

- SUBJECT:** Excluding certain payment processing services from sales and use tax
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Murphy, Noble, Rodriguez, Sanford, Shine
- 0 nays
- 1 absent — Martinez Fischer
- SENATE VOTE:** On final passage, April 19 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — John Christian, Ryan LLC; Dino Marcaccio, Texas Tax Group; Sarah Bevers, United Supermarkets; (*Registered, but did not testify*: James LeBas, AECT and IBAT; Robert Howden, Texas Credit Union Association; Susan Ross, Texas Dental Association; Matt Burgin, Texas Food and Fuel Association; Troy Alexander, Texas Medical Association; Kelsey Streufert, Texas Restaurant Association; Jim Sheer, Texas Retailers Association; Dale Craymer, Texas Taxpayers and Research Association; Morris Wilkes, United Supermarkets; Mark Vane, Walmart)
- Against — None
- On — (*Registered, but did not testify*: Karey Barton, Comptroller of Public Accounts)
- BACKGROUND:** Tax Code sec. 151.0101 includes data processing services as services subject to sales and use taxes. Under sec. 151.0035, "data process services" includes 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.
- DIGEST:** CSSB 153 would exclude from data processing services subject to sales and use taxes:

- services exclusively to encrypt electronic payment information for acceptance onto a payment card network to comply with the Payment Card Industry Security Standards Council; and
- settling of an electronic payment transaction by certain methods as specified in the bill.

"Settling of an electronic payment transaction" would mean the authorization, clearing, or funding of a payment made by a 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 would not include charges by a marketplace provider.

Methods of settling of an electronic payment that would be excluded from being considered data processing services would include settling by:

- a downstream payment processor or point of sale payment process that routed electronic payment information;
- a licensed person who was engaged in the business of money transmission;
- a federally insured financial institution or affiliate;
- a person who had entered into a sponsorship agreement with a federally insured financial institution for the purpose of settling electronic payments; or
- a payment card network that allowed a person to accept a specific brand of debit or credit card by routing information and data to settle a payment.

The bill would take effect October 1, 2021, and would not apply to tax liability accruing before that date.

**SUPPORTERS
SAY:**

CSSB 153 would clarify existing tax practices by excluding merchant credit and debit card processing services from being considered as taxable data process services. While it has been the standing practice by the comptroller to consider these practices as a financial process not subject to tax, recent audits have led to some question about whether these payment processing services actually were excluded from data processing services

under law. This has raised concern among businesses that would have to face hundreds of millions of dollars in additional sales and use taxes each year. By specifying that credit and debit card payment services were not taxable, CSSB 153 would clarify current law and comptroller opinions and prevent businesses from being significantly burdened by extra taxes.

CRITICS
SAY:

No concerns identified.