

## **BILL ANALYSIS**

Senate Research Center  
81R21944 CBH-F

C.S.S.B. 1202  
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Finance  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current Texas law requires that the local sales tax on an item be sourced to the place of business from where it was shipped, provided the company has more than one place of business in this state. This has caused some confusion with regard to local sales tax sourcing of certain purchases. In some instances, a customer walks into a local retail outlet, selects, and pays for merchandise that will be shipped to his or her home, but the local sales tax is legally due to a warehouse or distribution facility in another community.

C.S.S.B. 1202 amends current law relating to the collection and allocation of local sales and use taxes.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 321.002(a)(3), Tax Code, to redefine "place of business of the retailer" and define "kiosk."

SECTION 2. Amends Section 321.203, Tax Code, by amending Subsections (c) and (d) and adding Subsection (c-1), as follows:

(c) Provides that if a retailer has more than one place of business in this state, each sale of each taxable item by the retailer is consummated at the place of business of the retailer in this state where the retailer first receives the order, rather than a sale of a taxable item by the retailer is consummated at the retailer's place of business, provided that the order is placed in person by the purchaser or lessee of the taxable item at the place of business of the retailer in this state where the retailer first receives the order.

(c-1) Provides that if the retailer has more than one place of business in this state and Subsection (c) does not apply, the sale is consummated at the place of business of the retailer in this state from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee, or where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(d) Provides that if the retailer has more than one place of business in this state and Subsections (c) and (c-1) do not apply, the sale is consummated at the place of business of the retailer in this state where the order is received, or if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent or employee who took the order operates. Deletes existing text providing that if neither the possession of a taxable item is taken at nor shipment or delivery of the item is made from the retailer's place of business in this state, the sale is consummated at the retailer's place of business retailer in this state where the order is received, or if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent or employee who took the order operates.

SECTION 3. Amends Section 323.203, Tax Code, by amending Subsections (c) and (d) and adding Subsection (c-1), as follows:

(c) Provides that if a retailer has more than one place of business in this state, each sale of each taxable item by the retailer is consummated at the place of business of the retailer in this state 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 of the retailer in this state where the retailer first receives the order. Makes conforming changes.

(c-1) Provides that if the retailer has more than one place of business in this state and Subsection (c) does not apply, the sale is consummated at the place of business of the retailer in this state from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee, or where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(d) Provides that if the retailer has more than one place of business in this state and Subsections (c) and (c-1) do not apply, the sale is consummated at the place of business of the retailer in this state where the order is received, or if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent or employee who took the order operates. Makes conforming changes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2009.