BILL ANALYSIS

C.S.H.B. 3131
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A destination management company (DMC) is a professional services company with extensive local knowledge, expertise, and resources, specializing in the design and implementation of events, activities, tours, transportation, and program logistics. There are approximately 20 DMCs in Texas, and many of these companies are small and owned by women.

DMCs are instrumental to the meetings and convention industry in Texas. DMCs regularly market Texas as a destination to their clients, by keeping potential clients updated on the local happenings of Texas and preparing extensive proposals to attract corporate clients to hold large events in Texas. It is estimated that more than 80 percent of DMC clients come from outside Texas.

DMCs are different than any other companies, including event planners, because DMCs market and sell Texas as a destination for events. DMCs typically spend one to three percent of gross revenue actively marketing Texas as a destination all over the country and the world. The operations of a DMC make these companies more like a partner and private sales force for local convention centers and visitors' bureaus.

DMCs work with their clients and vendors in a manner that is very similar to general contractors by forming contracts with clients to arrange and provide the services needed for a particular program. DMCs also form contracts with vendors or subcontractors to supply the needed components or services to their clients. To be consistent with industry standards, a DMC is not authorized to have clients pay vendors or subcontractors directly, and current law does not allow a DMC to exclude these "flow through" expenses from general revenue. Typically, flow-through expenses account for 70 to 80 percent of the gross revenue of a DMC.

C.S.H.B. 3131 authorizes a DMC to exclude from its total revenue, for the purposes of computing its taxable margin, flow-through payments made to other entities to provide services, labor, or materials in connection with the provision of a DMC's services.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3131 amends the Tax Code to require a taxable entity that is a qualified destination management company to exclude from its total revenue, for franchise tax purposes, payments made to other persons to provide services, labor, or materials in connection with the provision of destination management services. The bill defines "destination management services" as transportation management; booking and managing entertainers; coordination of tours or recreational activities; meeting, conference, or event registration; meeting, conference, or event staffing; event management; and meal coordination. The bill defines "qualified destination management company" as a taxable entity that receives at least 80 percent of the entity's annual total revenue from its entire business from providing or arranging for the provision of a combination of at least four destination management services; maintains a permanent nonresidential office from which the destination management services are provided or arranged; has at least three full-time employees; spends at least one percent of the entity's annual gross receipts from its entire business to market the destinations with respect to which destination management services are provided; has at least 80 percent of the clients with which the entity enters into destination management services contracts located outside Texas; other than office equipment used in the conduct of the entity's business, does not own equipment used to directly provide destination management services, including motor coaches, limousines, sedans, dance floors, decorative props, lighting, podiums, sound or video equipment, or equipment for catered meals; is not doing business as a caterer; does not provide services for weddings; does not own a venue at which events or activities for which destination management services are provided occur; and is not a subsidiary of another entity that, and is not a member of an affiliated group another member of which, is doing business as, or owns or operates another entity doing business as, a caterer, or owns or operates a venue of which events or activities for which destination management services are provided occur.

EFFECTIVE DATE

January 1, 2010.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3131 differs from the original by including as a condition of the definition of "qualified destination management company" that the entity has at least three full-time employees, whereas the original specified that the entity has at least three full-time employees during all or part of the period on which margin is based. The substitute adds conditions not in the original's definition of "qualified destination management company" to include a taxable entity that spends at least one percent of the entity's annual gross receipts from its entire business to market the destinations with respect to which destination management services are provided; has at least 80 percent of the clients with which the entity enters into destination management services contracts located outside Texas; and is not a subsidiary of another entity that, and is not a member of an affiliated group another member of which, is doing business as, or owns or operates another entity doing business as, a caterer, or owns or operates a venue at which events or activities for which destination management services are provided to occur.