

By: Hochberg

H.B. No. 1342

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of the sales and use tax on certain sales made by individuals.

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

SECTION 1. Section 151.304(b), Tax Code, is amended to read as follows:

(b) In this section, "occasional sale" means:

(1) one or two sales of taxable items, other than an amusement service, at retail during a 12-month period by a person who does not habitually engage, or hold himself out as engaging, in the business of selling taxable items at retail;

(2) the sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business;

(3) a transfer of all or substantially all the property used by a person in the course of an activity if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer;
[~~or~~]

(4) the sale of not more than 10 admissions for amusement services during a 12-month period by a person who does not hold himself out as engaging, or does not habitually engage, in providing amusement services; or

(5) the sale of tangible personal property by an

1 individual if:

2 (A) the property was originally bought by the
3 individual or a member of the individual's family for the personal
4 use of the individual or the individual's family;

5 (B) the individual does not hold a permit issued
6 under this chapter and is not required to obtain a permit as a
7 "seller" or "retailer" as those terms are defined by Section
8 151.008;

9 (C) the individual does not employ an auctioneer,
10 broker, or factor, other than an online auction, to sell the
11 property; and

12 (D) the total receipts from sales of the
13 individual's tangible personal property in a calendar year does not
14 exceed \$3,000.

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

21 SECTION 3. This Act takes effect July 1, 2005, if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for effect on that
25 date, this Act takes effect September 1, 2005.