

## **BILL ANALYSIS**

S.B. 2015  
By: Duncan  
Local Government Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The sourcing rules for local sales and use tax purposes that determine where sales are consummated were changed in 2004 in order to place taxable services in compliance with the Streamlined Sales and Use Tax Agreement, which requires destination sourcing for all transactions. The legislature did not implement the law due to the response from local jurisdictions that would lose revenues based on the changes to the destination sourcing rules, and local businesses engaged in intra-state transactions that would need to determine and apply local tax rates for approximately 1,400 local taxing jurisdictions in the state.

S.B. 2015 restores origin sourcing as the general rule for sourcing taxable service transactions. The bill also makes changes to Chapters 321 and 323, Tax Code, to include "taxable item," rather than "tangible personal property," in order to reflect the inclusion of taxable services in the Tax Code.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Section 321.203, Tax Code, by amending Subsections (b) through (e) and adding Subsection (n), as follows:

- (b) Amends this subsection to include retail sales of taxable items, rather than retail sales of tangible personal property.
- (c) Makes conforming changes.
- (d) Makes conforming changes.
- (e) Makes conforming changes and provides that this subsection includes an itinerant vendor who has no place of business in this state.
- (n) 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 2. Amends Section 323.203, Tax Code, by amending Subsections (b) through (e) and adding Subsection (m), as follows:

- (b) Makes a conforming change.
- (c) Makes conforming changes.
- (d) Makes conforming changes. Provides that this subsection includes the place of business from which the retailer's agent or employee, rather than salesman, who took the order operates.
- (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 3. Repealer: Section 151.103(c) (relating to how the use tax is determined when several taxable items are sold together and at the same time); Section 151.202(c) (requiring a person desiring to be a seller in this state to agree to collect any applicable local use tax that is authorized to be imposed by a local jurisdiction even if the seller is not engaged in business in the local jurisdiction into which the taxable item is shipped or delivered); Section 321.203(l) (providing that except as otherwise provided by this section, the sale of a taxable service, other than a service described by Section 151.330(f), is consummated at the location at which the service is performed or otherwise delivered); and Section 323.203(l) (providing that except as otherwise provided by this section, the sale of a taxable service, other than a service described by Section 151.330(f), is consummated at the location at which the service is performed or otherwise delivered), Tax Code.

SECTION 4: Repeals Section 322.105 (d) (which states if a taxable item that is exempt under Section 322.107 is shipped or delivered directly to a purchaser in another taxing entity, the item is subject to the use tax of the entity in which the purchaser takes delivery or shipment) and Section 322.107 (which states: EXEMPTION: SALES TAX ON ITEMS LEAVING ENTITY. There are exempted from the sales tax of a taxing entity the receipts of the sale of a taxable item that, under a sales contract, is shipped to a point outside the entity by means of: (1) facilities operated by the retailer; (2) delivery by the retailer to a carrier for shipment to a consignee at that point; or (3) delivery by the retailer to a forwarding agent for shipment outside the entity), Tax Code, and provides that the change in law made by this section does not affect tax liability accruing before the effective date of this section. That liability continues in effect as if this section had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 5. Effective date: upon passage or September 1, 2007.

**EFFECTIVE DATE**

Upon passage or September 1, 2007.