By:  Perry, et al. S.B. No. 153

(In the Senate - Filed November 10, 2020; March 3, 2021, read first time and referred to Committee on Finance; April 14, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 15, Nays 0; April 14, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Nelson               X

Lucio                X

Bettencourt          X

Buckingham           X

Campbell             X

Creighton            X

Hancock              X

Huffman              X

Kolkhorst            X

Nichols              X

Perry                X

Schwertner           X

Taylor               X

West                 X

Whitmire             X

COMMITTEE SUBSTITUTE FOR S.B. No. 153 By:  Perry

A BILL TO BE ENTITLED

AN ACT

relating to the exclusion of certain payment processing services from the definition of "data processing service" for purposes of sales and use taxes.

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

SECTION 1.  Section 151.0035, Tax Code, is amended to read as follows:

Sec. 151.0035.  "DATA PROCESSING SERVICE". (a) "Data processing service" includes:

(1)  word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, and other computerized data and information storage or manipulation;

(2)  the performance of a totalisator service with the use of computational equipment required by Subtitle A-1, Title 13, Occupations Code (Texas Racing Act); and

(3)  [~~, and other computerized data and information storage or manipulation. "Data processing service" also includes~~] the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or computer time or by the purchaser or other beneficiary of the service.

(b)  "Data processing service" does not include:

(1)  the transcription of medical dictation by a medical transcriptionist;

(2)  services exclusively to encrypt electronic payment information for acceptance onto a payment card network described by Subdivision (3)(D) to comply with standards set by the Payment Card Industry Security Standards Council; or

(3)  settling of an electronic payment transaction by:

(A)  a downstream payment processor or point of sale payment processor that routes electronic payment information to an entity described by Paragraph (B) or (D) or to a person who is engaged in the business of money transmission and required to obtain a license under Section 151.302(a), Finance Code;

(B)  a federally insured financial institution, as defined by Section 201.101, Finance Code, that is organized under the laws of this state, another state, or the United States, or an affiliate of the institution;

(C)  a person who has entered into a sponsorship agreement with an entity described by Paragraph (B) for the purpose of processing that entity's electronic payment transactions through a payment card network; or

(D)  a payment card network that allows a person to accept a specific brand of debit or credit card by routing information and data to settle an electronic payment transaction.

(c)  For purposes of Subsection (b)(3):

(1)  "Downstream payment processor" means a person described by 7 T.A.C. Section 33.4(c), as that provision existed on January 1, 2021.

(2)  "Point of sale payment processor" means a person described by 7 T.A.C. Section 33.4(d), as that provision existed on January 1, 2021.

(3)  "Settling of an electronic payment transaction" means the authorization, clearing, or funding of a payment made by credit card, debit card, gift card, stored value card, electronic check, virtual currency, loyalty program currency such as points or miles, or a similar method. The term does not include charges by a marketplace provider, as that term is defined by Section 151.0242.

(d)  "Data storage," as used in this section, does not include a classified advertisement, banner advertisement, vertical advertisement, or link when the item is displayed on an Internet website owned by another person.

SECTION 2.  The changes in law made by this Act do 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 3.  This Act takes effect October 1, 2021.

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