

BILL ANALYSIS

Senate Research Center

H.B. 3319
By: Keffer, Jim (Duncan)
Finance
5/16/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The comptroller of public accounts has identified several issues regarding the sales and use tax that would clarify the law and provide guidance to make administration of the law more efficient.

H.B. 3319 amends the Tax Code to make technical changes, revisions, and clarifications to provisions relating to the sales and use tax.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 151.0048, Tax Code, by adding Subsection (b-1) to define "real property service."

SECTION 2. Amends Section 151.006, Tax Code, as follows:

Sec. 151.006. "SALE FOR RESALE." (a) Creates this subsection from existing text. Redefines "sale for resale."

(b) Provides that Subsection (a)(3) applies to a transfer of a wireless voice communication device (device) as an integral part of a taxable service, regardless of whether there is a separate charge for the device or whether the purchaser is the provider of the taxable service, if payment for the service is a condition for receiving the device.

SECTION 3. Amends Sections 151.313(a) and (c), Tax Code, as follows:

(a) Exempts certain drugs or medicines that are required to be labeled with a "Drug Facts" panel in accordance with regulations of the federal Food and Drug Administration (FDA) from the taxes imposed by this chapter (Limited Sales, Excise, and Use Tax).

(c) Deletes existing text providing that a product is a drug or medicine for purposes of this section if the product is labeled with a "Drug Facts" panel in accordance with regulations of the FDA.

SECTION 4. Amends Section 151.3162(b), Tax Code, to exempt, among other things, seedlings of trees grown, rather than commonly grown, for commercial timber from taxes imposed by this chapter.

SECTION 5. (a) Amends Section 151.318(b), Tax Code, to delete existing text providing that the exemption includes certain cleanrooms and equipment that are installed as part of the construction of a new facility with a value of at least \$150 million and on which construction began before August 31, 2004.

(b) Effective date, this section, notwithstanding any other provision of this Act: July 1, 2007 or September 1, 2007.

SECTION 6. Amends Section 151.326, Tax Code, to exempt certain clothes or footwear from taxes imposed by this chapter if the sale takes place beginning at 12:01 a.m. on the third, rather than the first, Friday in August and ending at 12 midnight on the following Sunday.

SECTION 7. Amends Sections 151.328(a) and (c), Tax Code, as follows:

(a) Exempts aircraft from taxes imposed by this chapter if sold in this state to a person for use and registration in another state or nation before any used in this state other than flight training in the aircraft and the transportation of the aircraft out of this state.

(c) Redefines "aircraft."

SECTION 8. Amends Section 321.203, Tax Code, by amending Subsections (b), (c), (d), and (e) and adding Subsection (n), as follows:

(b) Provides that if a retailer has only one place of business in this state, all of the retailer's retail sales of taxable items, rather than tangible personal property, are consummated at that place of business except as provided by Subsection (e).

(c) Makes conforming changes.

(d) Makes conforming changes.

(e) Provides that a sale of a taxable item is consummated in this state if certain conditions are met, including that the retailer is an itinerant vendor who has no place of business in this state, or the retailer's place of business where the purchase order is initially received or from which the retailer's agent or employee, rather than the retailer's salesman, who took the order operates is outside this state. Makes conforming changes.

(n) Provides that a sale of a service described by Section 151.0047 (Real Property Repair and Remodeling) to remodel, repair, or restore nonresidential real property is consummated at the location of the job site.

SECTION 9. Amends Section 323.102(c), Tax Code, to provide that a tax imposed under Chapter 383 (County Development Districts), Local Government Code, takes effect on the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b) (requiring the county judge to send the comptroller of public accounts a certified copy of the resolution if the application of taxes is changed by the results of an election).

SECTION 10. Amends Section 323.203, Tax Code, by amending Subsections (b), (c), (d), and (e) and adding Subsection (m), as follows:

(b) through (e) Makes conforming changes.

(m) Provides that a sale of a service described by Section 151.0047 to remodel, repair, or restore nonresidential real property is consummated at the location of the job site.

SECTION 11. Repealer: Sections 151.0232 (CPA Audit Program), 151.103(d) (requiring a retailer who holds a sales tax permit to collect local use tax from the purchaser even if the retailer is not engaged in business in the local jurisdiction into which the taxable item is shipped or delivered), 151.202(c) (requiring a person desiring to be a seller to agree to collect applicable local use tax even if the seller is not engaged in business in the local jurisdiction into which the taxable item is shipped or delivered), 321.203(l) (providing that the sale of a taxable service is consummated at the location at which the service is performed or otherwise delivered), and 323.203(l) (providing that the sale of a taxable service is consummated at the location at which the service is performed or otherwise delivered), Tax Code.

SECTION 12. Makes application of this Act prospective.

SECTION 13. Effective date: September 1, 2007.