

# TTARA

Texas Taxpayers and Research Association

July 2013

## Tax Wrap-Up for the 83<sup>rd</sup>

This is the second in a series of three newsletters covering the decisions made by the 83<sup>rd</sup> Texas Legislature, and outlines the key changes made in tax law. The first newsletter reviewed the changes made in public education legislation. The third will provide an overview of the state budget.

Texas enjoyed a robust rebound from the economic doldrums that had plagued the 2011 Legislative Session. Record revenues quickly moved the conversation beyond just undoing many of the budget cuts of 2011, but to tax relief, as well. The leadership was judicious, though—steering tax cuts in ways that would strengthen the economy, encourage investment and competition, while allowing for more efficient administration. To that end, lawmakers were clearly successful, and the taxpayers of the state are much better off as a result of their actions.

This newsletter reviews the key changes in tax law, as well as proposals that failed, and looks ahead to potential issues for interim activity. For convenience of reference, this newsletter is organized in outline form:

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### I. PROPERTY TAX

The 83<sup>rd</sup> Legislature will go into the books as the most favorable to property taxpayers since 2009, although few would have bet that at session start. To the extent that the leadership and rank and file membership initially showed much interest in the property tax, lowering the appraisal cap on homestead property or granting a more generous exemption appeared to be the most likely candidates for attention. Though the Legislature did send two relatively narrow homestead exemption expansions for veterans and surviving spouses to the voters, the only general homestead exemption increase to reach the floor of either chamber failed adoption in the House. Instead, the Legislature ended up enacting significant appraisal review board reforms, raising the professional qualifications necessary for serving as a chief appraiser, simplifying the tax notice provided to property owners by cities and counties, and enacting targeted exemptions or special valuation methods to encourage specific forms of economic development.

#### A. Appraisal Review Board (ARB) Reform

**HB 585** by Mike Villarreal (D-San Antonio) and Sen. Kevin Eltife (R-Tyler) seeks to make appraisal review boards (ARBs) more independent of appraisal offices, improve ARB member training, and standardize ARB

hearing procedures. The legislation accomplishes these objectives by:

- mandating that each ARB member complete a training course;
- requiring ARBs to follow model hearing procedures adopted by the Comptroller;
- expanding the local administrative district judge's power in more counties to appoint ARB members; and
- prohibiting the use of voting records as a basis for appointment of an ARB member.

In addition to structural reforms, HB 585 further improves protest and appeal procedures by:

- requiring the chief appraiser to prove by clear and convincing evidence that a higher value is justified on property for which the value was adjudicated to a lower amount in the prior year;
- establishing a mandatory standard procedure for claiming an allocation for watercraft or aircraft used in interstate commerce;
- allowing a taxpayer to file suit in district court to compel payment of a tax refund (with court costs and attorney's fees); and
- allowing a property owner prevailing in an appeal of the denial of certain exemptions to recover attorney's fees (applies to exemptions for cemeteries, disabled veterans, various civic associations under §11.23, nonprofit economic development organizations, and historic sites).

## B. Chief Appraiser Qualifications

In 2009 the Legislature, with strong support from TTARA, modified the Comptroller's Property Value Study to require a biennial review of the methods and procedures of each

appraisal district in the state. The first round of reviews, completed in 2012, revealed numerous deficiencies, including the lack of professionally qualified chief appraisers in several districts.

In response to those findings, TTARA supported **HB 2224** by Harvey Hilderbran (R-Kerrville) to standardize chief appraiser professional qualifications for all districts. While the bill died, its provisions were incorporated into HB 585 by Senator Ken Paxton's floor amendment. The new law requires all chief appraisers to obtain certification as a registered professional appraiser in order to be eligible to certify an appraisal roll and perform the duties of the office. The law grandfathers for a limited period of time chief appraisers with other professional credentials or those in small appraisal districts. If a CAD declines to appoint a qualified individual, the Comptroller must appoint an eligible person to serve at the CAD's expense.

## C. Simplified Tax Notice

For the past three sessions, TTARA has sought to simplify the tax rate notice provided by cities and counties to property owners. These efforts finally came to fruition in 2013 with the passage of **SB 1510** by Juan "Chuy" Hinojosa (D-McAllen) and Rep. Harvey Hilderbran (R-Kerrville). The bill requires the notice to provide the proposed tax rate, the preceding year's tax rate, and the effective tax rate. If the county or city proposes to increase the tax rate above the lower of the effective rate or rollback rate, the notice must also specify the rollback rate. It also instructs property owners how to calculate the total tax on their property using each rate. The notice must be published in the local newspaper or mailed to each property owner, and posted on the jurisdiction's website.

## D. Chapter 313: School Tax Limitations

Chapter 313 of the Tax Code offers a rather complex process by which school districts may offer a temporary limit on the taxable value of new industrial projects. The law was to expire at the end of 2014, but it was reauthorized in **HB 3390** by Harvey Hilderbran (R-Kerrville) and Sen. Bob Deuell (R-Mesquite) after an intense legislative effort. With the reauthorization has come a substantial restructuring of the program.

**1. Application and Evaluation Procedures.** The current list of 20 items to be included on an application has been replaced with a seemingly simple benefits test—projects must demonstrate that the sum of the local school maintenance and operations taxes and the state taxes directly paid by the project, along with ancillary taxes generated as a result of the economic activity of the project, will exceed the value of the tax benefit from the limitation. Most likely this will require some restructuring of the application, but much of the information currently required will still be necessary to do the “benefits test” calculation. Applicants also will be required to demonstrate that the limitation was a determining factor in the decision to invest.

**2. Jobs Requirements.** Under current law, projects must create a minimum of either 10 or 25 jobs (depending on the category of the school district), but 80 percent of all jobs created must be “qualifying” jobs—those that pay above the county average manufacturing wage and provide generous health insurance coverage. Under HB 3390, projects will simply have to create a minimum of either 10 or 25 qualifying jobs. For projects required to create 25 qualifying jobs, the average wage of the “non-qualifying” jobs will, however, have to pay in excess of the county average wage. Projects, as before, may seek a waiver of the

jobs requirement if it exceeds the industry standard for such a project.

**3. Reporting and Penalties.** New reporting provisions are added to allow the Comptroller to assess whether a project has created the required number of “qualifying” jobs. If a pattern of non-performance is found, projects may be subject to penalties and eventually the loss of the exemption. Also, the State Auditor is charged with auditing no less than three “major” agreements each year, and may make recommendations for program changes. On the macro level, for the first time the Comptroller’s biennial report on agreements will be required to include an assessment of the overall statewide economic impact of the program.

**4. Structure of the Limitation.** When Chapter 313 was first passed, in order to limit the initial fiscal impact to the state, the limitation was deferred until the third year of a project and lasted eight years, though a company could apply for a credit for taxes paid during the first two years of the project. Under HB 3390, the limitation will simply be for ten years, with new flexibility as to the starting date of the limitation. Limitation thresholds in rural and economically lagging districts have been increased to a minimum of \$10 million.

**5. Supplemental Payments to School Districts.** An area of continuing controversy within Chapter 313 relates to supplemental payments school districts may require of applicants in exchange for the limitation on value. Payments may not exceed \$100 per student through the third year after the limitation expires. As introduced, HB 3390 would have outlawed supplemental payments, but as finally passed, the bill not only retains supplemental payments but also increases the allowable amount of payments to \$50,000 per

year for school districts with less than 500 students.

### **E. Other Economic Development Exemptions**

**HJR 133 and HB 3121** by Linda Harper-Brown (R-Irving) and Sen. Bob Deuell (R-Greenville) authorize a taxing unit to extend the Freeport exemption for an inventory of aircraft parts up to 730 days. This narrow expansion of the Freeport exemption is designed to encourage aircraft parts supplier Aviall to locate in the Dallas-Fort Worth area, but will also encourage existing businesses to invest additional resources in Texas. Voters must approve HJR 133 in November for the new authority to take effect on January 1, 2014. Afterwards it will be up to the individual taxing jurisdictions to allow the exemption.

The Legislature enacted three property tax incentives relating to energy development. **HB 2500** by Dwayne Bohac (R-Houston) and Sen. John Carona (R-Dallas) establishes a special valuation methodology for commercial solar energy equipment. **HB 2712** by Mary Ann Perez (D-Houston) and Sen. Larry Taylor (R-Friendswood) offers a limited pollution control exemption for a back-up energy storage facility in Pasadena. Finally, **HB 1736** by Rafael Anchia (D-Dallas) and Sen. Royce West (D-Dallas) would have granted a temporary two-year property tax exemption to landfill-gas generating facilities. While the bill died during the legislative session, its provisions were incorporated into **HB 1897** as an amendment and will become law (see the following subsection).

### **F. Other Notable Property Tax Legislation**

A number of other property tax bills of general interest to TTARA likewise passed.

**HB 1897** by Craig Eiland (D-Galveston) and Sen. John Carona (R-Dallas) allows a property owner and appraisal district, subject to objection by a taxing unit, to execute a written agreement regarding the exempt status of pollution control property (including a refund contingency) pending the TCEQ's final ruling on a use determination application. The bill also gives TCEQ one year to make a final disposition of an appeal, running from the date the application is deemed administratively complete. TTARA worked with stakeholder groups to narrow the language of the bill, which in its filed version would have authorized the TCEQ executive director to require that a property owner reapply for a use determination at any time.

**HB 316** by John Otto (R-Dayton) and Sen. Tommy Williams (R-The Woodlands) makes permanent and expands to all counties the pilot program for appeals of an ARB order to the State Office of Administrative Hearings (SOAH). TTARA has long sought this alternative form of appeal and is pleased to see it finally realized.

**HB 2792** by Gary Elkins (R-Houston) and Sen. Glenn Hegar (R-Katy) allows a property owner and the chief appraiser to jointly move to close an ARB hearing to the public if necessary to protect the confidentiality of proprietary information.

**HB 826** by Patricia Harless (R-Spring) and Sen. Kevin Eltife (R-Tyler) amends the definition of a heavy equipment dealer to exclude banks and other finance companies. It further permits a property owner to render an inventory of heavy equipment under the general rendition statute instead of using the heavy equipment dealer provision. The bill does not affect any litigation stemming from

legislative changes made by HB 2476, which passed in 2011.

Comprehensive summaries of these and other property tax bills can be accessed on the TTARA website.

### **G. Property Tax Issues in the Interim**

With so many changes to the Property Tax Code, it will be an active interim just working on administrative rules to implement the new laws. Still, a number of policy issues will continue to hold lawmakers' attentions. The property tax remains unpopular, and a number of conservative groups have offered different proposals for replacing it with some other type of assessment. Ways and Means Committee Chairman Harvey Hilderbran offered a constitutional amendment that would have abolished the property tax, but it never got serious consideration. A proposal offered by We Texans' which would have replaced the property tax with a value-added tax was heard late in the session and died in committee, but the group's founder, Debra Medina has vowed to continue the effort. The Texas Public Policy Foundation (TPPF) is expected to continue to advocate for some type of expanded or increased sales tax as a property tax replacement.

To date, a workable alternative to the property tax has not been developed. Beyond the economic consequences that would result from such a dramatic shift in tax burdens, the administrative aspects of such a substantial replacement tax and the impacts on local finance and debt remain huge and unresolved.

The replacement of the property tax may become less an issue for interim legislative study and more of a political one. State Comptroller Susan Combs has announced she will not seek reelection, and both Debra

Medina and Rep. Harvey Hilderbran are expected to be among the aspirants to the Comptrollership.

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## **II. FRANCHISE TAX**

The Texas margin tax has been the focus of vocal criticism since its passage in 2006. The complex tax is based on a taxpayer's combined total revenue, less the greater of their cost of goods sold, compensation, or 30 percent of total revenue. The result is apportioned to Texas based on sales, and then taxed at either a general one percent tax rate or one-half percent for a business qualifying as either a wholesaler or retailer.

### **A. Major Margin Tax Reforms in HB 500**

Legislative sessions since have offered a few modest tweaks, but 2013's **HB 500** by Harvey Hilderbran (R-Kerrville) and Sen. Glenn Hegar (R-Katy) offered the broadest package of changes seen to date.

**1. Rate Reduction.** Margin tax rates will drop by 2.5 percent in 2014—to 0.4875 and 0.975 percent, respectively. The change will apply to returns due in May of 2014. From there, rates will either go up or down. Rates will return to current levels in 2015, unless the Comptroller determines that sufficient revenue materializes above her current official revenue estimate. If so, she may authorize a temporary one year five percent rate cut—to 0.475 and 0.95 percent, respectively. Rates will return to their permanent levels of 0.5 and 1.0 percent no later than 2016.

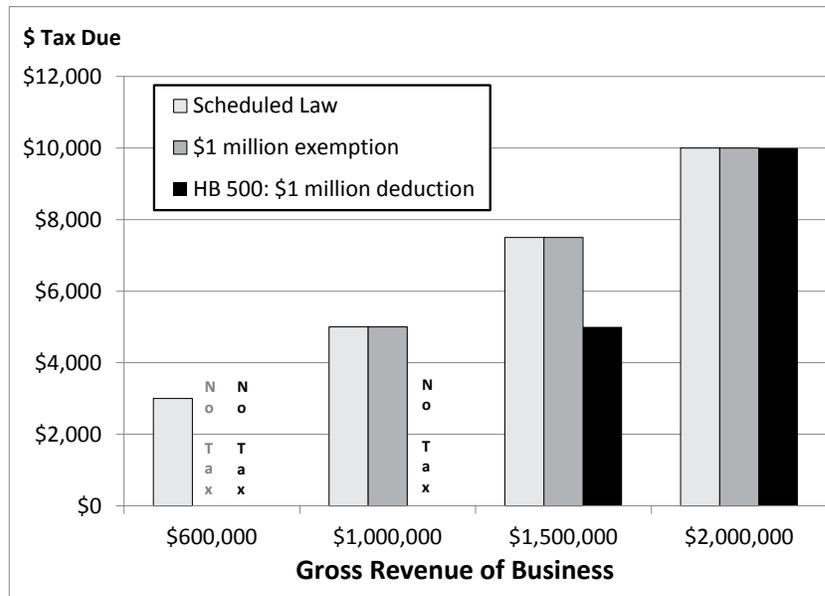
**2. Retailers Provisions.**

Many service businesses have complained that although they compete for the same customer base as retailers, they are taxed at the higher one percent tax rate. Under HB 500, auto repair shops will be eligible for the retail tax rate, as will businesses that rent tools, party and event supplies, furniture, and heavy construction equipment, or that sell items through rental purchase agreements. A provision is added allowing a retailer to continue to qualify for the half percent rate if an affiliated company is engaged in providing electricity for sale.

**3. New Small Business Deduction.**

Small business is a big winner in HB 500 as the slated-to-expire exemption for businesses with less than \$1 million in total revenues is replaced with a minimum deduction of \$1 million. Under current law, a company that earns \$999,999 is exempt, but the next dollar of income could subject it to a tax liability as much as \$7,000. Under HB 500, this tax “cliff” is eliminated as all taxpayers will be guaranteed that whatever their choice of deduction, it may not be less than \$1 million. That means as a business grows above the threshold, it will only be taxed on the incremental amount above \$1 million. Further, coupled with the current provision that forgives any tax due that is less than \$1,000, a taxpayer could gross \$1.1 million, and likely even more, before being liable for any tax. Essentially, any business with less than \$1 million in total revenues remains exempt, just as under current law; small businesses now paying tax but claiming less than \$1 million in

**Figure 1  
The Franchise Tax and Small Business**



**Note:** The illustration shows tax liabilities of companies under 1) the law as it was to exist in 2014, 2) the law if the \$1 million exemption was extended, and 3) the law as now provided in HB 500. For purposes of illustration, it is assumed each company claims a deduction equal to 50 percent of total revenues. Actual benefits under HB 500 compared to current law will depend on the amount of deduction currently claimed. Figures are based on current law tax rate of 1.0 percent.

deductions will benefit; and businesses presently claiming more than \$1 million in deductions will not be affected (Figure 1).

**4. Total Revenue Exclusions.** New provisions will allow certain rebates to be excluded from the revenues of pharmacy networks. Haulers of either aggregates or barite and businesses that provide landman services will be able to exclude payments to subcontractors. Vaccine purchase costs can be excluded and businesses engaged in transporting goods by waterway may exclude the equivalent of their cost of goods sold. Registered motor carriers may exclude the amount of flow-through funds derived from taxes and fees.

**5. Cost of Goods Sold.** Pipelines that provide transportation services will be allowed to claim cost of goods sold, which will include both depreciation and operations and maintenance costs. Movie theaters will be allowed to include the cost of films in their cost of goods sold.

**6. Apportionment.** Internet hosting companies will source a receipt to Texas only if the customer is located here. At present these services are sourced to the location at which the service is provided—placing operations in Texas at a competitive disadvantage to those in other states.

**7. New Credits.** A business relocating its main office to Texas will be eligible to deduct relocation costs. The provision is limited to businesses that previously did not do business here and were not part of a combined Texas franchise tax return. A credit is added to the law for rehabilitation of historic structures.

## B. Other Bills

**HB 2446** by Myra Crowover (R-Lake Dallas) and Sen. Craig Estes (R-Wichita Falls) moves “clean energy project” provisions from the Government Code to the Franchise Tax Code, but broadens the amount claimable in a year. **HB 2451** by Tracy King (D-Eagle Pass) and Sen. Glenn Hegar (R-Katy) allows operators of aircraft used in agriculture to exclude the cost of labor, equipment, fuel and materials from total revenue. **HB 2766** by Todd Hunter (R-Corpus Christi) and Sen. John Whitmire (D-Houston) allows payments to subcontractors for certain remediation projects to be excluded from total revenue.

## C. Franchise Tax Issues in the Interim

While the franchise, or “margin” tax, has been the subject of much criticism—it is not

sensitive to profits, it is complex, and it can place certain competitors on an uneven playing field—there was little legislative discussion about replacing the tax. Proposals to eliminate the tax were offered and considered, but discarded out of concern about the long term revenue loss. Legislative committees will likely continue to study alternatives to the tax during the interim, but HB 500 may have mollified some of the tax’s most vocal critics, and taken the wind out of the sails of possible alternatives to the tax.

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*If you want more information about the franchise tax, contact TTARA’s Dale Craymer at [dcraymer@ttara.org](mailto:dcraymer@ttara.org) or at (512) 472-8838.*

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## III. SALES TAX

With a significant surplus in hand and a revenue estimate from the Comptroller showing continued growth in tax collections, especially sales taxes, the prospect of a relatively calm session for sales tax legislation in fact came to pass.

There were a few bills of concern that TTARA opposed. First was yet another attempt to allow the 2% aggregate local sales tax to be exceeded. This time, **HB 2655** by Armando “Mando” Martinez (D-Weslaco) sought to allow a regional transit authority covering seven Valley counties to bust the cap. TTARA opposed the bill in committee and the offending provision was stricken from the bill as it passed the House. The bill ultimately died in the Senate as it failed to even get a hearing in the Transportation Committee.

The as yet to be fully resolved conflict among cities about the ability to contest allocations and/or reallocations of city sales taxes again occasioned the introduction of legislation to address the issue – **HB 1660 and HB 1923** by Senfronia Thompson (D-Houston). HB 1660

would have made a delinquent taxpayer out of anyone who filed a report with the Comptroller that contained a misallocation of any local sales tax, even if the total amount of local sales taxes due was remitted. HB 1923, in addition to requiring taxpayers to submit information not necessary for collecting local taxes, most objectionably proposed to allow the Comptroller to delegate audit and investigation authority to a city or county. TTARA testified against both bills. HB 1660 did not get out of committee and the substitute for HB 1923 that was reported out of committee, but died as the legislative clock ran out, did not contain the unwanted provisions.

TTARA also opposed a very popular proposal to constitutionally exempt food from taxation—**HJR 33**. While TTARA would certainly not support a sales tax on food, the proposal risked a litany of unintended consequences that could have created confusing law and years of litigation.

On the flip side, the sales tax bills passed included some noteworthy changes establishing new exemptions to promote economic development, relatively minor modifications of a few existing exemptions and a couple of important tax administration changes.

#### **A. Economic Development Incentives**

As the bill analysis for **HB 1133** by John Otto (R-Dayton) and Sen. Craig Estes (R-Wichita Falls) states, its purpose is “spurring new economic activity, creating new jobs, improving broadband services, and restoring Texas’ competitive advantages over other states” in providing cable TV, Internet and telecommunications services. As filed, it would have provided an exemption for purchases of tangible personal property directly used or consumed in or during the provision, creation, or production of such services.

However, that carried a biennial cost estimated at \$885.1 million. In order to dramatically scale back the fiscal note, the bill as passed authorizes a refund of state taxes only for a service provider or a subsidiary up to a combined total of \$50 million annually. If aggregate refund requests exceed that total in any year, the \$50 million will be distributed pro rata among those eligible. The exemption does not apply to property used to provide data processing or information services.

Third party electronic storage of business data is a growing trend and the technology industry’s response is the development of capital-intensive facilities to provide that service. **HB 1223** by Harvey Hilderbran (R-Kerrville) and Sen. Glenn Hegar (R-Katy) is designed to make Texas a more attractive location for large data center projects. It creates a state, but not local, tax exemption for purchases of tangible personal property by a single occupant of a new or refurbished 100,000 sq. ft. plus facility used for the processing, storage and distribution of data. A qualifying taxpayer must create at least twenty full-time, permanent jobs that pay a minimum of 120 percent of the average county wage and invest at least \$200M over five years after September 1, 2013. A 10-year exemption is available for investments totaling \$200 to \$250 million and fifteen years for \$250 million plus.

#### **B. Other Exemptions**

The passage of **SB 485** by Rodney Ellis (D-Houston) and Rep. Tan Parker (R-Flower Mound) changes the dates of the annual three-day Sales Tax Holiday by moving it a week earlier than in the past. Instead of beginning on the eighth day before school starts each year, it will begin on the fifteenth day before the uniform school start date. Since the bill took immediate effect, this year’s holiday will occur August 9 through 11.

Currently, purchases of coins and precious metals are exempt from the sales tax if the sales price of all items sold in a transaction totals \$1,000 or more. **HB 78** by David Simpson (R-Longview) and Sen. Kevin Eltife (R-Tyler) removes the minimum threshold, making all such purchases exempt beginning October 1, 2013.

**SB 1151** by Juan “Chuy” Hinojosa (D-McAllen) and Rep. Duane Bohac (R-Houston) is meant to provide clarification and consistent treatment with respect to the very confusing provisions concerning the sale of certain snack items by restaurants and grocery/convenience stores. “Snack items” is added to the list of exempt food products and is defined to include: various bars, except candy; snack or trail mix; nuts, not candy-coated; popcorn; chips; crackers; and hard pretzels. The exemption does not apply to items sold through a vending machine or in an individual-sized portion, which is defined as being labeled as having only one serving or containing less than 2.5 ounces if no serving size is listed on the package.

Under **HB 697** by Drew Springer (R-Gainesville) and Sen. Robert Duncan (R-Lubbock), refreshments at “Friday night lights” and other school events will be exempt. Booster clubs and other school support organizations may sell food and drinks tax free at a school sanctioned or sponsored event (just as PTAs can now), provided that all proceeds benefit the school or school district.

### C. Tax Administration

In recent prior sessions, legislation was passed to outlaw the ability of businesses to create billing offices at a location where the collection of city sales taxes could be avoided. This prohibition, however, was not intended to apply in those cases in which such offices were

established to accomplish other legitimate business purposes. But, administration of this provision has raised tax compliance uncertainties. To clarify tax policy on this issue, **SB 1533** by John Corona (R-Dallas) and Rep. Bennett Ratliff (R-Carrollton) specifically provides that such a “purchasing company” is a legitimate retail location for sales tax purposes and does not exist to avoid city sales taxes if significant business services, beyond processing invoices, are also provided, including: logistics management, purchasing, inventory control, or other vital business services.

The Governor vetoed a bill that could have complicated the reporting of collected local sales taxes. **HB 1511** by Lyle Larson (R-San Antonio) and Sen. Kevin Eltife (R-Tyler) would have allowed cities, with voter approval, to reallocate various special purpose tax rates within the 2% cap by increasing and decreasing their rates in increments of 1/8%. The veto message objected to a provision in the bill that would have allowed cities to extend the required period for holding a street maintenance tax reauthorization election from the current four to eight years. The Governor stated that: “Texans should have the right to vote on tax measures sooner rather than later.”

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*If you want more information about the sales tax, please contact TTARA’s John Kennedy at [jkennedy@ttara.org](mailto:jkennedy@ttara.org) or at (512) 472-8838.*

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## IV. BILLS WITH MULTIPLE TAXES

### A. HB 800: Research and Development

**HB 800** by Jim Murphy (R-Houston) and Sen. Bob Deuell (R-Lake Dallas) cuts across both sales and franchise tax. This bill would incentivize research and development (R&D) in Texas by offering companies a choice between either:

- 1) a sales tax exemption for equipment and software purchased for “qualified research,” or
- 2) a franchise tax credit for research and development—equal to five percent of the amount that R&D spending in Texas in a report year exceeds 50 percent of the average of the previous three years. A higher credit amount of 6.25 percent, proposed by Rep. Angie Chen Button (R-Richardson), would be allowed for contracts with institutions of higher education. The credit is limited to no more than 50 percent of the amount of franchise tax that is due, but unused credits may be carried forward indefinitely. Credits are not transferrable or assignable.

Given that franchise tax reports are filed on a combined basis, and sales tax returns are not, administration of the taxpayer choice of credit versus exemption may be complex, and the Comptroller received a fairly substantial appropriation of \$12.7 million to implement the various provisions of the bill.

The Comptroller is required to report to the Legislature on the economic impacts relating to the exemption and the credit and may require companies to provide information necessary for her to prepare the report. A complete initial report is not due until 2017.

### **B. Marine Well Containment**

**HB 1712** by J.M. Lozano (R-Kingsville) and Sen. Judith Zaffirini (D-Laredo), grants both a property and sales tax exemption in hopes of attracting a new marine well containment operation to Texas. HB 1712 would provide a property tax exemption for equipment used as a part of an offshore spill response containment system, and a sales tax exemption for

purchases of tangible personal property used solely in an offshore spill response containment system, as well as otherwise taxable services on such property.

### **V. STATE TAX ADMINISTRATION**

To help balance the budget last session, a one-time prepayment of sales, motor fuel, and alcoholic beverage taxes was scheduled to be made this August in the amount of an additional 25% of taxes due. An offsetting credit was to be taken the following September. The sales tax prepayment applied to taxpayers that remit by electronic funds transfer and do not receive a prepayment discount. The state’s much improved fiscal situation enabled the enactment of **SB 559** by Robert Duncan (R-Lubbock) and Rep. Jim Pitts (R-Waxahachie) to do away with the scheduled prepayments, meaning that August tax remittances will be made normally.

Among the casualties of the session was a proposal to replace the current administrative hearings at the State Office of Administrative Hearings (SOAH) with a Tax Tribunal. Based in part on the model act advanced by the American Bar Association, the bill, **HB 2488** by Van Taylor (R-Plano), was heard late in the session and garnered an absolutely breathtaking Comptroller’s estimate of state revenue losses of \$1 billion—mostly attributed to two provisions in the bill: the inability of the state to appeal decisions and the ability of taxpayers to pursue an independent decision without having to remit the amount of tax in dispute. Still, the hearing brought to light a number of concerns with the current hearings process and will get further scrutiny. The 2007 legislation transferring the tax hearings cases to SOAH will be up for sunset review in 2015 and will be the subject of interim study before that, as well as an assessment by a TTARA working group.

## So What's the Interim Hold?

With much of the state's fiscal house now in order, what's on tap for the interim? Quite a bit.

Most of the new tax laws will require changes to administrative rules, and TTARA will be actively working with the Comptroller's Office to ensure that the new rules provide adequate and appropriate guidance for taxpayers. House Speaker Joe Straus and Lt. Governor David Dewhurst will assign interim charges to their committees sometime this fall, setting the tone for what will likely be an active agenda of tax matters leading up to the next legislative session. The Sunset Commission will be evaluating the tax division of the State Office of Administrative Hearings (SOAH); legislation must pass for SOAH to continue hearing tax appeals.

And of course, mark your calendars for November 13 and 14 at the AT&T Conference Center in Austin for TTARA's annual meeting—two days of great speakers, cutting edge information about tax and fiscal policy, and a relaxed atmosphere to catch up on the latest with friends and colleagues.

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## Are You Getting the Most From Your TTARA Membership?

The Texas Taxpayers and Research Association (TTARA) is the state's pre-eminent membership association advocating for fair and equitable tax and fiscal policy. We communicate with our members, depending on their company membership level, in a number of different ways:

- TTARA's Website provides access to copies of TTARA bill analyses, tax updates, handouts from meetings, and other critical documents,
- Webcasts each quarter (monthly during the legislative session) focus on recent tax developments (also available on our website),
- Emails of:
  - Daily morning news items with links to the day's top media stories on fiscal issues,
  - "Updates from the Tax Front," as needed that focus on breaking tax developments,
- Meetings in Austin:
  - Legislative Committee: reviews key legislative proposals when lawmakers are in session,
  - State Tax Committee: reviews legislation and recent changes to sales, franchise, and other state taxes,
  - Property Tax Committee: reviews legislation and recent tax changes, and
  - Annual Meeting: our gathering with the state's top fiscal leaders,
- Occasional luncheons (offering continuing education credit) in Texas metropolitan areas, and
- Newsletters and special reports.

Contact Ryan Ash at [ryan@ttara.org](mailto:ryan@ttara.org) or at (512) 472-8838 to sign up for any of the above that interest you. They are included as part of your company's TTARA membership and not subject to any additional charge. And, of course, you may always contact any of TTARA's tax experts as needed at (512) 472-8838.

## Your TTARA Team ([www.ttara.org](http://www.ttara.org)):

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