

By: Schaefer

H.B. No. 4357

A BILL TO BE ENTITLED

AN ACT

relating to the application of sales and use taxes to information technology consulting and technical support services.

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

SECTION 1. The Legislature of the State of Texas finds that there is uncertainty in the technological sector about when certain information technology consulting services and technical support services should be considered taxable services or non-taxable. This uncertainty has led to confusion and inconsistency among individuals and businesses in the technology sector in how to categorize their services and charge customers. Given the rapidly changing nature of the technology industry, this bill seeks to provide clarity on when certain technology-related services are considered non-taxable or taxable services.

SECTION 2. Subchapter A, Chapter 151, Tax Code, is amended by adding Section 151.00385 to read as follows:

Sec. 151.00385. "INFORMATION TECHNOLOGY CONSULTING AND TECHNICAL SUPPORT SERVICES." (a) "Information technology consulting and technical support services" means services involving the application of information technology knowledge, including hardware or software architecture, software support, remote help desk services, technology-related training, and computer diagnostics and repair, that are:

(1) sold as part of a subscription service for which

1 the purchaser pays a set amount at regular intervals; or  
2 (2) provided in association with the sale of a taxable  
3 item.

4 (b) A service is an information technology consulting and  
5 technical support service regardless of whether the person  
6 performing the service sold the hardware, software, or other  
7 information technology with respect to which the service is  
8 performed.

9 SECTION 3. Section 151.0101(a), Tax Code, is amended to  
10 read as follows:

11 (a) "Taxable services" means:

- 12 (1) amusement services;
- 13 (2) cable television services;
- 14 (3) personal services;
- 15 (4) motor vehicle parking and storage services;
- 16 (5) the repair, remodeling, maintenance, and  
17 restoration of tangible personal property, except:

18 (A) aircraft;

19 (B) a ship, boat, or other vessel, other than:

20 (i) a taxable boat or motor as defined by  
21 Section 160.001;

22 (ii) a sports fishing boat; or

23 (iii) any other vessel used for pleasure;

24 (C) the repair, maintenance, and restoration of a  
25 motor vehicle; and

26 (D) the repair, maintenance, creation, and  
27 restoration of a computer program, including its development and

1 modification, not sold as part of a subscription [~~by the person~~  
2 ~~performing the repair, maintenance, creation, or restoration~~]  
3 service or in association with the sale of a taxable item;

4 (6) telecommunications services;

5 (7) credit reporting services;

6 (8) debt collection services;

7 (9) insurance services;

8 (10) information services;

9 (11) real property services;

10 (12) data processing services;

11 (13) real property repair and remodeling;

12 (14) security services;

13 (15) telephone answering services;

14 (16) Internet access service; [~~and~~]

15 (17) a sale by a transmission and distribution  
16 utility, as defined in Section 31.002, Utilities Code, of  
17 transmission or delivery of service directly to an electricity  
18 end-use customer whose consumption of electricity is subject to  
19 taxation under this chapter; and

20 (18) information technology consulting and technical  
21 support services.

22 SECTION 4. The changes in law made by this Act do not affect  
23 tax liability accruing before the effective date of this Act. That  
24 liability continues in effect as if this Act had not been enacted,  
25 and the former law is continued in effect for the collection of  
26 taxes due and for civil and criminal enforcement of the liability  
27 for those taxes.

1 SECTION 5. This Act takes effect October 1, 2021.