

SUBJECT: Exempting certain personal online auction sales from sales taxes

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 5 ayes — J. Keffer, Villarreal, Edwards, Grusendorf, Paxton
0 nays
4 absent — Luna, Ritter, Smithee, Woolley

WITNESSES: None

BACKGROUND: Texas exempts certain transactions from the state sales tax requirement. "Occasional sales," such as the sale of one or two taxable items per year by someone who does not present himself as a retailer, or the sale of the assets of a business, are exempt from the sales tax requirements, including the seller's responsibility to obtain a sales tax license.

DIGEST: CSHB 1342 would add to the definition of "occasional sales" the sale of an individual's personal property if the individual was not otherwise required to have a sales tax permit, the sale did not involve an auction, other than an online auction, and the total receipts from sales were less than \$3,000 per year.

It would apply to sales on or after the effective date of the bill. This bill would take effect July 1, 2005, if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

SUPPORTERS SAY: CSHB 1342 would allow people selling their personal items on e-bay or another online auction to be compliant with state law when they sold more than two items without a sales tax license. Under current law, they are required to have a license and to collect sales tax for in-state sales if more than two items are sold.

The bill would set a limit for the dollar value of transactions to ensure that people who made a business out of buying and selling on online auctions would not be exempt from the sales tax requirements that other businesses

would be required to meet. A \$3,000 limit, combined with the two-item bar already in statute, would be high enough to permit the sale of single high-dollar items or many less expensive ones.

**OPPONENTS
SAY:**

The \$3,000 limit is too low, and families selling several items could be caught in that group. A living room set and some exercise equipment could push the total over \$3,000 and the two-item limit. If Texas is planning to exempt personal sales from sales tax requirements, it should be more fully defined rather than limited by a dollar value.

NOTES:

The committee substitute added the \$3,000 limit.