

SALES, EXCISE, AND USE TAX—PAYMENTS—
TIME, DISCOUNTS, AND SECURITY

CHAPTER 281

S. B. No. 985

AN ACT

relating to the time periods for filing sales and use taxes, the prepayment discount for paying sales and use taxes, security requirements, and direct payment permits; amending the Tax Code, as amended, by amending Sections 151.401, 151.405, 151.423, and 151.424 and Subsection (b), Section 151.419 and Subsection (b), Section 151.253 and by repealing Section 151.404.

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

SECTION 1. Section 151.401, Tax Code, as amended, is amended⁹ to read as follows:

"Section 151.401. TAX DUE DATES. (a) The taxes imposed by this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month [~~quarterly--on--the--last--day--of--the--month--after--the--end--of--the--quarter~~] unless a taxpayer qualifies as a quarterly filer under [~~owes--for--a--month--more--than--the--amount--provided--by~~] Subsection (b) of this section or unless the taxpayer prepays the tax on a quarterly basis as permitted by Section 151.424 of this code.

"(b) If a taxpayer owes less [~~more~~] than \$500 [~~\$1,500~~] for a calendar month or \$1,500 for a calendar quarter, the taxes [~~for that-month~~] are due and payable on the 20th [~~last~~] day of the month following the end of the calendar quarter [~~after-that-month--except that--the--taxpayer--may--file--the--tax--reports--on--a--quarterly--basis--if the--taxpayer--prepays--the--tax--as--permitted--by--Section--151.424--of this--code~~]."

9. V.T.C.A. Tax Code, § 151.401.

Additions in text indicated by underline; deletions by [~~strikeouts~~]

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SECTION 2. Section 151.405, Tax Code, is amended¹⁰ to read as follows:

"Section 151.405. OTHER DUE DATES SET BY COMPTROLLER. The comptroller may require a seller, retailer, or purchaser to file a return or pay the taxes imposed by this chapter [~~for a quarterly period other than a calendar quarter or~~] for a period other than a monthly [~~quarterly~~] period if necessary to ensure the payment or to facilitate the collection of the taxes due."

SECTION 3. Subsection (b), Section 151.419, Tax Code, is amended¹¹ to read as follows:

"(b) The application must be accompanied with:

"(1) an agreement that is signed by the applicant or a responsible officer of an applicant corporation, that is in a form prescribed by the comptroller, and that provides that the applicant agrees to:

"(A) accrue and pay all taxes imposed by Subchapter D of this chapter on the storage and use of all taxable items sold to or leased or rented by the permit holder unless the items are exempted from the taxes imposed by this chapter;

"(B) pay the imposed taxes monthly [~~quarterly~~] on or before the 20th [~~last~~] day of the month following the end of each calendar [~~last~~] month [~~of the quarter~~]; and

"(C) waive the discount permitted by Section 151.423 of this code on the payment of all taxes under the direct payment permit only;

"(2) a description, in the amount of detail that the comptroller requires, of the accounting method by which the applicant proposes to differentiate between taxable and exempt transactions; and

"(3) records establishing that the applicant is a responsible person who annually purchases taxable items that have a value when purchased of \$200,000 or more excluding the value of

10. V.T.C.A. Tax Code, § 151.405.

11. V.T.C.A. Tax Code, § 151.419, subsec. (b).

Additions in text indicated by underline; deletions by [~~strikeouts~~]

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taxable items for which resale certificates were or could have been given."

SECTION 4. Section 151.423, Tax Code, is amended¹² to read as follows:

"Section 151.423. REIMBURSEMENT TO TAXPAYER FOR TAX COLLECTIONS. A taxpayer may deduct and withhold one percent of the amount of taxes due from the taxpayer on a timely [~~quarterly--or monthly~~] return as reimbursement for the cost of collecting the taxes imposed by this chapter."

SECTION 5. Section 151.424, Tax Code, is amended¹³ to read as follows:

"Section 151.424. DISCOUNT FOR PREPAYMENTS. (a) A taxpayer who prepays the taxpayer's tax liability on the basis of a reasonable estimate of the tax liability for a quarter in which a prepayment is made or for a month in which a prepayment is made may deduct and withhold 1.25 [~~two~~] percent of the amount of the prepayment in addition to the amount permitted to be deducted and withheld under Section 151.423 of this code. A reasonable estimate of the tax liability must be at least 90 percent of the tax ultimately due or the amount of tax paid in the same quarter, or month, if a monthly prepayer, in the last preceding year. Failure to prepay a reasonable estimate of the tax will result in the loss of the entire prepayment discount.

"(b) In order to qualify for the deduction permitted by Subsection (a) of this section, the taxpayer must make the tax prepayment: (1) on or before the 15th day of the second month of the calendar quarter for which the prepayment is made if the taxpayer pays the tax quarterly; or

"(2) on or before the 15th day of the month for which the prepayment is made if the taxpayer pays the tax monthly.

12. V.T.C.A. Tax Code, § 151.423.

13. V.T.C.A. Tax Code, § 151.424.

Additions in text indicated by underlines; deletions by [~~strikeouts~~]

"(c) A taxpayer who prepays the tax liability as permitted by this section must file a report when due as provided by this chapter. The amount of a prepayment made by a taxpayer under this section shall be credited against the amount of actual tax liability of the taxpayer as shown on the tax report of the taxpayer. If there is a tax liability owed by the taxpayer in excess of the prepayment credit, the taxpayer shall send to the comptroller the remaining tax liability at the time of filing the quarterly or monthly report. The taxpayer is entitled to the deduction permitted under Section 151.423 of this code on the amount of the remaining tax liability.

(d) If the amount of a prepayment exceeds the actual tax liability, the excess of the prepayment shall be credited against future tax liability of the taxpayer or refunded to the taxpayer as provided by Subchapter C of Chapter 111 of this code."

SECTION 6. Section 151.404, Tax Code, is repealed.¹⁴

SECTION 7. Subsection (b), Section 151.253, Tax Code, is amended¹⁵ to read as follows:

"(b) The comptroller shall fix the amount of security required in each case, taking into consideration the amount of tax that has or is expected to become due from the person under this chapter and the Local Sales and Use Tax Act and the necessity to protect the state against the failure to pay these taxes, except that the maximum amount of security that may be required is the lesser of \$50,000 or three times the amount of the person's average monthly [~~quarterly~~] tax liability."

SECTION 8. This Act takes effect October 1, 1983.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the

14. V.T.C.A. Tax Code, § 151.404, repealed.

15. V.T.C.A. Tax Code, § 151.253, subsec. (b).

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constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 5, 1983: Yeas 30, Nays 0; Senate concurred in House amendment on May 30, 1983, by a viva-voce vote; passed the House, with amendment, on May 27, 1983, by a non-record vote.

Approved June 9, 1983.

Effective Oct. 1, 1983.

**PUBLIC UTILITIES--GROSS RECEIPTS
ASSESSMENTS--DUE DATES AND
INTEREST ON DELINQUENCIES**

CHAPTER 282

S. B. No. 986

AN ACT

relating to the due dates of the public utilities gross receipts assessment and the interest rate on delinquent assessments; amending Section 79, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes).

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

SECTION 1. -Section 79, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended¹⁶ to read as follows:

"Section 79. PAYMENT DATES; DELINQUENCY. All assessments shall be due on August 15 [~~31~~] of each year. Any public utility may instead make quarterly payments due on August 15 [~~31~~], November 15 [~~30~~], February 15 [~~28~~], and May 15 [~~31~~] of each year. There shall be assessed as a penalty an additional fee of 10 percent of the amount due for any late payment. Fees delinquent for more than 30 days shall draw interest at the rate of 10 [~~12~~] percent per annum on the assessment and penalty due."

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an

16. Vernon's Ann.Civ.St. art. 1446c, § 79.

Additions in text indicated by underline; deletions by [~~strikeouts~~]