

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 20, 2005

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB1342 by Hochberg (Relating to the imposition of the sales and use tax on certain sales made by individuals.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 151 of the Tax Code to exclude an individual from the definition of "seller" or "retailer" under the sales tax if the individual were not engaged in the active conduct of trade or business for the purpose of affecting the sales of taxable items, and the only sales made by the individual were sales of property that was originally bought for the individual's personal use, the individual was not required to have a sales tax permit, and the individual did not employ an auctioneer, broker, or factor, other than an on-line auction, to sell the property.

Under current law, occasional sales of property by an individual are not subject to the sales tax. This bill would allow occasional sales of family items, by an individual not holding a sales tax permit. An on-line auction could be utilized in this type of occasional sale.

The bill would take effect July 1, 2005, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, SD, WP, SM