of the
14 conference requirement not later than the 30th day after the date
15 the notice of intent under Subsection (a) was filed. The notice of
16 the conference requirement must be in writing and include a date and
17 time for the conference. The conference date provided in the notice
18 must be no later than the 90th day after the date the notice of
19 intent was filed.

20 (e) The person who filed the notice of intent under
21 Subsection (a) may request to reschedule the conference date
22 provided in the notice under Subsection (d). The comptroller shall
23 make a good faith effort to accommodate the request. If the
24 comptroller and the person who filed the notice of intent do not
25 agree on or before the 90th day after the date the notice of intent
26 was filed to a rescheduled date for the conference, the person may
27 rescind the notice of intent on or before the 120th day after the

1 date the notice of intent was filed and request a hearing under
2 Section 111.105.

3 (f) Except as provided by Subsection (e), a person who files
4 a notice of intent under Subsection (a) waives the person's right to
5 a hearing under Section 111.105.

6 SECTION 2. Sections 112.151(a), (c), and (d), Tax Code, are
7 amended to read as follows:

8 (a) A person may sue the comptroller to recover an amount of
9 tax, penalty, or interest that has been the subject of a tax refund
10 claim if the person ~~has~~:

11 (1) has filed a tax refund claim under Section 111.104
12 ~~[of this code];~~

13 (2) either:

14 (A) has filed, as provided by Section 111.105 ~~[of~~
15 ~~this code]~~, a motion for rehearing that has been denied by the
16 comptroller; or

17 (B) is authorized to bring the suit under Section
18 111.106(b); and

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

22 (c) A person who satisfies the requirement of Subsection
23 (a)(2)(A) must file the [The] suit [must be filed] before the
24 expiration of 60 [30] days after the issue date of the denial of the
25 motion for rehearing or it is barred. A person who satisfies the
26 requirement of Subsection (a)(2)(B) must file the suit during the
27 time provided by Section 111.106(b) or it is barred.

1 (d) The amount of the refund sought must be set out in the
2 original petition. A copy of the motion for rehearing filed under
3 Section 111.105 or the notice of intent filed under Section
4 111.106(a), as applicable, [of this code] must be attached to the
5 original petition filed with the court and to the copies of the
6 original petition served on the comptroller and the attorney
7 general.

8 SECTION 3. Section 112.152, Tax Code, is amended to read as
9 follows:

10 Sec. 112.152. ISSUES IN SUIT. (a) The [~~grounds of error~~
11 ~~contained in the motion for rehearing are the~~] only issues that may
12 be raised in a suit under this subchapter are, as applicable, the:

13 (1) grounds of error contained in the motion for
14 rehearing; or

15 (2) material facts and legal bases contained in the
16 notice of intent filed under Section 111.106(a).

17 (b) The suit applies only to a tax liability period
18 considered in the comptroller's decision or covered by the notice
19 of intent filed under Section 111.106, as applicable.

20 SECTION 4. This Act applies to a claim for a refund that is
21 pending or filed on or after the effective date of this Act, without
22 regard to whether the taxes that are the subject of the claim were
23 due before, on, or after that date.

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