

By: Perry, et al.

S.B. No. 153

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the exclusion of certain payment processing services
3 from the definition of "data processing service" for purposes of
4 sales and use taxes.

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

6 SECTION 1. Section [151.0035](#), Tax Code, is amended to read as
7 follows:

8 Sec. 151.0035. "DATA PROCESSING SERVICE". (a) "Data
9 processing service" includes:

10 (1) word processing, data entry, data retrieval, data
11 search, information compilation, payroll and business accounting
12 data production, and other computerized data and information
13 storage or manipulation;

14 (2) the performance of a totalisator service with the
15 use of computational equipment required by Subtitle A-1, Title 13,
16 Occupations Code (Texas Racing Act); and

17 (3) [~~and other computerized data and information~~
18 ~~storage or manipulation. "Data processing service" also includes]~~
19 the use of a computer or computer time for data processing whether
20 the processing is performed by the provider of the computer or
21 computer time or by the purchaser or other beneficiary of the
22 service.

23 (b) "Data processing service" does not include:

24 (1) the transcription of medical dictation by a

1 medical transcriptionist;

2 (2) services exclusively to encrypt electronic
3 payment information for acceptance onto a payment card network
4 described by Subdivision (3)(D) to comply with standards set by the
5 Payment Card Industry Security Standards Council; or

6 (3) settling of an electronic payment transaction by:

7 (A) a downstream payment processor or point of
8 sale payment processor that routes electronic payment information
9 to an entity described by Paragraph (B) or (D) or to a person who is
10 engaged in the business of money transmission and required to
11 obtain a license under Section 151.302(a), Finance Code;

12 (B) a federally insured financial institution,
13 as defined by Section 201.101, Finance Code, that is organized
14 under the laws of this state, another state, or the United States,
15 or an affiliate of the institution;

16 (C) a person who has entered into a sponsorship
17 agreement with an entity described by Paragraph (B) for the purpose
18 of processing that entity's electronic payment transactions
19 through a payment card network; or

20 (D) a payment card network that allows a person
21 to accept a specific brand of debit or credit card by routing
22 information and data to settle an electronic payment transaction.

23 (c) For purposes of Subsection (b)(3):

24 (1) "Downstream payment processor" means a person
25 described by 7 T.A.C. Section 33.4(c), as that provision existed on
26 January 1, 2021.

27 (2) "Point of sale payment processor" means a person

1 described by 7 T.A.C. Section 33.4(d), as that provision existed on
2 January 1, 2021.

3 (3) "Settling of an electronic payment transaction"
4 means the authorization, clearing, or funding of a payment made by
5 credit card, debit card, gift card, stored value card, electronic
6 check, virtual currency, loyalty program currency such as points or
7 miles, or a similar method. The term does not include charges by a
8 marketplace provider, as that term is defined by Section [151.0242](#).

9 (d) "Data storage," as used in this section, does not
10 include a classified advertisement, banner advertisement, vertical
11 advertisement, or link when the item is displayed on an Internet
12 website owned by another person.

13 SECTION 2. The changes in law made by this Act do not affect
14 tax liability accruing before the effective date of this Act. That
15 liability continues in effect as if this Act had not been enacted,
16 and the former law is continued in effect for the collection of
17 taxes due and for civil and criminal enforcement of the liability
18 for those taxes.

19 SECTION 3. This Act takes effect October 1, 2021.