

1-1 By: Hochberg (Senate Sponsor - Averitt) H.B. No. 373
1-2 (In the Senate - Received from the House March 19, 2007;
1-3 April 3, 2007, read first time and referred to Committee on
1-4 Finance; May 18, 2007, reported favorably by the following vote:
1-5 Yeas 11, Nays 0; May 18, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the imposition of the sales and use tax on certain sales
1-9 made by individuals.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 151.304(b), Tax Code, is amended to read
1-12 as follows:

1-13 (b) In this section, "occasional sale" means:

1-14 (1) one or two sales of taxable items, other than an
1-15 amusement service, at retail during a 12-month period by a person
1-16 who does not habitually engage, or hold himself out as engaging, in
1-17 the business of selling taxable items at retail;

1-18 (2) the sale of the entire operating assets of a
1-19 business or of a separate division, branch, or identifiable segment
1-20 of a business;

1-21 (3) a transfer of all or substantially all the
1-22 property used by a person in the course of an activity if after the
1-23 transfer the real or ultimate ownership of the property is
1-24 substantially similar to that which existed before the transfer;
1-25 [~~or~~]

1-26 (4) the sale of not more than 10 admissions for
1-27 amusement services during a 12-month period by a person who does not
1-28 hold himself out as engaging, or does not habitually engage, in
1-29 providing amusement services; or

1-30 (5) the sale of tangible personal property by an
1-31 individual if:

1-32 (A) the property was originally bought by the
1-33 individual or a member of the individual's family for the personal
1-34 use of the individual or the individual's family;

1-35 (B) the individual does not hold a permit issued
1-36 under this chapter and is not required to obtain a permit as a
1-37 "seller" or "retailer" as those terms are defined by Section
1-38 151.008;

1-39 (C) the individual does not employ an auctioneer,
1-40 broker, or factor, other than an online auction, to sell the
1-41 property; and

1-42 (D) the total receipts from sales of the
1-43 individual's tangible personal property in a calendar year do not
1-44 exceed \$3,000.

1-45 SECTION 2. The change in law made by this Act does not
1-46 affect tax liability accruing before the effective date of this
1-47 Act. That liability continues in effect as if this Act had not been
1-48 enacted, and the former law is continued in effect for the
1-49 collection of taxes due and for civil and criminal enforcement of
1-50 the liability for those taxes.

1-51 SECTION 3. This Act takes effect July 1, 2007, if it
1-52 receives a vote of two-thirds of all the members elected to each
1-53 house, as provided by Section 39, Article III, Texas Constitution.
1-54 If this Act does not receive the vote necessary for effect on that
1-55 date, this Act takes effect September 1, 2007.

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