

BILL ANALYSIS

S.B. 1202
By: Deuell
Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law requires the local sales tax on an item to be sourced at the place of business to which it was shipped if the company has more than one place of business in Texas. This law has caused confusion regarding local sales tax sourcing of certain purchases. In some instances, a customer enters a local retail outlet, selects and purchases merchandise that will be shipped to the person's home, but imposing the local sales tax is illegal due to a warehouse or distribution facility located in a different community.

S.B. 1202 clarifies provisions relating to the collection and allocation of local sales and use taxes.

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

S.B. 1202 amends the Tax Code to clarify, under provisions relating to the consummation of a sale in the County Sales and Use Tax Act and the Municipal Sales and Use Tax Act, that each sale of each taxable item by a retailer having more than one place of business in Texas is consummated at the place of business of the retailer in Texas where the retailer first receives the order, provided that the order is placed in person by the purchaser or lessee of the taxable item at the place of business where the retailer first receives the order. The bill specifies that if the retailer has more than one place of business in Texas and the previous provision does not apply, the sale is consummated at the place of business in Texas from which the retailer ships and delivers the item, if the retailer ships and delivers the item to a point designated by the purchaser or lessee, or where the purchaser or lessee takes possession and removes the item, if done from a retailer's place of business, and establishes that provision as inapplicable if: the taxable item is shipped or delivered from a warehouse that is a retailer's place of business in relation to which the retailer has an economic development agreement with the municipality or county in which the warehouse is located that was entered into before January 1, 2009, and to which the municipality or county provides information relating to that agreement or complies with a provision below; and the retailer's place of business at which the order is first received is a retail outlet as identified as being served by the warehouse on January 1, 2009. The bill requires a municipality or county that has entered into an economic development agreement to send to the comptroller of public accounts, not later than September 1, 2009, information prescribed by the comptroller relating to the agreement that identifies each warehouse subject to the agreement and each retail outlet that on January 1, 2009, was served by that warehouse. The bill requires the comptroller to prescribe the manner in which this information must be provided. The bill specifies that the provision of information to the comptroller does not affect whether the information is confidential or excepted from required public disclosure.

S.B. 1202 provides for the expiration, on September 1, 2014, of provisions setting forth exceptions to the consummation of sale provision and provisions requiring a county or municipality to send information regarding an economic development agreement to the comptroller. The bill makes provisions requiring a county or municipality to send information regarding an economic development agreement to the comptroller effective immediately upon passage of the bill, or, if the bill does not receive the vote necessary for immediate effect, August 31, 2009.

S.B. 1202 establishes that a kiosk is not a "place of business of the retailer" and defines "kiosk."

EFFECTIVE DATE

Except as otherwise provided, September 1, 2009.