

**SUBJECT:** Exempting from sales tax limited sales of personal property by individuals

**COMMITTEE:** Ways and Means — committee substitute recommended

**VOTE:** 5 ayes — Keffer, Ritter, Otto, Paxton, Pena  
0 nays  
4 absent — Bonnen, Y. Davis, Flores, Pitts

**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 persons who do not present themselves 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 373 would expand the definition of “occasional sales,” as defined in Tax Code, sec. 151.304(b), to include the sale of an individual’s personal property when an individual was not required to obtain a sales tax permit, the sale did not involve an auction, other than an online auction, and total receipts from the sales were less than \$3,000 per year. The property would have to have been bought by the individual or a member of the individual’s family for their own personal use.

CSHB 373 would apply to sales on or after its effective date. The bill would take effect July 1, 2007, if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS SAY:** CSHB 373 would allow people who sell their own personal property — through classified ads or online auctions, for example — to comply with state law when they sold more than two items without a sales tax permit, as long as their annual receipts did not exceed \$3,000. Under current law, a person who annually sells more than two items is required to obtain a permit and collect and remit sales tax on in-state sales.

The bill would set an annual \$3,000-limit on the total value of transactions to ensure that individuals who bought and sold items as a business were not exempt from the sales-and-use tax requirements that other businesses are required to meet. A \$3,000 annual limit would be a reasonable amount beyond which sellers should have to obtain a permit and remit sales tax.

While the bill would exempt personal-property sales of up to \$3,000 in personal goods sold by entities licensed in other states, the loss in tax revenue to Texas would be minimal. The Legislative Budget Board estimates no significant fiscal impact to the state as a result of CSHB 373.

**OPPONENTS  
SAY:**

The bill would not prevent retailers with sales tax permits issued by other states to benefit from an exemption designed for sellers of small amounts of personal property in Texas. Even for small amounts, out-of-state retailers should be required to collect and remit sales tax on all Texas sales, even of their personal property.

**NOTES:**

The committee substitute made no substantive changes to the bill as introduced.

CSHB 373 is nearly identical to HB 1342 by Hochberg, which passed the House, but died in the Senate Finance Committee during the 2005 regular session. During consideration of HB 3 by J. Keffer, the school finance and property tax reduction bill, during the 2005 regular session, the House adopted an amendment by Rep. Hochberg that incorporated the provisions of HB 1342, although without the value limit. HB 3 died in conference committee.