

By: Button, Miller of Comal, Bernal, Larson,
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H.B. No. 3174

Substitute the following for H.B. No. 3174:

By: Springer

C.S.H.B. No. 3174

A BILL TO BE ENTITLED

AN ACT

relating to the application of the sales and use tax to certain
computer program transactions.

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

SECTION 1. Section 151.006, Tax Code, is amended by adding
Subsection (d) to read as follows:

(d) A sale for resale includes the sale of a computer
program to a provider of Internet hosting who acquires the computer
program from an unrelated vendor for the purpose of selling the
right to use the computer program to an unrelated user of the
provider's Internet hosting services in the normal course of
business and in the form or condition in which the provider acquired
the computer program. For purposes of this subsection, the
purchase of the computer program by the provider qualifies as a sale
for resale only if the provider offers the unrelated user a
selection of computer programs that are available to the public for
purchase directly from an unrelated vendor and executes a written
contract with the unrelated user that specifies the name of the
computer program sold to the unrelated user and includes a charge to
the unrelated user for computing hardware. This subsection applies
notwithstanding Section 151.302(b), if the unrelated user
purchases the right to use the computer program from the provider
through the acquisition of a license and the provider does not
retain the right to use the computer program under that license.

1 The performance by the provider of routine maintenance of the
2 computer program that is recommended or required by the unrelated
3 vendor of the computer program does not affect the application of
4 this subsection. In this subsection, "Internet hosting" has the
5 meaning assigned by Section 151.108(a).

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

12 SECTION 3. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2015.