

BILL ANALYSIS

Senate Research Center
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S.B. 903
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Tax Code currently prohibits a taxpayer from appealing the denial of a refund claim directly to a district court. After the Comptroller of Public Accounts of the State of Texas (comptroller) denies a refund claim, the taxpayer must request a refund hearing, complete the hearing process at the State Office of Administrative Hearings (SOAH), and file a motion for rehearing, before filing suit.

Taxpayers claim, however, this process often involves issues that ultimately must be determined by a court (i.e., challenging the constitutionality of a statute, seeking to reverse comptroller policy or precedent). Further, the hearings process at SOAH overwhelmingly finds in favor of the state. For many taxpayers, a mandatory administrative hearing prior to being able to file in a district court is unnecessary, expensive, and unreasonably delays the opportunity to resolve their tax case.

S.B. 903 seeks to provide taxpayers the option of taking refund claims directly to a district court, giving them the opportunity to resolve their tax cases more expeditiously.

As proposed, S.B. 903 amends current law relating to suits for tax refunds.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 112.151(a), (c), (d), and (f), Tax Code, as follows:

(a) Authorizes a person to sue the Comptroller of Public Accounts of the State of Texas (comptroller) to recover an amount of tax, penalty, or interest that has been the subject of a tax refund claim filed under Section 111.104 (Refunds) if:

- (1) the comptroller has issued a written denial of the tax refund claim in the manner described by Subsection (f)(1) or (2); and
- (2) the person has paid any additional tax found due in a jeopardy or deficiency determination that applies to the tax liability period covered in the tax refund claim.

Deletes existing text authorizing a person to sue the comptroller to recover an amount of tax, penalty, or interest that has been the subject of a tax refund claim if the person has filed a tax refund claim under Section 111.104 of this code, has filed, as provided by Section 111.105 (Tax Refund: Hearing) of this code, a motion for rehearing that has been denied by the comptroller, and has paid any additional tax found due in a jeopardy or deficiency determination that applies to the tax liability period covered in the tax refund claim. Makes nonsubstantive changes.

(c) Requires that the suit be filed on or before the 90th day after the issue date of the written denial of the tax refund claim. Deletes existing text providing that the suit is required to be filed before the expiration of 30 days after the issue date of the denial of the motion for rehearing, or it is barred.

(d) Requires that a copy of the tax refund claim and, as applicable, the comptroller's written denial of the claim or the motion for rehearing filed under Section 111.105 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. Makes a nonsubstantive change.

(f) Provides that, for purposes of Section 112.151 (Suit for Refund), the issue date of the written denial of a tax refund claim is the later of:

(1) the date the comptroller denies in writing all or part of a tax refund claim following an informal review as provided by Section 111.1042 (Tax Refund: Informal Review); or

(2) if the person files a motion for rehearing as provided by Section 111.105, the date the motion for rehearing is denied in writing.

Deletes existing text requiring a taxpayer to produce 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 (Records; Burden to Produce and Substantiate Claims).

SECTION 2. Amends Section 112.152, Tax Code, as follows:

Sec. 112.152. ISSUES IN SUIT. (a) Provides that the grounds of error contained in the tax refund claim or the motion for rehearing, as applicable, are the only issues that are authorized to be raised in a suit under Subchapter D (Suit for Tax Refund).

(b) Provides that the suit applies only to a tax liability period included, rather than considered, in the tax refund claim or comptroller's decision, as applicable.

SECTION 3. Amends Section 112.156, Tax Code, to delete existing text providing that the rule of res judicata applies in a suit under Subchapter D only if the issues and the tax liability periods in controversy are the same as were decided in a previous final judgment entered in a Texas court of record in a suit between the same parties.

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

SECTION 5. Effective date: September 1, 2021.