BILL ANALYSIS

Senate Research Center

S.B. 1533
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Finance
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2011, the 82nd Legislature passed H.B. 590, which amended Chapter 321 (Municipal Sales and Use Tax Act) of the Tax Code to address a problem created when a business establishes a billing office as a means to move the sales tax from one jurisdiction to another for economic benefit, while not actually doing business in that location. During the passage of this legislation, it was made clear through legislative intent that the bill was not intended to impact traditional purchasing companies that had a significant economic presence in a community and also had established incentive agreements under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code. (*Senate Journal*, Friday, May 20, 2011, page 2632-2633). Chapter 380, Local Government Code, provides that local governments may enter into agreements with a corporation to establish incentives in order to stimulate economic development and promote business and economic activity.

In August of 2011, the comptroller of pubic accounts of the State of Texas issued new guidance based on language included in H.B. 590, which invalidates any purchasing company or office location as a place of business if the company also has an incentive agreement with the local government under Chapter 380, Local Government Code. However, the guidance did not take legislative intent into consideration.

S.B. 1533 clarifies the definition of "place of business" in Chapter 321, Tax Code, making it consistent with the legislative intent for H.B. 590, in order to ensure that it includes traditional purchasing companies that have a significant economic presence in a community.

As proposed, S.B. 1533 amends current law relating to municipal sales and use tax remittances by certain retailers.

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, as follows:

(a)(3)(A) Creates this paragraph from existing text and makes no further change.

(B) Creates this paragraph from existing text. Provides that an outlet, office, facility, or location does not exist to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter if any rebate it contracts to receive is lower than the amount of its annual payroll and the outlet, office, facility, or location provides significant business services, beyond processing invoices, to the contracting business, including logistics management, purchasing, inventory control, and other vital business services.

(C) Creates this paragraph from existing text and makes nonsubstantive changes.

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

SECTION 3. Effective date: September 1, 2013.