

By: Perry

S.B. No. 265

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the applicability of sales and use taxes to certain
3 services provided by a marketplace provider.

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

5 SECTION 1. Sections 151.0035(b) and (c), Tax Code, are
6 amended to read as follows:

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

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

10 (2) services exclusively to encrypt electronic
11 payment information for acceptance onto a payment card network
12 described by Subdivision (3)(E) to comply with standards set by the
13 Payment Card Industry Security Standards Council; ~~[or]~~

14 (3) settling of an electronic payment transaction by:

15 (A) a downstream payment processor or point of
16 sale payment processor that routes electronic payment information
17 to an entity described by Paragraph (C) or (E);

18 (B) a person who is engaged in the business of
19 money transmission and required to obtain a license under Section
20 152.101, Finance Code;

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

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

5 (E) a payment card network that allows a person
6 to accept a specific brand of debit or credit card by routing
7 information and data to settle an electronic payment transaction;
8 or

9 (4) services provided by a marketplace provider in
10 relation to the processing of a sale or payment for a marketplace
11 seller, as those terms are defined by Section 151.0242.

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

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

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

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

25 SECTION 2. The changes in law made by this Act do not affect
26 tax liability accruing before the effective date of this Act. That
27 liability continues in effect as if this Act had not been enacted,

1 and the former law is continued in effect for the collection of
2 taxes due and for civil and criminal enforcement of the liability
3 for those taxes.

4 SECTION 3. This Act takes effect October 1, 2025.