

# Tax News You Can Use

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## **NEW TEXAS LAW — HOW DOES THIS AFFECT ME?**

A new Texas law, Senate Bill 340, concerns business personal property tax. This new law will impose tough penalties on those who fail to file an annual report of their personal property (called a rendition) with their Appraisal District. It will impose even tougher penalties for those who attempt to evade taxes through fraudulent or incomplete reporting.

### **What is a personal property tax rendition?**

It is a two to four page form listing the property (other than real estate) used in your business. It is filed each spring with the County Appraisal District. The 2004 rendition would include all personal property owned on January 1, 2004. The 2004 rendition is due April 15, 2004.

### **I don't live in Texas. Does this apply to me?**

No, unless your business owns property located in Texas.

### **I don't have a business. Does this apply to me?**

No.

### **I have always sent in a rendition with all my property listed by the date due. Do these changes affect me?**

No.

### **Who has to file a rendition?**

Any business which owns "personal property" used in a trade or business. This includes physical inventory, machinery, equipment, computers, furniture and fixtures, autos, trucks, trailers, vessels, and aircraft.

### **I teach piano in my home. Do I have to file the rendition and pay tax on my piano?**

Yes.

### **I own several rent houses. Do I have to file a rendition?**

Yes, if there is any property that is "personal property". This would include appliances or furniture.

### **I have an Amway/Avon/Herbalife/Tupperware business. Do I have to file a rendition?**

Yes, if you have any inventory or equipment on January 1.

### **I am a farmer or rancher. Do I have to file a rendition?**

Yes. The agriculture exemption is on land, not personal property.

### **I have been in business for 20 years and never had to do this. Does this affect me?**

If you do not file a rendition, and they have not yet caught you, they can't assess tax. However, if they should catch you, you will owe the current year's tax, 10% late filing penalty, tax for the past two years, and penalty and interest on the late taxes.

### **You told me in prior years not to send in the rendition if I was happy with what they assessed me. Do I have to send in the rendition?**

Yes, to avoid the 10% late filing penalty. No, if you don't mind paying the penalty. From a planning perspective, if they say your property is worth \$10,000 and you know it's worth \$100,000, the 10% penalty may be worth it.

### **I own a vehicle in my individual name that I use partly for business. Do I have to report it on the rendition?**

Probably not. The rendition is for "business" property owned by the business. A vehicle that is owned by a corporation, partnership, or LLC would be included on the rendition.

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### **What is the 10% late filing penalty?**

It is a new penalty that is automatically assessed if a rendition is not filed by April 15. The 10% is figured on the final personal property tax that is assessed. If your tax is \$270 on \$10,000 assessed property, the penalty is \$27. As a penalty, it is not deductible for income tax purposes. Before 2004, there was no penalty for filing late or not filing.

### **What is the 50% fraud penalty?**

It is a new penalty that is assessed if the county appraiser finds that you have done anything to "evade, alter or conceal" records, or any action or conduct meant to affect the course or outcome of an inspection or investigation. Until the courts have interpreted this change, it could include not allowing an inspection if an appraiser comes to your place of business. The fraud penalty is 50% of the final assessed tax.

### **I want to file the 2004 rendition to avoid the 10% penalty. I have never filed a rendition or paid personal property tax. Is there any way to avoid the back taxes and late penalties for the last three years?**

Yes for penalties. No for taxes. The legislature provided for a one-time safe harbor. If you file a 2003 rendition between September 1 and November 28, 2003, all they can collect is the 2003 tax and the past two years tax. There will be NO penalties or interest for 2003.

### **I want to file the 2004 rendition to avoid the 10% penalty. I have not filed a rendition in the past, so the appraisal district has assessed my business at a low value. When I file in 2004, it will show a substantially higher value. Will the appraisal district go back and bill me for the two past years?**

It could, but you can avoid penalties by filing an amended 2003 rendition between September 1 and November 28, 2003, and pay the amended tax.

### **The appraisal district has not caught me yet. Should I file the 2004 rendition by April 15?**

Yes, of course. We can never advise you not to file a required return. However, unless you specifically ask us to prepare it, and pay our fee, we will not prepare it for you.

#### **SOME HUMOR...**

Did you ever notice that when you put the two words "The" and "IRS" together it spells "THEIRS"?

### **The appraisal district has not caught me yet. What happens if I don't file the 2004 rendition?**

Until or unless they catch you, nothing. If they catch you, they can assess three years tax plus penalties and interest. Criminal charges are unlikely, but possible.

### **I have bought a lot of property over the years. Do I have to list it all on the rendition?**

You have to list the property you use for business. If you have old computer equipment that is in storage, you should not list it since it is not "used" for business.

### **I can't get my rendition done by April 15th. Can I get an extension?**

Yes, you can file a written request that will automatically give you until May 15. The chief appraiser can allow an additional 15 days for "good cause" if requested in writing.

### **Do I have to list every business asset and its cost on the rendition?**

If you estimate in good faith that all your property is worth less than \$20,000, you do not have to give the cost information for each asset. The appraisal district will make up its assessment based on the items listed and dates purchased.

#### **STANDARD MILEAGE RATES**

Beginning January 1, 2004, the standard mileage rates for the use of a car (including vans, pickups, or panel trucks) will be:

? 37.5¢ a mile for all business miles driven, up from 36¢ a mile in 2003

? 14¢ a mile for medical or moving mileage, up from 12¢ a mile in 2003

? 14¢ a mile for charitable mileage.

The IRS has also made an important change. Starting in 2004, taxpayers who use no more than four vehicles at the same time for business purposes may use the standard mileage rate. Currently, taxpayers using more than one vehicle at a time cannot use the standard mileage rate.

## EXPLANATION OF THE APRIL 15th DEADLINE

The government operates on deadlines. Therefore, individual tax returns are due on April 15. What happens if you can't file the return or pay the money on that day? This has a two part answer: filing and paying.

### FILING LATE

IRS has a very high penalty for not filing on time. It is 5% per month of the unpaid tax as of April 15. By filing an automatic extension and showing that you owe more money than you actually do, you are able to avoid this late filing penalty. If an extension was filed on April 15, you can request one more extension, on August 15, giving you until October 15 to file the return.

**Example 1:** You owe \$2000 on April 15. You file the return on May 2 without having filed an extension. The penalty is \$100 for filing late.

**Example 2:** You owe \$2000 on April 15. You filed both extensions, but didn't get the return filed until October 27. Your extensions are disallowed since the return was not filed by the due date of October 15. The penalty is \$500, 5% per month with a maximum of 5 months.

**Example 3:** You filed your return October 27, but have a refund. The penalty is zero. 5% of a negative number means no late filing penalty.

**Example 4:** You paid \$2000 with your automatic extension on April 15. You filed your return on October 27. Since the extensions are disallowed, you owe \$500 late filing penalty, 25% of the amount you owed on April 15.

### PAYING LATE

IRS charges a late payment penalty of 0.5% per month on unpaid taxes. This is charged on all taxes (with one exception) that are paid after April 15. Therefore, whether the return is filed on time, late with an extension, or late without an extension, the late payment penalty is the same. The exception is that if your payments, including the amount paid with the extension, exceed 90% of your tax, there is no late payment penalty if the return is filed by the extension's due date.

**Example 5:** You file your return on April 15, owing \$1000. You pay the \$1000 on May 20. IRS will charge you \$10 (0.5% for two months) late payment penalty.

**Example 6:** You file an extension on April 15. You file your return on May 20, showing \$20,000 tax less \$18,000 withholding, thus owing \$2000. You send the \$2000 with the return. You owe no late payment penalty since the \$18,000 is 90% of the tax.

**Example 7:** Same example as in #6, except your tax was \$19,000 and your withholding was \$17,000. You only paid in 89.5% of your tax. On the \$2000 paid on May 20, late payment penalty is \$20.

**Example 8:** Using the facts in example 7, but you send in \$150 with the extension. You file and pay the other \$1850 on May 20. There is no late payment penalty, since the \$17,000 withholding and \$150 extension payment is 90.2% of your tax.

**Example 9:** You file two extensions. You don't file your return until November 1. The return shows \$20,000 tax, \$18,000 withholding, and you sent in the \$2000 with the return. You will owe \$500 late filing penalty (the return was filed after October 15, so the penalty starts on April 15 and goes for 5 months). You will owe \$20 late payment penalty (two months from September 15).

### INTEREST

IRS will bill you for interest on any tax not paid by April 15. There are no exceptions. If you owe money and file an extension, the only way to avoid interest is to send enough money with the extension that you end up with a refund.

### SUMMARY

? If you have a refund on April 15, you do not have to file an extension.

? If you owe money, or think you might owe money, file an extension.

? If you owe money, and do not want to pay any late filing penalty, make sure you file the extension and file your return before the extension expires.

? If you owe money, and don't want to pay any late payment penalty, send enough money with the extension so that your total payments are at least 90% of your total tax.

? If you owe money, and don't want to pay any interest, make sure you send enough money with the extension so that your total payments produce a refund.

# TAX ORGANIZERS

In previous years we mailed tax organizers to all of our individual tax return clients to assist them in organizing tax information prior to their scheduled tax appointment. Due to a lack of response, beginning this tax season we will only mail organizers to new clients and clients who filled them in last year.

If you did not fill in your organizer last year, but would like one this year, please email your request to bob@dentoncpa.com or call the office by December 1, 2003. If you are unsure if you will automatically receive an organizer but want one mailed to you, notify our office by December 1. Clients not receiving full organizers will still receive the engagement letter and preset appointment date and time in the mail in January.

## Treasury Department to Discontinue Issuing Series HH Bonds

The Department of the Treasury has indicated that they will stop issuing Series HH bonds in mid-2004. This may create a problem for Series E or EE bond holders that are nearing maturity. Series HH bonds can be issued in exchange for Series E or EE bonds allowing

taxpayers to continue to defer the accrued interest. Holders of Series E or EE bonds that are nearing maturity may want to consider an exchange for Series HH bonds before the end of this year or early next year to continue taking advantage of the interest deferral.

## Important Dates

1/15 - 4th Quarter Estimated Tax Due  
2/2 - Form 940 & 941 for 4th Quarter Due  
2/2 - W-2 & 1099 Forms Due to Employees

3/1 - W-2 & 1099 Forms Due to Government  
3/15 - Corporate Tax Returns Due  
4/15 - Individual & Partnership Tax Returns Due