

1-1 By: Perry S.B. No. 266  
1-2 (In the Senate - Filed November 12, 2024; February 3, 2025,  
1-3 read first time and referred to Committee on Finance;  
1-4 March 19, 2025, reported favorably by the following vote: Yeas 15,  
1-5 Nays 0; March 19, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Hinojosa of Hidalgo	X		
1-10	Alvarado	X		
1-11	Bettencourt	X		
1-12	Campbell	X		
1-13	Creighton	X		
1-14	Flores	X		
1-15	Hall	X		
1-16	Kolkhorst	X		
1-17	Nichols	X		
1-18	Paxton	X		
1-19	Perry	X		
1-20	Schwertner	X		
1-21	West	X		
1-22	Zaffirini	X		

1-23 A BILL TO BE ENTITLED  
1-24 AN ACT

1-25 relating to certain tax and fee collection procedures and taxpayer  
1-26 suits.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Section 111.0041(c), Tax Code, is amended to  
1-29 read as follows:

1-30 (c) A taxpayer shall produce sufficient ~~[contemporaneous]~~  
1-31 records and supporting documentation appropriate to the tax or fee  
1-32 for the transactions in question to substantiate and enable  
1-33 verification of the taxpayer's claim related to the amount of tax,  
1-34 penalty, or interest to be assessed, collected, or refunded in an  
1-35 administrative or judicial proceeding. Sufficient  
1-36 ~~[Contemporaneous]~~ records and supporting documentation appropriate  
1-37 to the tax or fee may include~~[, for example,]~~ invoices, vouchers,  
1-38 checks, shipping records, contracts, or other equivalent records,  
1-39 such as electronically stored images of such documents, reflecting  
1-40 legal relationships and taxes collected or paid.

1-41 SECTION 2. Section 111.0081, Tax Code, is amended by  
1-42 amending Subsection (c) and adding Subsection (d) to read as  
1-43 follows:

1-44 (c) The amount of a determination made under this code is  
1-45 due and payable 20 days after a comptroller's decision in a  
1-46 redetermination hearing becomes final. Except as provided by  
1-47 Subsection (d), if [If] the amount of the determination is not paid  
1-48 within 20 days after the day the decision became final, a penalty of  
1-49 10 percent of the amount of the determination, exclusive of  
1-50 penalties and interest, shall be added.

1-51 (d) The penalty provided by Subsection (c) is abated with  
1-52 respect to the disputed amount that is the subject of a timely filed  
1-53 suit under Subchapter E, Chapter 112. If the amount determined to  
1-54 be due in a final judgment in the suit is not paid within 20 days  
1-55 after the day the judgment became final, a penalty of 10 percent of  
1-56 the amount due, exclusive of penalties and interest, shall be  
1-57 added.

1-58 SECTION 3. Subchapter A, Chapter 111, Tax Code, is amended  
1-59 by adding Section 111.0091 to read as follows:

1-60 Sec. 111.0091. DISPUTING RESULTS OF MANAGED AUDITS: NOTICE  
1-61 OF INTENT TO BYPASS REDETERMINATION PROCESS. (a) A person who

conducts a managed audit authorized by Section 151.0231 or 201.3021 may file with the comptroller a notice of intent to bypass the redetermination process under Section 111.009. The notice of intent must:

(1) be filed on or before the 60th day after the date the comptroller issues a letter notifying the person of the results of the managed audit;

(2) be in writing;

(3) assert the material facts and each specific legal basis for disputing the results of the managed audit; and

(4) specify the amounts of the disputed underpayments or overpayments contained in the report of the managed audit results.

(b) A person who files a notice of intent under Subsection (a) may bypass the redetermination process under Section 111.009 and bring a suit under Subchapter D, Chapter 112, if:

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

(2) the comptroller does not provide notice in the time required by Subsection (d) that a conference is required, in which case the suit must be filed on or before the 90th day after the date the notice of intent was filed.

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

(d) If the comptroller requires a conference under Subsection (c), the comptroller shall notify the person of the conference requirement not later than the 30th day after the date the notice of intent under Subsection (a) was filed. The notice of the conference requirement must be in writing and include a date and time for the conference. The conference date provided in the notice must be not later than the 90th day after the date the notice of intent was filed.

(e) The person who filed the notice of intent under Subsection (a) may request to reschedule the conference date provided in the notice under Subsection (d). The comptroller shall make a good faith effort to accommodate the request. If the comptroller and the person who filed the notice of intent do not agree on or before the 90th day after the date the notice of intent was filed to a rescheduled date for the conference, the person may on or before the 120th day after the date the notice of intent was filed rescind the notice of intent and petition the comptroller for a redetermination under Section 111.009.

(f) Except as provided by Subsection (e), a person who files a notice of intent under Subsection (a) waives the person's right to a redetermination under Section 111.009.

SECTION 4. Section 112.052(d), Tax Code, is amended to read as follows:

(d) A taxpayer shall produce sufficient ~~contemporaneous~~ records and supporting documentation appropriate to the tax for the transactions in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that has been assessed or collected or will be refunded, as required by Section 111.0041.

SECTION 5. The heading to Subchapter D, Chapter 112, Tax Code, is amended to read as follows:

SUBCHAPTER D. SUIT FOR TAX REFUND OR TO DISPUTE RESULTS OF MANAGED  
AUDIT

SECTION 6. Section 112.151(f), Tax Code, is amended to read as follows:

(f) A taxpayer shall produce sufficient ~~[contemporaneous]~~ records and supporting documentation appropriate to the tax or fee for the transactions in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that has been assessed or collected or will be refunded, as required by Section 111.0041.

SECTION 7. Subchapter D, Chapter 112, Tax Code, is amended by adding Section 112.1511 to read as follows:

Sec. 112.1511. SUIT TO DISPUTE RESULTS OF MANAGED AUDIT.

(a) A person may sue the comptroller to dispute the results of a managed audit conducted under Section 151.0231 or 201.3021 if the person:

(1) has been issued a letter by the comptroller notifying the person of the results of the managed audit; and

(2) is authorized to bring the suit under Section 111.0091(b).

(b) The suit must be brought against both the comptroller and the attorney general and must be filed in a district court.

(c) The suit must be filed during the time provided by Section 111.0091(b) or it is barred.

(d) The amounts of the disputed underpayments or overpayments contained in the report of the managed audit results must be set out in the original petition. A copy of the notice of intent filed under Section 111.0091(a) must be attached to the original petition filed with the court and to the copies of the original petition served on the comptroller and the attorney general.

(e) A person may not intervene in the suit.

(f) A taxpayer shall produce sufficient records and supporting documentation appropriate to the tax or fee for the transactions in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest to be assessed, collected, or refunded, as required by Section 111.0041, including the amounts of the disputed underpayments or overpayments contained in the report of the managed audit results.

(g) After the comptroller has been timely served in a suit that complies with this section, the comptroller and the attorney general:

(1) are enjoined from collecting disputed underpayments identified in Section 111.0091(a)(4) from the person bringing the suit during the pendency of the suit; and

(2) are not enjoined from:

(A) asserting tax liens; or

(B) as an alternative to asserting tax liens, requiring the person to provide security:

(i) in an amount sufficient to secure payment of the entire disputed amount, including penalties and accrued interest, that is the subject of the suit; and

(ii) in the form of a cash deposit filed with the comptroller or paid into the registry of the court, a surety bond, a letter of credit, or another form of guarantee.

(h) Damages may be awarded under Chapter 65, Civil Practice and Remedies Code, if the court determines that all or part of the enjoined collection amounts under Subsection (g) were disputed solely for delay.

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

Sec. 112.152. ISSUES IN SUIT. (a) The only issues that may be raised in a suit under this subchapter are, as applicable, the:

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

(2) material facts and legal bases contained in the notice of intent filed under Section 111.0091(a) or 111.106(a).

(b) The suit applies only to a tax liability period considered in the comptroller's decision or covered by the notice of intent filed under Section 111.0091 or 111.106, as applicable.

SECTION 9. Section 112.201, Tax Code, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to

4-1 read as follows:

4-2 (c) A person bringing a suit under this subchapter may pay  
 4-3 the disputed amounts as provided by Chapter 111. A disputed amount  
 4-4 that is not paid as provided by Chapter 111 and that is determined  
 4-5 to be due in a final judgment accrues penalties and interest as  
 4-6 provided by Chapter 111.

4-7 (c-1) After the comptroller has been timely served in a suit  
 4-8 that complies with this subchapter, the comptroller and the  
 4-9 attorney general:

4-10 (1) are enjoined from collecting disputed amounts from  
 4-11 the person bringing the suit during the pendency of the suit; and

4-12 (2) [but] are not enjoined from:

4-13 (A) asserting tax liens; or

4-14 (B) as an alternative to asserting tax liens,  
 4-15 requiring the person to provide security:

4-16 (i) in an amount sufficient to secure  
 4-17 payment of the entire disputed amount, including penalties and  
 4-18 accrued interest, that is the subject of the suit; and

4-19 (ii) in the form of a cash deposit filed  
 4-20 with the comptroller or paid into the registry of the court, a  
 4-21 surety bond, a letter of credit, or another form of guarantee.

4-22 (c-2) Damages may be awarded under Chapter 65, Civil  
 4-23 Practice and Remedies Code, if the court determines that all or part  
 4-24 of the enjoined collection amounts under Subsection (c-1) were  
 4-25 disputed solely for delay.

4-26 SECTION 10. Section 112.202, Tax Code, is amended to read as  
 4-27 follows:

4-28 Sec. 112.202. RECORDS. A person shall produce, in  
 4-29 connection with a suit under this subchapter, sufficient  
 4-30 [contemporaneous] records and supporting documentation appropriate  
 4-31 to the tax for the transactions in question to substantiate and  
 4-32 enable verification of the person's claim relating to the amount of  
 4-33 the tax, penalty, or interest that has been assessed or collected,  
 4-34 as required by Section 111.0041.

4-35 SECTION 11. Section 111.105(e), Tax Code, is repealed.

4-36 SECTION 12. This Act applies to a managed audit that is in  
 4-37 progress and an administrative or judicial proceeding that is  
 4-38 pending or filed on or after the effective date of this Act, without  
 4-39 regard to whether the taxes that are the subject of the managed  
 4-40 audit or proceeding were due before, on, or after that date.

4-41 SECTION 13. This Act takes effect immediately if it  
 4-42 receives a vote of two-thirds of all the members elected to each  
 4-43 house, as provided by Section 39, Article III, Texas Constitution.  
 4-44 If this Act does not receive the vote necessary for immediate  
 4-45 effect, this Act takes effect September 1, 2025.

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