

By: Schofield

H.B. No. 432

A BILL TO BE ENTITLED

AN ACT

relating to the location where certain sales are consummated for purposes of local sales and use taxes.

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

SECTION 1. Sections 321.203(e) and (e-1), Tax Code, are amended to read as follows:

(e) If Subsections (b), (c), (c-1), and (d) do not apply, a
[A] sale of a taxable item is consummated at the location in this state where the item was stored immediately before shipment, delivery, or transfer of possession to the customer ~~[to which the item is shipped or delivered or at which possession is taken by the customer if transfer of possession of the item occurs at, or shipment or delivery of the item originates from, a location in this state other than a place of business of the retailer and if:~~

~~[(1) the retailer is an itinerant vendor who has no place of business in this state,~~

~~[(2) the retailer's place of business where the purchase order is initially received or from which the retailer's agent or employee who took the order operates is outside this state,~~
~~or~~

~~[(3) the purchaser places the order directly with the retailer's supplier and the item is shipped or delivered directly to the purchaser by the supplier].~~

(e-1) Except as otherwise provided by Subsection (f), (g),

1 (g-1), (g-2), (g-3), (h), (i), (j), (k), (m), or (n), a sale of a
2 taxable item made by a marketplace seller through a marketplace as
3 provided by Section 151.0242 is consummated at the location in this
4 state where the item was stored immediately before shipment,
5 delivery, or transfer of possession to the customer [~~to which the~~
6 ~~item is shipped or delivered or at which possession is taken by the~~
7 ~~purchaser~~].

8 SECTION 2. Sections 323.203(e) and (e-1), Tax Code, are
9 amended to read as follows:

10 (e) If Subsections (b), (c), (c-1), and (d) do not apply, a
11 [A] sale of a taxable item is consummated at the location in this
12 state where the item was stored immediately before shipment,
13 delivery, or transfer of possession to the customer [~~to which the~~
14 ~~item is shipped or delivered or at which possession is taken by the~~
15 ~~customer if transfer of possession of the item occurs at, or~~
16 ~~shipment or delivery of the item originates from, a location in this~~
17 ~~state other than a place of business of the retailer and if:~~

18 [~~(1) the retailer is an itinerant vendor who has no~~
19 ~~place of business in this state,~~

20 [~~(2) the retailer's place of business where the~~
21 ~~purchase order is initially received or from which the retailer's~~
22 ~~agent or employee who took the order operates is outside this state,~~
23 ~~or~~

24 [~~(3) the purchaser places the order directly with the~~
25 ~~retailer's supplier and the item is shipped or delivered directly~~
26 ~~to the purchaser by the supplier].~~

27 (e-1) Except as otherwise provided by Subsection (f), (g),

1 (g-1), (g-2), (g-3), (h), (i), (j), (k), or (m), a sale of a taxable
2 item made by a marketplace seller through a marketplace as provided
3 by Section 151.0242 is consummated at the location in this state
4 where the item was stored immediately before shipment, delivery, or
5 transfer of possession to the customer [~~to which the item is shipped~~
6 ~~or delivered or at which possession is taken by the purchaser~~].

7 SECTION 3. The change in law made by this Act does not
8 affect tax liability accruing before the effective date of this
9 Act. That liability continues in effect as if this Act had not been
10 enacted, and the former law is continued in effect for the
11 collection of taxes due and for civil and criminal enforcement of
12 the liability for those taxes.

13 SECTION 4. This Act takes effect September 1, 2023.