

By: Duncan

S.B. No. 2015

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the consummation of sales for purposes of the
3 computation of local sales and use taxes.

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

5 SECTION 1. Section 321.203, Tax Code, is amended by
6 amending Subsections (b) through (e) and adding Subsection (n) to
7 read as follows:

8 (b) If a retailer has only one place of business in this
9 state, all of the retailer's retail sales of taxable items
10 [~~tangible personal property~~] are consummated at that place of
11 business except as provided by Subsection (e).

12 (c) If a retailer has more than one place of business in this
13 state, a sale of a taxable item [~~tangible personal property~~] by the
14 retailer is consummated at the retailer's place of business:

15 (1) from which the retailer ships or delivers the item
16 [~~property~~], if the retailer ships or delivers the item [~~property~~]
17 to a point designated by the purchaser or lessee; or

18 (2) where the purchaser or lessee takes possession of
19 and removes the item [~~property~~], if the purchaser or lessee takes
20 possession of and removes the item [~~property~~] from a place of
21 business of the retailer.

22 (d) If neither the possession of a taxable item [~~tangible~~
23 ~~personal property~~] is taken at nor shipment or delivery of the item
24 [~~property~~] is made from the retailer's place of business in this

1 state, the sale is consummated at:

2 (1) the retailer's place of business in this state
3 where the order is received; or

4 (2) if the order is not received at a place of business
5 of the retailer, the place of business from which the retailer's
6 salesman who took the order operates.

7 (e) A sale of a taxable item [~~tangible personal property~~] is
8 consummated at the location in this state to which the item
9 [~~property~~] is shipped or delivered or at which possession is taken
10 by the customer if transfer of possession of the item [~~property~~]
11 occurs at, or shipment or delivery of the item [~~property~~]
12 originates from, a location in this state other than a place of
13 business of the retailer and if:

14 (1) the retailer is an itinerant vendor who has no
15 place of business in this state;

16 (2) the retailer's place of business where the
17 purchase order is initially received or from which the retailer's
18 salesman who took the order operates is outside this state; or

19 (3) the purchaser places the order directly with the
20 retailer's supplier and the item [~~property~~] is shipped or delivered
21 directly to the purchaser by the supplier.

22 (n) A sale of a service described by Section 151.0047 to
23 remodel, repair, or restore nonresidential real property is
24 consummated at the location of the job site.

25 SECTION 2. Section 323.203, Tax Code, is amended by
26 amending Subsections (b) through (e) and adding Subsection (m) to
27 read as follows:

1 (b) If a retailer has only one place of business in this
2 state, all of the retailer's retail sales of taxable items
3 [~~tangible personal property~~] are consummated at that place of
4 business except as provided by Subsection (e).

5 (c) If a retailer has more than one place of business in this
6 state, a sale of a taxable item [~~tangible personal property~~] by the
7 retailer is consummated at the retailer's place of business:

8 (1) from which the retailer ships or delivers the item
9 [~~property~~], if the retailer ships or delivers the item [~~property~~]
10 to a point designated by the purchaser or lessee; or

11 (2) where the purchaser or lessee takes possession of
12 and removes the item [~~property~~], if the purchaser or lessee takes
13 possession of and removes the item [~~property~~] from a place of
14 business of the retailer.

15 (d) If neither the possession of a taxable item [~~tangible~~
16 ~~personal property~~] is taken at nor shipment or delivery of the item
17 [~~property~~] is made from the retailer's place of business in this
18 state, the sale is consummated at:

19 (1) the retailer's place of business in this state
20 where the order is received; or

21 (2) if the order is not received at a place of business
22 of the retailer, the place of business from which the retailer's
23 agent or employee [~~salesman~~] who took the order operates.

24 (e) A sale of a taxable item [~~tangible personal property~~] is
25 consummated at the location in this state to which the item
26 [~~property~~] is shipped or delivered or at which possession is taken
27 by the customer if transfer of possession of the item [~~property~~]

1 occurs at, or shipment or delivery of the item [~~property~~]
2 originates from, a location in this state other than a place of
3 business of the retailer and if:

4 (1) the retailer is an itinerant vendor who has no
5 place of business in this state;

6 (2) the retailer's place of business where the
7 purchase order is initially received or from which the retailer's
8 agent or employee [~~salesman~~] who took the order operates is outside
9 this state; or

10 (3) the purchaser places the order directly with the
11 retailer's supplier and the item [~~property~~] is shipped or delivered
12 directly to the purchaser by the supplier.

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

16 SECTION 3. The following provisions of the Tax Code are
17 repealed:

- 18 (1) Subsection (d), Section 151.103;
19 (2) Subsection (c), Section 151.202;
20 (3) Subsection (1), Section 321.203; and
21 (4) Subsection (1), Section 323.203.

22 SECTION 4. (a) The following provisions of the Tax Code
23 are repealed:

- 24 (1) Subsection (d), Section 322.105; and
25 (2) Section 322.107.

26 (b) The change in law made by this section does not affect
27 tax liability accruing before the effective date of this section.

1 That liability continues in effect as if this section had not been
2 enacted, and the former law is continued in effect for the
3 collection of taxes due and for civil and criminal enforcement of
4 the liability for those taxes.

5 (c) Notwithstanding any other provision of this Act, this
6 section takes effect September 1, 2007.

7 SECTION 5. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2007.