

CHAPTER 37

S.B. No. 248

An Act relating to the administration of taxes by and the powers and duties of the Comptroller of Public Accounts; amending the Tax Code by amending Sections 113.105 and 113.001; Subsection (c) of Section 151.507; Subsections (c) and (d) of Section 171.202; and Subsection (e) of Section 171.362; by repealing Sections 171.356, 171.357, 171.358, 171.359, 171.360, 151.513, and Subsection (b) of Section 151.507; and by adding a new Section 111.0081; and amending Section 12A, Article 1.14-1, Insurance Code.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 113.105, Tax Code, is amended to read as follows:

“Section 113.105. **TAX LIEN; PERIOD OF VALIDITY.** (a) The state tax lien on personal property and real estate continues until the taxes secured by the lien are paid.

“(b) *The state tax lien on personal property and real estate attaches to personal property and real estate acquired by the taxpayer after the date the lien is filed by the state.*”

SECTION 2. Section 113.001, Tax Code, is amended to read as follows:

"Section 113.001. **TAX LIABILITY SECURED BY LIEN.** (a) All taxes, fines, interest and penalties due by a person to the state under this title are secured by a lien on all of the person's property that is subject to execution ~~[and is owned at the time the lien attaches]~~

"(b) The lien for taxes attaches to all of the property of a person liable for the taxes ~~[on the day the tax becomes due and payable]."~~

SECTION 3. Sections 171.356, 171.357, 171.358, 171.359, and 171.360, Tax Code, are repealed.

SECTION 4. Subsection (b), Section 151.507, Tax Code, is repealed and Subsection (c), Section 151.507, Tax Code, is amended to read as follows:

"(b) ~~[(e)]~~ The limitations provided by *Subsection* ~~[Subsections]~~ (a) ~~[and (b)]~~ of this section do not apply to a determination proposed to be made:

"(1) for the collection of an amount of sales tax on the sale of a taxable item if a deficiency notice has been given or is given for the collection of the use tax on the same taxable item; or

"(2) for the collection of the use tax on the storage, use, or consumption of a taxable item if a deficiency notice has been or is given for the collection of the sales tax on the same taxable item."

SECTION 5. Section 12A, Article 1.14-1, Insurance Code, is amended to read as follows:

"Section 12A. As respects corporations, ~~[the Franchise Tax Report filed with the Comptroller of Public Accounts will report]~~ the amount of taxes due and payable to the State of Texas under the provisions or under authority of Section 12 of this Article *shall be reported directly to the State Board of Insurance and [; and such taxes]* shall ~~[not]~~ be due when ~~[until]~~ the Franchise Tax Report is due, any other provision of this Article to the contrary notwithstanding. All companies or persons other than corporations filing franchise tax returns shall report to the State Board of Insurance."

SECTION 6. Subsection (c), Section 171.202, Tax Code, as amended, is amended to read as follows:

"(c) The comptroller shall grant an extension of time for the filing of a report required by this section to any date on or before the next June 15, if a corporation:

"(1) requests the extension, on or before March 15, on a form provided by the comptroller; and

"(2) remits with the request:

"(A) not less than 90 percent of the amount of tax reported as due on the report filed on or before June 15; or

"(B) 100 percent of the tax paid in the previous year, but in *neither [no]* case less than *the amount provided in Subdivision (2) of Subsection (a) of Section 171.002 of this code which is effective May 1 of the year in which the report is due [55].*"

SECTION 7. Subsection (d), Section 171.202, Tax Code, as amended, is amended to read as follows:

"(d) In the case of a taxpayer whose previous return was its initial report, the optional payment provided under Paragraph (B) of Subdivision (2) of Subsection (c) of this section must be equal to an amount produced by multiplying the *Texas portion of taxable capital and surplus, as required to be shown on the initial report, by the rate of tax in Subdivision (1) of Subsection (a) of Section 171.002 of this code which is effective May 1 of the year in which the report is due [prior year's payment by a ratio of 12 divided by the number of months covered by the initial report].*"

SECTION 8. Subsection (e), Section 171.362, Tax Code, as amended, is amended to read as follows:

"(e) If a corporation remits the entire amount required by Subsection (c) of Section 171.202 of this code, no penalties will be imposed against the *amount remitted on or before June 15 [difference between the amount finally determined to be due and the amount remitted on or before March 15].*"

SECTION 9. Chapter 111, Tax Code, is amended by adding a new Section 111.0081 to read as follows:

"Section 111.0081. **WHEN PAYMENT IS REQUIRED.** (a) *Except as provided in Subsections (b) and (c) of this section, the amount of a determination made under this code is due and payable 10 days after it becomes final. If the amount of the determination is not paid within 10 days after the day it became final, a penalty of 10 percent of the amount of the determination, exclusive of penalties and interest, shall be added.*

“(b) This section does not apply to a determination under Section 151.506 of this code.

“(c) The amount of a determination made under this code is due and payable 20 days after a comptroller’s decision in a redetermination hearing becomes final. If the amount of the determination is not paid within 20 days after the day the decision became final, a penalty of 10 percent of the amount of the determination, exclusive of penalties and interest, shall be added.”

SECTION 10. Section 151.513, Tax Code, is repealed.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 4, 1985, by a viva-voce vote; passed the House on April 4, 1985, by a non-record vote.

Approved: April 16, 1985

Effective: August 26, 1985