

By: McCall

H.B. No. 2423

Substitute the following for H.B. No. 2423:

By: Woolley

C.S.H.B. No. 2423

A BILL TO BE ENTITLED

AN ACT

relating to the application of the sales and use tax to pharmaceutical biotechnology cleanrooms and equipment.

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

SECTION 1. Section 151.318, Tax Code, is amended by amending Subsections (b) and (s) and adding Subsection (q-1) to read as follows:

(b) The exemption includes:

(1) chemicals, catalysts, and other materials that are used during a manufacturing, processing, or fabrication operation to produce or induce a chemical or physical change, to remove impurities, or to make the product more marketable; ~~and~~

(2) semiconductor fabrication cleanrooms and equipment; and

(3) pharmaceutical biotechnology cleanrooms and equipment.

(q-1) For purposes of Subsection (b), "pharmaceutical biotechnology cleanrooms and equipment" means all tangible personal property, without regard to whether the property is affixed to or incorporated into realty, used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a pharmaceutical biotechnology product, without regard to whether the property is actually contained in the cleanroom environment. The term includes integrated systems,

1 fixtures, and piping, all property necessary or adapted to reduce
2 contamination or to control airflow, temperature, humidity,
3 chemical purity, or other environmental conditions or
4 manufacturing tolerances, and production equipment and machinery.
5 The term does not include the building or a permanent, nonremovable
6 component of the building that houses the cleanroom environment.
7 The term includes moveable cleanroom partitions and cleanroom
8 lighting. "Pharmaceutical biotechnology cleanrooms and equipment"
9 are not "intraplant transportation equipment" as that term is used
10 in Subsection (c)(1).

11 (s) The following do not apply to the semiconductor
12 fabrication cleanrooms and equipment in Subsection (q) or the
13 pharmaceutical biotechnology cleanrooms and equipment in
14 Subsection (q-1):

15 (1) limitations in Subsection (a)(2) that refer to
16 tangible personal property directly causing chemical and physical
17 changes to the product being manufactured, processed, or fabricated
18 for ultimate sale;

19 (2) Subsection (c)(1); and

20 (3) Subsection (c)(4).

21 SECTION 2. Section 151.3181, Tax Code, is amended by adding
22 Subsection (h) to read as follows:

23 (h) The use of a "pharmaceutical biotechnology cleanroom
24 and equipment," as that term is defined by Section 151.318(q-1), to
25 manufacture, process, or fabricate a pharmaceutical biotechnology
26 product that is not sold is not a divergent use if the use occurs
27 during the certification process by the United States Food and Drug

1 Administration.

2 SECTION 3. Section 313.021(2), Tax Code, is amended to read
3 as follows:

4 (2) "Qualified property" means:

5 (A) land:

6 (i) that is located in an area designated as
7 a reinvestment zone under Chapter 311 or 312 or as an enterprise
8 zone under Chapter 2303, Government Code;

9 (ii) on which a person proposes to
10 construct a new building or erect or affix a new improvement that
11 does not exist before the date the owner applies for a limitation on
12 appraised value under this subchapter;

13 (iii) that is not subject to a tax abatement
14 agreement entered into by a school district under Chapter 312; and

15 (iv) on which, in connection with the new
16 building or new improvement described by Subparagraph (ii), the
17 owner of the land proposes to:

18 (a) make a qualified investment in an
19 amount equal to at least the minimum amount required by Section
20 313.023; and

21 (b) create at least 25 new jobs;

22 (B) the new building or other new improvement
23 described by Paragraph (A)(ii); and

24 (C) tangible personal property that:

25 (i) is not subject to a tax abatement
26 agreement entered into by a school district under Chapter 312; and

27 (ii) except for new equipment described in

1 Section 151.318(q) or (q-1), is first placed in service in the new
2 building or in or on the new improvement described by Paragraph
3 (A)(ii), or on the land on which that new building or new
4 improvement is located, if the personal property is ancillary and
5 necessary to the business conducted in that new building or in or on
6 that new improvement.

7 SECTION 4. (a) This Act takes effect July 1, 2003, if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for effect on that
11 date, this Act takes effect September 1, 2003.

12 (b) The change in law made by this Act does not affect taxes
13 imposed before the effective date of this Act, and the former law is
14 continued in effect for purposes of the liability for and
15 collection of those taxes.