

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1083
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Finance
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

BACKGROUND AND PURPOSE

S.B. 1083 amends the Tax Code by defining what is not included in insurance taxed services. This bill excludes certified public accountancy from being taxed as "insurance services." Insurance service tax is a sales tax on services provided to insurance companies and those providing services to prove insurance claims. According to the Texas comptroller of public accounts's website, the tax typically applies if you are an independent insurance adjustor, an inspector, an actuarial analyst, an appraiser, an investigator, a claims processor, or a loss prevention consultant.

The type of services the tax applies also includes the following:

- Claims adjustment or processing
- Inspections
- Insurance damage and loss appraisals
- Investigations
- Actuarial analysis or research
- Insurance loss prevention service

S.B. 1083 amends the Tax Code to exclude services performed by a certified public accountancy (CPA) firm, as defined by Section 901.002, Occupations Code, if less than one percent of the firm's revenue in the calendar year is from services in this state that would otherwise constitute insurance service.

Although the tax was never intended to apply to the normal professional services provided by CPAs, an auditor has made this application in the course of an audit of a CPA firm.

Key points:

To resolve this issue and assure that traditional CPA services are not subject to the insurance service tax, a limited exemption needs to indicate for a licensed CPA firm providing public accounting services and by individual licensed CPAs only if they are owners or employees of a licensed CPA firm. This would avoid a "back-door" application of the insurance service tax to CPAs in accounting firms, while safeguarding against an insurance company hiring a CPA in order to take advantage of the exemption. An insurance company would not qualify as a licensed CPA firm and would still be taxable. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1083 amends current law relating to the applicability of the sales and use tax to certain insurance services.

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 151.0039(b), Tax Code, to redefine “insurance service” to exclude a service performed by a certified public accountancy firm, as that term is defined by Section 901.002 (General Definitions), Occupations Code, or on behalf of the firm by an owner, employee, or affiliate of the firm, if less than one percent of the firm’s total revenue in the prior calendar year is from services in this state that would otherwise constitute insurance service under Subsection (a) (relating to defining “insurance service”).

SECTION 2. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that the 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. Effective date: January 1, 2018.