

BILL ANALYSIS

Senate Research Center

H.B. 3534
By: Laubenberg (Shapiro)
Business & Commerce
5/18/2003
Engrossed

DIGEST AND PURPOSE

Currently, state law permits the point of collection for sales tax to be at a billing office, which may be different from the point of sale or of merchandise delivery or shipping. Recently, some cities have been promoting the establishment of what has been called a sales tax billing office. Under this arrangement, companies contract with the billing office to re-invoice sales by electronically sending billing instructions to an invoicing office staffed with computers and one or more billing clerks who repackage invoices from the new billing office which is shown as the new point of sale and in this way possibly avoid a higher municipal sales tax than that of the physical point of sale. H.B. 3534 provides that if there is no place of business of the retailer because the comptroller of public accounts determines that an outlet, office, facility, or location contracts with a retail or commercial business to process for that business invoices or bills of lading and that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business, a sale is consummated at the place of business of the retailer from whom the outlet, office, facility, or location purchased the taxable item for resale to the contracting business.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 321.002(a)(3), Tax Code, to include in the definition of "place of business of the retailer," the provision that an outlet, office, facility, or location that contracts with a retail or commercial business engaged in activities to which this chapter applies to process for that business invoices or bills of lading onto which sales tax is added is not a "place of business of the retailer" if the comptroller of public accounts (comptroller) determines that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business.

SECTION 2. Amends Section 321.203, Tax Code, by adding Subsection (l), to provide that if there is no place of business of the retailer because the comptroller determines that an outlet, office, facility, or location contracts with a retail or commercial business to process for that business invoices or bills of lading and that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business, a sale is consummated at the place of business of the retailer from whom the outlet, office, facility, or location purchased the taxable item for resale to the contracting business.

SECTION 3. Effective date: upon passage or September 1, 2003.