

By: Raymond

H.B. No. 744

A BILL TO BE ENTITLED

AN ACT

relating to exemptions from the sales tax for certain business entities during a limited period.

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

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3411 to read as follows:

Sec. 151.3411. COMPUTER EQUIPMENT SOLD TO OR USED BY ELIGIBLE BUSINESS ENTITIES DURING CERTAIN PERIODS. (a) In this section:

(1) "Computer equipment" means a desktop or notebook computer and related equipment, including:

(A) a computer monitor or other display device;

(B) a printer, which may also be capable of performing scanning, photocopying, or facsimile functions; and

(C) other hardware or networking equipment for computers, such as adapters, modems, servers, routers, and other equipment associated with Internet access.

(2) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent four quarterly periods for which data is available, as computed by the Texas Workforce Commission, at the time a small business creates a job used to qualify for an exemption under this section.

(3) "Eligible small business" means a small business that meets the qualifications prescribed by Subsection (c).

1 (4) "Qualifying job" means a permanent full-time job
2 the weekly wage for which exceeds the county average weekly wage in
3 the county in which the job is based.

4 (5) "Small business" means a corporation,
5 partnership, sole proprietorship, or other legal entity that
6 employs fewer than 100 permanent full-time employees, including the
7 employees employed in the qualified jobs created to qualify for an
8 exemption under this section.

9 (b) The sale, lease, or rental to or use by an eligible small
10 business of a taxable item that is computer equipment is exempted
11 from the taxes imposed by this chapter and the business may claim a
12 refund or credit as provided by this section if:

13 (1) the item:

14 (A) is for the exclusive use and benefit of the
15 business;

16 (B) is necessary for the operation of the
17 business; and

18 (C) replaces computer equipment with respect to
19 the sale, lease, rental, or use of which the business paid the tax
20 imposed by this chapter; and

21 (2) the sale, lease, rental, or use of the item occurs
22 not later than the fifth anniversary of the date the business
23 initially qualifies as an eligible small business.

24 (c) A small business is eligible for the exemption provided
25 by Subsection (b) from the tax imposed by this chapter if the
26 business:

27 (1) is engaged in business in this state; and

1 (2) on or after September 1, 2011:

2 (A) creates at least 25 qualifying jobs in the
3 county in which the headquarters or other main office of the
4 business is located;

5 (B) invests at least \$10 million in capital
6 investments in this state; and

7 (C) purchases, leases, rents, or uses computer
8 equipment for the exclusive use and benefit of the business that is
9 necessary for the operation of the business and pays the tax imposed
10 by this chapter on that purchase, lease, rental, or use.

11 (d) An eligible small business entitled to a credit or
12 refund under this section may elect to receive either a credit or a
13 refund. A business that elects to receive a credit must claim the
14 credit on the return for the period that ends not later than the
15 first anniversary of the date the taxable event occurred. A
16 business that elects to receive a refund must apply to the
17 comptroller for the refund before or during the calendar year
18 following the year in which the tax was paid.

19 (e) The comptroller may require a small business that claims
20 a credit or applies for a refund under this section to provide to
21 the comptroller additional documentation necessary to establish
22 that the business is an eligible small business.

23 (f) A refund under this section is not a refund of taxes
24 erroneously collected, and Section 111.064 does not apply.

25 (g) The comptroller shall adopt rules necessary to
26 implement this section, including rules relating to the:

27 (1) qualification of a small business for an exemption

1 under this section;

2 (2) determination of the date a small business
3 initially qualifies as an eligible small business; and

4 (3) circumstances under which computer equipment is
5 considered to replace other computer equipment.

6 SECTION 2. The change in law made by this Act does not
7 affect tax liability accruing before the effective date of this
8 Act. That liability continues in effect as if this Act had not been
9 enacted, and the former law is continued in effect for the
10 collection of taxes due and for civil and criminal enforcement of
11 the liability for those taxes.

12 SECTION 3. This Act takes effect September 1, 2011.