

By: Duncan

S.B. No. 2015

A BILL TO BE ENTITLED

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AN ACT

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

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

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

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

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

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

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

(d) If neither the possession of a taxable item [~~tangible personal property~~] is taken at nor shipment or delivery of the item [~~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.