

By: Bohac

H.B. No. 3169

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of the sales and use tax on taxable items sold or provided under certain contracts.

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

SECTION 1. Section 151.0565, Tax Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) In this section:

(1) "Destination management services" means the following services [~~when provided under a qualified destination management services contract~~]:

- (A) transportation management;
- (B) booking and managing entertainers;
- (C) coordination of tours or recreational activities;
- (D) meeting, conference, or event registration;
- (E) meeting, conference, or event staffing;
- (F) event or logistics management; and
- (G) meal coordination.

(2) "Qualified destination management company" means a business entity that:

- (A) is incorporated or is a limited liability company;
- (B) receives at least 80 percent of the entity's

1 annual total revenue from providing or arranging for the provision
2 of destination management services;

3 (C) maintains a permanent nonresidential office
4 from which the destination management services are provided or
5 arranged;

6 (D) has at least three full-time employees;

7 (E) spends at least one percent of the entity's
8 annual gross receipts to market the destinations with respect to
9 which destination management services are provided, including
10 gross receipts spent for labor expenses relating to that activity;

11 (F) has at least 80 percent of the entity's
12 clients described by Subdivision (3)(A) located outside this state;

13 (G) other than office equipment used in the
14 conduct of the entity's business, does not own equipment used to
15 directly provide destination management services, including motor
16 coaches, limousines, sedans, dance floors, decorative props,
17 lighting, podiums, sound or video equipment, or equipment for
18 catered meals;

19 (H) is not doing business as a caterer;

20 (I) does not provide services for weddings;

21 (J) does not own a venue at which events or
22 activities for which destination management services are provided
23 occur; and

24 (K) is not a subsidiary of another entity that,
25 and is not a member of an affiliated group, as that term is defined
26 by Section 171.0001, another member of which:

27 (i) is doing business as, or owns or

1 operates another entity doing business as, a caterer; or

2 (ii) owns or operates a venue described by
3 Paragraph (J).

4 (3) "Qualified destination management services
5 contract" means a contract under which at least three of the
6 destination management services listed in Subdivision (1) are
7 provided:

8 (A) in this state to a client that is not an
9 individual and that:

10 (i) is a corporation, partnership, limited
11 liability company, trade association, or other business entity,
12 other than a social club or fraternal organization;

13 (ii) has its principal place of business
14 outside the county where the destination management services are to
15 be provided; and

16 (iii) agrees to pay the qualified
17 destination management company for all destination management
18 services provided to the client under the terms of the contract; and

19 (B) by a qualified destination management
20 company that pays or accrues liability for the payment of taxes
21 imposed by this chapter on purchases of taxable items that will be
22 consumed or used by the company in performing the contract.

23 (b) A qualified destination management company is the
24 consumer of taxable items sold or otherwise provided under a
25 qualified destination management services contract, and the
26 destination management services provided under the contract are not
27 considered taxable services, as that term is defined by section

1 151.0101.

2 (c) For purposes of this section, the following activities
3 are considered as marketing a destination:

4 (1) promoting the destination for prospective
5 meeting, incentive, and convention clients, regardless of whether
6 the activity promotes the entity engaging in the activity and
7 including the following activities:

8 (A) participating in trade shows;

9 (B) making sales calls;

10 (C) conducting site inspections;

11 (D) participating in familiarization trips; and

12 (E) marketing license and/or membership fees;

13 (2) attending or sponsoring an industry conference
14 while marketing the destination;

15 (3) creating a destination proposal with respect to
16 the destination;

17 (4) disseminating gifts or other materials that
18 promote the destination; and

19 (5) promoting the destination by electronic means.

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

26 SECTION 3. This Act takes effect September 1, 2013.