

BILL ANALYSIS

C.S.H.B. 1525
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that the rights and duties of individuals who own or operate a physical, electronic, or online marketplace are unclear with regard to tax collection obligations under current law. C.S.H.B. 1525 seeks to facilitate the efficient collection of sales and use taxes by clearly establishing the responsibilities of persons involved in marketplace transactions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1525 amends the Tax Code to grant a person who owns or operates a physical, electronic, or online marketplace and processes taxable sales or payments for marketplace sellers the rights and duties of a seller or retailer under the Limited Sales, Excise, and Use Tax Act with respect to sales made through the marketplace. The bill requires such a marketplace provider to do the following:

- certify to each marketplace seller that the provider assumes those rights and duties;
- collect the taxes imposed on sales of taxable items made through the marketplace in the manner required by the act; and
- report and remit under the act the taxes imposed on all sales made through the marketplace.

The bill requires a marketplace seller who in good faith accepts the provider's certification to exclude marketplace sales from the seller's tax report. The bill requires a marketplace seller to retain the requisite records for all marketplace sales and to provide to the provider the information required to correctly collect and remit the taxes. The bill sets out provisions relating to the liability of a marketplace provider and seller for a deficiency resulting from incorrect or insufficient information provided by the seller or from a sale made by the seller through the marketplace. These provisions expressly do not affect the tax liability of a purchaser under the act. The bill prohibits a court from certifying an action brought against a marketplace provider concerning these provisions as a class action. The bill authorizes the comptroller of public accounts to adopt rules and forms to implement these provisions and to except by rule certain small marketplace providers from some or all of these requirements.

C.S.H.B. 1525 establishes that, for purposes of computing sales and use taxes under the

Municipal Sales and Use Tax Act and the County Sales and Use Tax Act, the sale of a taxable item made by a marketplace seller through a marketplace is consummated at the location in Texas to which the item is shipped or delivered or at which possession is taken by the purchaser.

EFFECTIVE DATE

October 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1525 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute clarifies a reference to remitted taxes on sales made through the marketplace under the Limited Sales, Excise, and Use Tax Act provisions relating to sales and use tax reports, payments, and methods of reporting.

The substitute includes a provision exempting a marketplace provider from liability for failure to collect and remit the correct amount of taxes imposed by the act if the marketplace provider demonstrates that the failure resulted from the marketplace provider's good faith reliance on insufficient information provided by a marketplace seller. The substitute includes a provision making a marketplace seller liable for a deficiency resulting from insufficient information provided by the seller.

The substitute changes the bill's effective date from September 1, 2019, to October 1, 2019.