

1-1 By: Perry, et al. S.B. No. 153
 1-2 (In the Senate - Filed November 10, 2020; March 3, 2021,
 1-3 read first time and referred to Committee on Finance;
 1-4 April 14, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 15, Nays 0; April 14, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			
1-23	X			

1-24 COMMITTEE SUBSTITUTE FOR S.B. No. 153 By: Perry

1-25 A BILL TO BE ENTITLED
 1-26 AN ACT

1-27 relating to the exclusion of certain payment processing services
 1-28 from the definition of "data processing service" for purposes of
 1-29 sales and use taxes.

1-30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-31 SECTION 1. Section 151.0035, Tax Code, is amended to read as
 1-32 follows:

1-33 Sec. 151.0035. "DATA PROCESSING SERVICE". (a) "Data
 1-34 processing service" includes:

1-35 (1) word processing, data entry, data retrieval, data
 1-36 search, information compilation, payroll and business accounting
 1-37 data production, and other computerized data and information
 1-38 storage or manipulation;

1-39 (2) the performance of a totalisator service with the
 1-40 use of computational equipment required by Subtitle A-1, Title 13,
 1-41 Occupations Code (Texas Racing Act); and

1-42 (3) ~~[, and other computerized data and information
 1-43 storage or manipulation. "Data processing service" also includes]~~
 1-44 the use of a computer or computer time for data processing whether
 1-45 the processing is performed by the provider of the computer or
 1-46 computer time or by the purchaser or other beneficiary of the
 1-47 service.

1-48 (b) "Data processing service" does not include:

1-49 (1) the transcription of medical dictation by a
 1-50 medical transcriptionist;

1-51 (2) services exclusively to encrypt electronic
 1-52 payment information for acceptance onto a payment card network
 1-53 described by Subdivision (3)(D) to comply with standards set by the
 1-54 Payment Card Industry Security Standards Council; or

1-55 (3) settling of an electronic payment transaction by:

1-56 (A) a downstream payment processor or point of
 1-57 sale payment processor that routes electronic payment information
 1-58 to an entity described by Paragraph (B) or (D) or to a person who is
 1-59 engaged in the business of money transmission and required to
 1-60 obtain a license under Section 151.302(a), Finance Code;

2-1 (B) a federally insured financial institution,
2-2 as defined by Section 201.101, Finance Code, that is organized
2-3 under the laws of this state, another state, or the United States,
2-4 or an affiliate of the institution;

2-5 (C) a person who has entered into a sponsorship
2-6 agreement with an entity described by Paragraph (B) for the purpose
2-7 of processing that entity's electronic payment transactions
2-8 through a payment card network; or

2-9 (D) a payment card network that allows a person
2-10 to accept a specific brand of debit or credit card by routing
2-11 information and data to settle an electronic payment transaction.

2-12 (c) For purposes of Subsection (b)(3):

2-13 (1) "Downstream payment processor" means a person
2-14 described by 7 T.A.C. Section 33.4(c), as that provision existed on
2-15 January 1, 2021.

2-16 (2) "Point of sale payment processor" means a person
2-17 described by 7 T.A.C. Section 33.4(d), as that provision existed on
2-18 January 1, 2021.

2-19 (3) "Settling of an electronic payment transaction"
2-20 means the authorization, clearing, or funding of a payment made by
2-21 credit card, debit card, gift card, stored value card, electronic
2-22 check, virtual currency, loyalty program currency such as points or
2-23 miles, or a similar method. The term does not include charges by a
2-24 marketplace provider, as that term is defined by Section 151.0242.

2-25 (d) "Data storage," as used in this section, does not
2-26 include a classified advertisement, banner advertisement, vertical
2-27 advertisement, or link when the item is displayed on an Internet
2-28 website owned by another person.

2-29 SECTION 2. The changes in law made by this Act do not affect
2-30 tax liability accruing before the effective date of this Act. That
2-31 liability continues in effect as if this Act had not been enacted,
2-32 and the former law is continued in effect for the collection of
2-33 taxes due and for civil and criminal enforcement of the liability
2-34 for those taxes.

2-35 SECTION 3. This Act takes effect October 1, 2021.

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