

By: Burrows

H.B. No. 2153

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a single local use tax rate as an alternative to  
3 combined local use tax rates for computing the amount of local use  
4 taxes remote sellers are required to collect and to the allocation  
5 of tax revenue collected at that rate.

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

7 SECTION 1. The purpose of this Act is to provide an  
8 optional, simplified means of computing the amount of local use tax  
9 remote sellers are required to collect following the decision of  
10 the United States Supreme Court in *South Dakota v. Wayfair, Inc.*,  
11 138 S. Ct. 2080 (2018).

12 SECTION 2. Subchapter C, Chapter 151, Tax Code, is amended  
13 by adding Section 151.0595 to read as follows:

14 Sec. 151.0595. SINGLE LOCAL TAX RATE FOR REMOTE SELLERS.

15 (a) In this section, "remote seller" means a seller whose only  
16 activities in this state are described by Section 151.107(a)(4) or  
17 (5).

18 (b) A remote seller required to collect and remit one or  
19 more local use taxes in connection with a sale of a taxable item  
20 made by the remote seller shall compute the amount to collect and  
21 remit using:

22 (1) the combined rate of all applicable local use  
23 taxes authorized or governed by Title 3; or

24 (2) at the remote seller's election, the single local

1 use tax rate published in the Texas Register as required by  
2 Subsection (d).

3 (c) A remote seller who elects under Subsection (b)(2) to  
4 use the single local use tax rate shall notify the comptroller of  
5 the election before using that rate. The election applies to all  
6 sales of taxable items made by the remote seller unless the remote  
7 seller revokes the election by notifying the comptroller. Notice to  
8 the comptroller under this subsection must be in the form and manner  
9 provided by the comptroller.

10 (d) The single local use tax rate effective in a calendar  
11 year is equal to the estimated average rate of local sales and use  
12 taxes imposed in this state during the preceding state fiscal year,  
13 as determined under Subsection (e). Before the beginning of a  
14 calendar year, the comptroller shall publish in the Texas Register  
15 notice of the single local use tax rate that will be in effect for  
16 that calendar year.

17 (e) As soon as practicable after the end of a state fiscal  
18 year, the comptroller shall determine the estimated average rate of  
19 local sales and use taxes imposed in this state during the preceding  
20 state fiscal year by:

21 (1) dividing the total amount of net local sales and  
22 use taxes remitted to the comptroller under this section and Title 3  
23 during that state fiscal year by the total amount of net state sales  
24 and use taxes remitted to the comptroller under this chapter during  
25 that state fiscal year;

26 (2) multiplying the amount computed under Subdivision  
27 (1) by the rate provided by Section [151.051](#); and

1           (3) rounding the amount computed under Subdivision (2)  
2 to the nearest .0025.

3           (f) Notwithstanding Section 111.104(b), a purchaser may  
4 annually apply for a refund of any amount by which the amount of use  
5 tax computed using the rate described by Subsection (b)(2) and paid  
6 by the purchaser exceeds the amount the purchaser would have paid if  
7 that tax had been computed using the rate described by Subsection  
8 (b)(1). The comptroller may adopt rules regarding the procedure  
9 and proof required for the refund.

10           (g) A person storing, using, or consuming in this state a  
11 taxable item purchased from a remote seller is not liable for any  
12 additional amount of local use tax authorized or governed by Title 3  
13 if the remote seller elects under Subsection (b)(2) to use the  
14 single local use tax rate and the person pays to the remote seller  
15 the amount of local use tax computed on the purchase using the  
16 single local use tax rate.

17           (h) The comptroller shall administer, collect, and enforce  
18 local use taxes computed using the single local use tax rate.

19           (i) The comptroller shall apportion and distribute revenue  
20 from local use taxes computed using the single local use tax rate as  
21 provided by Section 403.107, Government Code.

22           (j) The comptroller may adopt rules to administer this  
23 section.

24           SECTION 3. Section 403.107, Government Code, is reenacted  
25 and amended to read as follows:

26           Sec. 403.107. SINGLE LOCAL USE TAXES COLLECTED BY REMOTE  
27 SELLERS [~~SALES AND USE TAX FEES~~]. (a) The comptroller shall

1 deposit revenue remitted to the comptroller from taxes computed  
2 using the single local use tax rate under Section 151.0595(b)(2)  
3 ~~[fees imposed under Section 151.059]~~, Tax Code, in the state  
4 treasury and shall keep records of the amount of money deposited  
5 ~~[collected]~~ for each reporting period. Money deposited under this  
6 subsection ~~[Such fees]~~ shall be held in trust for the benefit of  
7 eligible taxing units, as determined under Subsection (b) ~~[in the~~  
8 ~~suspense account of each eligible taxing unit]~~. The comptroller  
9 shall distribute money held in trust ~~[in the suspense accounts]~~  
10 under this section to each eligible taxing unit in the amount and  
11 manner provided by ~~[federal law or]~~ this section.

12 (b) A local taxing unit is an eligible taxing unit for  
13 purposes of ~~[to receive funds under]~~ this section if it has adopted  
14 a sales and use tax authorized or governed by Title 3, Tax Code  
15 ~~[under Chapter 321, Chapter 322, or Chapter 323, Tax Code, or has~~  
16 ~~adopted a local sales and use tax governed in part by any provision~~  
17 ~~of those chapters]~~.

18 (c) Subject to Subsection (d), the ~~[The]~~ comptroller shall  
19 transmit to each eligible taxing unit's treasurer, or to the  
20 officer performing the functions of that office, on a monthly  
21 ~~[quarterly]~~ basis, the taxing unit's share of money held in trust  
22 under Subsection (a) ~~[the fees remitted to the comptroller]~~,  
23 together with the pro rata share of any penalty or interest on  
24 delinquent taxes computed using the single local use tax rate  
25 ~~[fees]~~ that may be collected. Before transmitting the funds, the  
26 comptroller shall deduct two percent of ~~[the amount allocated to]~~  
27 each taxing unit's share ~~[unit]~~ as a charge by the state for its

1 services under this section and deposit that amount into the state  
2 treasury to the credit of the comptroller's operating fund.  
3 Interest earned on all deposits made in the state treasury under  
4 this section shall be credited to the general revenue fund.

5 (d) The comptroller shall retain [~~in the suspense account~~  
6 ~~for a taxing unit~~] a portion of each eligible [~~the~~] taxing unit's  
7 share of money held in trust under Subsection (a) [~~the fees~~  
8 ~~collected~~], not to exceed five percent of the amount eligible to be  
9 transmitted [~~remitted~~] to the taxing unit under Subsection (c).  
10 From the amounts retained [~~in a taxing unit's suspense account~~],  
11 the comptroller may make refunds for overpayments of taxes computed  
12 using the single local use tax rate, make refunds to purchasers as  
13 provided by Section 151.0595(f), Tax Code, and [~~to the account and~~  
14 ~~to~~] redeem dishonored checks and drafts deposited under Subsection  
15 (a) [~~to the credit of the account~~].

16 (e) The [~~Unless another method is required by federal law,~~  
17 ~~the~~] comptroller shall compute for each calendar month [~~quarter~~]  
18 the percentage of total sales and use tax allocations made pursuant  
19 to Title 3, [~~of the~~] Tax Code, including any local sales and use  
20 taxes governed by any provision of Title 3, [~~of the~~] Tax Code, to  
21 each eligible taxing unit. The comptroller shall determine each  
22 eligible taxing unit's share of the money held in trust from  
23 deposits under Subsection (a) for that month by applying the  
24 percentage computed under this subsection for the eligible taxing  
25 unit [~~and shall apply that percentage~~] to the total amount held in  
26 trust from deposits for that month [~~fees collected under Section~~  
27 ~~151.059, Tax Code, and allocated to eligible taxing units in that~~

1 ~~quarter~~].

2 (f) The comptroller may combine an eligible taxing unit's  
3 share of the money held in trust under Subsection (a) [~~fees remitted~~  
4 ~~or collected under Section 151.059, Tax Code, a suspense account~~  
5 ~~under this section, or an allocation made under this section~~] with  
6 other money [~~trust or suspense accounts~~] held for that taxing unit  
7 [~~or other allocations made to that taxing unit under Title 3 of the~~  
8 ~~Tax Code~~].

9 (g) The comptroller may adopt rules to administer this  
10 section.

11 SECTION 4. Sections 151.059 and 151.107(c), Tax Code, as  
12 added by Chapter 291 (H.B. 2215), Acts of the 71st Legislature,  
13 Regular Session, 1989, are repealed.

14 SECTION 5. The changes in law made by this Act do not affect  
15 tax liability accruing before the effective date of this Act. That  
16 liability continues in effect as if this Act had not been enacted,  
17 and the former law is continued in effect for the collection of  
18 taxes due and for civil and criminal enforcement of the liability  
19 for those taxes.

20 SECTION 6. (a) Not later than October 1, 2019, the  
21 comptroller shall adopt any rules necessary to implement this Act.

22 (b) This Act does not require a remote seller, as defined by  
23 Section 151.0595, Tax Code, as added by this Act, to collect local  
24 use taxes on sales of taxable items made before October 1, 2019.

25 SECTION 7. This Act takes effect September 1, 2019.