

By: Murphy

H.B. No. 4052

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of certain services performed by certain employees from the sales and use tax.

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

SECTION 1. Section 151.057, Tax Code, is transferred to Subchapter H, Chapter 151, Tax Code, redesignated as Section 151.3503, Tax Code, and amended to read as follows:

Sec. 151.3503 [~~151.057~~]. SERVICES BY EMPLOYEES. (a) The following [~~services~~] are exempted from the taxes imposed by [not taxable under] this chapter:

(1) a service performed by an employee for the employee's [his] employer in the regular course of business, within the scope of the employee's duties, and for which the employee is paid [~~his~~] regular wages or salary;

(2) a service performed by an employee of a temporary employment service [~~as defined by Section 93.001, Labor Code,~~] for an employer to supplement the employer's existing work force on a temporary basis, if:

(A) [~~when~~] the service is normally performed by the employer's own employees;

(B) [~~7~~] the employer provides all supplies and equipment necessary to perform the service;

(C) the employer does not rent, lease, purchase, or otherwise acquire for use the supplies and equipment described

1 by Paragraph (B) from the temporary employment service or an entity
2 that is a member of an affiliated group of which the temporary
3 employment service is also a member;

4 (D) the temporary employment service is not a
5 member of the employer's affiliated group; and

6 (E) [~~and~~] the employee of the temporary
7 employment service [~~help~~] is under the [~~direct or general~~]
8 supervision of the employer to whom the employee of the temporary
9 employment service [~~help~~] is furnished; or

10 (3) a service performed by covered employees of a
11 professional employer organization, either licensed under Chapter
12 91, Labor Code, or exempt from the licensing requirements of that
13 chapter, for a client under a written contract that provides for
14 shared employment responsibilities between the professional
15 employer organization and the client for the covered employees,
16 most of whom must have been previously employed by the client.

17 (b) The comptroller shall prescribe by rule the minimum
18 percentage of covered employees that must have been previously
19 employed by the client, the minimum time period the covered
20 employees must have been employed by the client prior to the
21 commencement of its contract, and such other criteria as the
22 comptroller may deem necessary to properly implement Subsection
23 (a)(3) [~~this section~~].

24 (c) For purposes of this section, an employee of a temporary
25 employment service is under the supervision of an employer if the
26 employer has the sole right to direct and control the employee as
27 necessary to conduct the employer's business or to comply with any

1 licensing, statutory, or regulatory requirement applicable to the
2 employer.

3 (d) In this section:

4 (1) "Affiliated group" has the meaning assigned by
5 Section 171.0001.

6 (2) "Temporary employment service" has the meaning
7 assigned by Section 93.001, Labor Code.

8 SECTION 2. The changes in law made by this Act apply only to
9 a service commenced on or after the effective date of this Act. A
10 service commenced before that date is governed by the law in effect
11 on the date the service was commenced, and the former law is
12 continued in effect for that purpose.

13 SECTION 3. This Act takes effect September 1, 2017.