

TAX CODE CHAPTER 111. COLLECTION PROCEDURES

TAX CODE

TITLE 2. STATE TAXATION

SUBTITLE B. ENFORCEMENT AND COLLECTION

CHAPTER 111. COLLECTION PROCEDURES

SUBCHAPTER A. COLLECTION DUTIES AND POWERS

Sec. 111.001. COMPTROLLER TO COLLECT TAXES. The comptroller shall collect the taxes imposed by this title except as otherwise provided by this title.

Acts 1981, 67th Leg., p. 1495, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.002. COMPTROLLER'S RULES; COMPLIANCE; FORFEITURE. (a) The comptroller may adopt rules that do not conflict with the laws of this state or the constitution of this state or the United States for the enforcement of the provisions of this title and the collection of taxes and other revenues under this title. In addition to the discretion to adopt, repeal, or amend such rules permitted under the constitution and laws of this state and under the common law, the comptroller may adopt, repeal, or amend such rules to reflect changes in the power of this state to collect taxes and enforce the provisions of this title due to changes in the constitution or laws of the United States and judicial interpretations thereof.

(b) A person who does not comply with a rule made under this section forfeits to the state an amount of not less than \$25 nor more than \$500. Each day on which a failure to comply occurs or continues is a separate violation.

(c) If a forfeiture is not paid, the attorney general shall file suit to recover the forfeiture in a court of competent jurisdiction in Travis County or in any other county where venue lies.

(d) Any other provision of this code that imposes a different penalty for the violation of a comptroller's rule made for the enforcement or collection of a specific tax imposed by this title prevails over the penalty provided by this section.

Acts 1981, 67th Leg., p. 1495, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1989, 71st Leg., ch. 231, Sec. 2, eff. Aug. 28, 1989.

Sec. 111.0021. APPLICATION TO OTHER TAXES AND FEES. This chapter also applies to a tax or fee that the comptroller is required to collect under a law not included in this title.

Added by Acts 1991, 72nd Leg., ch. 705, Sec. 1, eff. Sept. 1, 1991.

Sec. 111.0022. APPLICATION TO OTHER LAWS ADMINISTERED BY COMPTROLLER. This subtitle and Subtitle A of this title apply to the administration, collection, and enforcement of other taxes, fees, and charges, including penalties, or other financial transactions, that the comptroller is required or authorized to collect or administer under other law, to the extent that the other law does not conflict with this subtitle or Subtitle A of this title.

Added by Acts 1993, 73rd Leg., ch. 486, Sec. 1.02, eff. Sept. 1, 1993.

Sec. 111.003. COMPTROLLER'S INVESTIGATIONS. (a) On the governor's request, the comptroller shall:

(1) investigate the books and accounts of assessing and collecting officers of the state and other officers or persons receiving, disbursing, or possessing public funds;

(2) perform other duties and make investigations in relation to public funds as requested by the governor; and

(3) investigate any state institution and its policies, management, and operation, including the fiscal affairs and the conduct and efficiency of any state employee of the institution.

(b) The comptroller shall report to the governor the results of an investigation requested under Subsection (a) of this section. The report must be written and include:

(1) a description of each violation of the revenue laws;

(2) a description of the failure, if any, to enforce revenue laws;

(3) the name of each person reasonably believed to have committed a violation or to have been guilty of nonfeasance; and

(4) if a state institution is investigated, a description of the expenditures of the institution and of all sums of money due the state, the ascertainment and collection of which does not devolve upon other officers of the state under existing law.

(c) A person connected with the public service shall submit all books, records, and accounts to the comptroller without delay on the request of the comptroller when conducting an investigation under Subsection (a) of this section.

(d) On the receipt of a report that indicates a violation of revenue laws or neglect of duty, the governor shall notify the attorney general, who shall institute criminal and civil proceedings in the name of the state against persons accused of a violation or neglect of duty.

(e) The comptroller may at any time examine and investigate the expenditure of appropriated money for a state institution or for any other purpose or for improvements made by the state on state property or money received and disbursed by any board authorized to receive and disburse state money. The comptroller shall investigate any state institution when required by information coming to his own knowledge.

Acts 1981, 67th Leg., p. 1495, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0034. ADVANCED DATABASE SYSTEM FOR AUDITS.

(a) The comptroller shall develop an advanced electronic audit database system for use by the comptroller's audit division. The system must:

- (1) centralize management of audit transaction data;
- (2) enhance the quality control of data; and
- (3) be compatible with other data systems of the state.

(b) The comptroller may contract with a vendor to develop or implement the system.

(c) If the comptroller contracts with a vendor to develop or

implement the system, the comptroller must protect any confidential information provided to the vendor. A person who receives confidential information under this section and each employee or agent of that person is subject to the same prohibitions against disclosure of the information, and the same penalties and sanctions for improper disclosure, that apply to the comptroller.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.01, eff. June 15, 2001.

Sec. 111.0035. ADVANCED DATABASE SYSTEM FOR TAX COLLECTIONS. (a) The comptroller may contract with an appropriate vendor to develop and implement an advanced database system to enhance tax collections.

(b) Subject to Subsection (c), the total amount of compensation paid to the vendor that develops, implements, and maintains the advanced database system is equal to the product of:

(1) the percentage stated in the contract; and

(2) the amount of revenue collected from taxpayers by the comptroller, after all available administrative and judicial appeals are exhausted, as a result of audit and enforcement actions taken on cases identified from the system.

(c) The amount of compensation paid to a vendor under Subsection (b) may not exceed the maximum amount, if any, stated in the contract between the comptroller and the vendor.

(d) The comptroller may pay compensation to a vendor under this section periodically at the times specified in the contract between the comptroller and the vendor. The comptroller shall determine the amount of a periodic payment in accordance with Subsections (b) and (c). In computing the amount under Subsection (b)(2), the comptroller may include a case only if the case:

(1) becomes administratively final during the period covered by the payment; and

(2) is not the subject of litigation at the end of that period.

(e) The comptroller may pay a vendor under this section only through warrants issued or electronic funds transfers initiated by the comptroller. The comptroller shall account for the

compensation as a subtraction from tax collections and not as a general expense of the comptroller.

(f) Except as provided by Subsection (g), the comptroller shall award a contract made under this section through a competitive bidding process that complies with Section 2155.132, Government Code. If the comptroller receives not more than three bids through the competitive bidding process, the comptroller shall report the number of bidders to the Legislative Budget Board before awarding the contract.

(g) The comptroller may enter into separate contracts with additional appropriate vendors willing and able to develop and implement an advanced database system to enhance tax collections at the same rate and under the same terms and conditions as the contract awarded through competitive bidding.

(h) Except as specifically provided by this section, the comptroller may include any term or condition in a contract made under this section that the comptroller considers necessary or advisable to maximize enhancement of tax collections while otherwise protecting the state's interests.

(i) The comptroller shall report semiannually to the Legislative Budget Board the:

(1) amount of revenue collected under this section;
and

(2) amount of compensation awarded to a vendor under this section.

(j) A person acting on behalf of this state under a contract authorized by this section does not exercise any of the sovereign power of this state, except that the person is an agent of this state for purposes of developing and implementing an advanced database system to enhance tax collections.

(k) The comptroller may provide to a person acting on behalf of this state under a contract authorized by this section any confidential information in the custody of the comptroller that is necessary to develop and implement an advanced database system to enhance tax collections and that the comptroller is not prohibited from sharing under an agreement with another state or the federal government. A person who receives confidential information under

this subsection and each employee or agent of that person is subject to each prohibition against disclosure of the information that applies to the comptroller or an employee of the comptroller. A person, employee, or agent who receives confidential information under this subsection and improperly discloses that information is subject to the same penalties and sanctions that would apply to the comptroller or an employee of the comptroller for that disclosure. Added by Acts 1997, 75th Leg., ch. 927, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1272, Sec. 5.02, eff. June 15, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.108, eff. September 1, 2007.

Sec. 111.0036. OUT-OF-STATE AUDITS. (a) The comptroller may contract with one or more appropriate persons to perform tax audits in any state that is not covered by a comptroller field office. A contract may provide for a person to perform tax audits in more than one state.

(b) Subject to Subsection (c), the amount of compensation paid to a person performing tax audits under this section is equal to the product of:

(1) the percentage stated in the contract between the comptroller and the person; and

(2) the amount of revenue collected from taxpayers by the comptroller, after all available administrative and judicial appeals are exhausted, as a result of those audits.

(c) The maximum percentage rate stated in a contract may not exceed 12 percent. In addition, the amount of compensation paid to a person under Subsection (b) may not exceed the maximum amount, if any, stated in the contract between the comptroller and the person.

(d) The comptroller may pay compensation to a person under this section periodically at the times specified in the contract between the comptroller and the person. The comptroller shall determine the amount of a periodic payment in accordance with Subsections (b) and (c). In computing the amount under Subsection (b)(2), the comptroller may include a case only if the case:

(1) becomes administratively final during the period covered by the payment; and

(2) is not the subject of litigation at the end of that period.

(e) The comptroller may pay a person under this section only through warrants issued or electronic funds transfers initiated by the comptroller. The comptroller shall account for the compensation as a subtraction from tax collections and not as a general expense of the comptroller.

(f) Except as provided by Subsection (g), the comptroller shall award a contract made under this section through a competitive bidding process that complies with Section 2155.132, Government Code. If the comptroller receives not more than three bids through the competitive bidding process, the comptroller shall report the number of bidders to the Legislative Budget Board before awarding the contract.

(g) The comptroller may enter into separate contracts with additional appropriate persons willing and able to perform tax audits in other states that are not covered by comptroller field offices at the same rate and under the same terms and conditions as the contract awarded through competitive bidding.

(h) The comptroller shall report semiannually to the Legislative Budget Board the:

(1) amount of revenue collected under this section; and

(2) amount of compensation awarded to a person with whom the comptroller contracts under this section.

(i) A person acting on behalf of this state under a contract authorized by this section does not exercise any of the sovereign power of this state, except that the person is an agent of this state for purposes of performing tax audits.

(j) The comptroller may provide to a person acting on behalf of this state under a contract authorized by this section any confidential information in the custody of the comptroller relating to a taxpayer that is necessary to the audit of the taxpayer and that the comptroller is not prohibited from sharing under an agreement with another state or the federal government. A person

who receives confidential information under this subsection and each employee or agent of that person are subject to each prohibition against disclosure of confidential information obtained from a taxpayer or this state in connection with a tax audit that applies to the comptroller or an employee of the comptroller. A person, employee, or agent who receives confidential information under this subsection and improperly discloses that information is subject to the same penalties and sanctions that would apply to the comptroller or an employee of the comptroller for that disclosure.

Added by Acts 1997, 75th Leg., ch. 927, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.109, eff. September 1, 2007.

Sec. 111.004. POWER TO EXAMINE RECORDS AND PERSONS.

(a) For the purpose of carrying out the terms of this title the comptroller may examine at the principal or any other office in the United States of any person, firm, agent, or corporation permitted to do business in this state, all books, records and papers and also any of their officers or employees under oath.

(b) If any person refuses to permit an examination or answer any question authorized by Subsection (a) of this section, the comptroller may certify the fact of the refusal to the secretary of state, who shall immediately forfeit the charter or the permit to do business of the person until the examination as required is completed.

(c) No charge may be made by the comptroller to examine a book, record, or paper or to question an officer or employee.

(d) The comptroller's authority to examine books, records, and papers under this chapter extends to all books, records, papers, and other objects which the comptroller determines are necessary for conducting a complete examination under this title.

Acts 1981, 67th Leg., p. 1496, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0041. RECORDS. (a) Any taxpayer who is required by this title to keep records shall keep those records open to

inspection by the comptroller, the attorney general, or the authorized representatives of either of them for four years.

(b) This section prevails over any other conflicting provision of this title.

Acts 1981, 67th Leg., p. 1496, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.11, eff. Oct. 1, 1999.

Sec. 111.0042. SAMPLING IN AUDITING; PROJECTING ASSESSMENTS. (a) Repealed by Acts 1983, 68th Leg., p. 982, ch. 234, Sec. 1, eff. May 25, 1983.

(b) Sampling auditing methods are appropriate if:

(1) the taxpayer's records are so detailed, complex, or voluminous that an audit of all detailed records would be unreasonable or impractical;

(2) the taxpayer's records are inadequate or insufficient, so that a competent audit for the period in question is not otherwise possible; or

(3) the cost of an audit of all detailed records to the taxpayer or to the state will be unreasonable in relation to the benefits derived, and sampling procedures will produce a reasonable result.

(c) Before using a sample technique to establish a tax liability, the comptroller or his designee must notify the taxpayer in writing of the sampling procedure to be used.

(d) The sample must reflect as nearly as possible the normal conditions under which the business was operated during the period to which the audit applies. If a taxpayer can demonstrate that a transaction in a sample period is not representative of the taxpayer's business operations, the transaction shall be eliminated from the sample and be separately assessed in the audit. If records are inadequate to reflect accurately the business operations of the taxpayer, the comptroller or his designee shall determine the best information available and base his audit report on that information.

(e) If the taxpayer demonstrates that any sampling method used by the comptroller was not in accordance with generally

recognized sampling techniques, the audit will be dismissed as to that portion of the audit established by projection based upon the sampling method, and a new audit may be performed.

Acts 1981, 67th Leg., p. 1496, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 982, ch. 234, Sec. 1, eff. May 25, 1983.

Sec. 111.0043. GENERAL AUDIT AND PREHEARING POWERS.

(a) In this section:

(1) "Person" includes an individual, corporation, partner, partnership, officer, or director of a corporation, joint venture, trust, trustee, agent, or association.

(2) "Taxpayer" means the person whose tax obligation the comptroller is seeking to determine.

(b)(1) Before a determination of or a hearing on a taxpayer's tax obligation, if any, the comptroller may issue a subpoena addressed to the sheriff or constable of any county in this state to require any person who the comptroller determines may provide assistance in the examination of a taxpayer's tax obligation to appear at the place and time stated in the subpoena for the taking of his oral deposition before an official authorized to take depositions. The subpoena may require the person to produce at the time of the deposition books, documents, records, papers, accounts, and other objects as may be specified by the comptroller. The subpoena must include a statement setting out the reason why the requested material is needed.

(2) The deposition shall be taken in the county of the person's residence or in the county where the person is employed or regularly transacts business. The subpoena shall specify that the person shall remain in attendance from day to day until the deposition is begun and completed.

(3) The officer taking the oral deposition may not sustain objections to any of the testimony taken or exclude any of it.

(4) When the testimony is fully transcribed, the deposition shall be submitted to the person for examination and read to or by the person, unless the examination and reading are

waived in writing by the person and by the comptroller. However, if the person is represented by an attorney of record, the deposition officer shall notify the attorney of record in writing by registered mail or certified mail that the deposition is ready for examination and reading at the office of the deposition officer. If the person does not appear and examine, read, and sign the deposition within 10 days after the mailing of the notice, the deposition shall be returned and may be used as fully as though signed. The officer shall enter on the deposition any changes in form or substance that the person desires to make and a statement of the reasons given by the person for making them. The deposition shall then be signed by the person, unless the person and the comptroller by stipulation waive the signing or the person is ill, cannot be found, or refuses to sign. If the deposition is not signed by the person, the officer shall sign it and state on the record the fact of the waiver, illness, or absence of the person or the fact of the refusal to sign, together with the reason, if any, given for failure to sign. The deposition may then be used as fully as though signed.

(5) The deposition shall be returned to the comptroller by the official taking the deposition either by mail or by delivering it in person.

(c) Before a determination of or a hearing on a taxpayer's tax obligation, if any, the comptroller may:

(1) issue a subpoena addressed to the sheriff or constable of any county in this state to require any person to produce at the place and time stated in the subpoena books, documents, records, papers, accounts, and other objects that the comptroller determines may assist in an examination of a person's tax obligation;

(2) issue an order to a person to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation on the property that may be material to any matter involved in the examination; the order must specify the time, place, and manner of making the inspection, measurement, or survey and taking the copies and

photographs and may prescribe any terms and conditions that are just;

(3) copy or conduct a complete examination of books, documents, records, papers, accounts, and other objects that are produced as a result of the subpoenas or orders specified in this section; and

(4) serve or have served by his designated agent any subpoena or order issued under this section by delivering a copy of the subpoena to the person.

(d) A person, other than the taxpayer, who is subpoenaed to give a deposition or to produce books, records, papers, or other objects under the authority of this section is entitled to receive after presentation of a voucher sworn by the person and approved by the comptroller:

(1) mileage of 20 cents a mile, or a greater amount as prescribed by agency rule, for going to and returning from the place of the hearing or the place where the deposition is taken, if the place is more than 25 miles from the person's place of residence; and

(2) a fee of \$20 a day, or a greater amount as prescribed by agency rule, for each day or part of a day the person is necessarily present as a deponent.

(e) If a person fails to comply with a subpoena or order issued under this section, the comptroller may:

(1) acting through the attorney general, bring suit to enforce the subpoena or order in a district court of Travis County; the court, if it determines that good cause exists for the issuance of a subpoena or order, shall order the compliance with the requirements of the subpoena or order; failure to obey the order of the court may be punishable by the court as contempt;

(2) use records, books, papers, and other documents obtained or depositions taken under this section only in an administrative hearing of the comptroller or a judicial proceeding brought by or against the comptroller; the information may be made available to the federal government or to another state under an exchange agreement; and

(3) delegate his authority to issue subpoenas or

orders and to participate in the taking of depositions as specified in this section to any attorney employed by him.

(f) If a foreign corporation doing business in this state has such contact with this state that it becomes subject to the taxes administered and collected by the comptroller and fails to appoint or maintain a registered agent in this state, or if the registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of the corporation and may be served with any subpoena or other order issued under this section in the manner provided for service of process in Article 8.10, Texas Business Corporation Act, as amended.

(g) Any person, including the taxpayer, shall be entitled to obtain upon request a copy of any statement he has previously made concerning the examination or its subject matter and which is in the possession, custody, or control of the comptroller. Copies of statements made to the comptroller by any person which are used as a basis for an assessment against a taxpayer may be obtained by the taxpayer upon request. If the request is refused, the person may move for an agency order under this subsection. For the purpose of this section, a statement previously made is:

(1) a written statement signed or otherwise adopted or approved by the person making it; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

Acts 1981, 67th Leg., p. 1497, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0044. SPECIAL PROCEDURES FOR THIRD-PARTY ORDERS AND SUBPOENAS. (a)(1) If any order or subpoena described in Section 111.0043 of this code is served on any person who is a third-party recordkeeper, and the order or subpoena requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person ordered or subpoenaed) who is identified in the description of the record contained in the order or subpoena, then notice of the order

or subpoena shall be given to any person so identified within three days of the day on which the service on the third-party recordkeeper is made but no later than the 14th day before the day fixed in the order or subpoena as the day upon which the records are to be examined. The notice shall be accompanied by a copy of the order or subpoena which has been served and shall contain directions for staying compliance with the order or subpoena under Subsection (b)(2) of this section.

(2) The notice shall be sufficient if, on or before the third day, the notice is delivered in hand to the person entitled to notice or is mailed by certified or registered mail to the last mailing address of the person or, in the absence of a last known address, is left with the person ordered or subpoenaed. If the notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice.

(3) For purposes of this section, the term "third-party recordkeeper" means:

(A) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under federal or state law, a bank as defined in Section 581 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 581), or any credit union within the meaning of Section 501(c)(14)(A), Internal Revenue Code;

(B) any consumer reporting agency as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f));

(C) any person extending credit through the use of credit cards or similar devices; and

(D) any broker as defined in Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)).

(4) Subsection (a)(1) of this section may not apply to an order or subpoena served on the person with respect to whose liability the order or subpoena is issued or an officer or employee of the person; or any order or subpoena to determine whether or not records of the business transactions or affairs of an identified person have been made or kept; or any order or subpoena described

in Subsection (e) of this section.

(5) An order or subpoena to which this subsection applies shall identify the taxpayer to whom the order or subpoena relates and to whom the records pertain and shall provide other information to enable the person ordered or subpoenaed to locate the records required under the order or subpoena.

(b)(1) Notwithstanding any other law or rule of law, a person who is entitled to notice of an order or subpoena under Subsection (a) of this section shall have the right to intervene in any proceeding with respect to the enforcement of the order or subpoena under Subsection (e) of Section 111.0043 of this code.

(2) Notwithstanding any other law or rule of law, a person who is entitled to notice of an order or subpoena under Subsection (a) of this section shall have the right to stay compliance with the order or subpoena if, not later than the 14th day after the day the notice is given in the manner provided in Subsection (a)(2) of this section:

(A) notice in writing is given to the person ordered or subpoenaed not to comply with the order or subpoena;

(B) a copy of the notice not to comply with the order or subpoena is mailed by registered or certified mail to the person and to the office the comptroller directs in the notice referred to in Subsection (a)(1) of this section; and

(C) suit is filed against the comptroller in a district court of Travis County to stay compliance with the order or subpoena.

(c) No examination of any records required to be produced under an order or subpoena as to which notice is required under Subsection (a) of this section may be made:

(1) before the expiration of the 14-day period allowed for the notice not to comply under Subsection (b)(2) of this section; or

(2) when the requirements of Subsection (b)(2) of this section have been met, except in accordance with an order issued by a district court of Travis County authorizing examination of the records or with the consent of the person staying compliance.

(d) If any person takes any action as provided in Subsection

(b) of this section and such person is the person with respect to whose liability the order or subpoena is issued under Section 111.0043 of this code (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under Subchapter D of this chapter with respect to the person shall be suspended for the period during which a proceeding and appeals of the proceeding with respect to the enforcement of such order are pending.

(e) Any order or subpoena issued under Section 111.0043 of this code that does not identify the person with respect to whose liability the order is issued may be served only after a court proceeding in which the comptroller establishes that:

(1) the order relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with any provision of state law; and

(3) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the order is issued) is not readily available from other sources.

(f) In the case of an order or subpoena issued under Section 111.0043 of this code, the provisions of Subsections (a)(1) and (b) of this section may not apply if, upon petition by the comptroller, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(g)(1) A district court of Travis County has jurisdiction to hear and determine proceedings brought under Subsection (e) or (f) of this section. The determinations required to be made under Subsections (e) and (f) of this section shall be ex parte and shall be made solely upon the petition and supporting affidavits. An order denying the petition shall be deemed a final order that may be

appealed.

(2) Except for cases the court considers of greater importance, a proceeding brought for the enforcement of any order, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.

(h) The comptroller shall by rule establish the rates and conditions for payments to reimburse reasonably necessary costs directly incurred by third-party recordkeepers in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by order or subpoena upon request of the comptroller. The reimbursement shall be in addition to mileage and fees paid under Subsections (d)(1) and (d)(2) of Section 111.0043 of this code.

Acts 1981, 67th Leg., p. 1499, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0045. USE OF OUTSIDE PERSONNEL; DELEGATION OF POWERS. (a) As necessary to enhance productivity, the comptroller may employ or contract for the services of accountants, assistants, auditors, clerks, information technology specialists, and investigators to:

(1) provide or use the equipment acquired under Subchapter G; and

(2) assist with the administration of this code.

(b) The comptroller may delegate to persons employed or contracted under this section the power to perform duties as required.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.03, eff. June 15, 2001.

Sec. 111.00455. CONTESTED CASES CONDUCTED BY TAX DIVISION OF STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) The tax division of the State Office of Administrative Hearings shall conduct any contested case hearing as provided by Section 2003.101, Government Code, in relation to the collection, receipt, administration, and enforcement of:

(1) a tax imposed under this title; and

(2) any other tax, fee, or other amount that the comptroller is required to collect, receive, administer, or enforce under a law not included in this title.

(b) The following are not contested cases under Subsection (a) and Section 2003.101, Government Code:

(1) a show cause hearing or any hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount, except for a hearing under Section 151.157(f), 151.1575(c), 151.712(g), 154.1142, or 155.0592;

(2) a property value study hearing under Subchapter M, Chapter 403, Government Code;

(3) a hearing in which the issue relates to:

(A) Chapters 72-75, Property Code;

(B) forfeiture of a right to do business;

(C) a certificate of authority;

(D) articles of incorporation;

(E) a penalty imposed under Section 151.7031;

(F) the refusal or failure to settle under Section 111.101; or

(G) a request for or revocation of an exemption from taxation; and

(4) any other hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount.

(c) A reference in law to the comptroller that relates to the performance of a contested case hearing described by Subsection (a) means the tax division of the State Office of Administrative Hearings.

Added by Acts 2007, 80th Leg., R.S., Ch. 354, Sec. 1, eff. June 15, 2007.

Sec. 111.0046. PERMIT OR LICENSE. (a) The comptroller shall refuse to issue or renew any permit or license to a person who:

(1) is not permitted or licensed as required by law for

a different tax or activity administered by the comptroller, except if the issuance or renewal of such license or permit is pending before the comptroller; or

(2) is currently delinquent in the payment of any tax collected by the comptroller.

(b) The comptroller by rule may establish a minimum age for a person to be eligible to apply for a permit or license issued by the comptroller.

Added by Acts 1985, 69th Leg., ch. 59, Sec. 1, eff. April 30, 1985.

Amended by Acts 2003, 78th Leg., ch. 209, Sec. 13, eff. Oct. 1, 2003.

Sec. 111.0047. SUSPENSION AND REVOCATION OF PERMIT OR LICENSE. (a) If a person fails to comply with any provision of this title or with a rule of the comptroller adopted under this title, the comptroller, after a hearing, may revoke or suspend any permit or license issued to the person.

(b) A person whose permit or license the comptroller proposes to revoke or suspend under this section is entitled to 20 days' written notice of the time and place of the hearing on the revocation or suspension. At the hearing the person must show cause why each permit or license should not be suspended or revoked.

(c) The comptroller shall give written notice of the revocation or suspension of a permit or license to the holder of the permit or license.

(d) Notices under this section may be served on the holder of the permit or license personally or may be mailed to the holder's address as shown in the records of the comptroller.

Added by Acts 1985, 69th Leg., ch. 59, Sec. 1, eff. April 30, 1985.

Amended by Acts 1989, 71st Leg., ch. 238, Sec. 42, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., 1st C.S., ch. 6, Sec. 7; Acts 1993, 73rd Leg., ch. 107, Sec. 4.08, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 284, Sec. 32, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1040, Sec. 2, eff. Sept. 1, 1997.

Sec. 111.0048. REISSUED OR NEW PERMIT OR LICENSE AFTER REVOCATION OR SUSPENSION. (a) A new permit or license may not be

issued to a former holder of a revoked permit or license unless the comptroller is satisfied that the person will comply with the provisions of this title and the rules of the comptroller relating to this title.

(b) The comptroller may prescribe the terms under which a suspended permit or license may be reissued.

Added by Acts 1985, 69th Leg., ch. 59, Sec. 1, eff. April 30, 1985.
Amended by Acts 1989, 71st Leg., ch. 238, Sec. 43, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., 1st C.S., ch. 6, Sec. 8; Acts 1993, 73rd Leg., ch. 107, Sec. 4.09, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 284, Sec. 33, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1040, Sec. 3, eff. Sept. 1, 1997.

Sec. 111.0049. APPEALS. A taxpayer may appeal the revocation or suspension of a permit or license under Section 111.0046 and 111.0047 of this code in the same manner that appeals are made from a final deficiency determination.

Added by Acts 1985, 69th Leg., ch. 59, Sec. 1, eff. April 30, 1985.

Sec. 111.005. GOVERNMENTAL ENTITIES TO COOPERATE. Each department, officer, and employee of the state or of a local governmental entity shall cooperate with and give reasonable assistance and information to the comptroller when performing authorized duties.

Acts 1981, 67th Leg., p. 1502, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.006. CONFIDENTIALITY OF INFORMATION. (a) The following matter is confidential and may not be used publicly, opened to public inspection, or disclosed except as permitted by this section:

(1) a federal tax return or federal tax return information required to have been submitted to the comptroller with a state tax return or report; and

(2) all information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs,

operations, source of income, profits, losses, or expenditures of the taxpayer.

(b) All information made confidential in this title may not be subject to subpoena directed to the comptroller or the attorney general except in a judicial or an administrative proceeding in which this state, another state, or the federal government is a party.

(c) The comptroller or the attorney general may use information or records made confidential by provisions of this title to enforce any provisions of this title or may authorize their use in a judicial or an administrative proceeding in which this state, another state, or the federal government is a party.

(d) The comptroller or the attorney general may disclose to a municipality or county the information described by Subsection (a)(2) if:

(1) the information was derived from an examination performed for the purpose of ascertaining compliance with the hotel occupancy tax imposed under Chapter 156;

(2) the municipality or county makes a written request for the information;

(3) the municipality or county making the request has imposed a local hotel occupancy tax authorized by Chapter 351 or 352, as applicable;

(4) the municipality or county uses the information only for the enforcement or administration of its local hotel occupancy tax; and

(5) to the extent consistent with the use authorized by Subdivision (4), the municipality or county keeps the information confidential as provided by this section.

(e) Information made confidential in this title may be examined by a state officer, a law enforcement officer of this state, a tax official of another state, a tax official of the United Mexican States, an official of the United States, or an authorized representative of any of these officers or officials, if:

(1) the comptroller authorizes the examination; and

(2) for an official or officer of another state, the United States, or the United Mexican States, a reciprocal agreement

exists allowing the comptroller to examine tax information under the control of the officer or official in a manner substantially equivalent to the officer's or official's access to information under this subsection.

(f) Subsection (a)(2) does not apply to information obtained by the comptroller or the attorney general during an examination of a governmental body, as that term is defined in Section 552.003, Government Code. However, information obtained by the comptroller or the attorney general during an examination of the governmental body that is confidential under law when in the possession of the governmental body remains confidential while in the possession of the comptroller or the attorney general.

(g) Information made confidential by Subsection (a)(2) that relates to a taxpayer's responsibilities under Chapter 153 may be examined by an official of another state or of the United States if:

(1) the official has information that would assist the comptroller in administering Chapter 153;

(2) the comptroller is conducting or may conduct an examination or a criminal investigation of the taxpayer that is the subject of the information made confidential by Subsection (a)(2); and

(3) a reciprocal agreement exists allowing the comptroller to examine information under the control of the official in a manner substantially equivalent to the official's access to information under this subsection.

Acts 1981, 67th Leg., p. 1502, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 175, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 351, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 29.10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1218, Sec. 2, eff. Sept. 1, 1999.

Sec. 111.007. CRIMINAL PENALTIES FOR DISCLOSING FEDERAL TAX INFORMATION. (a) The comptroller, a person who formerly held the office of comptroller, or an employee or former employee of the comptroller commits an offense if he discloses in a manner unauthorized by law a federal tax return or federal tax return

information that is required to be submitted to the comptroller by any person.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$1,000 or by confinement in jail for not more than one year, or by both a fine and confinement. Acts 1981, 67th Leg., p. 1502, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0075. USE OF INFORMATION RELATING TO TAX AUDITS.

(a) This section applies to information that:

(1) relates to a taxpayer that the comptroller is auditing or intends to audit;

(2) is considered public information under Chapter 552, Government Code; and

(3) is made available by the comptroller to a person who requested that information under Chapter 552, Government Code.

(b) A person who obtains information described by Subsection (a) and who is not a taxpayer to whom the information relates may not, before the sixth day after the date the comptroller made the information available to the person, use the information for the direct solicitation of business or employment for pecuniary gain.

(c) If a direct solicitation of business or employment for pecuniary gain is made by mail or by delivery by common or contract carrier, the postmark or the receipt mark of the common or contract carrier is prima facie evidence of the date the information was used for that solicitation.

(d) A person who violates this section is subject to a civil penalty of not more than:

(1) \$500 for the first violation;

(2) \$1,000 for the second violation; and

(3) \$3,000 for each subsequent violation.

(e) At the request of the comptroller or the person to whom the solicitation was directed, the attorney general or the appropriate district or county attorney may institute and conduct a suit to collect the penalty authorized by this section and to restrain the person from continuing to violate this section.

(f) The penalty prescribed by this section is in addition to

any other penalty provided by law.

Added by Acts 2005, 79th Leg., Ch. 689, Sec. 1, eff. September 1, 2005.

Sec. 111.008. DEFICIENCY DETERMINATION. (a) If the comptroller is not satisfied with a tax report or the amount of the tax required to be paid to the state by a person, the comptroller may compute and determine the amount of tax to be paid from information contained in the report or from any other information available to the comptroller.

(b) On making a determination under this section, the comptroller shall notify the person against whom a determination is made of the determination. The notice may be given by mail or by personal service.

(c) If the notice is given by mail, it shall be addressed to the taxpayer or other person at the taxpayer's address as it appears in the records of the comptroller. Service by mail is complete when the notice is deposited in a U.S. Post Office.

Acts 1981, 67th Leg., p. 1502, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 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 111.022.

(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.

Added by Acts 1985, 69th Leg., ch. 37, Sec. 9, eff. Aug. 26, 1985.

Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 8, eff. Sept. 1,

2001.

Sec. 111.009. REDETERMINATION. (a) A person having a direct interest in a determination may petition the comptroller for a redetermination.

(b) A petition for redetermination must be filed before the expiration of 30 days after the date on which the service of the notice of determination is completed or the redetermination is barred. If a petition for redetermination is not filed before the expiration of the period provided by this subsection, the determination is final on the expiration of the period.

(c) If the petition requests a hearing on the redetermination, the person filing the petition is entitled to a hearing and to receive notice of the hearing at least 20 days before the day of the hearing.

(d) An order or decision of the comptroller on a petition for redetermination becomes final 20 days after service on the petitioner of the notice of the order or decision.

Acts 1981, 67th Leg., p. 1503, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 2, eff. Sept. 1, 1991.

Sec. 111.010. SUIT TO RECOVER TAXES. (a) The attorney general shall bring suit in the name of the state to recover delinquent state taxes, tax penalties, and interest owed to the state.

(b) This section applies to state taxes imposed by this title or by other laws not included in this title but does not apply to the state ad valorem tax on property.

(c) Venue for and jurisdiction of a suit arising under this section is exclusively conferred upon the district courts of Travis County.

(d) The state is entitled to interest at the rate of 10 percent a year on the amount of a judgment for the state beginning on the day the judgment is signed and ending on the day the judgment is satisfied.

Acts 1981, 67th Leg., p. 1503, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 519, ch. 107, Sec. 2, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 705, Sec. 3, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 1, eff. Oct. 1, 1995.

Sec. 111.0102. SUIT CHALLENGING COLLECTION ACTION. Venue for and jurisdiction of a suit that challenges or is for the purpose of avoiding a comptroller collection action or state tax lien in any manner is exclusively conferred on the district courts of Travis County.

Added by Acts 2007, 80th Leg., R.S., Ch. 931, Sec. 1, eff. June 15, 2007.

Sec. 111.011. TAX COLLECTIONS AND REPORTS BY BUSINESSES; ENFORCEMENT OF DUTIES. (a) If a person engaged in a business the operation of which involves the receipt, collection, or withholding of a tax imposed by this title fails to file a report or pay the tax as required by this title, the attorney general may bring suit for an injunction prohibiting the person from continuing in that business until the report is filed and the tax is paid.

(b) If a person engaged in business the operation of which involves the receipt, collection, or withholding of a tax imposed by this title receives, collects, or withholds more tax than is authorized by law to be received, collected, or withheld or if the person receives, collects, or withholds money from any other person under a claim or representation that the receipt, collection, or withholding is a tax imposed by this title or other law and the amount received, collected, or withheld is not a tax authorized by law, and the person does not voluntarily comply with the notice set forth in Subsection (c) herein, the attorney general shall bring suit for an injunction prohibiting the person from the wrongful receipt, collection, or withholding of the tax or alleged tax.

(c) Prior to filing suit for an injunction, the attorney general shall send written notice by certified mail requesting that the person shall cease any wrongful collections of taxes allowing 15 days for compliance from the date of notice.

(d) The venue for a suit under this section is in Travis County.

Acts 1981, 67th Leg., p. 1503, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1985, 69th Leg., ch. 177, Sec. 1, eff. Sept. 1,
1985.

Sec. 111.012. SECURITY FOR THE PAYMENT OF TAXES. (a) If the comptroller finds that a tax imposed by this title is insecure, the comptroller may require a taxpayer to:

- (1) provide security for the payment of taxes; or
- (2) establish a tax escrow account at a bank or other financial institution.

(b) The security may consist of:

- (1) a cash deposit filed with the comptroller;
- (2) a surety bond; or
- (3) other security as permitted by the comptroller.

(c) The amount and form of the security shall be set by the comptroller, except that the amount may not be more than double the amount of taxes that the comptroller estimates will be due from the taxpayer during the succeeding 12 months.

(d) The comptroller shall give notice to a taxpayer from whom security or the establishment of a tax escrow account is required under this section.

(e) The tax escrow account must be established not later than the 10th day after the date notice is received from the comptroller requiring the establishment of the account.

(f) Before the comptroller requires a taxpayer to establish a tax escrow account, the comptroller must determine that:

- (1) the taxpayer remitted or should have remitted a monthly average of \$500 or more in tax collected from customers for the six-month period preceding the date that the notice requiring the establishment of a tax escrow account is sent by the comptroller to the taxpayer; and

- (2) the taxpayer:

- (A) failed to file two or more tax returns during the 12 months preceding the date that the notice requiring the establishment of a tax escrow account is sent by the comptroller to the taxpayer;

- (B) has been issued a jeopardy determination

under Section 111.022;

(C) has previously been determined to have collected tax but not remitted that tax under an administrative hearings decision issued by the comptroller;

(D) is insolvent because the taxpayer's liabilities exceed the taxpayer's assets or the taxpayer is unable to pay the taxpayer's debts as they become due;

(E) has assets that are subject to a court administered receivership; or

(F) has been notified that security is required under this section but has failed to provide evidence of the security on or before the 30th day after the date the security was requested.

(g) If a taxpayer does not furnish security to the comptroller or establish a tax escrow account as required by the comptroller before the expiration of 10 days following the day on which notice is received, the comptroller may:

(1) bring suit in a district court in Travis County for an order enjoining the taxpayer from engaging in business until the security is furnished or the tax escrow account is established; or

(2) pursue any other remedies or collection actions available to the comptroller under this chapter or Chapter 113 to ensure the security is furnished or the tax escrow account is established.

Acts 1981, 67th Leg., p. 1503, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 483, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 209, Sec. 14, eff. Oct. 1, 2003.

Sec. 111.013. EVIDENCE: TAX CLAIMS. (a) In a suit involving the establishment or collection of a tax imposed under Title 2 or 3 of this code, a certificate of the comptroller that shows a delinquency is prima facie evidence of:

(1) the stated tax or amount of the tax, after all just and lawful offsets, payments, and credits have been allowed;

(2) the stated amount of penalties and interest;

(3) the delinquency of the amounts; and

(4) the compliance of the comptroller with the

applicable provisions of this code in computing and determining the amount due.

(b) The defendant may not deny a claim for taxes, penalties, or interest unless the defendant timely files a sworn written denial that specifically identifies the taxes, penalties, and interest the defendant asserts are not due and the amounts of tax, penalties, and interest that are not due.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 4, eff. Sept. 1, 1991.

Sec. 111.014. EVIDENCE: COPIES OF GRAPHIC MATTER. (a) A copy of graphic matter is admissible, without further proof, in a judicial or administrative proceeding concerning the administration or enforcement of a tax imposed by this title if:

(1) the copy or information contained in the copy is relevant;

(2) the copy is a reproduction made by a photographic, photostatic, magnetic, or other process that accurately duplicates or forms a durable medium for accurately reproducing the original matter or information contained in the original matter; and

(3) the graphic matter was kept or recorded by the comptroller in the performance of official functions.

(b) "Graphic matter" means a memorandum, entry, report, or other document, a record of information contained in a memorandum, entry, report, or other document, or a record of an action taken by the comptroller.

(c) The admissibility of a copy of graphic matter as allowed under this section does not affect the admissibility of the original matter or other competent evidence offered to show the incorrectness of the copy or of information reflected in the copy.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.015. REMEDIES CUMULATIVE. The rights, powers, remedies, liens, and penalties provided by this title are cumulative of other rights, powers, remedies, liens, and penalties for the collection of taxes provided by this title and by other law.

Sec. 111.016. PAYMENT TO THE STATE OF TAX COLLECTIONS.

(a) Any person who receives or collects a tax or any money represented to be a tax from another person holds the amount so collected in trust for the benefit of the state and is liable to the state for the full amount collected plus any accrued penalties and interest on the amount collected.

(a-1) A person is presumed to have received or collected a tax or money represented to be a tax for the purpose of this section if the person files, or causes to be filed, a tax return or report with the comptroller showing tax due. A person, including a person who is on the accrual method of accounting, may rebut this presumption by providing satisfactory documentation to the comptroller that the tax on a transaction or series of transactions was not collected. The documentation is subject to verification by the comptroller.

(b) With respect to tax or other money subject to the provisions of Subsection (a), an individual who controls or supervises the collection of tax or money from another person, or an individual who controls or supervises the accounting for and paying over of the tax or money, and who wilfully fails to pay or cause to be paid the tax or money is liable as a responsible individual for an amount equal to the tax or money not paid or caused to be paid. The liability imposed by this subsection is in addition to any other penalty provided by law. The dissolution of a corporation, association, limited liability company, or partnership does not affect a responsible individual's liability under this subsection.

(b-1) Notwithstanding any other provision of this title, if the tax liability of a corporation, association, limited liability company, limited partnership, or other legal entity with which the responsible individual was employed or associated has either not become final, is subject to tolling of limitations under Section 111.207, or is the subject of a federal bankruptcy proceeding, the statute of limitations relating to the period during which the individual may be personally assessed by the comptroller is stayed until the first anniversary of the date the liability becomes final

or the date the bankruptcy proceeding is closed or dismissed.

(c) The district courts of Travis County have exclusive, original jurisdiction of a suit arising under this section.

(d) In this section:

(1) "Responsible individual" includes an officer, manager, director, or employee of a corporation, association, or limited liability company or a member of a partnership who, as an officer, manager, director, employee, or member, is under a duty to perform an act with respect to the collection, accounting, or payment of a tax or money subject to the provisions of Subsection (a).

(2) "Tax" includes any tax or money subject to the provisions of Subsection (a), including the penalty and interest computed by reference to the amount of the tax or money.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 1, eff. July 21, 1987; Acts 1995, 74th Leg., ch. 87, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931, Sec. 2, eff. June 15, 2007.

Sec. 111.017. SEIZURE AND SALE OF PROPERTY. (a) Before the expiration of three years after a person becomes delinquent in the payment of any amount under this title, the comptroller may seize and sell at public auction real and personal property of the person. A seizure made to collect the tax is limited only to property of the person that is not exempt from execution. Service or delivery of a notice of seizure under this section affecting property held by a financial institution in the name of or on behalf of a delinquent who is a customer of the financial institution is governed by Section 59.008, Finance Code.

(b) A person commits an offense if the person obstructs, hinders, impedes, or interferes with the comptroller's seizure of the property of a delinquent taxpayer in the following ways:

(1) trespassing on the property of a business or a business location that has been seized by the comptroller without the permission of the comptroller or the comptroller's agents;

(2) removing or breaking a lock on a business or business location that has been seized by the comptroller without the permission of the comptroller or the comptroller's agents;

(3) removing or causing to be removed any inventory, equipment, or other property from a business or business location seized by the comptroller without the permission of the comptroller or the comptroller's agents;

(4) damaging, destroying, or defacing any inventory, equipment, or property or the business location of a delinquent taxpayer while it is under seizure by the comptroller; or

(5) knowingly obstructing, hindering, or impeding the comptroller or the comptroller's agents in the seizure or securing of a delinquent taxpayer's property, including the taxpayer's business location, inventory, or equipment, under this section.

(c) An offense under Subsection (b) is a Class A misdemeanor.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 2, eff. July 21, 1987. Amended by Acts 1999, 76th Leg., ch. 344, Sec. 7.008, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931, Sec. 3, eff. June 15, 2007.

Sec. 111.018. NOTICE OF SALE OF SEIZED PROPERTY. (a) The delinquent person whose property is seized under Section 111.017 of this code is entitled to written notice of the sale of the property at least 20 days before the date of the sale.

(b) The notice must:

(1) contain a description of the property to be sold, a statement of the amount of the tax, penalties, interest, and costs due, the name of the delinquent person, and a statement that unless the amount due, including costs, is paid before the time of the sale as stated in the notice the described property, or as much of it as necessary, will be sold;

(2) be enclosed in an envelope that is addressed to the delinquent person at the person's last known address or place of business;

(3) be deposited in the United States mail, postage prepaid; and

(4) be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the seized property is to be sold, or, if there is no newspaper of general circulation in that county, the notice must be posted in three public places in that county for 20 days before the date set for the sale.

(c) Publication in a newspaper of a notice of sale of seized property under Subsection (b)(4) is not required if the estimated value of the property to be sold is less than \$40,000. The comptroller may notify potential buyers of seized property the value of which is estimated to be less than \$40,000 by any means reasonable and cost-effective to the state under the circumstances. Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 3, eff. July 21, 1987. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 5, eff. Sept. 1, 1997.

Sec. 111.019. SALE OF SEIZED PROPERTY; DISPOSITION OF PROCEEDS. (a) The comptroller may sell at public auction, as provided in the notice, property seized under Section 111.017 of this code and may deliver to the purchaser a bill of sale for personal property sold and a deed for real property sold. A bill of sale or a deed vests in the purchaser the interest or title in the property held by the person liable for the amount.

(b) The comptroller may leave unsold property at the place of the sale at the risk of the person liable for the amount.

(c) The amount by which the proceeds from the sale exceed the amount of taxes, penalties, interest, and costs shall be disposed of by the comptroller as follows:

(1) if before the sale of the property a person who is not the person liable for the amount and who has an interest in or lien on the property files notice of the interest or lien with the comptroller, the comptroller shall hold the amount of the excess pending a determination of the rights of respective parties in the amount of the excess by a court;

(2) if no notice is given under Subdivision (1) of this

subsection and the person liable for the amount gives a receipt for the amount of the excess, the comptroller shall return the amount of the excess to the person; or

(3) if no notice is given under Subdivision (1) of this subsection and the comptroller is unable to obtain a receipt under Subdivision (2) of this subsection, the comptroller shall hold the amount as trustee for the owner subject to the order of the person liable for the amount or a successor of the person.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 4, eff. July 21, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.03, eff. Sept. 1, 1997.

Sec. 111.020. TAX COLLECTION ON TERMINATION OF BUSINESS.

(a) If a person who is liable for the payment of an amount under this title sells the business or the stock of goods of the business or quits the business, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the comptroller showing that the amount has been paid or a certificate stating that no amount is due.

(b) The purchaser of a business or stock of goods who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a business may request that the comptroller issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The comptroller shall issue the certificate or statement within 60 days after receiving the request or within 60 days after the day on which the records of the former owner of the business are made available for audit, whichever period expires later, but in either event the comptroller shall issue the certificate or statement within 90 days after the date of receiving the request.

(d) If the comptroller fails to mail the certificate or statement within the applicable period provided by Subsection (c) of this section, the purchaser is released from the obligation to

withhold the purchase price or pay the amount due.

(e) A period of limitation during which the obligation of a purchaser under this section may be enforced begins when the former owner of the business sells the business or stock of goods or when a determination is made against the former owner, whichever event occurs later.

(f) Compliance with Subsection (a) is not a defense to an assessment of tax liability under Section 111.024 if:

(1) the amount withheld from the purchase price is not sufficient to fully satisfy the liability of the seller of the business or stock of goods; and

(2) the purchase price paid to the seller for the business or stock of goods is not reasonably equivalent to the value of the business or stock of goods.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 5, eff. July 21, 1987. Amended by Acts 2001, 77th Leg., ch. 442, Sec. 3, eff. Sept. 1, 2001.

Sec. 111.021. NOTICE TO HOLDERS OF AND LEVY UPON ASSETS BELONGING TO DELINQUENT. (a) If a person is delinquent in the payment of an amount required to be paid or has not paid an amount claimed in a determination made against the person, the comptroller may notify personally, by mail, or by means of facsimile or electronic transmission any other person who:

(1) possesses or controls a credit, bank or savings account, deposit, or other intangible or personal property belonging to the delinquent or the person against whom the unpaid determination is made, hereafter referred to as "assets"; or

(2) owes a debt to the delinquent or person against whom the unpaid determination is made.

(b) A notice under this section to a state officer, department, or agency must be given before the officer, department, or agency presents to the comptroller the claim of the delinquent or person to whom the unpaid determination applies.

(c) A notice under this section may be given at any time within three years after the payment becomes delinquent or within three years after the last recording of a lien filed under this

title, but not thereafter. The notice must state the amount of taxes, penalties and interest due and owing, and an additional amount of penalties and interest that will accrue by operation of law in a period not to exceed 30 days and, in the case of a credit, bank or savings account or deposit, is effective only up to that amount.

(d) On receipt of a notice given under this section, the person receiving the notice:

(1) within 20 days after receiving the notice shall advise the comptroller of each such asset belonging to the delinquent or person to whom an unpaid determination applies that is possessed or controlled by the person receiving the notice and of each debt owed by the person receiving the notice to the delinquent person or person to whom an unpaid determination applies;

(2) may not transfer or dispose of the asset or debt possessed, controlled, or owed by the person at the time the person received the notice for a period of 60 days after receipt of the notice, unless the comptroller consents to an earlier disposal; and

(3) may not avoid or attempt to avoid compliance with this section by filing an interpleader action in court and depositing the delinquent's or person's funds or other assets into the registry of the court.

(e) A notice under this section that attempts to prohibit the transfer or disposal of an asset possessed or controlled by a bank or other financial institution is governed by Section 59.008, Finance Code, and also is effective if it is delivered or mailed to the principal or any branch office of the bank or other financial institution including any office of the bank or other financial institution at which the deposit is carried or the credit or property is held.

(f) A person who has received a notice under this section and who violates Subdivision (2) of Subsection (d) of this section is liable to the state for the amount of indebtedness of the person with respect to whose obligation the notice was given to the extent of the value of the asset or debt transferred or disposed of.

(f-1) A person who fails or refuses to comply with this section after receiving a notice of freeze or levy is liable for a

penalty in an amount equal to 50 percent of the amount sought to be frozen or levied. This penalty is in addition to the liability imposed under Subsection (f). The penalty may be assessed and collected by the comptroller using any remedy available to collect other amounts under this title.

(g) At any time during the 60-day period as stated in Subdivision (2) of Subsection (d) of this section, the comptroller may levy upon the asset or debt. The levy shall be accomplished by delivery of a notice of levy, upon receipt of which the person possessing the asset or debt shall transfer the asset to the comptroller or pay to the comptroller the amount owed to the delinquent or to the person against whom the unpaid determination is made.

(h) A notice delivered under this section is effective:

(1) at the time of delivery against all property, rights to property, credits, and/or debts involving the delinquent taxpayer which are not at the time of the notice subject to an attachment, garnishment, or execution issued through a judicial process; and

(2) against all property, rights to property, credits and/or debts involving the delinquent taxpayer that come into the possession or control of the person served with the notice within the 60-day period provided by Subdivision (2) of Subsection (d) of this section.

(i) Any person acting in accordance with the terms of the notice of freeze or levy issued by the comptroller is discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property, credits, and/or debts of the taxpayer affected by compliance with the notice of freeze or levy.

(j) For purposes of collecting delinquent taxes imposed under Chapter 159, the term "asset" includes the contents of a safe deposit box. The comptroller shall issue regulations specifying procedures for accomplishing a levy upon the contents of a safe deposit box, including rules relating to inventory of the box contents, delivery of the contents, and reimbursement to the financial institution or other safe deposit box facility for

drilling and other costs.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 6, eff. July 21, 1987. Amended by Acts 1993, 73rd Leg., ch. 362, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 486, Sec. 1.03, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 344, Sec. 7.009, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 442, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931, Sec. 4, eff. June 15, 2007.

Sec. 111.022. JEOPARDY DETERMINATION. (a) If the comptroller believes that the collection of a tax required to be paid to the state or the amount due for a tax period is jeopardized by delay, the comptroller shall issue a determination stating the amount and that the tax collection is in jeopardy. The amount required to be paid to the state or due for the tax period is due and payable immediately.

(b) A determination made under this section becomes final on the expiration of 20 days after the day on which the notice of the determination was served by personal service or by mail unless a petition for a redetermination is filed before the determination becomes final.

(c) If a determination made under this section becomes final without payment of the amount of the determination being made, the comptroller shall add to the amount a penalty of 10 percent of the amount of the tax and interest.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 7, eff. July 21, 1987. Amended by Acts 2001, 77th Leg., ch. 442, Sec. 5, eff. Sept. 1, 2001.

Sec. 111.023. WRITTEN AUTHORIZATION. (a) The comptroller may require that a report, return, declaration, claim for refund, or other document that is required or permitted to be filed with the comptroller and that is submitted by an attorney, accountant, or other representative of a taxpayer on behalf of the taxpayer be accompanied by express written authorization of the taxpayer in whose name or on whose behalf it is purportedly submitted.

(b) An officer, director, or employee of the taxpayer whose duties include administering the taxpayer's rights and responsibilities with the comptroller may sign the written authorization. The authorization must include the title and telephone number of the officer, director, or employee who signs the authorization for verification by the comptroller.

(c) The comptroller may impose a requirement of Subsection (b) on a taxpayer's assignment of a claim for refund.
Added by Acts 1993, 73rd Leg., ch. 587, Sec. 4, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.12, eff. Oct. 1, 1999.

Sec. 111.024. LIABILITY IN FRAUDULENT TRANSFERS. (a) A person who acquires a business or the assets of a business from a taxpayer through a fraudulent transfer or a sham transaction is liable for any tax, penalty, and interest owed by the taxpayer.

(b) A transfer of a business or the assets of a business is considered to be a fraudulent transfer or a sham transaction if the taxpayer made the transfer or undertook the transaction:

(1) with intent to evade, hinder, delay, or prevent the collection of any tax, penalty, or interest owed under this title; or

(2) without receiving a reasonably equivalent value in exchange for the business or business assets subject to the transfer or transaction.

(c) In determining the intent of the taxpayer under Subsection (b)(1), consideration may be given, among other factors, to whether:

(1) the transfer was to a current or former business insider, associate, or employee of the taxpayer or to a person related to the taxpayer within the third degree of consanguinity by blood or marriage;

(2) the transfer was to a third party who subsequently transferred the business or assets of the business to a current or former business insider, associate, or employee of the taxpayer or to a person related to the taxpayer within the third degree of consanguinity by blood or marriage;

(3) the taxpayer retained possession or control of the business or the assets of the business after the transfer or transaction;

(4) the taxpayer's business and the transferee's business are essentially operated as a single business entity at the same location;

(5) before the transfer or the transaction occurred, the taxpayer had either been subjected to or apprised of impending collection action by the comptroller or by the attorney general;

(6) the transfer or transaction was concealed;

(7) the taxpayer was insolvent at the time of the transfer or became insolvent not later than the 31st day after the date the transfer or transaction occurred; or

(8) the transfer or transaction involved all or substantially all of the taxpayer's assets.

(d) This section does not apply to a transfer of a business or the assets of a business:

(1) through a court order on dissolution of a marriage; or

(2) by descent or distribution or testate succession on the death of a taxpayer.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 6, eff. Sept. 1, 2001.

SUBCHAPTER B. TAX REPORTS AND PAYMENTS

Sec. 111.051. REPORTS AND PAYMENTS; DUE DATES; METHOD OF PAYMENT. (a) The comptroller may set the date for filing a report for and making a payment of a tax imposed by this title.

(b) A date set by the comptroller under this section prevails over a different date prescribed by this title for the filing of a report for or the payment of a tax, except that the comptroller may only set a report or payment date for the state sales and use tax that conflicts with the dates prescribed by Chapter 151 of this code in case of public calamity or natural disaster.

(c) The comptroller may require that all payments from a taxpayer who files tax reports monthly and remits three or more dishonored or insufficient funds checks or drafts within a

six-month period be remitted using certified instruments. The comptroller may require that all payments from a taxpayer who files tax reports quarterly and remits three or more dishonored or insufficient funds checks or drafts within an 18-month period be remitted by using certified instruments. In this subsection, "certified instruments" includes cashier's checks and money orders. The comptroller shall send written notice of a payment restriction under this subsection to the taxpayer at the business address shown on the comptroller's records. A failure to remit a payment by a certified instrument after imposition of the payment restriction by the comptroller is grounds for the suspension and revocation of a permit or license as provided by Section 111.0047 of this code.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 799, Sec. 1, eff. Aug. 26, 1985; Acts 1993, 73rd Leg., ch. 486, Sec. 1.04, eff. Sept. 1, 1993.

Sec. 111.0511. RESTRICTED OR CONDITIONAL PAYMENTS TO COMPTROLLER PROHIBITED. (a) In this section, "taxes" includes the tax and any penalties and interest relating to a tax liability.

(b) Unless the restriction or condition is authorized by this title, a restriction or condition placed on a check or other money instrument in payment of taxes by the maker that purports to limit the amount of taxes owed or place a condition on its acceptance or negotiation is void.

Added by Acts 2007, 80th Leg., R.S., Ch. 931, Sec. 5, eff. June 15, 2007.

Sec. 111.052. FORM OF REPORT. (a) The comptroller may revise the form of a report required under this title to eliminate specific information that may be required by any other provision of this title.

(b) Information that is no longer required because of a revision under Subsection (a) of this section may be required again at any time by the comptroller.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.053. FILING DATES: WEEKENDS AND HOLIDAYS.

(a) If the date on which a report or payment of any state tax is due falls on a Saturday, Sunday, or legal holiday included on the list published for the year under Subsection (b), the next day that is not a Saturday, Sunday, or legal holiday included on that list becomes the due date.

(b) Before January 1 of each year, the comptroller shall publish in the Texas Register and distribute to each state agency that receives reports or payments of any taxes a list of the legal holidays for banking purposes for that year. The comptroller may not include on the list a holiday on which the comptroller determines that most financial institutions will be conducting ordinary business.

(c) An agency that collects a tax for which a due date for a report or payment falls on a legal holiday not included on the list published under Subsection (b) shall ensure that a taxpayer may make a report or payment on that date. The agency may enter into an agreement with the comptroller for the receipt of reports or payments on that date.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 4.03, eff. Dec. 1, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.04, eff. Sept. 1, 1997.

Sec. 111.054. TIMELY FILING: MAIL DELIVERY. (a) If a tax payment or a report is placed in a U.S. Post Office or in the hands of a common or contract carrier properly addressed to the comptroller on or before the date the payment or report is required to be made or filed, the payment or report is made or filed on time.

(b) The receipt mark of a contract or common carrier or the postmark on a tax payment or report is prima facie evidence of the date on which the payment or report was delivered to a carrier or the post office. The comptroller or the person making the payment or filing the report may show by competent evidence that the actual date of delivery to the carrier or post office differs from the receipt mark or postmark.

(c) The comptroller may refund or issue credits for

penalties and interest paid solely as a result of returns or tax payments timely mailed but postmarked after the required filing date.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.055. TIMELY FILING: DILIGENCE. A person who files a report or makes a tax payment complies with the filing requirements for timeliness if the person exercises reasonable diligence to comply and through no fault of the person the report is not filed or the payment is not made on time.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.056. FILING WITHIN 10 DAYS: PENALTY AND INTEREST. If a report is filed or a tax payment is made before the expiration of 10 days after the date on which the report or payment is due and if the report as originally filed shows the correct amount of the tax due or the amount of the payment is for the correct amount due, no assessment for penalty or interest may be made solely on the grounds of late filing after the expiration of 90 days after the date the report was required to be filed or the payment required to be made.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.057. EXTENSION FOR FILING REPORT. (a) The comptroller may grant a reasonable extension of time, not to exceed 45 days, for the filing of a report required by this title.

(b) To qualify for an extension of time under this section, the person required to file a report must make a request for the extension to the comptroller and remit not less than 90 percent of the amount of the tax estimated to be due on or before the filing date as required by other provisions of this title. The request must be in writing and include the reason an extension is needed.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.058. FILING EXTENSION BECAUSE OF NATURAL DISASTER. (a) The comptroller may grant to a person whom the comptroller finds to be a victim of a natural disaster an extension

of not more than 90 days to make or file a return or pay a tax imposed by this title.

(b) The person owing the tax may file a request for an extension at any time before the expiration of 90 days after the original due date.

(c) If an extension under this section is granted, interest on the unpaid tax does not begin to accrue until the day after the day on which the extension expires, and tax penalties are assessed and determined as though the last day of the extension were the original due date.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.059. OATH NOT REQUIRED. A report, return, declaration, claim for refund, or other document required or permitted to be filed with the comptroller is not required to be made or submitted under oath, verification, acknowledgment, or affirmation.

Acts 1981, 67th Leg., p. 1506, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.060. INTEREST ON DELINQUENT TAX. (a) The yearly interest rate on all delinquent taxes imposed by this title is at the rate of 12 percent for report periods originally due on or before December 31, 1999, after which the rate of interest is variable and determined as provided in Subsection (b).

(b) The rate of interest to be charged to the taxpayer is the prime rate plus one percent, as published in The Wall Street Journal on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday.

(c) Except as provided by Subsection (d), delinquent taxes draw interest beginning 60 days after the date due.

(d) Subsection (c) does not apply to the taxes imposed by Chapters 152 and 211 or under an agreement made under Section 153.017.

Acts 1981, 67th Leg., p. 1506, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 450, ch. 93, Sec. 1, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 409, Sec. 69, eff. June 7, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 13.01, eff. Sept. 1,

1991; Acts 1993, 73rd Leg., ch. 587, Sec. 5, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 1000, Sec. 2, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 459, Sec. 1, eff. Jan. 1, 2000.

Sec. 111.061. PENALTY ON DELINQUENT TAX OR TAX REPORTS.

(a) Except as otherwise provided, a penalty of five percent of the tax due shall be imposed on a person who fails to pay a tax imposed or file a report required by Title 2 or 3 of this code when due, and, if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, an additional five percent penalty shall be imposed.

(b) Except where another penalty for fraud or intent to evade the tax is specifically provided, an additional penalty of 50 percent of the tax due shall be imposed if it is determined that:

(1) the failure to pay the tax or file a report when due was a result of fraud or an intent to evade the tax; or

(2) the taxpayer alters, destroys, or conceals any record, document, or thing, or presents to the comptroller any altered or fraudulent record, document, or thing, or otherwise engages in fraudulent conduct, for the apparent purpose of affecting the course or outcome of an audit, investigation, redetermination, or other proceeding before the comptroller.

Added by Acts 1989, 71st Leg., ch. 231, Sec. 4, eff. Aug. 28, 1989.

Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 6, eff. Sept. 1, 1997.

Sec. 111.0611. PERSONAL LIABILITY FOR FRAUDULENT TAX EVASION. (a) An officer, manager, or director of a corporation, association, or limited liability company, a partner of a general partnership, or a managing general partner of a limited partnership or limited liability partnership who, as an officer, manager, director, or partner, took an action or participated in a fraudulent scheme or fraudulent plan to evade the payment of taxes due under Title 2 or 3 is personally liable for the taxes and any penalty and interest due. The personal liability of an individual includes liability for the additional 50 percent fraud penalty provided by Section 111.061(b). The comptroller shall assess

individuals liable under this section in the same manner as other persons or entities may be assessed under this chapter.

(b) For purposes of this section, actions that may indicate the existence of a fraudulent scheme or a fraudulent plan to evade the payment of taxes include:

(1) filing, or causing to be filed, a fraudulent tax return or report with the comptroller on behalf of the business entity;

(2) intentionally failing to file a tax return, report, or other required document with the comptroller when the business entity is under a legal obligation to file;

(3) filing, or causing to be filed, a tax return or report with the comptroller on behalf of the business entity that contains an intentionally false statement that results in the amount of the tax due exceeding the amount of tax reported by 25 percent or more; and

(4) altering, destroying, or concealing any record, document, or thing, presenting to the comptroller any altered or fraudulent record, document, or thing, or otherwise engaging in fraudulent conduct with the intent to affect the course or outcome of a comptroller audit or investigation, a redetermination hearing, or another proceeding involving the comptroller.

(c) To the extent the comptroller can verify and secure sufficient unencumbered assets of the corporation, association, or partnership to satisfy the liability, an individual's personal liability under Subsection (a) is limited to the amount by which the total tax, penalty, and interest due under this section exceeds those assets.

Added by Acts 2007, 80th Leg., R.S., Ch. 931, Sec. 6, eff. June 15, 2007.

Sec. 111.062. ACCEPTANCE OF CREDIT CARDS FOR PAYMENT OF CERTAIN TAXES AND FEES. (a) The comptroller may accept a credit card in payment of:

(1) a delinquent tax and related penalties and interest imposed by this code;

(2) a fee charged for:

- (A) an account status certificate;
- (B) a no tax due certificate;
- (C) postage;
- (D) a certified copy;
- (E) a copy of a document;
- (F) a microfilm copy;
- (G) written evidence of the comptroller's records;
- (H) research;
- (I) labor;
- (J) a minerals tax history; and
- (K) a minerals tax extract; and

(3) any other service fee charged by the comptroller.

(b) If the comptroller accepts a payment by credit card, the comptroller may require the payment of a processing fee by the credit card user.

Added by Acts 1993, 73rd Leg., ch. 449, Sec. 38, eff. Sept. 1, 1993.

Sec. 111.0625. ELECTRONIC TRANSFER OF CERTAIN PAYMENTS.

(a) Except as provided by Subsections (b) and (c), the comptroller by rule shall require a taxpayer who paid \$100,000 or more during the preceding fiscal year in a category of payments required under this title to transfer payments in that category by means of electronic funds transfer in accordance with Section 404.095, Government Code, if the comptroller reasonably anticipates the person will pay at least that amount during the current fiscal year.

(b) The comptroller by rule shall require a taxpayer who paid \$10,000 or more during the preceding fiscal year in the category of payments described by this subsection to transfer payments in that category by means of electronic funds transfer in accordance with Section 404.095, Government Code, if the comptroller reasonably anticipates the person will pay at least that amount during the current fiscal year. This subsection applies only to:

- (1) state and local sales and use taxes;
- (2) direct payment sales taxes;
- (3) gas severance taxes;

- (4) oil severance taxes;
- (5) franchise taxes;
- (6) gasoline taxes;
- (7) diesel fuel taxes;
- (8) hotel occupancy taxes;
- (9) insurance premium taxes;
- (10) mixed beverage gross receipts taxes;
- (11) motor vehicle rental taxes; and
- (12) telecommunications infrastructure fund

assessments.

(c) Notwithstanding Subsection (b), if the comptroller determines that the action is necessary to protect the state's interest or the interests of taxpayers, the comptroller by rule may:

(1) apply the requirements of Subsection (b) to a category of payments not listed in Subsection (b); or

(2) remove the requirements of Subsection (b) from a category of payments listed in Subsection (b).

(d) A rule adopted under Subsection (b) or (c) must provide for a waiver from the requirements of that subsection for a taxpayer who cannot comply because of hardship, impracticality, or other reason.

(e) The comptroller by rule may specify the types of electronic funds transfers a person must use to comply with this section. The rule may require a taxpayer to use different types of transfers for different payment amounts.

Added by Acts 2001, 77th Leg., ch. 41, Sec. 1, eff. May 3, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 371, Sec. 1, eff. June 15, 2007.

Sec. 111.0626. ELECTRONIC FILING OF CERTAIN REPORTS.

(a) The comptroller by rule shall require electronic filing of a report required under Chapter 151, 201, or 202, or an international fuel tax agreement, for a taxpayer who is also required under Section 111.0625 to transfer payments by electronic funds transfer.

(b) The comptroller may adopt rules requiring electronic

filing of a report not described by Subsection (a).

(b-1) Notwithstanding any other law, the comptroller by rule may require a taxpayer who paid \$50,000 or more during the preceding fiscal year to file reports electronically during the current fiscal year. A taxpayer filing a report electronically may use software provided by the comptroller or commercially available software that satisfies requirements prescribed by the comptroller.

(c) A rule adopted under this section must provide for a waiver from the electronic filing requirement for a taxpayer who cannot comply.

Added by Acts 2001, 77th Leg., ch. 41, Sec. 1, eff. May 3, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 371, Sec. 2, eff. September 1, 2008.

Sec. 111.063. PENALTY FOR FAILURE TO USE ELECTRONIC TRANSFERS AND FILINGS. (a) The comptroller may impose a penalty of five percent of the tax due on a person who:

(1) is required by statute or rule to pay the tax to the comptroller by means of electronic funds transfer and does not pay the tax by means of electronic funds transfer; or

(2) is required under Section 111.0626 to file a report electronically and does not file the report electronically.

(b) The penalties provided by this section are in addition to any other penalty provided by law.

Added by Acts 1995, 74th Leg., ch. 87, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 41, Sec. 2, eff. May 3, 2001.

Sec. 111.064. INTEREST ON REFUND OR CREDIT. (a) Except as otherwise provided by this section, for a refund under this chapter, interest is at the rate that is the lesser of the annual rate of interest earned on deposits in the state treasury during December of the previous calendar year, as determined by the comptroller, or the rate set in Section 111.060, and accrues on the amount found to be erroneously paid for a period:

(1) beginning on the later of 60 days after the date of

payment or the due date of the tax report; and

(2) ending on, as determined by the comptroller, either the date of allowance of credit on account of the comptroller's final decision or audit or a date not more than 10 days before the date of the refund warrant.

(b) A credit taken by a taxpayer on the taxpayer's return does not accrue interest.

(c) For a refund claimed before September 1, 2005, and granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060.

(c-1) A refund, without regard to the date claimed, for a report period due before January 1, 2000, does not accrue interest.

(d) This section does not apply to an amount paid to the comptroller under Title 6, Property Code, or under an agreement made under Section 153.017.

(e) All warrants for interest payments shall be drawn against the fund or account into which the erroneously paid tax was deposited. The interest shall be paid from funds appropriated for that purpose.

(f) A local revenue fund is not subject to Subsections (a)-(c-1). In this subsection, "local revenue fund" includes a court cost, a fee, a fine, or a similar charge collected by a municipality, a county, or a court of this state and remitted to the comptroller.

Added by Acts 1999, 76th Leg., ch. 459, Sec. 2, eff. Jan. 1, 2000.

Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 90, eff. Oct. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 404, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 899, Sec. 11.01, eff. September 1, 2005.

SUBCHAPTER C. SETTLEMENTS, REFUNDS, AND CREDITS

Sec. 111.101. SETTLEMENT. (a) The comptroller may settle a claim for a tax, penalty, or interest imposed by this title if the total costs of collection, as conclusively determined by the comptroller, of the total amount due would exceed the total amount

due.

(b) The comptroller may settle a claim for a refund of tax, penalty, or interest imposed by this title if the total costs of defending a denial of the claim, as conclusively determined by the comptroller, would exceed the total amount claimed.

Acts 1981, 67th Leg., p. 1506, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 3, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 459, Sec. 3, eff. Aug. 30, 1999.

Sec. 111.102. SETTLEMENT ON REDETERMINATION. As a part of a redetermination order, the comptroller may settle a claim for a tax, penalty, or interest imposed by this title if:

(1) collection of the total amount due would make the taxpayer insolvent and the taxpayer has submitted to the comptroller all financial records, including income tax reports and an inventory of all property owned wherever located; or

(2) the taxpayer is insolvent, is in liquidation, or has ceased to do business and:

(A) the taxpayer has no property that may be seized by the courts of this or another state; or

(B) the value of the taxpayer's property is less than the total amount due and the amount of debts against the property.

Acts 1981, 67th Leg., p. 1506, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 459, Sec. 4, eff. Aug. 30, 1999.

Sec. 111.103. SETTLEMENT OF PENALTY AND INTEREST ONLY.

(a) The comptroller may settle a claim for a tax penalty or interest on a tax imposed by this title if the taxpayer exercised reasonable diligence to comply with the provisions of this title.

(b) Repealed by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(1), eff. Sept. 1, 1991.

Acts 1981, 67th Leg., p. 1507, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(1), eff. Sept. 1, 1991.

Sec. 111.104. REFUNDS. (a) If the comptroller finds that an amount of tax, penalty, or interest has been unlawfully or erroneously collected, the comptroller shall credit the amount against any other amount when due and payable by the taxpayer from whom the amount was collected. The remainder of the amount, if any, may be refunded to the taxpayer from money appropriated for tax refund purposes.

(b) A tax refund claim may be filed with the comptroller only by the person who directly paid the tax to this state or by the person's attorney, assignee, or other successor.

(c) A claim for a refund must:

(1) be written;

(2) state fully and in detail each reason or ground on which the claim is founded; and

(3) be filed before the expiration of the applicable limitation period as provided by this code or before the expiration of six months after a jeopardy or deficiency determination becomes final, whichever period expires later.

(d) A refund claim for an amount of tax that has been found due in a jeopardy or deficiency determination is limited to the amount of tax, penalty, and interest and to the tax payment period for which the determination was issued. The failure to file a timely tax refund claim is a waiver of any demand against the state for an alleged overpayment.

(e) This section applies to all taxes and license fees collected or administered by the comptroller, except the state property tax.

(f) No taxes, penalties, or interest may be refunded to a person who has collected the taxes from another person unless the person has refunded all the taxes and interest to the person from whom the taxes were collected.

Acts 1981, 67th Leg., p. 1507, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 154, Sec. 2, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 1467, Sec. 2.13, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 1310, Sec. 86, eff. June 20, 2003.

Sec. 111.1042. TAX REFUND: INFORMAL REVIEW. (a) The

comptroller may informally review a claim for refund filed in accordance with this title and may grant or deny it, in whole or in part.

(b) An informal review under this section is not a hearing or contested case under Chapter 2001, Government Code.

(c) This section does not impair the right to a hearing on a claim for refund provided in Section 111.105.

(d) If the right to a hearing is not exercised on a full or partial denial of a claim for refund, the period during which the comptroller informally reviewed the claim for refund does not toll the limitation period for any subsequent claim for refund on the same period and type of tax for which the claim for refund was fully or partially denied.

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 6, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1310, Sec. 87, eff. June 20, 2003.

Sec. 111.105. TAX REFUND: HEARING. (a) A person claiming a refund under Section 111.104 is entitled to a hearing on the claim if the person requests a hearing on or before the 30th day after the date the comptroller issues a letter denying the claim for refund. The person is entitled to 20 days' notice of the time and place of the hearing.

(b) A decision of the comptroller following a hearing on a claim for a refund becomes final 20 days after service on the claimant of the notice of the order or decision.

(c) A tax refund claimant who is dissatisfied with the decision on the claim is entitled to file a motion for rehearing.

(d) A motion for rehearing on a tax refund claim must be written and assert each specific ground of error. The amount of the refund sought must be set out in the motion for rehearing.

(e) During the administrative hearing process, a person claiming a refund under Section 111.104 must submit documentation to enable the comptroller to verify the claim for refund. The comptroller may issue a notice of demand that all evidence to support the claim for refund must be produced before the expiration

of a specified date in the notice. The specified date in the notice may not be earlier than 180 days after the date the refund is claimed. The comptroller may not consider evidence produced after the specified date in the notice in an administrative hearing. The limitation provided by this subsection does not apply to a judicial proceeding filed in accordance with Chapter 112.

Acts 1981, 67th Leg., p. 1507, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 89, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 705, Sec. 5, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 587, Sec. 7, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1310, Sec. 88, eff. June 20, 2003.

Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED.

(a) Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 153, except Section 153.1195(e), 153.121(d), 153.2225(e), or 153.224(d).

(b) A person may not refile a refund claim for the same transaction or item, tax type, period, and ground or reason that was previously denied by the comptroller.

Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 2, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 587, Sec. 8, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1040, Sec. 7, eff. Oct. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.14, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 1310, Sec. 89, eff. June 20, 2003.

Sec. 111.108. RECOVERY OF REFUND OR CREDIT. (a) Within

four years after the date that a refund is erroneously paid or an amount of credit is erroneously allowed, the comptroller may recover the refund or credit in a jeopardy or deficiency determination.

(b) This section does not extend or toll a period of limitation under this title for filing a timely claim for a refund. Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 9, eff. Sept. 1, 1993.

Sec. 111.109. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN. The comptroller shall issue a refund for a tax paid by a person to this state in the amount of a tax refund voucher issued by the Texas Workforce Commission under Subchapter H, Chapter 301, Labor Code, subject to the provisions of that subchapter.

Added by Acts 1993, 73rd Leg., ch. 486, Sec. 4.02, eff. Jan. 1, 1994; Amended by Acts 1997, 75th Leg., ch. 228, Sec. 3, eff. Sept. 1, 1997.

Sec. 111.110. TAX CREDIT FOR REAL PROPERTY CONTRIBUTED TO AN INSTITUTION OF HIGHER EDUCATION. (a) Subject to the provisions of Subchapter D, Chapter 55, Education Code, the comptroller shall issue a credit to be used by a taxpayer who qualifies for the credit under that subchapter against the payment of a tax imposed on the taxpayer:

- (1) for the franchise tax under Chapter 171; or
- (2) if the taxpayer holds a direct payment permit for the sales and use tax under Chapter 151, for that tax.

(b) The credit applies to a tax originally due on or after the date the credit is issued but not later than the end of the 20th calendar year following the calendar year in which the credit was issued.

(c) A taxpayer may not claim a credit issued under this section in a calendar year in an amount greater than five percent of the total credit issued to that taxpayer.

(d) A taxpayer shall include with a return or report showing

an amount of tax due against which a taxpayer claims a credit under this section, a statement containing the following information:

(1) the original amount of the credit and its date of issue;

(2) the total amount of the credit previously claimed by the taxpayer;

(3) the amount of credit claimed on the attached return;

(4) the remaining unused credit amount; and

(5) the calendar year in which the credit expires.

(e) The comptroller may recover an amount erroneously claimed as a credit in a jeopardy or deficiency determination issued before the fourth anniversary of the date on which the erroneous claim is filed.

Added by Acts 1995, 74th Leg., ch. 1019, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. LIMITATIONS

Sec. 111.201. ASSESSMENT LIMITATION. No tax imposed by this title may be assessed after four years from the date that the tax becomes due and payable.

Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 1.05, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1000, Sec. 4, eff. Oct. 1, 1995.

Sec. 111.202. SUIT LIMITATION. At any time within three years after a deficiency or jeopardy determination has become due and payable or within three years after the last recording of a lien, the comptroller may bring an action in the courts of this state, or any other state, or of the United States in the name of the people of the State of Texas to collect the amount delinquent together with penalties and interest.

Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.203. AGREEMENTS TO EXTEND PERIOD OF LIMITATION.

(a) Before the expiration of the periods prescribed in Sections 111.104, 111.201, and 111.202 of this code for the filing of a refund claim or for the assessment and collection of any tax imposed

by this title, the comptroller and a taxpayer may agree in writing to the filing of a refund claim or to an assessment and collection after that time. The agreement must contain the reasons the comptroller and the taxpayer wish to extend the period. At any time before the expiration of the period agreed on, the refund may be made, the tax may be assessed and collected, or an action may be commenced in any court to collect the amount delinquent.

(b) The extended period agreed on under Subsection (a) of this section may be extended by subsequent agreements made before the expiration of the extended period. All subsequent agreements must set forth the reasons for extending the period.

(c) No single extension agreement may be for a period of more than 24 months from the expiration date of the period being extended.

(d) The period for filing a refund claim or for assessment and collection of a tax may be extended if:

(1) without an extension, there might occur a revenue loss to the state;

(2) either the taxpayer or the comptroller, despite good faith efforts, requires more time to prepare for or complete the audit;

(3) without an extension, circumstances beyond the control of either the comptroller or the taxpayer would make an audit by the comptroller impractical or burdensome for either party; or

(4) an issue of law involved in the audit is awaiting determination in either litigation or an administrative proceeding.

(e) If, during an extended period agreed on under Subsection (a) of this section, the comptroller finds that an amount of tax, penalty, or interest has been unlawfully or erroneously collected, the comptroller shall credit the amount against any other amount then due and payable by the taxpayer from whom the amount was collected. The remainder of the amount if any may be refunded to the taxpayer.

Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1983, 68th Leg., p. 458, ch. 94, Sec. 1, 2, eff. May

10, 1983.

Sec. 111.204. BEGINNING OF PERIOD OF LIMITATION. In determining the beginning date for a period of limitation provided in this title, the date that a tax is due and payable is the day after the last day on which a payment is required by the chapter of this title imposing the tax.

Acts 1981, 67th Leg., p. 1509, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.205. EXCEPTION TO ASSESSMENT LIMITATION.

(a) The limitation provided by Section 111.201 of this code does not apply and the comptroller may assess a tax imposed by this title at any time if:

(1) with intent to evade the tax, the taxpayer files a false or fraudulent report;

(2) no report for the tax has been filed; or

(3) information contained in the report of the tax contains a gross error.

(b) In this section, "gross" error means that, after correction of the error, the amount of tax due and payable exceeds the amount initially reported by at least 25 percent.

Acts 1981, 67th Leg., p. 1509, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 459, ch. 94, Sec. 4, eff. May 10, 1983; Acts 1993, 73rd Leg., ch. 587, Sec. 10, eff. Sept. 1, 1993.

Sec. 111.2051. ASSESSMENT WHEN REFUND CLAIMED.

(a) Notwithstanding the expiration of any period of limitation provided under this title, the comptroller may assess a tax imposed by this title if a taxpayer files a timely claim for refund with the comptroller.

(b) An assessment authorized by this section is limited to the tax payment period and type of tax for which the refund is sought and must be made before the later of:

(1) four years after the date the refund claim is filed with the comptroller; or

(2) the expiration of the applicable limitation period for making assessments as otherwise provided by this title.

(c) This section extends only the time in which the comptroller may assess the tax and does not extend or toll a period of limitation under this title for filing a timely claim for refund. Added by Acts 1993, 73rd Leg., ch. 587, Sec. 11, eff. Sept. 1, 1993.

Sec. 111.206. EXCEPTION TO LIMITATION: DETERMINATION RESULTING FROM ADMINISTRATIVE PROCEEDING. (a) This section applies only to a final determination resulting from:

(1) an administrative proceeding of a local, state, or federal regulatory agency; or

(2) a judicial proceeding arising from an administrative proceeding of a local, state, or federal regulatory agency.

(b) A final determination that affects the amount of liability of a tax imposed by this title shall be reported to the comptroller before the expiration of 120 days after the day on which the determination becomes final. The report must include a detailed statement of the reasons for the difference in tax liability as required by the comptroller.

(c) Notwithstanding the expiration of a period of limitation provided in this title, the comptroller may assess and collect or bring suit for the collection of any tax deficiency, including penalties and interest, resulting from a final determination at any time before the expiration of one year after:

(1) the later of the day the report is required to be filed as provided by Subsection (b) or the day the report is received; or

(2) the day the final determination is discovered, if a report is not filed.

(d) If a final determination results in the taxpayer having overpaid the amount of tax due the state, the taxpayer may file a claim for refund with the comptroller for the amount of the overpayment before the first anniversary of the date the final determination becomes final. If the comptroller assesses tax by issuing a deficiency determination within the period provided by Subsection (c), the taxpayer may file a claim for refund for an amount of tax that has been found due in a deficiency determination

before the 180th day after the deficiency determination becomes final, but the claim is limited to the items and the tax payment period for which the determination was issued.

(e) This section does not shorten any period of limitation elsewhere provided in this title.

(f) In this section:

(1) "Federal regulatory agency" includes the United States Internal Revenue Service.

(2) "Administrative proceeding" includes an audit by the United States Internal Revenue Service.

Acts 1981, 67th Leg., p. 1509, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 87, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 8, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 90, eff. June 20, 2003.

Sec. 111.207. TOLLING OF LIMITATION PERIOD. (a) In determining the expiration date for a period when a tax imposed by this title may be assessed, collected, or refunded, the following periods are not considered:

(1) the period following the date of a tax payment made under protest, but only if a lawsuit is timely filed in accordance with Chapter 112;

(2) the period during which a judicial proceeding is pending in a court of competent jurisdiction to determine the amount of the tax due; and

(3) the period during which an administrative redetermination or refund hearing is pending before the comptroller.

(b) The suspension of a period of limitation under Subsection (a) is limited to the issues that were contested under Subdivision (1), (2), or (3) of that subsection.

(c) A bankruptcy case commenced under Title 11 of the United States Code suspends the running of the period prescribed by any section of this title for the assessment or collection of any tax imposed by this title until the bankruptcy case is dismissed or closed. After the case is dismissed or closed, the running of the period resumes until finally expired.

(d) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(24).

Acts 1981, 67th Leg., p. 1510, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 459, ch. 94, Sec. 3, eff. May 10, 1983; Acts 2003, 78th Leg., ch. 1310, Sec. 91, 121(24), eff. June 20, 2003.

SUBCHAPTER E. ASSIGNMENT OF TAX CLAIMS

Sec. 111.251. ASSIGNMENT ON PAYMENT BY THIRD PERSON.

(a) A person may voluntarily pay to the comptroller the tax, fine, penalty, and interest due for a period of time under this title by another person after the tax becomes due or may pay a judgment for those taxes, and when the tax or judgment is paid, the comptroller may assign all rights, liens, judgments, and remedies of the state to secure and enforce tax payments to the person paying the tax or the judgment.

(b) A person paying a tax or judgment for another under Subsection (a) of this section is subrogated to and succeeds to all rights, liens, judgments, and remedies of the state relating to the enforcement of the taxes paid.

Acts 1981, 67th Leg., p. 1510, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.252. NOTICE TO TAXPAYER. (a) No assignment under Section 111.251 of this code may be made until after the expiration of 30 days after notice of the assignments is given to the taxpayer from whom the tax is due or against whom the judgment is taken.

(b) Notice of the assignment must be sent by certified mail to the taxpayer at his last known address as shown in the comptroller's records.

Acts 1981, 67th Leg., p. 1510, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.253. VENUE FOR ENFORCEMENT OF ASSIGNED CLAIMS. Venue for the enforcement of an assigned tax claim or judgment under this subchapter by the assignee is governed by the general law establishing venue and not by the special venue provisions of this title.

Acts 1981, 67th Leg., p. 1510, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.254. REASSIGNMENT. (a) The rights, liens, judgments, and remedies assigned under Section 111.251 of this code may be reassigned by any assignee.

(b) If notice is given as required by Section 111.252 of this code, all rights, liens, judgments, and remedies originally held by the state to enforce and secure the tax claim or judgment pass to each person receiving a reassignment unless the reassignment is expressly limited in writing.

Acts 1981, 67th Leg., p. 1511, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.255. RECORDING OF ASSIGNMENT. The assignee of a tax claim or judgment under this subchapter may record the assignment in the state tax lien record book in the office of the county clerk. A recorded assignment shall be indexed to show the names of the assignor and assignee and the date of the assignment.

Acts 1981, 67th Leg., p. 1511, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER F. TAX REFUND FOR ECONOMIC DEVELOPMENT

Sec. 111.301. REFUND OF STATE TAXES; APPLICATION FOR REFUND. (a) An eligible person is entitled to a refund of state sales and use taxes imposed under Chapter 151 and state franchise taxes imposed under Chapter 171 paid in a calendar year for which the person paid ad valorem taxes to a school district on property that in that year is:

(1) located in a reinvestment zone established under Chapter 312;

(2) exempt in whole or in part from the payment of ad valorem taxes imposed by a municipality or a county under a tax abatement agreement entered into with the municipality or county under Chapter 312; and

(3) not subject to a tax abatement agreement or an agreement to limit the appraised value of property under Chapter 313 entered into by the school district.

(b) No refund may be made under this section if the person makes a payment in lieu of taxes, or any other payment, including a gift, grant, donation, or provision of in-kind service, to a

municipality or county with which the person has executed a tax abatement agreement, if the payment was made during the period of the agreement. This subsection does not apply to a payment that is a tax, fee, or charge for services provided by the municipality or county, or to payments pursuant to a contract with an industrial district under Chapter 42 or Chapter 43, Local Government Code, or to a payment that in any year of the agreement does not in the aggregate exceed \$5,000 in value.

(c) The amount of a refund may not exceed the amount of net state sales and use and state franchise taxes paid by the person, after any applicable tax credit, in that year. A person is entitled to a refund under this section for the lesser of five years or the duration of the tax abatement agreement. If the tax abatement agreement is cancelled or the person relocates the person's business outside the zone, a person may not apply for a refund after the date of the cancellation or the date of the relocation, as applicable.

(d) To be eligible for the refund:

(1) a person must have:

(A) established a new business in the reinvestment zone;

(B) expanded an existing business located in the reinvestment zone; or

(C) modernized an existing business located in the reinvestment zone to retain jobs of employees of the business;

(2) that business must have had:

(A) since the date the person entered into the tax abatement agreement with the municipality or county, an increase in the business's payroll of \$3 million, specific to property located in this state according to records filed by the business with the Texas Employment Commission; or

(B) since an initial comparison year beginning on or after January 1, 1996, an increase of at least \$4 million in the appraised value of the business's property subject to the tax abatement agreement with the municipality or county according to the appraisal rolls; and

(3) that person must have furnished the comptroller

with a copy of the tax abatement agreement entered into by the person with the municipality or county.

(e) Application for the refund is to the comptroller. The application must:

(1) be made on the form prescribed by the comptroller;

(2) have attached a tax receipt from the assessor and collector of taxes for the school district showing full payment of school district ad valorem taxes on the property for the tax year for which the refund is sought; and

(3) include sufficient information for the comptroller to determine the portion of the ad valorem taxes paid to a school district by the person for the applicable tax year on the property that the person would not have been required to pay if the school district had entered into a tax abatement agreement concerning the property that included the same terms, including terms governing the portion of the property that is to be exempt from taxation under the agreement, as specified by the municipal or county tax abatement agreement on which the refund amount is to be based.

(f) A refund amount payable under this subchapter does not earn interest.

(g) A person applying for a refund must certify to the comptroller that the person is in compliance with each term of the tax abatement agreement entered into with the municipality or county.

(h) If the relevant tax abatement agreement has not been filed with the comptroller and the Texas Department of Commerce, the comptroller may not act on the application until the agreement is on file.

(i) If, after a review or audit, the comptroller determines that the person applying for the refund is not in compliance with each term of the appropriate tax abatement agreement, the comptroller may not act on the refund application until the person comes into compliance and shall notify the municipality or county of the person's noncompliance.

(j) The comptroller may grant to a person who is not in compliance with a tax abatement agreement a temporary waiver if the

comptroller determines that the person's noncompliance is the result of a natural disaster.

(k) The comptroller may conduct any audit that the comptroller determines necessary for the enforcement or administration of this subchapter.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 412, Sec. 14, eff. September 1, 2005.

Sec. 111.302. ISSUANCE OF TAX REFUND; AMOUNT OF REFUND.

(a) The comptroller shall issue a tax refund to a person for a tax year in which the person applying has paid the ad valorem taxes imposed by a school district on property of the person described by Section 111.301(a).

(b) Applications for refund must be filed before August 1 of the year following the tax year for which the person applying has paid ad valorem taxes described by Section 111.301(a). Within 90 days thereafter, the comptroller shall compute the total amount eligible for refund.

(c) If the total amount of eligible refunds claimed by all persons, as determined under Subsection (b), is less than \$10 million, the amount of a tax refund is equal to the ad valorem taxes paid to a school district by the person for the applicable tax year on the property that the person would not have been required to pay if the school district had entered into a tax abatement agreement covering the property that included the same terms, including terms governing the portion of the property that is to be exempt from taxation under the agreement, as specified by the municipal or county tax abatement agreement on which the refund amount is to be based. If the total amount of eligible refunds claimed by all persons, as determined under Subsection (b), is greater than \$10 million, the comptroller shall reduce the amount of each refund as necessary to allow all claimants to share proportionally the \$10 million available. The amount by which a refund is reduced under

this subsection may not be included in a claim for a refund in a subsequent year.

(d) If an eligible person has entered into tax abatement agreements with the municipality and the county, and the agreements provided to the comptroller show that the agreements exempt different portions of property value, the refund amount shall be computed based on the greater of the portions exempted.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 10, eff. Sept. 1, 2001.

Sec. 111.303. RULES AND FORMS. (a) The comptroller shall adopt rules and forms for the administration of this subchapter. The rules must identify the state taxes to which this subchapter applies.

(b) The comptroller shall provide without charge one copy of the rules and forms to each person applying for a refund under this subchapter.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 1, eff. Sept. 1, 1995.

Sec. 111.304. EVALUATION; BIENNIAL REPORT. Not later than December 31 of each even-numbered year, the comptroller shall submit a report to the legislature. The report:

(1) must document the applications for refunds filed with the comptroller under this subchapter;

(2) must document the refunds paid by the comptroller under this chapter; and

(3) may include any other relevant information that the comptroller determines is applicable to this subchapter or to Chapter 312.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 412, Sec. 15, eff. September 1, 2005.

SUBCHAPTER G. ADVANCED TECHNOLOGY EQUIPMENT

Sec. 111.351. WIRELESS EQUIPMENT FOR AUDITORS. The comptroller shall acquire wireless communication equipment for use by its auditors, including wireless modems for laptop computers for high-speed, wireless access to comptroller systems.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.04, eff. June 15, 2001.

Sec. 111.352. COMPUTER AND WIRELESS EQUIPMENT FOR ENFORCEMENT STAFF. (a) The comptroller shall acquire portable computers with remote or wireless communications equipment for use by its enforcement staff.

(b) The portable computers acquired under this section must be integrated with an electronic signature capturing system and portable printing capabilities to enhance the security of collections made under this chapter.

(c) The equipment must enable enforcement staff to:

- (1) verify taxpayer claims;
- (2) update taxpayer information from the field; and
- (3) facilitate account updates.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.04, eff. June 15, 2001.

Sec. 111.353. ADVANCED SCANNERS FOR FIELD OFFICES. The comptroller shall acquire advanced scanners for its field offices. The scanners must enable enforcement officers to scan enforcement data directly into comptroller databases without requiring later manual entry.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.04, eff. June 15, 2001.