

AN ACT

relating to the exclusion of certain payment processing services from the definition of "data processing service" for purposes of sales and use taxes.

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

SECTION 1. Section 151.0035, Tax Code, is amended to read as follows:

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

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

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

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

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

(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)(E) 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 (C) or (E);

10 (B) a person who is engaged in the business of
11 money transmission and required to obtain a license under Section
12 151.302(a), Finance Code;

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

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

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

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

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

1 (2) "Point of sale payment processor" means a person
2 described by 7 T.A.C. Section 33.4(d), as that provision existed on
3 January 1, 2021.

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

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

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 153 passed the Senate on April 19, 2021, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 153 passed the House, with amendment, on May 18, 2021, by the following vote: Yeas 144, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor