

By: Hochberg

H.B. No. 373

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

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

24 (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 do 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, 2007, 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, 2007.