

1-1 By: Rose (Senate Sponsor - Watson) H.B. No. 2010
1-2 (In the Senate - Received from the House April 26, 2007;
1-3 May 1, 2007, read first time and referred to Committee on Finance;
1-4 May 18, 2007, reported favorably by the following vote: Yeas 10,
1-5 Nays 0; May 18, 2007, sent to printer.)

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

1-8 relating to declaratory relief for businesses in this state for
1-9 liability for sales and use taxes of other states.

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

1-11 SECTION 1. Chapter 37, Civil Practice and Remedies Code, is
1-12 amended by adding Section 37.0055 to read as follows:

1-13 Sec. 37.0055. DECLARATIONS RELATING TO LIABILITY FOR SALES
1-14 AND USE TAXES OF ANOTHER STATE. (a) In this section, "state"
1-15 includes any political subdivision of that state.

1-16 (b) A district court has original jurisdiction of a
1-17 proceeding seeking a declaratory judgment that involves:

1-18 (1) a party seeking declaratory relief that is a
1-19 business that is:

1-20 (A) organized under the laws of this state or is
1-21 otherwise owned by a resident of this state; or

1-22 (B) a retailer registered with the comptroller
1-23 under Section 151.106, Tax Code; and

1-24 (2) a responding party that:

1-25 (A) is an official of another state; and

1-26 (B) asserts a claim that the party seeking
1-27 declaratory relief is required to collect sales or use taxes for
1-28 that state based on conduct of the business that occurs in whole or
1-29 in part within this state.

1-30 (c) A business described by Subsection (b)(1) is entitled to
1-31 declaratory relief on the issue of whether the requirement of
1-32 another state that the business collect and remit sales or use taxes
1-33 to that state constitutes an undue burden on interstate commerce
1-34 under Section 8, Article I, United States Constitution.

1-35 (d) In determining whether to grant declaratory relief to a
1-36 business under this section, a court shall consider:

1-37 (1) the factual circumstances of the business's
1-38 operations that give rise to the demand by the other state; and

1-39 (2) the decisions of other courts interpreting Section
1-40 8, Article I, United States Constitution.

1-41 SECTION 2. Section 37.0055, Civil Practice and Remedies
1-42 Code, as added by this Act, applies only to a cause of action that
1-43 accrues on or after the effective date of this Act. A cause of
1-44 action that accrues before the effective date of this Act is
1-45 governed by the law in effect at the time the action accrued, and
1-46 the former law is continued in effect for that purpose.

1-47 SECTION 3. This Act takes effect September 1, 2007.

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