

House Bill 3169
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Sections 151.0565(a)(1) and (2), Tax Code, are amended to read as follows:

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

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

(H) shuttle system services, including vehicle staging, radio communications, signage, and routing services; and

(I) airport meet-and-greet services, including the provision of airport permits, manifest management services, portage, and passenger greeting services.

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

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

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

(E) maintains a general liability insurance policy with a limit of at least \$1 million ~~[spends at least one percent of the entity's annual gross receipts to market the destinations with respect to which destination management services are provided];~~

SENATE VERSION (IE)

SECTION 1. Sections 151.0565(a)(1) and (2), Tax Code, are amended to read as follows:

(1) "Destination management services" means the following services ~~when provided under a qualified destination management services contract:~~ [FA1(1)]

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

(H) shuttle system services, including vehicle staging, radio communications, signage, and routing services; and

(I) airport meet-and-greet services, including the provision of airport permits, manifest management services, portage, and passenger greeting services.

(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 annual total revenue from providing or arranging for the provision of a combination of at least six destination management services; [FA1(2)]

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

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

(E) maintains a general liability insurance policy with a limit of at least \$1 million ~~[spends at least one percent of the entity's annual gross receipts to market the destinations with respect to which destination management services are provided];~~

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

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

(H) does not prepare or serve beverages, meals, or other food products, but may procure catering services on behalf of the entity's clients [~~is not doing business as a caterer~~];

(I) does not provide services for weddings;

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

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

(i) prepares or serves beverages, meals, or other food products [~~is doing business as, or owns or operates another entity doing business as, a caterer~~]; or

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

No equivalent provision.

SENATE VERSION (IE)

(F) during the preceding tax year, had [~~has~~] at least 80 percent of the entity's client contracts for:

(i) clients from [~~described by Subdivision (3)(A) located~~] outside this state who were determined by a contracting entity outside this state; or

(ii) clients from outside this state who were program attendees staying in a hotel in this state; [FA1(3)]

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

(H) does not prepare or serve beverages, meals, or other food products, but may procure catering services on behalf of the entity's clients [~~is not doing business as a caterer~~];

(I) does not provide services for weddings;

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

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

(i) prepares or serves beverages, meals, or other food products [~~is doing business as, or owns or operates another entity doing business as, a caterer~~]; or

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

SECTION __. Section 151.313, Tax Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

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- (a) The following items are exempted from the taxes imposed by this chapter:
- (1) a drug or medicine, other than insulin, if prescribed or dispensed for a human or animal by a licensed practitioner of the healing arts;
 - (2) insulin;
 - (3) a drug or medicine that is required to be labeled with a "Drug Facts" panel in accordance with regulations of the federal Food and Drug Administration, without regard to whether it is prescribed or dispensed by a licensed practitioner of the healing arts;
 - (4) a hypodermic syringe or needle;
 - (5) a brace; hearing aid or audio loop; orthopedic, dental, or prosthetic device; ileostomy, colostomy, or ileal bladder appliance; or supplies or replacement parts for the listed items;
 - (6) a therapeutic appliance, device, and any related supplies specifically designed for those products, if dispensed or prescribed by a licensed practitioner of the healing arts, when those items are purchased and used by an individual for whom the items listed in this subdivision were dispensed or prescribed;
 - (7) corrective lens and necessary and related supplies, if dispensed or prescribed by an ophthalmologist or optometrist;
 - (8) specialized printing or signalling equipment used by the deaf for the purpose of enabling the deaf to communicate through the use of an ordinary telephone and all materials, paper, and printing ribbons used in that equipment;
 - (9) a braille wristwatch, braille writer, braille paper and braille electronic equipment that connects to computer equipment, and the necessary adaptive devices and adaptive computer software;

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(10) each of the following items if purchased for use by the blind to enable them to function more independently: a slate and stylus, print enlarger, light probe, magnifier, white cane, talking clock, large print terminal, talking terminal, or harness for guide dog;

(11) hospital beds;

(12) blood glucose monitoring test strips;

(13) an adjustable eating utensil used to facilitate independent eating if purchased for use by a person, including a person who is elderly or physically disabled, has had a stroke, or is a burn victim, who does not have full use or control of the person's hands or arms;

(14) subject to Subsection (d), a dietary supplement; and

(15) intravenous systems, supplies, and replacement parts designed or intended to be used in the diagnosis or treatment of humans.

(e) A product is an intravenous system for purposes of this section if, regardless of whether the product is designed or intended to be inserted subcutaneously into any part of the body, the product is designed or intended to be used to administer fluids, electrolytes, blood and blood products, or drugs to patients, or to withdraw tissue samples, blood, or fluids from patients. The term includes access ports, adapters, bags and bottles, cannulae, cassettes, catheters, clamps, connectors, drip chambers, extension sets, filters, in-line ports, luer locks, needles, poles, pumps and batteries, spikes, tubing, valves, volumetric chambers, and items designed or intended to connect qualifying products to one another or secure qualifying products to a patient.

(f) A product is a hospital bed for purposes of this section if it is a bed purchased, sold, leased, or rented, regardless of the terms of the contract, not including a stretcher, gurney, or

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delivery table, that is specially designed for the comfort and well-being of patients and the convenience of health care workers, with special features that may include wheels, adjustable height, adjustable side rails, and electronic buttons to operate both the bed and other nearby devices. The term includes:

(1) a mattress for the bed;

(2) any devices built into the bed or designed for use with the bed;

(3) infant warmers;

(4) incubators;

(5) other beds for neonatal and pediatric patients; and

(6) beds specifically designed and marketed for use in the rest, recuperation, and treatment of obese patients, obstetric patients, and burn patients. [FA2]

No equivalent provision.

SECTION __. Section 151.319(f), Tax Code, is amended to read as follows:

(f) In this section, "newspaper" means a publication that is printed on newsprint, the average sales price of which for each copy over a 30-day period does not exceed \$3 [~~\$1.50~~], and that is printed and distributed at a daily, weekly, or other short interval for the dissemination of news of a general character and of a general interest. "Newspaper" does not include a magazine, handbill, circular, flyer, sales catalog, or similar printed item unless the printed item is printed for distribution as a part of a newspaper and is actually distributed as a part of a newspaper. For the purposes of this section, an advertisement is news of a general character and of a general interest. Notwithstanding any other provision of this subsection, "newspaper" includes:

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- (1) a publication containing articles and essays of general interest by various writers and advertisements that is produced for the operator of a licensed and certified carrier of persons and distributed by the operator to its customers during their travel on the carrier; and
- (2) a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval. [FA1,3rd]

SECTION 2. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. 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 2. Same as House version.

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

SECTION 3. Same as House version.