TAX CODE

TITLE 2. STATE TAXATION

SUBTITLE E. SALES, EXCISE, AND USE TAXES

CHAPTER 151. LIMITED SALES, EXCISE, AND USE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 151.001. SHORT TITLE. This chapter may be cited as the Limited Sales, Excise, and Use Tax Act.

Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.002. APPLICABILITY OF DEFINITIONS, ETC. The definitions and other provisions of this chapter relating to the collection, administration, and enforcement of the taxes imposed by this chapter, including the requirements for sales tax permits, apply to the parties to a sale of a taxable item that is exempted from the taxes imposed by this chapter but that is subject to the taxes imposed by a city under Chapter 321 of this code.

Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.27(b)(1), eff. Aug. 28, 1989.

Sec. 151.0028. "AMUSEMENT SERVICES". (a) "Amusement services" means the provision of amusement, entertainment, or recreation, but does not include the provision of educational or health services if prescribed by a licensed practitioner of the healing arts for the primary purpose of education or health maintenance or improvement.

(b) "Amusement services" includes membership in a private club or organization that provides entertainment, recreational, sports, dining, or social facilities to its members.

(c) "Amusement services" does not include services provided through coin-operated machines that are operated by the consumer.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 3, eff. Oct. 2, 1984. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 1.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 638 (S.B. 1525), Sec. 1, eff. June 10, 2019.

Sec. 151.003. "BUSINESS". "Business" means an activity of or caused by a person for the purpose of a direct or indirect gain, benefit, or advantage.
Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.0031. "COMPUTER PROGRAM". "Computer program" means a series of instructions that are coded for acceptance or use by a computer system and that are designed to permit the computer system to process data and provide results and information. The series of instructions may be contained in or on magnetic tapes, punched cards, printed instructions, or other tangible or electronic media.
Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 6, Sec. 1, eff. Oct. 2, 1984.

Sec. 151.0033. "CABLE TELEVISION SERVICE". "Cable television service" means the distribution of video programming with or without use of wires to subscribing or paying customers.
Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 4, eff. Oct. 2, 1984.

Sec. 151.0034. "CREDIT REPORTING SERVICE". "Credit reporting service" means assembling or furnishing credit history or credit information relating to any person.
Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 2.

Sec. 151.0035. "DATA PROCESSING SERVICE". (a) "Data processing service" includes:

(1) 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;

(2) the performance of a totalisator service with the

use of computational equipment required by Subtitle A-1, Title 13, Occupations Code (Texas Racing Act); and

(3) the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or computer time or by the purchaser or other beneficiary of the service.

(b) "Data processing service" does not include:

(1) the transcription of medical dictation by a medical transcriptionist;

(2) services exclusively to encrypt electronic payment information for acceptance onto a payment card network described by Subdivision (3)(E) to comply with standards set by the Payment Card Industry Security Standards Council; or

(3) settling of an electronic payment transaction by:

(A) a downstream payment processor or point of sale payment processor that routes electronic payment information to an entity described by Paragraph (C) or (E);

(B) a person who is engaged in the business of money transmission and required to obtain a license under Section 152.101, Finance Code;

(C) a federally insured financial institution, as defined by Section 201.101, Finance Code, that is organized under the laws of this state, another state, or the United States, or an affiliate of the institution;

(D) a person who has entered into a sponsorship agreement with an entity described by Paragraph (C) for the purpose of settling that entity's electronic payment transactions through a payment card network; or

(E) a payment card network that allows a person to accept a specific brand of debit or credit card by routing information and data to settle an electronic payment transaction.

(c) For purposes of Subsection (b)(3):

(1) "Downstream payment processor" means a person described by 7 T.A.C. Section 33.4(c), as that provision existed on January 1, 2021.

(2) "Point of sale payment processor" means a person described by 7 T.A.C. Section 33.4(d), as that provision existed on

January 1, 2021.

(3) "Settling of an electronic payment transaction" means the authorization, clearing, or funding of a payment made by 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 does not include charges by a marketplace provider, as that term is defined by Section 151.0242.

(d) "Data storage," as used in this section, does not include a classified advertisement, banner advertisement, vertical advertisement, or link when the item is displayed on an Internet website owned by another person.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 3. Amended by Acts 1997, 75th Leg., ch. 1275, Sec. 53, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 11, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 209, Sec. 16, eff. Oct. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 2.12, eff. April 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 539 (S.B. 153), Sec. 1, eff. October 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 277 (S.B. 895), Sec. 2.06, eff. September 1, 2023.

Sec. 151.0036. "DEBT COLLECTION SERVICE". (a) "Debt collection service" means activity to collect or adjust a delinquent debt, to collect or adjust a claim, or to repossess property subject to a claim.

(b) "Debt collection service" does not include:

(1) the collection of:

(A) a judgment by an attorney or by a partnership or professional corporation of attorneys if the attorney, partnership, or corporation represented the person in the suit from which the judgment arose; or

(B) court-ordered child support or medical child support; or

(2) a service provided by a person acting as a trustee in connection with the foreclosure sale of real property under a

lien created by a mortgage, deed of trust, or security instrument.

(c) "Debt collection service" includes the service performed for which a fee is collected under Section 3.506, Business & Commerce Code. The person collecting the check shall add the amount of the tax to the fee in accordance with Section 151.052 and shall collect the fee from the drawer or endorser of the check.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 4. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 9, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 341, Sec. 3.06, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 5, eff. Oct. 1, 1995; Acts 2001, 77th Leg., ch. 1151, Sec. 1, 2(b), eff. July 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 2.001(d), eff. Sept. 1, 2001.

Sec. 151.0038. "INFORMATION SERVICE". (a) "Information service" means:

(1) furnishing general or specialized news or other current information, including financial information, unless furnished to:

(A) a newspaper or to a radio or television station licensed by the Federal Communications Commission; or

(B) a member of a homeowners association of a residential subdivision or condominium development, and is furnished by the association or on behalf of the association; or

(2) electronic data retrieval or research.

(b) In this section, "newspaper" has the meaning assigned by Section 151.319(f).

(c) "Information service" does not include the furnishing of an academic transcript.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 5. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 10, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 6, eff. Oct. 1, 1995.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 140 (S.B. 65), Sec. 1, eff. October 1, 2023.

Sec. 151.0039. "INSURANCE SERVICE". (a) Except as provided in Subsection (b), "insurance service" means insurance

loss or damage appraisal, insurance inspection, insurance investigation, insurance actuarial analysis or research, insurance claims adjustment or claims processing, or insurance loss prevention service.

(b) "Insurance service" does not include:

(1) insurance coverage for which a premium is paid or commissions paid to insurance agents for the sale of insurance or annuities;

(2) a service performed on behalf of an insured by a person licensed under Chapter 4102, Insurance Code;

(3) a service performed by a certified public accountancy 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);

(4) a service performed on behalf of a certified public accountancy firm by an owner of the firm or a member of the firm's affiliated group, if less than one percent of the owner's or member's total revenue in the prior calendar year is from services in this state that would otherwise constitute insurance service under Subsection (a);

(5) a medical or dental billing service performed before the original submission of:

(A) a medical or dental insurance claim related to health or dental coverage; or

(B) a claim related to health or dental coverage made to a medical assistance program funded by the federal government, a state government, or both; or

(6) a medical service, examination, or test required or authorized under Chapter 408, Labor Code, for the purpose of determining the appropriate level of benefits under that chapter.

(c) In this section:

(1) "Affiliated group" has the meaning assigned by Section 171.0001.

(2) "Certified public accountancy firm" has the meaning assigned by Section 901.002, Occupations Code.

(3) "Medical or dental billing service" means

assigning codes for the preparation of a medical or dental claim, verifying medical or dental insurance eligibility, preparing a medical or dental claim form for filing, and filing a medical or dental claim.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 6.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 748 (H.B. 1841), Sec. 1, eff. October 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 68 (S.B. 1083), Sec. 1, eff. January 1, 2018.

Acts 2021, 87th Leg., R.S., Ch. 1 (H.B. 1445), Sec. 1, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 1 (H.B. 1445), Sec. 2, eff. January 1, 2022.

Acts 2023, 88th Leg., R.S., Ch. 1159 (S.B. 1122), Sec. 1, eff. June 18, 2023.

Sec. 151.00393. INTERNET. "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, that comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to the protocol, to communicate information of all kinds by wire or radio.

Added by Acts 1999, 76th Leg., ch. 394, Sec. 1, eff. Oct. 1, 1999.

Sec. 151.00394. INTERNET ACCESS SERVICE. (a) "Internet access service" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. The term does not include telecommunications services.

(b) "Internet access service" does not include any taxable service listed in Section 151.0101(a), unless the taxable service is provided in conjunction with and is merely incidental to the

provision of Internet access service.

(c) "Internet access service" is not included in the definitions of "data processing service" and "information service."

Added by Acts 1999, 76th Leg., ch. 394, Sec. 1, eff. Oct. 1, 1999.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 1141 (S.B. 1405), Sec. 7, eff. July 1, 2025.

Sec. 151.004. "IN THIS STATE". "In this state" means within the exterior limits of Texas and includes all territory within these limits ceded to or owned by the United States.

Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.0045. "PERSONAL SERVICES". "Personal services" means those personal services listed as personal services under Group 721, Major Group 72 of the Standard Industrial Classification Manual, 1972, and includes massage parlors, escort services, and Turkish baths under Group 729 of said manual but does not include any other services listed under Group 729 unless otherwise covered under this chapter, prepared by the statistical policy division of the office on management and budget, office of the president of the United States. The term does not include services provided through coin-operated machines that are operated by the consumer.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 5, eff. Oct. 2, 1984.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 638 (S.B. 1525), Sec. 2, eff. June 10, 2019.

Sec. 151.0047. "REAL PROPERTY REPAIR AND REMODELING". (a) "Real property repair and remodeling" means the repair, restoration, remodeling, or modification of an improvement to real property other than:

(1) a structure or separate part of a structure used as a residence;

(2) an improvement immediately adjacent to a structure

described by Subdivision (1) of this section and used in the residential occupancy of the structure or separate part of the structure by the person using the structure or part as a residence; or

(3) an improvement to a manufacturing or processing production unit in a petrochemical refinery or chemical plant that provides increased capacity in the production unit.

(b) In this section:

(1) "Increased capacity" means the capability to produce:

(A) additional products or services as measured by units per hour or units per year; or

(B) a new product or service.

(2) "Production unit" means a group of manufacturing and processing machines and ancillary equipment that together are necessary to create or produce a physical or chemical change beginning with the first processing of the raw material and ending with the finished product.

(3) "New product" means a product that:

(A) has different product properties and a different commercial application than the product previously manufactured or processed by the production unit that produced the previous product; and

(B) is not created by straining or purifying an existing product or by making cosmetic changes, such as adding or removing color or odor, to or from an existing product.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 7. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 11, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 7, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 12, eff. Sept. 1, 1997.

Sec. 151.0048. REAL PROPERTY SERVICE. (a) Except as provided by Subsection (b), "real property service" means:

(1) landscaping;

(2) the care and maintenance of lawns, yards, or ornamental trees or other plants;

(3) the removal or collection of garbage, rubbish, or

other solid waste other than:

(A) hazardous waste;

(B) industrial solid waste;

(C) waste material that results from an activity associated with the exploration, development, or production of oil, gas, geothermal resources, or any other substance or material regulated by the Railroad Commission of Texas under Section 91.101, Natural Resources Code;

(D) domestic sewage or an irrigation return flow, to the extent the sewage or return flow does not constitute garbage or rubbish; and

(E) industrial discharges subject to regulation by permit issued pursuant to Chapter 26, Water Code;

(4) building or grounds cleaning, janitorial, or custodial services;

(5) a structural pest control service covered by Section 1951.003, Occupations Code; or

(6) the surveying of real property.

(b) "Real property service" does not include a service listed under Subsection (a) if the service is purchased by a contractor as part of the improvement of real property with a new structure to be used as a residence or other improvement immediately adjacent to the new structure and used in the residential occupancy of the structure.

(b-1) "Real property service" does not include a service listed under Subsection (a) if the service is performed by a landman and is necessary to negotiate or secure land or mineral rights for acquisition or trade, including:

(1) determining ownership;

(2) negotiating a trade or agreement regarding land or mineral rights;

(3) drafting and administering contractual agreements;

(4) ensuring that all governmental regulations are complied with; and

(5) any other action necessary to complete the transaction related to a service described by this subsection,

other than an information service described by Section 151.0038.

(c) In this section, "contractor" means a person who makes an improvement on real estate and who, as a necessary or incidental part of the service, incorporates tangible personal property into the property improved. The term includes a builder, developer, speculative builder, or other person acting as a builder to improve residential real property.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 8. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 12, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 1031, Sec. 19, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1000, Sec. 7, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 13, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1114, Sec. 1.01, eff. Oct. 1, 1999; Acts 1999, 76th Leg., ch. 1114, Sec. 2.01, eff. Oct. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.815, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 1, eff. September 1, 2007.

Sec. 151.005. "SALE" OR "PURCHASE". "Sale" or "purchase" means any of the following when done or performed for consideration:

(1) a transfer of title or possession of tangible personal property;

(2) the exchange, barter, lease, or rental of tangible personal property;

(3) the performance of a taxable service, the charge for an extended warranty or service contract for the performance of a taxable service, or, in the case of an amusement service, a transfer of title to or possession of a ticket or other admission document, the collection of an admission fee, whether by individual performance, subscription series, or membership privilege, the collection of dues or a fee, charge, or assessment, including an initiation fee, by a club or organization for membership or a special privilege, status, or membership classification in the club or organization, or the use of a coin-operated machine;

(4) the production, fabrication, processing,

printing, or imprinting of tangible personal property for consumers who directly or indirectly furnish the materials used in the production, fabrication, processing, printing, or imprinting;

(5) the furnishing and distribution of tangible personal property by a social club or fraternal organization to anyone;

(6) the furnishing, preparation, or service of food, meals, or drinks;

(7) a transfer of the possession of tangible personal property if the title to the property is retained by the seller as security for the payment of the price; or

(8) a transfer of the title or possession of tangible personal property that has been produced, fabricated, or printed to the special order of the customer.

Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 6, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 15; Acts 2003, 78th Leg., ch. 209, Sec. 17, eff. Oct. 1, 2003.

Sec. 151.006. "SALE FOR RESALE." (a) "Sale for resale" means a sale of:

(1) tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of reselling it as a taxable item as defined by Section 151.010 in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business in the form or condition in which it is acquired or as an attachment to or integral part of other tangible personal property or taxable service;

(2) tangible personal property to a purchaser for the sole purpose of the purchaser's leasing or renting it in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business to another person, but not if incidental to the leasing or renting of real estate;

(3) tangible personal property to a purchaser who

acquires the property for the purpose of transferring it in the United States of America or a possession or territory of the United States of America or in the United Mexican States as an integral part of a taxable service;

(4) a taxable service performed on tangible personal property that is held for sale by the purchaser of the taxable service; or

(5) tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of transferring it as an integral part of performing a contract, or a subcontract of a contract, for the sale, other than the lease or rental, of tangible personal property with an entity or organization exempted from the taxes imposed by this chapter under Section 151.309 or 151.310 only if the purchaser:

(A) allocates and bills to the contract the cost of the property or service as a direct or indirect cost; and

(B) transfers title to the property to the exempt entity or organization under the contract and any applicable acquisition regulations.

(b) Subsection (a)(3) applies to a transfer of a wireless voice communication device as an integral part of a taxable service, regardless of whether there is a separate charge for the wireless voice communication device or whether the purchaser is the provider of the taxable service, if payment for the service is a condition for receiving the wireless voice communication device.

(c) A sale for resale does not include the sale of tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of performing a service not listed as a taxable service under Section 151.0101, regardless of whether title transfers to the service provider's customer, unless the tangible personal property or taxable service is purchased for the purpose of performing a contract, or a subcontract of a contract, for a service, including a taxable service under Section 151.0101, with any branch of the Department of Defense, Department of Homeland Security, Department of Energy, National Aeronautics and Space Administration, Central Intelligence Agency, National Security Agency, National Oceanic and Atmospheric Administration,

or National Reconnaissance Office to the extent allocated and billed to the contract with the federal government.

(d) A sale for resale includes the sale of a computer program to a provider of Internet hosting who acquires the computer program from an unrelated vendor for the purpose of selling the right to use the computer program to an unrelated user of the provider's Internet hosting services in the normal course of business and in the form or condition in which the provider acquired the computer program. For purposes of this subsection, the purchase of the computer program by the provider qualifies as a sale for resale only if the provider offers the unrelated user a selection of computer programs that are available to the public for purchase directly from an unrelated vendor and executes a written contract with the unrelated user that specifies the name of the computer program sold to the unrelated user and includes a charge to the unrelated user for computing hardware. This subsection applies, notwithstanding Section 151.302(b), if the unrelated user purchases the right to use the computer program from the provider through the acquisition of a license and the provider does not retain the right to use the computer program under that license. The performance by the provider of routine maintenance of the computer program that is recommended or required by the unrelated vendor of the computer program does not affect the application of this subsection. In this subsection, "Internet hosting" has the meaning assigned by Section 151.108(a).

(e) A sale for resale does not include the sale of tangible personal property to a purchaser who acquires the property for the purpose of using, consuming, or expending it in, or incorporating it into, an oil or gas well in the performance of an oil well service taxable under Chapter 191.

Acts 1981, 67th Leg., p. 1546, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 7, eff. Oct. 2, 1984; Acts 1995, 74th Leg., ch. 351, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 12.01, eff. October 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 426 (S.B. 755), Sec. 1, eff. June 10, 2015.

Acts 2019, 86th Leg., R.S., Ch. 638 (S.B. 1525), Sec. 3, eff. June 10, 2019.

Sec. 151.007. "SALES PRICE" OR "RECEIPTS". (a) Except as provided by Subsections (c) and (d), "sales price" or "receipts" means the total amount for which a taxable item is sold, leased, or rented, valued in money, without a deduction for the cost of:

(1) the taxable item sold, leased, or rented;

(2) the materials used, labor or service employed, interest, losses, or other expenses;

(3) the transportation or installation of tangible personal property; or

(4) transportation incident to the performance of a taxable service.

(b) The total amount for which a taxable item is sold, leased, or rented includes a service that is a part of the sale and the amount of credit given to the purchaser by the seller.

(c) "Sales price" or "receipts" does not include any of the following if separately identified to the customer by such means as an invoice, billing, sales slip or ticket, or contract:

(1) a cash discount allowed on the sale;

(2) the amount charged for tangible personal property returned by a customer if the total amount charged is refunded by cash or credit;

(3) a refund of the charges for the performance of a taxable service;

(4) finance, carrying and service charges, or interest from credit extended on sales of taxable items under a conditional sales contract or other contract providing for the deferred payment of the purchase price;

(5) the value of tangible personal property that:

(A) is taken by a seller in trade as all or part of the consideration for a sale of a taxable item; and

(B) is of a type of property sold by the seller in the regular course of business;

(6) the face value of United States coin or currency in a sale of that coin or currency in which the total consideration given by the purchaser exceeds the face value of the coin or currency; or

(7) a voluntary gratuity or a reasonable mandatory charge for the service of a meal or food products, including soft drinks and candy, for immediate human consumption when the service charge is separated from the sales price of the meal or food product and identified as a gratuity or tip and when the total amount of the service charge is disbursed by the employer to employees who customarily and regularly provide the service.

(d) "Sales price" or "receipts" of items sold as edible products for human consumption through the use or operation of a money-operated vending machine is 50 percent of the total gross receipts of the vendor from sales of those items, except for sales of soft drinks and candy, for which the "sales price" or "receipts" are the total gross receipts from those sales.

(e) The sales price of membership in a private club or organization consists of the dues, fees, and other charges and assessments, including initiation fees, required for membership or a special privilege, status, or membership classification in the club or organization.

Acts 1981, 67th Leg., p. 1546, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 8, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 9; Acts 1997, 75th Leg., ch. 1040, Sec. 14, eff. Oct. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 12, eff. Oct. 1, 2001.

Sec. 151.0075. "SECURITY SERVICE". "Security service" means service for which a license is required under Section 1702.101 or 1702.102, Occupations Code.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 10. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.837, eff. Sept. 1, 2001.

Sec. 151.008. "SELLER" OR "RETAILER". (a) "Seller" or "retailer" means a person engaged in the business of making sales of taxable items of a kind the receipts from the sale of which are included in the measure of the sales or use tax imposed by this chapter.

(b) "Seller" and "retailer" include:

(1) a person in the business of making sales at auction of tangible personal property owned by the person or by another;

(2) a person who makes more than two sales of taxable items during a 12-month period, including sales made in the capacity of an assignee for the benefit of creditors or receiver or trustee in bankruptcy;

(3) a person regarded by the comptroller as a seller or retailer under Section 151.024;

(4) a hotel, motel, or owner or lessor of an office or residential building or development that contracts and pays for telecommunications services for resale to guests or tenants;

(5) a person who engages in regular or systematic solicitation of sales of taxable items in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of print, radio, or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales of taxable items;

(6) a person who, under an agreement with another person, is:

(A) entrusted with possession of tangible personal property with respect to which the other person has title or another ownership interest; and

(B) authorized to sell, lease, or rent the property without additional action by the person having title to or another ownership interest in the property; and

(7) a person who is a marketplace provider under Section 151.0242.

Acts 1981, 67th Leg., p. 1547, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 206, Sec. 2, eff. Oct. 1, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.13.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 30.01, eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 182 (H.B. 1525), Sec. 1, eff. October 1, 2019.

Sec. 151.009. "TANGIBLE PERSONAL PROPERTY". "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner, and, for the purposes of this chapter, the term includes a computer program and a telephone prepaid calling card.

Acts 1981, 67th Leg., p. 1547, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 6, Sec. 2, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 11; Acts 1997, 75th Leg., ch. 1040, Sec. 16, eff. Sept. 1, 1997.

Sec. 151.010. TAXABLE ITEM. "Taxable item" means tangible personal property and taxable services. Except as otherwise provided by this chapter, the sale or use of a taxable item in electronic form instead of on physical media does not alter the item's tax status.

Acts 1981, 67th Leg., p. 1547, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 1, eff. Oct. 2, 1984; Acts 2001, 77th Leg., ch. 1263, Sec. 13, eff. Oct. 1, 2001.

Sec. 151.0101. "TAXABLE SERVICES".

(a) "Taxable services" means:

(1) amusement services;

(2) cable television services;

(3) personal services;

(4) motor vehicle parking and storage services;

(5) the repair, remodeling, maintenance, and restoration of tangible personal property, except:

(A) aircraft;

(B) a ship, boat, or other vessel, other than:

(i) a taxable boat or motor as defined by Section 160.001;

(ii) a sports fishing boat; or

(iii) any other vessel used for pleasure;

(C) the repair, maintenance, and restoration of a motor vehicle; and

(D) the repair, maintenance, creation, and restoration of a computer program, including its development and modification, not sold by the person performing the repair, maintenance, creation, or restoration service;

(6) telecommunications services;

(7) credit reporting services;

(8) debt collection services;

(9) insurance services;

(10) information services;

(11) real property services;

(12) data processing services;

(13) real property repair and remodeling;

(14) security services;

(15) telephone answering services; and

(16) a sale by a transmission and distribution utility, as defined in Section 31.002, Utilities Code, of transmission or delivery of service directly to an electricity end-use customer whose consumption of electricity is subject to taxation under this chapter.

(b) The comptroller shall have exclusive jurisdiction to interpret Subsection (a) of this section.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 2, eff. Oct. 2, 1984. Amended by Acts 1985, 69th Leg., ch. 206, Sec. 3, eff. Oct. 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 12; Acts 1989, 71st Leg., ch. 1249, Sec. 1, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.021(a); Acts 1999, 76th Leg., ch. 394, Sec. 2, eff. Oct. 1, 1999; Acts 1999, 76th Leg., ch. 405, Sec. 54, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 18.008, eff. Sept. 1, 2001.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 1141 (S.B. 1405), Sec. 8, eff. July 1, 2025.

Sec. 151.0102. "TELEPHONE ANSWERING SERVICES". "Telephone answering services" means the receiving and relaying of telephone messages by a human operator. The term does not include the automated receiving and relaying of telephone messages included within the definition of "telecommunications services" under Section 151.0103.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.031.

Sec. 151.0103. TELECOMMUNICATIONS SERVICES. (a) For the purposes of this title only, "telecommunications services" means the electronic or electrical transmission, conveyance, routing, or reception of sounds, signals, data, or information utilizing wires, cable, radio waves, microwaves, satellites, fiber optics, or any other method now in existence or that may be devised, including but not limited to long-distance telephone service. The term does not include:

(1) the storage of data or information for subsequent retrieval or the processing, or reception and processing, of data or information intended to change its form or content;

(2) the sale or use of a telephone prepaid calling card;

(3) Internet access service; or

(4) a pay telephone coin sent-paid telephone call.

(b) The exemption provided by Subsection (a)(4) applies only to the portion of the sales price of the telecommunications service that is paid by coin.

Added by Acts 1985, 69th Leg., ch. 206, Sec. 4, eff. Oct. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 394, Sec. 3, eff. Oct. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1199 (H.B. 1459), Sec. 1, eff. September 1, 2007.

Sec. 151.01032. "TELEPHONE PREPAID CALLING CARD".

"Telephone prepaid calling card" means a card or other item, including an access code, that represents the right to make one or more telephone calls for which payment is made in incremental amounts and before the call is initiated. The term "telephone prepaid calling card" does not include a card sold by mechanical means for consideration of one dollar or less.

Added by Acts 1997, 75th Leg., ch. 1040, Sec. 15, eff. Sept. 1, 1997.

Sec. 151.0104. TELEPHONE COMPANY. For the purposes of this chapter, "telephone company" means a person that owns or operates a telephone line or telephone in this state and charges for its use.

Added by Acts 1985, 69th Leg., ch. 206, Sec. 4, eff. Oct. 1, 1985. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 13.

Sec. 151.011. "USE" AND "STORAGE". (a) Except as provided by Subsection (c) of this section, "use" means the exercise of a right or power incidental to the ownership of tangible personal property over tangible personal property, including tangible personal property other than printed material that has been processed, fabricated, or manufactured into other property or attached to or incorporated into other property transported into this state, and, except as provided by Section 151.056(b) of this code, includes the incorporation of tangible personal property into real estate or into improvements of real estate whether or not the real estate is subsequently sold.

(b) With respect to a taxable service, "use" means the derivation in this state of direct or indirect benefit from the service.

(c) "Use" does not include the sale of tangible personal property or a taxable service in the regular course of business, the transfer of a taxable service as an integral part of the transfer of tangible personal property in the regular course of business, or the transfer of tangible personal property as an integral part of the transfer of a taxable service in the regular course of business.

(d) Except as provided by Subsection (e) of this section,

"storage" means the keeping or retaining for any purpose in this state of tangible personal property sold by a retailer.

(e) "Storage" does not include the keeping or retaining of tangible personal property for sale in the regular course of business.

(f) Neither "use" nor "storage" includes the exercise of a right or power over or the keeping or retaining of tangible personal property for the purpose of:

(1) transporting the property outside the state for use solely outside the state; or

(2) processing, fabricating, or manufacturing the property into other property or attaching the property to or incorporating the property into other property to be transported outside the state for use solely outside the state.

Acts 1981, 67th Leg., p. 1547, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 14; Acts 1989, 71st Leg., ch. 323, Sec. 1, eff. Oct. 1, 1989; Acts 2003, 78th Leg., ch. 1310, Sec. 97, eff. Oct. 1, 2003.

Sec. 151.012. EFFECTIVE DATE OF TAX RATE CHANGES. (a) A change in the rate of the tax imposed under Sections 151.051 and 151.101 must take effect on the first day of a calendar quarter.

(b) If the performance of a taxable service begins before the effective date of a change in the tax rate and the performance will not be completed until after that effective date, the change in the tax rate applies to the first billing period for the service performed on or after that effective date.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 98, eff. Oct. 1, 2003.

SUBCHAPTER B. ADMINISTRATION AND RECORDS

Sec. 151.021. EMPLOYEES. The comptroller may employ accountants, auditors, investigators, assistants, and clerks for the administration of this chapter and may delegate to employees the authority to conduct hearings, prescribe rules, and perform other duties required by this chapter.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.022. RETROACTIVE EFFECT OF RULES. The comptroller may prescribe the extent to which a rule or ruling shall be applied without retroactive effect.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.023. INVESTIGATIONS AND AUDITS. (a) The comptroller, or another person authorized by the comptroller in writing, may examine, copy, and photograph the books, records, papers, and equipment of a person who sells taxable items or of a person liable for the use tax and may investigate the character of the business of the person to verify the accuracy of the person's report or to determine the amount of tax that may be required to be paid if no report has been filed.

(b) For the purpose of determining the amount of tax collected and payable to the state, the amount of tax accruing and due, and whether a tax liability has been incurred under this chapter, the comptroller or a person authorized by the comptroller may:

(1) inspect at any time during business hours any business premises where a taxable event has occurred and examine, copy, and photograph the books, returns, records, papers, and equipment relating to the conduct in question; and

(2) require by delivery of written notice to the taxpayer or to an employee, representative, or agent of the taxpayer that, not later than the 10th working day after the date the notice is delivered, the taxpayer produce to an agent or designated representative of the comptroller for inspection the books, records, papers, and returns relating to the taxable activity stated in the notice.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 442, Sec. 9, eff. Sept. 1, 2001.

Sec. 151.0231. MANAGED AUDITS. (a) In this section, "managed audit" means a review and analysis of invoices, checks, accounting records, or other documents or information to determine

a taxpayer's liability for tax under this chapter.

(b) A managed audit may be limited to certain categories of liability under this chapter, including tax on:

(1) sales of one or more types of taxable items;

(2) purchases of assets;

(3) purchases of expense items;

(4) purchases under a direct payment permit; or

(5) any other category specified in an agreement authorized by this section.

(c) The comptroller may, in a written agreement, authorize a taxpayer to conduct a managed audit under this section. The agreement must:

(1) be signed by an authorized representative of the comptroller and the taxpayer; and

(2) specify the period to be audited and the procedure to be followed.

(d) In determining whether to authorize a managed audit, the comptroller may consider, in addition to other factors the comptroller considers relevant:

(1) the taxpayer's history of tax compliance;

(2) the amount of time and resources the taxpayer has available to dedicate to the audit;

(3) the extent and availability of the taxpayer's records; and

(4) the taxpayer's ability to pay any expected liability.

(e) The decision to authorize or not authorize a managed audit rests solely with the comptroller.

(f) The comptroller may examine records and perform reviews that the comptroller determines are necessary before the audit is finalized to verify the results of the audit.

(g) Unless the audit or information reviewed by the comptroller under Subsection (f) discloses fraud or wilful evasion of the tax, the comptroller may not assess a penalty and may waive all or part of the interest that would otherwise accrue on any amount identified to be due in a managed audit. This subsection does not apply to any amount collected by the taxpayer that was a

tax or represented to be a tax but that was not remitted to this state.

(h) Except as provided by Section 111.104(f), the taxpayer is entitled to a refund of any tax overpayment disclosed by a managed audit under this section.

Added by Acts 1999, 76th Leg., ch. 457, Sec. 1, eff. Oct. 1, 1999.

Sec. 151.024. PERSONS WHO MAY BE REGARDED AS RETAILERS. If the comptroller determines that it is necessary for the efficient administration of this chapter to regard a salesman, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom he operates or from whom he obtains the tangible personal property that he sells, whether or not the sale is made in his own behalf or for the dealer, distributor, supervisor, or employer, the comptroller may so regard the salesman, representative, peddler, or canvasser, and may regard the dealer, distributor, supervisor, or employer as a retailer or seller for the purpose of this chapter.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.0241. PERSONS PERFORMING DISASTER- OR EMERGENCY-RELATED WORK. (a) In this section, "disaster- or emergency-related work," "disaster response period," and "out-of-state business entity" have the meanings assigned by Section 112.003, Business & Commerce Code.

(b) An out-of-state business entity is not engaged in business in this state for purposes of Sections 151.107 and 151.403 or any other provision of this chapter applicable to a person engaged in business in this state if the entity's physical presence in this state is solely from the entity's performance of disaster- or emergency-related work during a disaster response period.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. 2358), Sec. 2(a), eff. June 16, 2015.

Sec. 151.0242. MARKETPLACE PROVIDERS AND MARKETPLACE SELLERS. (a) In this section:

(1) "Marketplace" means a physical or electronic

medium through which persons other than the owner or operator of the medium make sales of taxable items. The term includes a store, Internet website, software application, or catalog.

(2) "Marketplace provider" means a person who owns or operates a marketplace and directly or indirectly processes sales or payments for marketplace sellers.

(3) "Marketplace seller" means a seller, other than the marketplace provider, who makes a sale of a taxable item through a marketplace.

(b) Except as otherwise provided by this section, a marketplace provider has the rights and duties of a seller or retailer under this chapter with respect to sales made through the marketplace.

(c) A marketplace provider shall:

(1) certify to each marketplace seller that the marketplace provider assumes the rights and duties of a seller or retailer under this chapter with respect to sales made by the marketplace seller through the marketplace;

(2) collect in the manner provided by Subchapters C and D the taxes imposed by this chapter on sales of taxable items made through the marketplace; and

(3) report and remit under Subchapter I the taxes imposed by this chapter on all sales made through the marketplace.

(d) A marketplace seller who in good faith accepts a marketplace provider's certification under Subsection (c)(1) shall exclude sales made through the marketplace from the marketplace seller's report under Subchapter I, notwithstanding Section 151.406.

(e) A marketplace seller shall retain records for all marketplace sales as required by Section 151.025.

(f) A marketplace seller shall furnish to the marketplace provider information that is required to correctly collect and remit taxes imposed by this chapter. The information may include a certification of taxability that an item being sold is a taxable item, is not a taxable item, or is exempt from taxation.

(g) Except as provided by Subsection (h), a marketplace provider is not liable for failure to collect and remit the correct

amount of taxes imposed by this chapter if the marketplace provider demonstrates that the failure resulted from the marketplace provider's good faith reliance on incorrect or insufficient information provided by the marketplace seller. The marketplace seller is liable for a deficiency resulting from incorrect or insufficient information provided by the marketplace seller.

(h) A marketplace provider and marketplace seller that are affiliates or associates, as defined by Section 1.002, Business Organizations Code, are jointly and severally liable for a deficiency resulting from a sale made by the marketplace seller through the marketplace.

(i) This section does not affect the tax liability of a purchaser under Section 151.052 or 151.102.

(j) A court may not certify an action brought against a marketplace provider concerning this section as a class action.

(k) The comptroller may adopt rules and forms to implement this section and by rule except certain marketplace providers from some or all of the requirements of this section.

(l) A marketplace seller who places a ticket or other admission document for sale through a marketplace must certify to the marketplace provider that the taxes imposed by this chapter on the original purchase of the ticket or admission document were paid. A marketplace provider who in good faith accepts a marketplace seller's certification under this subsection may take the deduction provided by Section 151.432 on behalf of the marketplace seller.

Added by Acts 2019, 86th Leg., R.S., Ch. 182 (H.B. 1525), Sec. 2, eff. October 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 569 (S.B. 477), Sec. 4, eff. October 1, 2021.

Sec. 151.025. RECORDS REQUIRED TO BE KEPT. (a) All sellers and all other persons storing, using, or consuming in this state a taxable item purchased from a retailer shall keep the following records in the form the comptroller requires:

(1) records of all gross receipts, including

documentation in the form of receipts, shipping manifests, invoices, and other pertinent papers, from each sale, rental, lease, taxable service, and taxable labor transaction occurring during each reporting period;

(2) records in the form of receipts, shipping manifests, invoices, and other pertinent papers of all purchases of taxable items from every source made during each reporting period;

(3) records in the form of receipts, shipping manifests, invoices, and other pertinent papers that substantiate each claimed deduction or exclusion authorized by law; and

(4) records in the form of sales receipts, invoices, or other equivalent records showing all sales and use tax, and any money represented to be sales and use tax, received or collected on each sale, rental, lease, or service transaction during each reporting period.

(b) A record required by Subsection (a) shall be kept for not less than four years from the date that it is made unless:

(1) the comptroller authorizes in writing its destruction at an earlier date; or

(2) Section 111.0041 requires that the record be kept for a longer period.

(c) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(26) and Acts 2003, 78th Leg., ch. 209, Sec. 86(b).

(d) If any nontaxable charges are combined with and not separately stated from taxable telecommunications service charges on the customer bill or invoice of a provider of telecommunications services, the combined charge is subject to tax unless the provider can identify the portion of the charges that are nontaxable through the provider's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the charges from the sale of both nontaxable services and taxable telecommunications services are attributable to taxable telecommunications services. The provider of telecommunications services has the burden of proving nontaxable charges.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 206, Sec. 5, eff. Oct. 1, 1985;

Acts 2001, 77th Leg., ch. 442, Sec. 10, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 99, 121(26), eff. July 1, 2003; Acts 2003, 78th Leg., ch. 209, Sec. 86(a), (b), eff. Oct. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 14, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.05, eff. October 1, 2011.

Sec. 151.026. OUT-OF-STATE RECORDS. A taxpayer is entitled to keep or store the taxpayer's records outside this state. If the comptroller requests to examine a record kept or stored outside this state, the taxpayer shall bring the record into this state for the examination or permit the comptroller to examine the record at the out-of-state location.
Acts 1981, 67th Leg., p. 1549, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.027. CONFIDENTIALITY OF TAX INFORMATION. (a) Information in or derived from a record, report, or other instrument required to be furnished under this chapter is confidential and not open to public inspection, except for information set forth in a lien filed under this title or a permit issued under this chapter to a seller and except as provided by Subsection (c) of this section.

(b) Information secured, derived, or obtained during the course of an examination of a taxpayer's books, records, papers, officers, or employees, including the business affairs, operations, profits, losses, and expenditures of the taxpayer, is confidential and not open to public inspection except as provided by Subsection (c) of this section.

(c) This section does not prohibit:

(1) the examination of information, if authorized by the comptroller, by another state officer or law enforcement officer, by a tax official of another state, by a tax official of the United Mexican States, or by an official of the United States if a reciprocal agreement exists;

(2) the delivery to a taxpayer, or a taxpayer's

authorized representative, of a copy of a report or other paper filed by the taxpayer under this chapter;

(3) the publication of statistics classified to prevent the identification of a particular report or items in a particular report;

(4) the use of records, reports, or information secured, derived, or obtained by the attorney general or the comptroller in an action under this chapter against the same taxpayer who furnished the information;

(5) the delivery to a successor, receiver, executor, administrator, assignee, or guarantor of a taxpayer of information about items included in the measure and amounts of any unpaid tax or amounts of tax, penalties, and interest required to be collected;

(6) the delivery of information to a municipality, county, or other local governmental entity in accordance with Section 321.3022, 322.2022, or 323.3022; or

(7) the release of information in or derived from a record, report, or other instrument required to be furnished under this chapter by a governmental body, as that term is defined in Section 552.003, Government Code.

Acts 1981, 67th Leg., p. 1549, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 351, Sec. 3, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 69, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 1218, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 1, eff. September 1, 2009.

Sec. 151.029. REMEDIES NOT EXCLUSIVE. An action taken by the comptroller or the attorney general under this chapter is not an election to pursue one remedy to the exclusion of any other remedy authorized by this chapter.

Acts 1981, 67th Leg., p. 1549, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER C. IMPOSITION AND COLLECTION OF SALES TAX

Sec. 151.051. SALES TAX IMPOSED. (a) A tax is imposed on

each sale of a taxable item in this state.

(b) The sales tax rate is 6-1/4 percent of the sales price of the taxable item sold.

Added by Acts 1981, 67th Leg., p. 1550, ch. 389, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 13, Sec. 1, eff. Oct. 2, 1984; Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 1, eff. Jan. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 1, Sec. 1; Acts 1990, 71st Leg., 6th C.S., ch. 5, Sec. 1.01, eff. July 1, 1990.

For expiration of this section, see Subsection (d).

Sec. 151.0515. TEXAS EMISSIONS REDUCTION PLAN SURCHARGE. (a) In this section, "equipment" includes all off-road, heavy-duty diesel equipment, other than implements of husbandry used solely for agricultural purposes, including:

(1) pavers;

(2) tampers/rammers;

(3) plate compactors;

(4) concrete pavers;

(5) rollers;

(6) scrapers;

(7) paving equipment;

(8) surface equipment;

(9) signal boards/light plants;

(10) trenchers;

(11) bore/drill rigs;

(12) excavators;

(13) concrete/industrial saws;

(14) cement and mortar mixers;

(15) cranes;

(16) graders;

(17) off-highway trucks;

(18) crushing/processing equipment;

(19) rough terrain forklifts;

(20) rubber tire loaders;

(21) rubber tire tractors/dozers;

(22) tractors/loaders/backhoes;

(23) crawler tractors/dozers;

(24) skid steer loaders;

(25) off-highway tractors;

(26) Dumpsters/tenders; and

(27) mining equipment.

(b) In each county in this state, a surcharge is imposed on the retail sale, lease, or rental of new or used equipment in an amount equal to 1.5 percent of the sale price or the lease or rental amount.

(b-1) In each county in this state, a surcharge is imposed on the storage, use, or other consumption in this state of new or used equipment. The surcharge is at the same percentage rate as is provided by Subsection (b) on the sales price or the lease or rental amount of the equipment.

(c) The surcharge shall be collected at the same time and in the same manner and shall be administered and enforced in the same manner as the tax imposed under this chapter. The comptroller shall adopt any additional procedures needed for the collection, administration, and enforcement of the surcharge authorized by this section and shall deposit all remitted surcharges to the credit of the Texas emissions reduction plan fund.

(d) This section expires on the last day of the state fiscal biennium during which the Texas Commission on Environmental Quality publishes in the Texas Register the notice required by Section 382.037, Health and Safety Code.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 2, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 21, eff. July 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 17, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.13, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. 1796), Sec. 18, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 35, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1301 (H.B. 3745), Sec. 2.01, eff. August 30, 2019.

Sec. 151.052. COLLECTION BY RETAILER. (a) Except as provided by Subsection (d), a seller who makes a sale subject to the sales tax imposed by this chapter shall add the amount of the tax to the sales price, and when the amount of the tax is added:

(1) it becomes a part of the sales price;

(2) it is a debt of the purchaser to the seller until paid; and

(3) if unpaid, it is recoverable at law in the same manner as the original sales price.

(b) The owner or former owner of tangible personal property, a factor of the owner or former owner, or an agent of the owner, former owner, or factor shall collect the sales tax and add the amount of the tax to the sales price of the tangible personal property if the person delivers the property to a consumer in this state or to another person for redelivery to a consumer in this state under a sale of the property that is not a sale for resale and that is made by a seller not engaged in business in this state.

(c) When several taxable items are sold together and at the same time, the sales tax is determined on the sum of the sales prices of the items sold exclusive of any item the sale of which is exempted by this chapter.

(d) For purposes of the printer's tax collection duty, it is presumed that printed materials that are distributed by the United States Postal Service singly or in sets addressed to individual recipients, other than the purchaser, and that are either produced at a printer's facility in this state or purchased in this state are for use in Texas and the printer must collect the tax imposed under this chapter. In order to overcome this presumption a purchaser of printed materials that are distributed by the United States Postal Service singly or in sets addressed to individual recipients, other than the purchaser, is required to issue an exemption certificate to the printer if the printed materials are for distribution to both in-state and out-of-state recipients. The certificate must contain the statement that the printed materials are for multistate use and

that the purchaser agrees to pay to this state all taxes that are or may become due to the state on the taxable items purchased under the exemption certificate. In this subsection, "printed materials" is defined to be materials that are produced by web offset or rotogravure printing processes. A printer is relieved of the obligation of collecting the taxes imposed by this chapter on printed materials that are distributed by the United States Postal Service singly or in sets addressed to individual recipients, other than the purchaser, but is required to file a report as provided by Section 151.407.

Acts 1981, 67th Leg., p. 1550, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 397, Sec. 1, eff. Sept. 1, 2001.

Sec. 151.053. SALES TAX BRACKETS. (a) If the sales price involves a fraction of a dollar, the sales tax to be added to the sales price shall be computed by multiplying the percentage rate of the sales tax times the amount of the sale. A fraction of one cent that is less than one-half of one cent is not collected and a fraction of one cent that is equal to one-half of one cent or more is collected as one cent of tax.

(b) The comptroller may publish schedules and brackets of amounts of taxes based on the formula provided by Subsection (a) of this section for use in the collection of the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1550, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 13, Sec. 2, eff. Oct. 2, 1984; Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 2, eff. Jan. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 3, Sec. 1.

Sec. 151.054. GROSS RECEIPTS PRESUMED SUBJECT TO TAX. (a) Except as provided by Subsection (d) of this section, all gross receipts of a seller are presumed to have been subject to the sales tax unless a properly completed resale or exemption certificate is accepted by the seller.

(b) A sale is exempt if the seller receives in good faith

from a purchaser, who is in the business of selling, leasing, or renting taxable items, a resale certificate stating that the tangible personal property or service is acquired for the purpose of selling, leasing, or renting it in the regular course of business or for the purpose of transferring it as an integral part of a taxable service performed in the regular course of business.

(c) A sale is exempt if the seller receives in good faith from a purchaser an exemption certificate stating qualifications for an exemption provided in Subchapter H of this chapter.

(d) A sale of liquor, wine, or malt beverages by the holder of a brewer's license, wholesaler's permit, general class B wholesaler's permit, local distributor's permit, or a general or branch distributor's license issued under the Alcoholic Beverage Code to the holder of a retail license or permit issued under the Alcoholic Beverage Code is presumed to be a sale for resale. In a sale to which this section applies, the seller is not required to receive a resale certificate from the purchaser.

(e) Properly completed resale or exemption certificates should be in the possession of the seller at the time the nontaxable transaction occurs. If the seller is not in possession of these certificates within 90 days from the date written notice requiring possession of them is given to the seller by the comptroller or a later date agreed to by the comptroller and the seller, deductions claimed by the seller that require delivery of the certificates shall be disallowed. A deduction may not be granted on the basis of certificates delivered to the comptroller after the 90-day period or, if applicable, the date agreed to by the comptroller and the seller.

(f) Before allowing a deduction, the comptroller may verify the reason or basis for exemption claimed in a resale or exemption certificate delivered to the comptroller during the period provided by Subsection (e).

Acts 1981, 67th Leg., p. 1550, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 15, Sec. 2, eff. Oct. 2, 1984; Acts 1985, 69th Leg., ch. 206, Sec. 6, eff. Oct. 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 16.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 397, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 364 (S.B. 296), Sec. 1, eff. June 7, 2021.

Sec. 151.055. SALES OF ITEMS ACQUIRED FOR LEASE OR RENTAL. (a) If a person purchases tangible personal property by means of a sale for resale for the purpose of renting or leasing the property for use but subsequently sells the property in an occasional sale before the person has collected and paid to the state an amount of sales tax on rental or lease charges equal to the amount of sales tax that would have been due if the person had not acquired the property at a sale for resale, the person at the time of the occasional sale shall include in his receipts from taxable sales the amount by which the purchase price of the item at the occasional sale exceeds the amount received from renting or leasing the property.

(b) If tangible personal property is rented or leased under an agreement that provides that all or a portion of the rental or lease payments may be credited against the purchase price of the item, the lessor shall collect the sales tax on the sales price, including the sum of all lease or rental payments for the term of the lease or rental, at the time the purchaser takes possession of the property or when the first payment is due, whichever period is the earlier. If the purchaser-lessee returns the taxable item to the seller-lessor before the end of the lease or rental period without having acquired title to the property, the seller-lessor may take a credit against other taxes due under this chapter or claim a refund as provided by this code for an amount equal to the amount of the taxes paid on the unpaid portion of the sales price.
Acts 1981, 67th Leg., p. 1551, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 9, Sec. 2, eff. Oct. 2, 1984.

Sec. 151.056. PROPERTY CONSUMED IN CONTRACTS TO IMPROVE REAL PROPERTY. (a) A contractor is the consumer of tangible

personal property furnished by him and incorporated into the property of his customer if the contract between the contractor and his customer contains a lump-sum price covering both the performance of the service and the furnishing of the necessary incidental material.

(b) A contractor is the seller of tangible personal property furnished by him and incorporated into the property of his customer, from whom he shall collect the tax, if the contract between the contractor and his customer contains separate amounts for the performance of the service and for the furnishing of the necessary incidental material. The tax rate is applied to the price of the materials as agreed in the contract or the price of the materials to the contractor, whichever is the greater.

(c) If a contractor has paid the sales tax to his supplier when the tangible personal property is purchased, the contractor may credit the amount of the tax paid to the supplier against the tax imposed as provided in Subsection (b) of this section with respect to a subsequent sale of the property.

(d) In this section, "contractor" means a person who makes an improvement on real estate and who, as a necessary or incidental part of the service, incorporates tangible personal property into the property improved.

(e) This section does not apply to the use or consumption of tangible personal property as a necessary or incidental part of a taxable service.

(f) A contractor is not eligible for the exemption provided by Section 151.318 on items used in the performance of a contract to improve real property.

(g) In this subsection, "ready mix concrete contractor" means a person who manufactures or produces ready mixed concrete for construction purposes and incorporates the ready mixed concrete in the property improved. A ready mix concrete contractor performing a contract must separate and individually invoice the customer for each yard of ready mixed concrete produced and consumed for the improvement of real property and collect and remit the tax imposed under this chapter on the ready mixed concrete produced and consumed. The tax rate is applied to the price of the

materials determined by the greater of the invoice price or fair market value of ready mixed concrete incorporated into the project. This subsection does not apply to an invoice submitted by a ready mix concrete contractor for a public works project.

Acts 1981, 67th Leg., p. 1551, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 17; Acts 2003, 78th Leg., ch. 209, Sec. 18, eff. Oct. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 3, eff. September 1, 2007.

Sec. 151.0565. TAXABLE ITEMS SOLD OR PROVIDED UNDER DESTINATION MANAGEMENT SERVICES CONTRACTS. (a) In this section:

(1) "Destination management services" means the following services:

(A) transportation vehicle management;

(B) booking and managing entertainers;

(C) coordination of tours or recreational activities;

(D) meeting, conference, or event registration;

(E) meeting, conference, transportation, or event staffing;

(F) event management;

(G) meal coordination;

(H) shuttle system services, including vehicle staging, radio communications, signage, and routing services; and

(I) airport meet-and-greet services, including the provision of airport permits, manifest management services, porterage, and passenger greeting services.

(2) "Qualified destination management company" means a business entity that:

(A) is incorporated or is a limited liability company;

(B) receives at least 80 percent of the entity's annual total revenue from providing or arranging for the provision of a combination of at least six destination management services;

(C) maintains a permanent nonresidential office

from which the destination management services are provided or arranged;

(D) has at least three full-time employees;

(E) maintains a general liability insurance policy with a limit of at least $1 million;

(F) during the preceding tax year, had at least 80 percent of the entity's client contracts for:

(i) clients from outside this state who were determined by a contracting entity outside this state; or

(ii) clients from outside this state who were program attendees staying in a hotel in this state;

(G) other than office equipment used in the conduct of the entity's business, does not own equipment used to directly provide destination management services, including motor coaches, limousines, sedans, dance floors, decorative props, lighting, podiums, sound or video equipment, or equipment for catered meals;

(H) does not prepare or serve beverages, meals, or other food products, but may procure catering services on behalf of the entity's clients;

(I) does not provide services for weddings;

(J) does not own or operate a venue at which events or activities for which destination management services are provided occur; and

(K) is not a member of an affiliated group, as that term is defined by Section 171.0001, another member of which:

(i) prepares or serves beverages, meals, or other food products; or

(ii) owns or operates a venue described by Paragraph (J).

(3) "Qualified destination management services contract" means a contract under which at least three of the destination management services listed in Subdivision (1) are provided:

(A) in this state to a client that is not an individual and that:

(i) is a corporation, partnership, limited

liability company, trade association, or other business entity, other than a social club or fraternal organization;

(ii) has its principal place of business outside the county where the destination management services are to be provided; and

(iii) agrees to pay the qualified destination management company for all destination management services provided to the client under the terms of the contract; and

(B) by a qualified destination management company that pays or accrues liability for the payment of taxes imposed by this chapter on purchases of taxable items that will be consumed or used by the company in performing the contract.

(b) A qualified destination management company is the consumer of taxable items sold or otherwise provided under a qualified destination management services contract, and the destination management services provided under the contract are not considered taxable services, as that term is defined by Section 151.0101.

Added by Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1061 (H.B. 3169), Sec. 1, eff. September 1, 2013.

Sec. 151.058. PROPERTY USED TO PROVIDE TAXABLE SERVICES AND SALE PRICE OF TAXABLE SERVICES. (a) A person performing services taxable under this chapter is the consumer of machinery and equipment used in performing the services.

(b) The total amount charged for a service taxable under this chapter is subject to tax, including charges for labor, materials, overhead, and profit, regardless of whether such charges are separately identified to the purchaser of the service.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 18. Amended by Acts 1993, 73rd Leg., ch. 1031, Sec. 20, eff. Sept. 1, 1993.

Sec. 151.0595. SINGLE LOCAL TAX RATE FOR REMOTE SELLERS.

(a) In this section, "remote seller" means a seller whose only activities in this state are described by Section 151.107(a)(4) or (5).

(b) A remote seller required to collect and remit one or more local use taxes in connection with a sale of a taxable item made by the remote seller shall compute the amount to collect and remit using:

(1) the combined rate of all applicable local use taxes authorized or governed by Title 3; or

(2) at the remote seller's election, the single local use tax rate published in the Texas Register as required by Subsection (d).

(c) A remote seller who elects under Subsection (b)(2) to use the single local use tax rate shall notify the comptroller of the election before using that rate. The election applies to all sales of taxable items made by the remote seller unless the remote seller revokes the election by notifying the comptroller. Notice to the comptroller under this subsection must be in the form and manner provided by the comptroller.

(d) The single local use tax rate effective in a calendar year is equal to the estimated average rate of local sales and use taxes imposed in this state during the preceding state fiscal year, as determined under Subsection (e). Before the beginning of a calendar year, the comptroller shall publish in the Texas Register notice of the single local use tax rate that will be in effect for that calendar year.

(e) As soon as practicable after the end of a state fiscal year, the comptroller shall determine the estimated average rate of local sales and use taxes imposed in this state during the preceding state fiscal year by:

(1) dividing the total amount of net local sales and use taxes remitted to the comptroller under this section and Title 3 during that state fiscal year by the total amount of net state sales and use taxes remitted to the comptroller under this chapter during that state fiscal year;

(2) multiplying the amount computed under Subdivision (1) by the rate provided by Section 151.051; and

(3) rounding the amount computed under Subdivision (2) to the nearest .0025.

(f) Notwithstanding Section 111.104(b), a purchaser may annually apply for a refund of any amount by which the amount of use tax computed using the rate described by Subsection (b)(2) and paid by the purchaser exceeds the amount the purchaser would have paid if that tax had been computed using the rate described by Subsection (b)(1). The comptroller may adopt rules regarding the procedure and proof required for the refund.

(g) A person storing, using, or consuming in this state a taxable item purchased from a remote seller is not liable for any additional amount of local use tax authorized or governed by Title 3 if the remote seller elects under Subsection (b)(2) to use the single local use tax rate and the person pays to the remote seller the amount of local use tax computed on the purchase using the single local use tax rate.

(h) The comptroller shall administer, collect, and enforce local use taxes computed using the single local use tax rate.

(i) The comptroller shall apportion and distribute revenue from local use taxes computed using the single local use tax rate as provided by Section 403.107, Government Code.

(j) The comptroller may adopt rules to administer this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 51 (H.B. 2153), Sec. 2, eff. October 1, 2019.

Sec. 151.060. PROPERTY CONSUMED IN REPAIR OF MOTOR VEHICLE. (a) Except as provided by Subsection (b), a person who repairs a motor vehicle is the seller of all tangible personal property consumed in providing that service except electricity and gas, and shall collect the tax due under this chapter from the customer.

(b) A person who repairs a motor vehicle is the consumer of all tangible personal property consumed in providing that service if the contract between the person and the customer contains a lump-sum price covering both the performance of the service and the furnishing of the consumed tangible personal property.

(c) In this section, tangible personal property is

considered consumed if it can no longer be used for its intended purposes in the normal course of business or is not retained or reusable by the person providing the repair service.

Added by Acts 1991, 72nd Leg., ch. 378, Sec. 1, eff. Oct. 1, 1991.

Sec. 151.061. SOURCING OF CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES. (a) In this section:

(1) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(2) "Place of primary use" means the street address that is representative of where the customer's use of the mobile telecommunications service primarily occurs. That location must be the residential street address or the primary business street address of the customer that is within the licensed service area of the home service provider.

(3) "Electronic database" means a database provided by the state or by a designated database provider to home service providers. Such electronic database shall, allowing for de minimis deviations, designate for each street address in the state, including, to the extent practical, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code for each taxing jurisdiction, for each level of taxing jurisdiction, identified by one nationwide numeric code. The nationwide standard numeric codes shall contain the same number of numeric digits, with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission or their successors. Each address shall be provided in standard postal format. Such electronic database shall also provide the appropriate code for each street address with respect to political subdivisions which are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdictions.

(b) This section applies to state and local sales and use taxes administered and computed under this title or Title 3 and to

which this title or Title 3 applies, including this chapter.

(c) The federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sections 116-126) governs the sourcing of charges for mobile telecommunications services. In accordance with that Act:

(1) mobile telecommunications services provided in a taxing jurisdiction to a customer, the charges for which are billed by or for the customer's home service provider, shall be deemed to be provided by the customer's home service provider; and

(2) all charges for mobile telecommunications services that are deemed to be provided by the customer's home service provider in accordance with this Act are authorized to be subjected to tax, charge, or fee by the taxing jurisdictions whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunications services originate, terminate, or pass through, and no other taxing jurisdiction may impose taxes, charges, or fees on charges for such mobile telecommunications services.

(d) If a customer believes that an amount of tax or an assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, the customer shall notify the home service provider in writing. The customer shall include in the written notification:

(1) the customer's street address for the customer's place of primary use;

(2) the account name and number for which the customer requests the correction;

(3) a description of the error asserted by the customer; and

(4) any other information that the home service provider reasonably requires to process the request.

(e) Not later than the 60th day after the date the home service provider receives a request under Subsection (d), the home service provider shall review the provider's records and the electronic database or enhanced zip code to determine the correct amount of the tax imposed or the assignment of the customer's place of primary use or taxing jurisdiction, as appropriate. If the home service provider determines that the amount of tax imposed or the

assignment of place of primary use or taxing jurisdiction is incorrect, the home service provider shall correct the error and refund or credit any amount of tax erroneously collected from the customer. The home service provider shall correct the error and refund or credit the amount of tax erroneously collected from the customer for a period of up to four years. If the home service provider determines that the amount of tax imposed or the assignment of place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer.

(f) The procedures prescribed by Subsections (d) and (e) are the first course of remedy available to a customer requesting a correction of assignment of place of primary use or of taxing jurisdiction or a refund of or other compensation for taxes erroneously collected by the home service provider.

(g) The state may provide an electronic database, described in Subsection (a)(3), to a home service provider or, if the state does not provide such an electronic database to home service providers, the designated database provider may provide an electronic database to a home service provider.

(h) The state or the designated database provider that provides or maintains an electronic database described in Subsection (a)(3) shall provide notice of the availability of the then current electronic database, and any subsequent revisions thereof, by publication in the manner normally employed by the state.

(i) A home service provider using the data contained in an electronic database described in Subsection (a)(3) shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in such database provided by the state or designated database provider. The home service provider shall reflect changes made to such database during a calendar quarter not later than 30 days after the end of such calendar quarter.

(j) If neither the state nor the designated database provider provides an electronic database as described in Subsection (a)(3), a home service provider shall be held harmless from any tax,

charge, or fee liability in the state that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction if, subject to Subsection (n), the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercises due diligence at each level of taxing jurisdiction to ensure that each such street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code for each level of taxing jurisdiction. Any enhanced zip code assignment changed in accordance with Subsection (n) is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if such home service provider demonstrates that it has:

(1) expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;

(2) implemented and maintained reasonable internal controls to promptly correct misassignments of street addresses to taxing jurisdictions; and

(3) used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.

(k) Subsection (j) applies to a home service provider that is in compliance with the requirements of Subsection (j), if an electronic database as defined in Subsection (a)(3) is not provided until the later of:

(1) 18 months after the nationwide standard numeric code described in Subsection (a)(3) has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or

(2) 6 months after the state or a designated database provider in the state provides such database as prescribed in

Subsection (a)(3).

(l) A home service provider shall be responsible for obtaining and maintaining the customer's place of primary use as defined in Subsection (a)(2). Subject to Subsection (n), and if the home service provider's reliance on information provided by its customer is in good faith, a taxing jurisdiction shall:

(1) allow a home service provider to rely on the applicable residential or business street address supplied by the home service provider's customer; and

(2) not hold a home service provider liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate itemized charge.

(m) Except as provided in Subsection (n), a taxing jurisdiction shall allow a home service provider to treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect two years after the date of the enactment of the Mobile Telecommunications Sourcing Act (4 U.S.C. Sections 116-126) as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdictions to which taxes, charges, or fees on charges for mobile telecommunications services are remitted.

(n) The state may:

(1) determine that the address used for purposes of determining the taxing jurisdictions to which taxes, charges, or fees for mobile telecommunications services are remitted does not meet the definition of place of primary use under Subsection (a)(2) and give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination. Before the state gives such notice of determination, the customer shall be given an opportunity to demonstrate in accordance with applicable state administrative procedures that the address is the customer's place of primary use; and

(2) determine that the assignment of a taxing jurisdiction by a home service provider under Subsection (j) does not reflect the correct taxing jurisdiction and give binding notice to the home service provider to change the assignment on a prospective basis from the date of notice of determination. The home service provider shall be given an opportunity to demonstrate in accordance with applicable state administrative procedures that the assignment reflects the correct taxing jurisdiction.

(o)(1) If a taxing jurisdiction does not otherwise subject charges for mobile telecommunications services to taxation and if these charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable mobile telecommunications services may be subject to taxation unless the home service provider can reasonably identify charges not subject to such tax, charge, or fee from its books and records that are kept in the regular course of business.

(2) If a taxing jurisdiction does not subject charges for mobile telecommunications services to taxation, a customer may not rely upon the nontaxability of charges for mobile telecommunications services unless the customer's home service provider separately states the charges for nontaxable mobile telecommunications services from taxable charges or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the nontaxable charges.

Added by Acts 2001, 77th Leg., ch. 370, Sec. 1, eff. Aug. 1, 2002.

SUBCHAPTER D. IMPOSITION AND COLLECTION OF USE TAX

Sec. 151.101. USE TAX IMPOSED. (a) A tax is imposed on the storage, use, or other consumption in this state of a taxable item purchased from a retailer for storage, use, or other consumption in this state.

(b) The tax is at the same percentage rate as is provided by Section 151.051 of this code on the sales price of the taxable item.

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.102. USER LIABLE FOR TAX. (a) The person storing, using, or consuming a taxable item in this state is liable for the tax imposed by Section 151.101 of this code, and except as provided by Subsection (b) of this section, the liability continues until the tax is paid to the state.

(b) A person storing, using, or consuming a taxable item in this state is not further liable for the tax imposed by Section 151.101 of this code if the person pays the tax to a retailer engaged in business in this state or other person authorized by the comptroller to collect the tax and receives from the retailer or other person a purchaser's receipt given as provided in Section 151.103 of this code.

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.103. COLLECTION BY RETAILER; PURCHASER'S RECEIPT. (a) Except as provided by Section 151.052(d), a retailer engaged in business in this state who makes a sale of a taxable item for storage, use, or consumption in this state shall collect the use tax that is due from the purchaser and give the purchaser a receipt for the tax payment. When the amount of use tax is added:

(1) it becomes a part of the sales price;

(2) it is a debt of the purchaser to the seller until paid; and

(3) if unpaid, it is recoverable at law in the same manner as the original sales price.

(b) The purchaser's receipt must be issued in the form and manner prescribed by the comptroller.

(c) When several taxable items are sold together and at the same time, the use tax is determined on the sum of the sales prices of the items sold exclusive of any item the storage, use, or other consumption of which is exempted by this chapter.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1266, Sec. 15(2), eff. September 1, 2007.

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 12, eff. Oct. 1,

1993; Acts 2001, 77th Leg., ch. 397, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 100, eff. July 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 15(2), eff. September 1, 2007.

Sec. 151.104. SALE FOR STORAGE, USE, OR CONSUMPTION PRESUMED. (a) A sale of a taxable item by a person for delivery in this state is presumed to be a sale for storage, use, or consumption in this state unless a resale or exemption certificate is accepted by the seller.

(b) A sale is exempt if the seller receives in good faith from a purchaser, who is in the business of selling, leasing, or renting taxable items, a resale certificate stating that the property is acquired for the purpose of selling, leasing, or renting it in the regular course of business or for the purpose of transferring it as an integral part of a taxable service performed in the regular course of business.

(c) A sale is exempt if the seller receives in good faith from a purchaser an exemption certificate stating qualifications for an exemption provided in Subchapter H of this chapter.

(d) Properly executed resale or exemption certificates should be in possession of the seller at the time the nontaxable transaction occurs. If the seller is not in possession of these certificates within 90 days from the date written notice requiring possession of them is given to the seller by the comptroller or a later date agreed to by the comptroller and the seller, deductions claimed by the seller that require delivery of the certificates shall be disallowed. A deduction may not be granted on the basis of certificates obtained after the 90-day period or, if applicable, the date agreed to by the comptroller and the seller.

(e) Before allowing a deduction, the comptroller may verify the reason or basis for exemption claimed in a resale or exemption certificate acquired by the seller during the period provided by Subsection (d).

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 15, Sec. 3,

eff. Oct. 2, 1984; Acts 1993, 73rd Leg., ch. 1031, Sec. 21, eff. Sept. 1, 1993.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 364 (S.B. 296), Sec. 2, eff. June 7, 2021.

Sec. 151.105. IMPORTATION FOR STORAGE, USE, OR CONSUMPTION PRESUMED. (a) Tangible personal property that is shipped or brought into this state by a purchaser is presumed, in the absence of evidence to the contrary, to have been purchased from a retailer for storage, use, or consumption in this state.

(b) A taxable service used in this state is presumed, in the absence of evidence to the contrary, to have been purchased from a retailer for use in this state.

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.106. REGISTRATION OF RETAILERS. (a) A retailer who sells a taxable item for storage, use, or consumption in this state shall register with the comptroller.

(b) The registration must include:

(1) the name and address of each agent of the retailer operating in the state;

(2) the location of all distribution or sales houses or offices or other places of business in the state; and

(3) other information that the comptroller requires.

(c) A retailer required to register under this section must comply with Subchapter G of this chapter.

Acts 1981, 67th Leg., p. 1553, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.107. RETAILER ENGAGED IN BUSINESS IN THIS STATE. (a) For the purpose of this subchapter and in relation to the use tax, a retailer is engaged in business in this state if the retailer:

(1) maintains, occupies, or uses in this state permanently, temporarily, directly, or indirectly or through a subsidiary or agent by whatever name, an office, distribution center, sales or sample room or place, warehouse, storage place, or

any other physical location where business is conducted;

(2) has a representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling or delivering or the taking of orders for a taxable item;

(3) derives receipts from the sale, lease, or rental of tangible personal property situated in this state;

(4) engages in regular or systematic solicitation of sales of taxable items in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of print, radio, or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales of taxable items;

(5) solicits orders for taxable items by mail or through other media and under federal law is subject to or permitted to be made subject to the jurisdiction of this state for purposes of collecting the taxes imposed by this chapter;

(6) has a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section;

(7) holds a substantial ownership interest in, or is owned in whole or substantial part by, a person who maintains a location in this state from which business is conducted and if:

(A) the retailer sells the same or a substantially similar line of products as the person with the location in this state and sells those products under a business name that is the same as or substantially similar to the business name of the person with the location in this state; or

(B) the facilities or employees of the person with the location in this state are used to:

(i) advertise, promote, or facilitate sales by the retailer to consumers; or

(ii) perform any other activity on behalf of the retailer that is intended to establish or maintain a marketplace for the retailer in this state, including receiving or exchanging returned merchandise;

(8) holds a substantial ownership interest in, or is owned in whole or substantial part by, a person that:

(A) maintains a distribution center, warehouse, or similar location in this state; and

(B) delivers property sold by the retailer to consumers; or

(9) otherwise does business in this state.

(b) Notwithstanding any other provision of law, a broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher that broadcasts, publishes, displays, or distributes paid commercial advertising in this state that is intended to be disseminated primarily to consumers located in this state and is only secondarily disseminated to bordering jurisdictions, including advertising appearing exclusively in a Texas edition or section of a national publication, is considered for purposes of this section to be the agent of the person placing the advertisement and that person placing the advertisement is considered a retailer engaged in business in this state. The agency relationship recognized by this subsection is for the sole purpose of providing a presence in this state for the imposition of a tax on out-of-state advertisers or sellers. The agent has no responsibility to report, or liability to pay, a tax for the out-of-state advertiser or seller and is not restricted by this subchapter from accepting ads from out-of-state advertisers or sellers.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 51 (H.B. 2153), Sec. 4, eff. October 1, 2019.

(d) In this section:

(1) "Ownership" includes:

(A) direct ownership;

(B) common ownership; and

(C) indirect ownership through a parent entity, subsidiary, or affiliate.

(2) "Substantial" means, with respect to an ownership interest, an interest in an entity that is:

(A) if the entity is a corporation, at least 50 percent, directly or indirectly, of:

(i) the total combined voting power of all classes of stock of the corporation; or

(ii) the beneficial ownership interest in the voting stock of the corporation;

(B) if the entity is a trust, at least 50 percent, directly or indirectly, of the current beneficial interest in the trust corpus or income;

(C) if the entity is a limited liability company, at least 50 percent, directly or indirectly, of:

(i) the total membership interest of the limited liability company; or

(ii) the beneficial ownership interest in the membership interest of the limited liability company; or

(D) for any entity, including a partnership or association, at least 50 percent, directly or indirectly, of the capital or profits interest in the entity.

Acts 1981, 67th Leg., p. 1553, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 19; Acts 1989, 71st Leg., ch. 291, Sec. 2; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.14.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 30.02, eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 51 (H.B. 2153), Sec. 4, eff. October 1, 2019.

Sec. 151.108. INTERNET HOSTING. (a) In this section, "Internet hosting" means providing to an unrelated user access over the Internet to computer services using property that is owned or leased and managed by the provider and on which the user may store or process the user's own data or use software that is owned, licensed, or leased by the user or provider. The term does not include telecommunications services.

(b) A person whose only activity in this state is conducted as a user of Internet hosting is not engaged in business in this state.

(c) A person providing Internet hosting is not required to:

(1) examine a user's data to determine the applicability of this chapter to a user;

(2) report to the comptroller about a user's activities; or

(3) advise a user as to the applicability of this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1144 (H.B. 1841), Sec. 1, eff. June 17, 2011.

SUBCHAPTER E. RESALE AND EXEMPTION CERTIFICATES

Sec. 151.151. RESALE CERTIFICATE. A purchaser may give a resale certificate for the acquisition of a taxable item if the purchaser intends to sell, lease, or rent it in the regular course of business or transfer it as an integral part of a taxable service performed in the regular course of business.

Acts 1981, 67th Leg., p. 1553, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 20.

Sec. 151.152. RESALE CERTIFICATE: FORM. (a) A resale certificate must be substantially in the form prescribed by the comptroller.

(b) A resale certificate must:

(1) be signed by the purchaser or contain an electronic form of the purchaser's signature authorized by the comptroller and contain the purchaser's name and address;

(2) state the purchaser's tax permit number or that the purchaser's application for a tax permit is pending before the comptroller; and

(3) contain a description of the tangible personal property sold, leased, or rented by the purchaser in the regular course of business or transferred as an integral part of a taxable service performed in the regular course of business.

(c) A resale certificate from a person engaged in business in the United Mexican States reselling the taxable item in the United Mexican States, in addition to the information required in

Subsection (b), must provide:

(1) the purchaser's United Mexican States federal identification number; and

(2) any other information required by the comptroller.

Acts 1981, 67th Leg., p. 1553, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 351, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1310, Sec. 101, eff. Oct. 1, 2003.

Sec. 151.153. RESALE CERTIFICATE: COMMINGLED FUNGIBLE GOODS. If a purchaser gives a resale certificate with respect to the purchase of fungible goods and then commingles the goods with other similar fungible goods for which a resale certificate was not given, sales from the mass of commingled fungible goods are deemed to be sales of goods covered by the resale certificate until the quantity of goods covered by the certificate equals the quantity of goods sold.

Acts 1981, 67th Leg., p. 1554, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.154. RESALE CERTIFICATE: LIABILITY OF PURCHASER. (a) If a purchaser who gives a resale certificate makes any use of the taxable item other than retention, demonstration, or display while holding it for sale, lease, or rental in the regular course of business or for transfer as an integral part of a taxable service in the regular course of business, the purchaser shall be liable for payment of the sales tax on the value of the taxable item for any period during which the taxable item is used other than for retention, demonstration, or display.

(b) The value of an item of tangible personal property is the fair market rental value of the tangible personal property, which is the amount that a purchaser would pay on the open market to rent or lease the tangible personal property for his use. The value of a taxable service is the fair market value of the taxable service, which is the amount that a purchaser would pay on the open market to obtain the service for the use of the purchaser.

(c) If an item of tangible personal property has no fair market rental value or if a taxable service has no fair market value, the original purchase price shall be the measure of the tax.

(d) At any time, the person making the divergent use may cease paying tax on the fair market rental value or fair market value and may pay sales tax on the original purchase price without credit for taxes previously paid.

(e) A purchaser of a taxable item who gives a resale certificate is not liable for the tax imposed by this chapter if he donates the item to an organization exempted under Section 151.309 or 151.310(a)(1) or (2) of this code; except that any use by the purchaser of the taxable item other than retention, demonstration, or display shall be subject to taxes imposed by this section.

(f) A purchaser who issues a resale certificate for the purchase of a taxable item is liable for payment of the sales tax on the purchase price of the taxable item if the purchaser uses the item as a part of the excludable consideration on the purchase of another taxable item.

Acts 1981, 67th Leg., p. 1554, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 8, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 19, eff. Sept. 1, 1997.

Sec. 151.155. EXEMPTION CERTIFICATE. (a) Except as provided by Section 151.3181 for property used in manufacturing, if a purchaser certifies in writing to a seller that a taxable item sold, leased, or rented to the purchaser will be used in a manner or for a purpose that qualifies the sale of the item for an exemption from the taxes imposed by this chapter, and if the purchaser then uses the item in some other manner or for some other purpose, the purchaser is liable for the payment of the sales tax on the value of the taxable item for any period during which the item is used in the divergent manner or for the divergent purpose.

(b) The value of an item of tangible personal property is the fair market rental value of tangible personal property, which is the amount that a purchaser would pay on the open market to rent or lease the property for his use. The value of a taxable service is the fair market value of the taxable service, which is the amount that a purchaser would pay on the open market to obtain the service for the use of the purchaser.

(c) If an item of tangible personal property has no fair

market rental value or if a taxable service has no fair market value, the original purchase price shall be the measure of tax.

(d) At any time, the person making the divergent use may cease paying tax on the fair market rental value or fair market value and may pay sales tax on the original purchase price without credit for taxes previously paid.

(e) A purchaser of a taxable item who gives an exemption certificate is not liable for the tax imposed by this chapter if he donates the taxable item to an organization exempted under Section 151.309 or 151.310(a)(1) or (2) of this code; except that any use by the purchaser of the taxable item other than retention, demonstration, or display shall be subject to taxes imposed by this section.

Acts 1981, 67th Leg., p. 1554, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 9, eff. Oct. 1, 1995; Acts 2001, 77th Leg., ch. 1263, Sec. 15, eff. Oct. 1, 2001.

Sec. 151.1551. REGISTRATION NUMBER REQUIRED FOR TIMBER AND CERTAIN AGRICULTURAL ITEMS. (a) This section applies to an exemption provided by:

(1) Section 151.316(a)(6), (7), (8), (10), (11), (12), or (14);

(2) Section 151.316(b) for tangible personal property used in the production of agricultural products for sale;

(3) Section 151.3162(b) for tangible personal property used in the production of timber for sale;

(4) Sections 151.317(a)(5) and (11) for electricity used in agriculture or timber operations; and

(5) Section 151.3111 for services performed on tangible personal property exempted under Section 151.316(a)(6), (7), (8), (10), (11), or (12), 151.316(b), or 151.3162(b).

(b) To claim an exemption to which this section applies, a registration number issued by the comptroller must be stated on the exemption certificate provided by the purchaser of the item.

(c) A person is eligible to apply for a registration number if the person is engaged in the production of agricultural products or timber for sale or in an agricultural aircraft operation as

defined by 14 C.F.R. Section 137.3.

(d) A person who is eligible may apply to the comptroller for a registration number. The application must:

(1) be on a form prescribed by the comptroller;

(2) if applicable, state the types of crops, livestock, or other agricultural products that are produced for sale on the farm or ranch on which the applicant will use or employ the item described by Subsection (a) or state that the item will be used in relation to a timber operation or an agricultural aircraft operation as defined by 14 C.F.R. Section 137.3;

(3) as applicable, state the name and address of the farm, ranch, timber operation, or other business owned or operated by the applicant in relation to which the applicant will use the item; and

(4) contain any other information required by the comptroller.

(e) The comptroller shall develop and implement a procedure by which an applicant may submit an application described by Subsection (d) electronically.

(f) The comptroller by rule shall establish a uniform date on which all registration numbers issued under this section must be renewed, regardless of the date on which a registration number is initially issued. The rules must require registration numbers to be renewed every four years.

(g) The comptroller may not issue a registration number that contains an individual's social security number.

(h) The comptroller, after written notice and a hearing, may revoke the registration number issued to a person who fails to comply with this chapter or with a rule adopted under this chapter. A person whose registration number the comptroller proposes to revoke under this section is entitled to 20 days' written notice of the time and place of the hearing on the revocation. The notice must state the reason the comptroller is seeking to revoke the person's registration number. At the hearing the person must show cause why the person's registration number should not be revoked.

(i) The comptroller shall give written notice of the

revocation of a registration number under Subsection (h) to the person to whom the number was issued. The notice may be personally served on the person or sent by mail to the person's address as shown in the comptroller's records.

(j) If the comptroller revokes a person's registration number under Subsection (h), the comptroller may not revive the registration number unless the comptroller is satisfied that the person will comply with this chapter and the rules adopted under this chapter. The comptroller may prescribe the terms under which a revoked registration number may be revived.

(k) Following the revocation of a registration number by the comptroller, the person who held the registration number must, on the next transaction with each seller to whom the person previously issued a claim for exemption with a registration number, notify that seller that the person's registration number is no longer valid. The failure of a person to notify a seller as required by this subsection is considered a failure and refusal to pay the taxes imposed by this chapter by the person required to make the notification.

(l) The comptroller shall develop and operate an online system to enable a seller of an item described by Subsection (a) to search and verify the validity of the registration number stated on an exemption certificate. A seller is not required to use the online system.

(m) An exemption certificate that states a registration number issued by the comptroller to claim an exemption to which this section applies is sufficient documentation of the seller's receipt of the certificate in good faith for purposes of Sections 151.054 and 151.104.

(n) The comptroller by rule shall establish procedures by which a seller may accept a blanket exemption certificate with a registration number issued by the comptroller to claim exemptions to which this section applies.

(o) A use of an item purchased using an exemption certificate with a registration number issued under this section in a manner or for a purpose other than the manner or purpose that qualified the sale, lease, rental, or other consumption of the item

for the exemption may result in the revocation of the number.

(p) A person eligible for a registration number who, at the time of purchasing, leasing, renting, or otherwise consuming an item for which the person may otherwise claim an exemption to which this section applies, has not obtained a registration number from the comptroller must pay the tax on the item to the seller at the time of the transaction. The person may then apply for a registration number and, on receipt of the number, may apply to the comptroller for a refund of the tax paid, subject to the statute of limitations. The comptroller by rule shall establish procedures for processing the refund requests. Tax collected by a seller under this subsection is not tax collected in error, and Section 111.104 does not apply to a refund request submitted under this subsection.

Added by Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 236 (S.B. 140), Sec. 1, eff. September 1, 2015.

Sec. 151.156. TAX-FREE PURCHASES OF CERTAIN EXPORTED ITEMS. (a) The comptroller by rule may establish procedures by which a maquiladora enterprise or its agent may make tax-free purchases in this state of tangible personal property that is exempted from the taxes imposed by this chapter because the property is immediately exported beyond the territorial limits of the United States.

(b) The comptroller may issue a permit to an enterprise that the comptroller authorizes to make tax-free purchases under this section and the comptroller's rules and may allow an authorized maquiladora enterprise to make a tax-free purchase by executing an exemption certificate or in any other manner the comptroller provides.

(c) To qualify to make tax-free purchases under this section, a maquiladora enterprise must apply to the comptroller and comply with any requirements the comptroller requires to administer

this section and to prevent the evasion of state and local sales and use taxes. The comptroller may require a maquiladora enterprise to post a bond or other security in the amount the comptroller considers reasonable to ensure the payment of state and local sales and use taxes. The comptroller shall require a maquiladora enterprise authorized to make tax-free purchases under this section to make available to the comptroller on request its books and records relating to its maquiladora status, operations, and purchases.

(d) The comptroller shall require a maquiladora enterprise authorized to make tax-free purchases under this section to make a report of its tax-free purchases at least quarterly and may require the enterprise to include in a report any other information the comptroller requires.

(e) The comptroller may suspend or revoke the permit or other authorization of an enterprise to make tax-free purchases under this section without notice for good cause. In that event, the comptroller shall notify the enterprise as soon as practicable of the comptroller's action and shall provide the enterprise with an opportunity for a hearing on whether the enterprise qualifies to make tax-free purchases under this section.

(f) In this section, "maquiladora enterprise" means a business entity chartered by the government of the United Mexican States and authorized by that government to make duty-free imports of raw materials, component parts, or other property into Mexico to be used in manufacturing, processing, or assembling items by the business entity in Mexico primarily for export from Mexico.
Added by Acts 1989, 71st Leg., ch. 903, Sec. 2, eff. June 14, 1989.

Sec. 151.157. CUSTOMS BROKERS. (a) A customs broker, or an authorized employee of a customs broker, licensed by the comptroller under this section may issue documentation for the purpose of showing the exemption of tangible personal property under Section 151.307(b)(2) only under procedures established by this section, Section 151.1575, and by the comptroller by rule.

(a-1) The comptroller shall maintain a password-protected website that a customs broker, or an authorized employee of a

customs broker, licensed under this section must use to prepare documentation to show the exemption of tangible personal property under Section 151.307(b)(2). The comptroller shall require a customs broker or authorized employee to use the website to actually produce the documentation after providing all necessary information. The comptroller shall use the information provided by a customs broker or authorized employee under this subsection as necessary to enforce this section and Section 151.307. The comptroller may provide an alternate method to prepare documentation to show the exemption of tangible personal property under Section 151.307(b)(2) in those instances when the password-protected website is unavailable due to technical or communication problems. A customs broker or authorized employee may use the alternate method only if the comptroller provides prior authorization for each use.

(b) The comptroller may issue a license to a customs broker for the purpose described by Subsection (a) for each place of business of the broker if the broker:

(1) applies to the comptroller for the license;

(2) pays the license fee to the comptroller in the amount required by Subsection (c);

(3) posts the bond or security in the amount required by Subsection (d); and

(4) complies with any rules of the comptroller to administer this section and to prevent the evasion of the tax under this chapter and local sales and use taxes.

(c) A customs broker must pay to the comptroller an annual license fee of $300 for each place of business from which the customs broker intends to issue a certificate of export. The comptroller shall use the fees only for the administration of this section, including costs of materials, labor, and overhead.

(d) The amount of the bond or security required by Subsection (b)(3) is $5,000, plus an additional $1,000 for each place of business from which the customs broker intends to issue exemption certificates. The security may be in the form of cash, a certificate of deposit, a letter of credit, or another instrument of value.

(e) A customs broker licensed under this section shall make available to the comptroller, on or after the 15th day after the date the broker receives written notice from the comptroller, the customs broker's books and records relating to the business of issuing documentation certifying the export of tangible personal property beyond the territorial limits of the United States for purposes of exempting the property from the taxes imposed by this chapter. The customs broker shall make available to the comptroller, without notice from the comptroller, the customs broker's books and records if the comptroller determines that the comptroller's ability to administer and enforce effectively the provisions of this chapter relating to documentation for the purpose of showing the exemption of tangible personal property under Section 151.307(b)(2) is jeopardized by providing notice. The customs broker shall keep the books and records described by this subsection for at least two years after the date of the last entry that they contain. The customs broker shall report quarterly to the comptroller:

(1) the total value of the tangible personal property and the total amount of the corresponding tax for which the customs broker issued certificates of export; and

(2) the total amount of tax refunded in accordance with certificates of export.

(f) The comptroller may suspend or revoke a license issued under this section if the customs broker does not comply with Section 151.1575(c) or issues documentation that is false. The comptroller may determine the length of suspension or revocation necessary for the enforcement of this chapter and the comptroller's rules. A proceeding to suspend or revoke a license under this subsection is a contested case under Chapter 2001, Government Code. Judicial review is by trial de novo. The district courts of Travis County have exclusive original jurisdiction of a suit under this section.

(f-1) In addition to any other penalty provided by law, the comptroller may require a customs broker to pay to the comptroller the amount of any tax refunded and the amount of any penalty imposed under Section 151.1575(c) if the customs broker did not comply with

this section or the rules adopted by the comptroller under this section.

(g) A customs broker may authorize a person to act as an independent contractor to certify in accordance with Section 151.1575(a)(1) that tangible personal property has been exported outside of the United States only if the authorization is part of the written contract and the comptroller in writing approves the authorization. A customs broker may not authorize a person under this subsection to prepare documentation for the purpose of showing the exemption for tangible personal property under Section 151.307(b)(2).

Text of subsec. (h) as added by Acts 1993, 73rd Leg., ch. 955, Sec. 1

(h) In this section:

(1) "Customs broker" means a person licensed by the United States Customs Service to act as a customs house broker.

(2) "Authorized employee" means an employee of a customs broker:

(A) who is authorized by the broker to perform customs transactions on behalf of the broker;

(B) who is compensated by the broker with a regular salary or wages;

(C) who is under the direct control and supervision of the broker; and

(D) from whose salary or wages the broker is required to and actually does deduct and withhold a tax under federal law.

Text of subsec. (h) as added by Acts 2003, 78th Leg., ch. 1001, Sec. 1

(h) Notwithstanding any other law, the filing of a petition to initiate judicial review does not vacate the comptroller decision that is the subject of review and does not affect the enforceability of that decision.

(i) The comptroller shall impose a penalty of $500 for each

occurrence on a customs broker who fails to file the report required by this section.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 1, eff. June 19, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 10, eff. Oct. 1, 1995; Acts 2003, 78th Leg., ch. 1001, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 904 (S.B. 776), Sec. 1, eff. September 1, 2011.

Sec. 151.1575. REQUIREMENTS RELATING TO ISSUING DOCUMENTATION SHOWING EXPORTATION OF PROPERTY. (a) A customs broker licensed by the comptroller or an authorized employee of the customs broker may issue documentation certifying that delivery of tangible personal property was made to a point outside the territorial limits of the United States as required by Section 151.307(b)(2)(B) only if the customs broker or authorized employee:

(1) watches the property cross the border of the United States;

(2) watches the property being placed on a common carrier for delivery outside the territorial limits of the United States; or

(3) verifies that the purchaser is transporting the property to a destination outside of the territorial limits of the United States by:

(A) examining a passport, laser visa identification card, or foreign voter registration picture identification indicating that the purchaser of the property resides in a foreign country;

(B) requiring that the documentation examined under Paragraph (A) have a unique identification number for that purchaser;

(C) requiring the purchaser to produce the property and the original sales receipt for the property;

(D) requiring the purchaser to state the foreign country destination of the property which must be the foreign country in which the purchaser resides;

(E) requiring the purchaser to state the date and time the property is expected to arrive in the foreign country destination;

(F) requiring the purchaser to state the date and time the property was purchased, the name and address of the place at which the property was purchased, the sales price and quantity of the property, and a description of the property;

(G) requiring the purchaser and the broker or an authorized employee to sign in the presence of each other a form prepared or approved by the comptroller:

(i) stating that the purchaser has provided the information and documentation required by this subdivision; and

(ii) that contains a notice to the purchaser that tangible personal property not exported is subject to taxation under this chapter and the purchaser is liable, in addition to other possible civil liabilities and criminal penalties, for payment of an amount equal to the value of the merchandise if the purchaser improperly obtained a refund of taxes relating to the property;

(H) requiring the purchaser to produce the purchaser's:

(i) Form I-94, Arrival/Departure record, or its successor, as issued by the United States Immigration and Naturalization Service, for those purchasers in a county not bordering the United Mexican States; or

(ii) air, land, or water travel documentation if the customs broker is located in a county that does not border the United Mexican States; and

(I) requiring the purchaser and the broker or an authorized employee, when using a power of attorney form, to attest, as a part of the form and in the presence of each other:

(i) that the purchaser has provided the information and documentation required by this subdivision; and

(ii) that the purchaser is on notice that tangible personal property not exported is subject to taxation under this chapter and the purchaser is liable, in addition to other possible civil liabilities and criminal penalties, for payment of

an amount equal to the value of the merchandise if the purchaser improperly obtained a refund of taxes relating to the property.

(b) A customs broker licensed by the comptroller or an authorized employee of the customs broker may issue and deliver documentation under Subsection (a) at any time after the tangible personal property is purchased and the broker or employee completes the process required by Subsection (a). The comptroller shall limit to six the number of receipts for which a single proof of export documentation may be issued under this section. The documentation must include:

(1) the name and address of the customs broker;

(2) the license number of the customs broker;

(3) the name and address of the purchaser;

(4) the name and address of the place at which the property was purchased;

(5) the date and time of the sale;

(6) a description and the quantity of the property;

(7) the sales price of the property;

(8) the foreign country destination of the property, which may not be the place of export;

(9) the date and time:

(A) at which the customs broker or authorized employee watched the property cross the border of the United States;

(B) at which the customs broker or authorized employee watched the property being placed on a common carrier for delivery outside the territorial limits of the United States; or

(C) the property is expected to arrive in the foreign country destination, as stated by the purchaser;

(10) a declaration signed by the customs broker or an authorized employee of the customs broker stating that:

(A) the customs broker is a licensed Texas customs broker; and

(B) the customs broker or authorized employee inspected the property and the original receipt for the property; and

(11) an export certification stamp issued by the

comptroller.

(c) The comptroller may require a customs broker to pay the comptroller the amount of any tax refunded if the customs broker does not comply with this section, Section 151.157, or the rules adopted by the comptroller under this section or Section 151.157. In addition to the amount of the refunded tax, the comptroller may require the customs broker to pay a penalty of not less than $500 nor more than $5,000. The comptroller and the state may deduct any penalties to be paid by a customs broker from the broker's posted bond.

(d) A proceeding to require a customs broker to pay an amount under Subsection (c) is a contested case in the same manner as a proceeding to revoke or suspend a customs broker's license under Section 151.157(f).

(e) In this section, "customs broker" and "authorized employee" have the meanings assigned by Section 151.157.

Added by Acts 2003, 78th Leg., ch. 1001, Sec. 2, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 904 (S.B. 776), Sec. 2, eff. September 1, 2011.

Sec. 151.158. EXPORT STAMPS. (a) The comptroller shall have printed or manufactured stamps in the design, size, and quantity the comptroller determines is necessary for the purpose of this section.

(b) The comptroller may designate the method of identification for the stamps.

(c) The comptroller shall require that the stamps be manufactured so that a stamp may be easily and securely attached to export documentation.

(d) The comptroller shall change the design of the stamps at least once each calendar quarter, or more frequently if the comptroller determines it is necessary for the enforcement of this section and the comptroller's rules.

(e) The comptroller may provide stamps only to a customs broker licensed under Section 151.157.

(f) A stamp is invalid if transferred to a person other than

the customs broker to whom the comptroller issued the stamp, to an authorized employee of that customs broker, or to an authorized independent contractor.

(g) The comptroller shall charge $2.10 for each stamp. The comptroller shall use:

(1) $1.60 of the money from the sale of the stamps only for costs related to producing the stamps, including costs of materials, labor, and overhead; and

(2) the remaining 50 cents only for enforcement of the laws relating to customs brokers under this title.

(g-1) Any unspent money shall be deposited to the credit of the general revenue fund.

(g-2) Customs brokers who return unused stamps to the comptroller's office on a quarterly basis shall get credit towards the purchase of new stamps.

(h) The comptroller may require stamps to be purchased in minimum quantities if the comptroller considers it necessary for the efficient administration of this section.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 1, eff. June 19, 1993. Amended by Acts 2003, 78th Leg., ch. 1001, Sec. 3, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 904 (S.B. 776), Sec. 3, eff. September 1, 2011.

Sec. 151.159. REFUNDS; IDENTIFICATION CARDS. (a) The comptroller in writing may authorize a customs broker to refund taxes collected under this chapter at export locations specified by the comptroller.

(b) The comptroller may issue an export identification card to a wholesaler or retailer. The card must contain the picture of the person to whom the card is issued. The comptroller may issue the card only if the wholesaler or retailer shows by clear and convincing evidence that the wholesaler or retailer is a citizen and resident of a foreign country and that any tangible personal property purchased in this state by the wholesaler or retailer is for export purposes only and is to be used or consumed outside the

territorial limits of the United States. A wholesaler or retailer issued an export identification card may use the card only to facilitate the preparation of documentation by a customs broker under Section 151.307(b). The comptroller may require a wholesaler or retailer applying for an export identification card to submit any information in any form the comptroller determines is necessary and to pay a fee in an amount the comptroller determines is necessary to pay for the cost of issuing the card.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 1, eff. June 19, 1993.

Sec. 151.160. DEPOSITS. Penalties collected by the comptroller shall be deposited into general revenue. Fees and charges collected by the comptroller under this Act shall be considered reimbursements for expenses of administration and shall be available for use by the comptroller in accordance with provisions in the General Appropriations Act appropriating such revenues for use by agencies.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 1, eff. June 19, 1993.

SUBCHAPTER F. SALES TAX PERMITS

Sec. 151.201. SALES TAX PERMITS. (a) The comptroller shall issue to an applicant who qualifies under Section 151.202 of this code and under Subchapter G of this chapter a separate permit for each place of business in this state.

(b) The holder of a permit shall display it conspicuously in the place of business to which it applies.

(c) A permit is valid only for the person and the place of business to which it applies and is nonassignable.

(d) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.12(1).

Acts 1981, 67th Leg., p. 1555, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 5, Sec. 1; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.04, 14.12(1).

Sec. 151.202. APPLICATION FOR PERMIT. (a) A person desiring to be a seller in this state shall file with the

comptroller an application for a permit for each place of business.

(b) An application must:

(1) be on a form prescribed by the comptroller;

(2) state the name under which the applicant transacts or intends to transact business;

(3) give the address of the place of business to which the permit is to apply;

(4) contain any other information required by the comptroller; and

(5) be signed by the owner if the owner is an individual, a member or partner if the owner is an association or partnership, or an executive officer or other person authorized by the corporation to sign the application if the owner is a corporation.

(c) An application that is filed electronically complies with the signature requirement under Subsection (b).

Acts 1981, 67th Leg., p. 1555, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 102, eff. July 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 15(3), eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 307 (S.B. 853), Sec. 1, eff. June 1, 2015.

Sec. 151.2021. CANCELLATION OF INACTIVE PERMIT. (a) The comptroller may cancel a sales tax permit under this section if the permit holder has reported no business activity for 12 consecutive months. No business activity means zero total sales, zero taxable sales, and zero taxable purchases.

(b) To cancel a permit, the comptroller shall send a notice of the comptroller's intention to cancel the permit to the permit holder at the address shown on the permit. The notice must specify the date on which the comptroller intends to cancel the permit. That date must be at least 30 days after the date the comptroller sends the notice to the permit holder. The comptroller may not cancel the permit before the date specified in the notice.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 5, Sec. 2. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.05.

Sec. 151.203. SUSPENSION AND REVOCATION OF PERMIT. (a) If a person fails to comply with a provision of this chapter or with a rule of the comptroller adopted under this chapter and relating to the sales tax, the comptroller, after a hearing, may revoke or suspend one or more permits issued to the person.

(b) A person whose permit the comptroller proposes to revoke or suspend is entitled to 20 days' written notice of the time and place of the hearing on the revocation or suspension. At the hearing the person must show cause why each permit should not be suspended or revoked.

(c) The comptroller shall give written notice of the revocation or suspension of a permit to the holder of the permit.

(d) Notices under this section may be served on the permit holder personally or by electronic means or may be mailed to the permittee's address as shown in the records of the comptroller.

(e) Service by electronic means is complete when the comptroller transmits the notice using the contact information provided to the comptroller by the permit holder as shown in the records of the comptroller.

(f) Service by mail is complete when the notice is deposited by the comptroller in a United States Postal Service post office.
Acts 1981, 67th Leg., p. 1555, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1040 (S.B. 61), Sec. 2, eff. September 1, 2023.

Sec. 151.204. REISSUED OR NEW PERMIT AFTER REVOCATION OR SUSPENSION. (a) A new permit may not be issued to a former holder of a revoked permit unless the comptroller is satisfied that the person will comply with the provisions of this chapter and the rules of the comptroller relating to the sales tax.

(b) The comptroller may prescribe the terms under which a suspended permit may be reissued.

(c) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec.

14.12(2).

Acts 1981, 67th Leg., p. 1555, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 5, Sec. 3; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.12(2).

Sec. 151.205. APPEALS. A taxpayer may appeal the revocation or suspension of a tax permit in the same manner that appeals are made from a final deficiency determination.

Acts 1981, 67th Leg., p. 1556, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER G. SELLER'S AND RETAILER'S SECURITY

Sec. 151.251. SECURITY REQUIRED. (a) An applicant for a sales tax permit or for registration as a retailer under Section 151.106 of this code must file with the comptroller adequate security for the payment of the taxes imposed by this chapter.

(b) If the holder of a sales tax permit or a retailer registered under Section 151.106 of this code who is exempted under Section 151.254 of this code from filing security under this subchapter is determined by the comptroller to be delinquent in the payment of the taxes imposed by this chapter, the comptroller shall require the holder or retailer to file with the comptroller adequate security for the payment of the taxes imposed by this chapter.

(c) For the purposes of Subsection (b) of this section, a holder of a permit or a retailer is delinquent in the payment of the taxes imposed by this chapter if the holder or retailer fails to file all reports due or to pay any determination before the day the determination could be paid without additional penalty.

(d) If the comptroller determines that it is necessary to ensure compliance with this chapter, the comptroller may require security from a person as a condition to retaining a permit under this chapter.

Acts 1981, 67th Leg., p. 1556, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.252. TEMPORARY PERMIT. (a) The comptroller may issue a temporary sales tax permit or retailer's registration to an

applicant for a period determined by the comptroller in order to arrange for and provide the security required by this subchapter.

(b) A temporary permit or registration expires without further notice on the expiration date shown on the temporary permit or registration.

Acts 1981, 67th Leg., p. 1556, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.253. SECURITY: REQUIREMENTS. (a) The security required by this subchapter may be a cash bond, a bond from a surety company chartered or authorized to do business in this state, a certificate of deposit, a certificate of savings or U.S. Treasury bond, an assignment of negotiable stocks or bonds that has been approved by the comptroller, or any other security deemed by the comptroller to be sufficient for the payment of taxes imposed by this chapter.

(b) The comptroller shall fix the amount of security required in each case, taking into consideration the amount of tax that has or is expected to become due from the person under this chapter and all other applicable local sales and use taxes and the necessity to protect the state against the failure to pay these taxes. The maximum amount of security that may be required is the greater of $100,000 or four times the amount of the person's average monthly tax liability.

(c) A bond qualifying under this subchapter must be a continuing instrument and a new and separate obligation for the penal sum named in the bond for each calendar year or portion of a calendar year while the bond is in effect. The bond must remain in effect until the surety or sureties are released and discharged.

Acts 1981, 67th Leg., p. 1556, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1365, ch. 281, Sec. 7, eff. Oct. 1, 1983; Acts 2001, 77th Leg., ch. 442, Sec. 11, eff. Sept. 1, 2001.

Sec. 151.254. EXEMPTION FROM FILING SECURITY. (a) A person who has filed security under this subchapter is exempted from the security requirements of this subchapter and is entitled, on request, to have the comptroller return, refund, or release the security if in the judgment of the comptroller the person has for

two consecutive years continuously complied with the conditions of the security filed under this subchapter.

(b) A person who received a sales tax permit or was registered as a retailer before January 1, 1974, and has not been determined to be delinquent as provided by Section 151.251(b) of this code or been required to file security under this subchapter is exempted from filing security.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.255. NOTICE. (a) If the comptroller determines that the holder of a permit or a registered retailer is required to file security under Section 151.251(b) of this code, the comptroller shall notify the person in writing that security is required to be filed and state the amount of security set by the comptroller.

(b) Notice under this subsection shall be mailed to the permit holder or registered retailer at the address shown in the comptroller's records.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.256. FAILURE TO PROVIDE SECURITY: LOSS OF PERMIT. If a person fails to provide security under this subchapter as provided by Section 151.251(b) of this code, the comptroller shall revoke or suspend the permit or retailer's registration of the person as provided by Section 151.203 of this code.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.257. FORFEITURE OF SECURITY: DETERMINATION. (a) If a person who has filed a security under this subchapter fails to pay the taxes imposed by this chapter or by a city under the Local Sales and Use Tax Act or fails to file a tax return required by this chapter or under the Local Sales and Use Tax Act, the comptroller shall issue a deficiency or jeopardy determination containing a demand for the amount of taxes, penalties, and interest due. The determination shall state that if payment is not made on or before the last day that the deficiency may be paid without incurring further penalty, the security or a part of the security may be

forfeited.

(b) If the security filed by the person is a surety bond, the comptroller shall send a copy of the determination to each surety on the bond and shall demand payment from both the person filing the bond and each surety. A surety's obligation under the bond is not affected by whether the surety has a record of the receipt of a copy of the comptroller's determination notice or payment demand.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 16, eff. Sept. 1, 2001.

Sec. 151.258. SALE OF SECURITY. (a) If necessary to recover an amount of tax, penalty, or interest, the comptroller may sell security deposited under this subchapter. A sale shall be public and notice of the sale may be given personally or by mail to the person who deposited the security.

(b) If the notice is given by mail, the comptroller may send it to the last known address appearing in the records of the comptroller.

(c) Subject to the requirement of additional security required by Section 151.260 of this code, the comptroller shall return to the depositor any security remaining after the sale and after recovering the amount of tax, penalty, and interest due from the depositor.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.259. SECURITY INSUFFICIENT TO PAY TAX. (a) If payment of the tax due is not made and the forfeiture of the security does not satisfy the delinquency, the comptroller shall suspend or revoke the permit or registration of the taxpayer as provided by Section 151.203 of this code.

(b) If the permit or registration is suspended, the comptroller shall certify to the attorney general the amount of taxes, penalties, and interest delinquent under this chapter.

(c) A permit or registration revoked or suspended under this section may not be reinstated until all taxes, penalties, and interest have been paid and another security is filed with the

comptroller. The comptroller shall set the amount of the security subject only to the maximum amounts provided by Section 151.253(b) of this code.

Acts 1981, 67th Leg., p. 1558, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.260. SECURITY SUFFICIENT TO PAY TAX. (a) If the security is forfeited in whole or in part and no delinquency remains, the comptroller shall demand from the person new or additional security to be filed before the expiration of 10 days after the date the notice of the demand is given.

(b) The amount of the new or additional security shall be set by the comptroller subject only to the maximum amounts as provided by Section 151.253(b) of this code.

(c) If the person fails to file the amount of the new or additional security before the expiration of the 10-day period, the comptroller shall suspend or revoke the permit or registration of the taxpayer as provided by Section 151.203 of this code and certify the name and address of the person to the attorney general.

Acts 1981, 67th Leg., p. 1558, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.261. NOTICE TO CITIES. If a permit or registration is revoked or suspended under this subchapter, the comptroller shall notify the applicable city of any delinquency under the Local Sales and Use Tax Act.

Acts 1981, 67th Leg., p. 1558, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.262. SUITS BY ATTORNEY GENERAL. (a) The attorney general may file suit for an injunction prohibiting a person from engaging in the business of selling taxable items subject to the taxes imposed by this chapter if the person engages in that business and does not have a valid permit or retailer's registration issued to him by the comptroller for each place of business.

(b) The attorney general shall bring suit against a person whose name is certified to him under Section 151.259(b) of this code, the person's sureties, or both, to collect the amount of delinquent tax due.

(c) The attorney general may bring suit on a surety bond

against the sureties without making the person who is the principal obligor a party to the suit.

(d) Venue for a suit under this section is in Travis County.

Acts 1981, 67th Leg., p. 1558, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER H. EXEMPTIONS

Sec. 151.301. "EXEMPTED FROM THE TAXES IMPOSED BY THIS CHAPTER". If a taxable item is exempted from the taxes imposed by this chapter, the sale, storage, use or other consumption of the item is not subject to the sales tax imposed by Section 151.051 of this code or the use tax imposed by Section 151.101 of this code if the item meets the qualifications for exemption as provided in this subchapter; and when an item is exempted from the taxes imposed by this chapter the receipts from its sale are excluded from the computation of the taxes.

Acts 1981, 67th Leg., p. 1559, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.302. SALES FOR RESALE. (a) The sale for resale of a taxable item is exempted from the taxes imposed by this chapter.

(b) Tangible personal property used to perform a taxable service is not considered resold unless the care, custody, and control of the tangible personal property is transferred to the purchaser of the service.

(c) Internal or external wrapping, packing, and packaging supplies used by a person in wrapping, packing, or packaging tangible personal property or in the performance of a service for the purpose of furthering the sale of the tangible personal property or the service may not be purchased by the person for resale.

(d) In this section, "wrapping," "packing," and "packaging supplies" include:

(1) wrapping paper, wrapping twine, bags, cartons, crates, crating material, tape, rope, rubber bands, labels, staples, glue, and mailing tubes; and

(2) excelsior, straw, cardboard fillers, separators, shredded paper, ice, dry ice, cotton batting, shirt boards, hay

laths, and property used inside a package to shape, form, stabilize, preserve, or protect the contents.

Acts 1981, 67th Leg., p. 1559, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 206, Sec. 7, eff. Oct. 1, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.06.

Sec. 151.3021. PACKAGING SUPPLIES AND WRAPPING. (a) In this section:

(1) "Laundry or dry cleaner" does not include coin-operated or other self-service garment cleaning facilities.

(2) "Wrapping, packing, and packaging supplies" means hangers, safety pins, pins, inventory tags, staples, boxes, paper wrappers, and plastic bags.

(b) Internal and external wrapping, packing, and packaging supplies are exempted from the taxes imposed by this chapter if sold to a person who is a laundry or dry cleaner for use in wrapping, packing, or packaging an item that has been pressed and dry cleaned or laundered by the person operating as a laundry or dry cleaner in the regular course of business.

Added by Acts 2001, 77th Leg., ch. 1263, Sec. 17, eff. Oct. 1, 2001.

Sec. 151.303. PREVIOUSLY TAXED ITEMS: USE TAX EXEMPTION OR CREDIT. (a) The storage, use, or other consumption of a taxable item the sale of which is subject to the sales tax is exempted from the use tax imposed by Subchapter D of this chapter.

(b) The storage, use, or other consumption of a taxable item on which the person storing, using, or consuming the item has paid a use tax is exempted from the use tax imposed by Subchapter D of this chapter.

(c) A taxpayer is entitled to a credit against the use tax imposed by Subchapter D of this chapter on a taxable item in an amount equal to the amount of any similar tax paid by the taxpayer in another state on the sale, purchase, or use of the taxable item if the state in which the tax was paid provides a similar credit for a taxpayer of this state.

Acts 1981, 67th Leg., p. 1559, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.304. OCCASIONAL SALES. (a) An occasional sale of a taxable item and the storage, use, or consumption of a taxable item the sale or transfer of which to a consumer is made by an occasional sale are exempted from the taxes imposed by this chapter.

(b) In this section, "occasional sale" means:

(1) one or two sales of taxable items, other than an amusement service, at retail during a 12-month period by a person who does not habitually engage, or hold himself out as engaging, in the business of selling taxable items at retail;

(2) the sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business;

(3) a transfer of all or substantially all the property used by a person in the course of an activity if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer;

(4) the sale of not more than 10 admissions for amusement services during a 12-month period by a person who does not hold himself out as engaging, or does not habitually engage, in providing amusement services; or

(5) the sale of tangible personal property by an individual if:

(A) the property was originally bought by the individual or a member of the individual's family for the personal use of the individual or the individual's family;

(B) the individual does not hold a permit issued under this chapter and is not required to obtain a permit as a "seller" or "retailer" as those terms are defined by Section 151.008;

(C) the individual does not employ an auctioneer, broker, or factor, other than an online auction, to sell the property; and

(D) the total receipts from sales of the individual's tangible personal property in a calendar year do not exceed $3,000.

(c) Within the meaning of Subsection (b)(2) of this section,

a separate division, branch, or identifiable segment of a business exists if before its sale the income and expenses attributable to the separate division, branch, or segment could be separately ascertained from the books of account or record.

(d) Within the meaning of Subsection (b)(3) of this section, the stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity have the real or ultimate ownership of the property of the corporation or other entity.

(e) This section does not apply to a rental or lease of a taxable item.

(f) Subsection (b)(1) of this section does not apply to a sale made by a person who holds a permit issued pursuant to the provisions of this chapter.

(g) A person who holds a permit issued under this chapter and makes a purchase from a person entitled to claim the exemption provided by Subsection (b)(1) of this section shall accrue use tax on the transaction and remit it to the comptroller.

(h) This section does not apply to the sale of a taxable item made by a marketplace seller through a marketplace, as those terms are defined by Section 151.0242(a).

Acts 1981, 67th Leg., p. 1559, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 10, eff. Oct. 2, 1984; Acts 1993, 73rd Leg., ch. 486, Sec. 1.06, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 608 (H.B. 373), Sec. 1, eff. July 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 569 (S.B. 477), Sec. 5, eff. October 1, 2021.

Sec. 151.305. COIN-OPERATED MACHINE SALES. (a) The following tangible personal property sold through a coin-operated bulk vending machine for a total consideration of 50 cents or less is exempt from the taxes imposed by this chapter:

(1) food or candy, other than beverages;

(2) chewing gum; or

(3) toys and other items designed primarily to be used or played with by children.

(b) In this section, "bulk vending machine" means a vending machine that contains unsorted items and that dispenses at random an item or approximately equal quantities of items to the customer without selection of a particular item or type of item by the customer.

Added by Acts 1989, 71st Leg., ch. 1158, Sec. 1, eff. Oct. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 898, Sec. 1, eff. July 1, 1999.

Sec. 151.3051. SALES THROUGH CERTAIN VENDING MACHINES. (a) The sale of tangible personal property through a vending machine is exempt from the taxes imposed by this chapter if:

(1) the sale is made by a nonprofit organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code;

(2) the machine is owned by the nonprofit organization; and

(3) the machine is stocked and maintained by individuals with special needs as part of an independent life skills and education program operated by the nonprofit organization.

(b) A nonprofit organization that makes a sale exempt from taxation under this section must maintain records demonstrating that the sale is eligible for the exemption.

Added by Acts 2015, 84th Leg., R.S., Ch. 772 (H.B. 2313), Sec. 1, eff. September 1, 2015.

Sec. 151.306. TRANSFERS OF COMMON INTERESTS IN PROPERTY. If an interest in tangible personal property is sold, under the terms of a good faith, bona fide contractual relationship, to another person who either before or after the sale owned or owns a joint or undivided interest in the property with the seller, and if the taxes imposed by this chapter have previously been paid on the tangible personal property, the tangible personal property is exempted from the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1560, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.307. EXEMPTIONS REQUIRED BY PREVAILING LAW. (a) Tangible personal property or service that this state is prohibited from taxing by the law of the United States, the United States Constitution, or the Constitution of Texas is exempted from the taxes imposed by this chapter.

(b) When an exemption is claimed because tangible personal property is exported beyond the territorial limits of the United States, proof of export may be shown only by:

(1) a bill of lading issued by a licensed and certificated carrier of persons or property showing the seller as consignor, the buyer as consignee, and a delivery point outside the territorial limits of the United States;

(2) documentation:

(A) provided by a United States Customs Broker licensed by the comptroller under Section 151.157;

(B) certifying that delivery was made to a point outside the territorial limits of the United States;

(C) that includes, in addition to any other information required by the comptroller, a statement signed by the person claiming the exemption that states that "Providing false information to a customs broker is a Class B misdemeanor."; and

(D) to which a stamp issued under Section 151.158 is affixed in the manner required by that section or Section 151.157;

(3) import documents from the country of destination showing that the property was imported into a country other than the United States;

(4) an original airway, ocean, or railroad bill of lading and a forwarder's receipt if an air, ocean, or rail freight forwarder takes possession of the property; or

(5) any other manner provided by the comptroller for an enterprise authorized to make tax-free purchases under Section 151.156.

(c) Documentation, including the stamp affixed to the documentation, that is provided by a customs broker licensed by the

comptroller under Section 151.157 is presumed valid in the absence of clear and convincing evidence that the tangible personal property covered by the documentation was not exported outside the territorial limits of the United States.

(d) A retailer who receives documentation under Subsection (b)(2) relating to the purchase of tangible personal property exported beyond the limits of the United States may not refund the tax paid under this chapter on that purchase before:

(1) the 24th hour after the hour stated as the time of export on the documentation, if the retailer is located in a county that borders the United Mexican States; or

(2) the seventh day after the day stated as the date of export on the documentation, if the retailer is located in a county that does not border the United Mexican States.

(e) A retailer who makes a refund before the time prescribed by Subsection (d) or makes a refund that is undocumented or improperly documented is liable for the amount of the tax refunded with interest.

(f) In this section:

(1) "Air forwarder" means a licensed International Air Transportation Association freight forwarder.

(2) "Ocean forwarder" means a licensed Federal Maritime Commission freight forwarder.

Acts 1981, 67th Leg., p. 1560, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 235, Sec. 1, eff. Aug. 26, 1985; Acts 1989, 71st Leg., ch. 903, Sec. 1, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 955, Sec. 2, eff. June 19, 1993; Acts 1999, 76th Leg., ch. 941, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1001, Sec. 4, eff. Jan. 1, 2004.

Sec. 151.3071. INSTALLATION OF CERTAIN EQUIPMENT FOR EXPORT. Electronic audio equipment that is exempted from the taxes imposed by this chapter because it is purchased for use beyond the territorial limits of the United States does not become subject to the taxes imposed by this chapter solely because the equipment is installed in this state.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 3, eff. June 19, 1993.

Sec. 151.308. ITEMS TAXED BY OTHER LAW. (a) The following are exempted from the taxes imposed by this chapter:

(1) oil as taxed by Chapter 202;

(2) motor fuels and special fuels as defined, taxed, or exempted by Chapter 162;

(3) cement as taxed by Chapter 181;

(4) motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152, other than a mobile office or an oilfield portable unit, as those terms are defined by Section 152.001;

(5) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Subchapter B, Chapter 183, or the items are taxable by Subchapter B-1, Chapter 183;

(6) alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent or employee is acting as the agent of the members of the club and if the beverages are to be served on the premises of the club;

(7) oil well service as taxed by Subchapter E, Chapter 191; and

(8) insurance premiums subject to gross premiums taxes.

(b) Natural gas is exempted under Subsection (a)(2) only to the extent that the gas is taxed as a motor fuel under Chapter 162.

Acts 1981, 67th Leg., p. 1560, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 23, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 21; Acts 1991, 72nd Leg., ch. 524, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 705, Sec. 13, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 587, Sec. 13, eff. Oct. 1, 1993; Acts 2001, 77th Leg., ch. 1263, Sec. 18, eff. Oct. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 566 (H.B. 3182), Sec. 1, eff.

September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 1, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 470 (S.B. 757), Sec. 7, eff. September 1, 2015.

Sec. 151.309. GOVERNMENTAL ENTITIES. A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following governmental entities is exempted from the taxes imposed by this chapter:

(1) the United States;

(2) an unincorporated instrumentality of the United States;

(3) a corporation that is an agency or instrumentality of the United States and is wholly owned by the United States or by another corporation wholly owned by the United States;

(4) this state;

(5) a county, city, special district, or other political subdivision of this state; or

(6) a state, or a governmental unit of a state that borders this state, but only to the extent that the other state or governmental unit exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state.

Acts 1981, 67th Leg., p. 1560, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 719, Sec. 1, eff. July 1, 1993.

Sec. 151.310. RELIGIOUS, EDUCATIONAL, AND PUBLIC SERVICE ORGANIZATIONS. (a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following organizations is exempted from the taxes imposed by this chapter:

(1) an organization created for religious, educational, or charitable purposes if no part of the net earnings of the organization benefits a private shareholder or individual and the items purchased, leased, or rented are related to the purpose of the organization;

(2) an organization qualifying for an exemption from federal income taxes under Section 501(c)(3), (4), (8), (10), or

(19), Internal Revenue Code, if the item sold, leased, rented, stored, used, or consumed relates to the purpose of the exempted organization and the item is not used for the personal benefit of a private stockholder or individual;

(3) a nonprofit organization engaged exclusively in providing athletic competition among persons under 19 years old if no financial benefit goes to an individual or shareholder;

(4) a company, department, or association organized for the purpose of answering fire alarms and extinguishing fires or for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services, the members of which receive no compensation or only nominal compensation for their services rendered, if the taxable item is used exclusively by the company, department, or association; or

(5) a chamber of commerce or a convention and tourist promotional agency representing at least one Texas city or county if the chamber of commerce or the agency is not organized for profit and no part of its net earnings inures to a private shareholder or other individual.

(b) The sale of, or contracting for the sale of, concessions at an event conducted by an organization exempted under Subsection (a)(3) of this section does not prevent the application of the exemption to that organization.

(c) An organization that qualifies for an exemption under Subsection (a)(1) or (a)(2) of this section, and each bona fide chapter of the organization, may hold two tax-free sales or auctions under this subsection during a calendar year and each tax-free sale or auction may continue for one day only. The sale of a taxable item the sales price of which is $5,000 or less by a qualified organization or chapter of the organization at a tax-free sale or auction is exempted from the sales tax imposed by Subchapter C of this chapter, except that a taxable item manufactured by or donated to the qualified organization or chapter of the organization may be sold tax free regardless of the sales price to any purchaser other than the donor. The storage, use, or consumption of a taxable item that is acquired from a qualified organization or chapter of the organization at a tax-free sale or

auction and that is exempted under this subsection from the taxes imposed by Subchapter C of this chapter is exempted from the use tax imposed by Subchapter D of this chapter until the item is resold or subsequently transferred.

(c-1) Notwithstanding Subsection (c), an organization that qualifies for an exemption under Subsection (a)(4) may hold 10 tax-free sales or auctions during a calendar year. Each tax-free sale or auction may continue for not more than 72 hours. The storage, use, or consumption of a taxable item that is acquired from a qualified organization at a tax-free sale or auction and that is exempted under this subsection from the taxes imposed by Subchapter C is exempted from the use tax imposed by Subchapter D until the item is resold or subsequently transferred. If an organization that qualifies for an exemption under Subsection (a)(4) jointly holds a tax-free sale or auction with one or more other exempt organizations, the tax-free sale or auction is considered to be one of the organization's 10 tax-free sales or auctions authorized by this subsection during that calendar year.

(d) If two or more organizations jointly hold a tax-free sale or auction, each organization may hold one additional tax-free sale or auction during the calendar year in which the joint sale or auction is held. The employment of and payment of a reasonable fee to an auctioneer to conduct a tax-free auction does not disqualify an otherwise qualified organization from receiving the exemption provided by Subsection (c).

(e) A nonprofit hospital or hospital system that qualifies for an exemption under Subsection (a)(2) shall provide community benefits that include charity care and government-sponsored indigent health care as set forth in Subchapter D, Chapter 311, Health and Safety Code.

(f) For purposes of obtaining a refund of or claiming a credit for taxes paid under this chapter on the basis of an exemption under this section, an organization is not considered exempted from the taxes imposed by this chapter before the earlier of:

(1) the date the organization applied for the exemption with the comptroller; or

(2) the date of assessment of the organization's tax liability by the comptroller as a result of an audit, as applicable. Acts 1981, 67th Leg., p. 1561, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2771, ch. 752, Sec. 7(a), eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 2747, ch. 470, Sec. 2, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 360, Sec. 6, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 734, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 781, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 20, eff. Oct. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.15, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 19, eff. Oct. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1378 (S.B. 1199), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 463 (S.B. 1927), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 179 (S.B. 31), Sec. 1, eff. May 28, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 17.001, eff. September 1, 2017.

Sec. 151.3101. AMUSEMENT SERVICES EXEMPTIONS. (a) Amusement services are exempted from the taxes imposed by this chapter only if exclusively provided:

(1) by this state, a municipality, county, school district, special district, or other political subdivision of this state or the United States;

(2) in a place that:

(A) is designated as a Recorded Texas Historic Landmark by the Texas Historical Commission; or

(B) is included in the National Register of Historic Places;

(3) by a nonprofit corporation or association, other than an entity described by Section 501(c)(7), Internal Revenue Code of 1986, if the proceeds do not go to the benefit of an individual except as a part of the services of a purely public charity;

(4) by a nonprofit corporation organized under the laws of this state for the purpose of encouraging agriculture by the maintenance of public fairs and exhibitions of livestock and no individual received a private benefit; or

(5) by an educational, religious, law enforcement association, or charitable organization.

(b) A musical concert performance or other amusement that is not solely for educational purposes is not exclusively provided under Subsection (a)(1) if an entity listed in that subsection contracts with an entity not listed in that subsection for the provision of the amusement.

(b-1) An amusement service remains exclusively provided under Subsection (a)(3) or (5) if an entity described by Subsection (a)(3) or (5) contracts with another entity not listed in or described by Subsection (a) to provide touring theatrical productions:

(1) subject to a contract with the other entity for:

(A) a term of at least five years; and

(B) at least five presentations each year; and

(2) held at a location either owned by, or leased or licensed for a term of at least one year to, the contracting entity described by Subsection (a)(3) or (5).

(c) In this section:

(1) "Educational organization" includes an entity described by Section 61.003(8) or (15), Education Code.

(2) "Theatrical production" means a live staged play, musical play, opera, or ballet.

(d) An amusement service is exclusively provided under Subsection (a)(4) if the amusement service is provided at a "designated facility" defined in Section 334.401, Local Government Code, which is also a qualified project as defined in Section 351.1015(a)(5)(B) of this code.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 11, eff. Oct. 2, 1984. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 22; Acts 1989, 71st Leg., ch. 744, Sec. 1, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.061; Acts 1999, 76th Leg., ch. 1467, Sec. 2.16, eff. Oct. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 229 (H.B. 1965), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 543 (H.B. 3386), Sec. 1, eff. October 1, 2019.

Sec. 151.3102. SALE BY NONPROFIT ORGANIZATION AT COUNTY FAIR. (a) The sale of a taxable item is exempt from the taxes imposed by this chapter if:

(1) the seller or retailer is a county fair association or another nonprofit organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code;

(2) the sale takes place at a county fair operated by a county fair association on property owned by the county; and

(3) the purchaser is a person attending or participating in the fair.

(b) In this section:

(1) "County fair association" means an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code and that organizes a county fair that is primarily for the exhibition of local horticultural or agricultural products or livestock. The term does not include:

(A) an association that holds a license issued after January 1, 2001, under Subtitle A-1, Title 13, Occupations Code (Texas Racing Act); or

(B) an association that organizes events other than a county fair, including an exhibition of arts and crafts or a state fair.

(2) "Livestock" includes turkeys, domesticated fowl, cows, sheep, swine, horses, mules, donkeys, and goats. The term does not include domesticated animals such as dogs, cats, guinea pigs, hamsters, or other similar animals.

Added by Acts 2019, 86th Leg., R.S., Ch. 318 (H.B. 2684), Sec. 1,

eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 285 (H.B. 3799), Sec. 1, eff. October 1, 2021.

Sec. 151.3105. BINGO EQUIPMENT PURCHASED BY CERTAIN ORGANIZATIONS. Bingo equipment, as defined by Section 2001.002, Occupations Code, is exempted from the taxes imposed by this chapter if the bingo equipment is:

(1) purchased by an organization licensed to conduct bingo under Chapter 2001, Occupations Code, that is exempt from the payment of federal income taxes under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt organization under Section 501(c)(3), (4), (8), (10), or (19), Internal Revenue Code of 1986, as amended; and

(2) used exclusively to conduct bingo authorized under Chapter 2001, Occupations Code.

Added by Acts 2003, 78th Leg., ch. 1114, Sec. 32, eff. Jan. 1, 2004.

Sec. 151.311. TAXABLE ITEMS INCORPORATED INTO OR USED FOR IMPROVEMENT OF REALTY OF AN EXEMPT ENTITY. (a) The purchase of tangible personal property for use in the performance of a contract for an improvement to realty for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the tangible personal property is incorporated into realty in the performance of the contract.

(b) The purchase of tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, for use in the performance of a contract for an improvement to realty for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the tangible personal property is:

(1) necessary and essential for the performance of the contract; and

(2) completely consumed at the job site.

(c) The purchase of a taxable service for use in the performance of a contract for an improvement to realty that is

performed for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the service is performed at the job site and if:

(1) the contract expressly requires the specific service to be provided or purchased by the person performing the contract; or

(2) the service is integral to the performance of the contract.

(d) For purposes of this section, tangible personal property is completely consumed if after being used once for its intended purpose it is used up or destroyed. Tangible personal property that is rented or leased for use in the performance of the contract cannot be completely consumed for purposes of this section.

Acts 1981, 67th Leg., p. 1561, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 12, Sec. 1, eff. Oct. 2, 1984; Acts 1985, 69th Leg., ch. 69, art. 2, Sec. 1, eff. July 30, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.07; Acts 1993, 73rd Leg., ch. 831, Sec. 1, eff. Oct. 1, 1993.

Sec. 151.3111. SERVICES ON CERTAIN EXEMPTED PERSONAL PROPERTY. (a) Subject to Section 151.1551, a service that is performed on tangible personal property that, if sold, leased, or rented, at the time of the performance of the service, would be exempted under this chapter because of the nature of the property, its use, or a combination of its nature and use, is exempted from this chapter.

(b) Subsection (a) does not apply to the performance of a service on:

(1) tangible personal property that would be exempted solely because of the exempt status of the seller of the property;

(2) tangible personal property that is exempted solely because of the application of Section 151.303, 151.304, or 151.306;

(3) motor vehicles, trailers, or semitrailers as defined, taxed, or exempted by Chapter 152; or

(4) a taxable boat or motor as defined by Section 160.001.

(5) Deleted by Acts 1999, 76th Leg., ch. 631, Sec. 13, eff. Oct. 1, 2001.

(6) Tangible personal property exempt under Section 151.326.

(c) A taxable service performed on a motor vehicle, trailer, or semitrailer exempted under Section 152.086, 152.087, or 152.088 of this code is exempted from the taxes imposed by this chapter. A taxable service performed on a motor vehicle held for rental in the regular course of business, but not rented, or held for sale in the regular course of business is exempted from the taxes imposed by this chapter.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 12, eff. Oct. 2, 1984. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.03, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 11, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 394, Sec. 4, eff. June 3, 1999; Acts 1999, 76th Leg., ch. 631, Sec. 13, eff. Oct. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 2, eff. September 1, 2011.

Sec. 151.312. PERIODICALS AND WRITINGS OF RELIGIOUS, PHILANTHROPIC, CHARITABLE, HISTORICAL, SCIENTIFIC, AND SIMILAR ORGANIZATIONS. Periodicals and writings, including those presented on audio tape, videotape, and computer disk, that are published and distributed by a religious, philanthropic, charitable, historical, scientific, or other similar organization that is not operated for profit, but excluding an educational organization, are exempted from the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1561, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 231, Sec. 5, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 1467, Sec. 2.17, eff. Oct. 1, 1999.

Sec. 151.313. HEALTH CARE SUPPLIES. (a) The following items are exempted from the taxes imposed by this chapter:

(1) a drug or medicine, other than insulin, if prescribed or dispensed for a human or animal by a licensed

practitioner of the healing arts;

(2) insulin;

(3) a drug or medicine that is required to be labeled with a "Drug Facts" panel in accordance with regulations of the federal Food and Drug Administration, without regard to whether it is prescribed or dispensed by a licensed practitioner of the healing arts;

(4) a hypodermic syringe or needle;

(5) a brace; hearing aid or audio loop; orthopedic, dental, or prosthetic device; ileostomy, colostomy, or ileal bladder appliance; or supplies or replacement parts for the listed items;

(6) a therapeutic appliance, device, and any related supplies specifically designed for those products, if dispensed or prescribed by a licensed practitioner of the healing arts, when those items are purchased and used by an individual for whom the items listed in this subdivision were dispensed or prescribed;

(7) a corrective lens and necessary and related supplies, if dispensed or prescribed by an ophthalmologist or optometrist;

(8) specialized printing or signalling equipment used by a person who is deaf for the purpose of enabling the person to communicate through the use of an ordinary telephone and all materials, paper, and printing ribbons used in that equipment;

(9) a braille wristwatch, braille writer, braille paper and braille electronic equipment that connects to computer equipment, and the necessary adaptive devices and adaptive computer software;

(10) each of the following items if purchased for use by a person who is blind to enable the person to function more independently: a slate and stylus, print enlarger, light probe, magnifier, white cane, talking clock, large print terminal, talking terminal, or harness for a guide dog;

(11) hospital beds;

(12) blood glucose monitoring test strips;

(13) an adjustable eating utensil used to facilitate independent eating if purchased for use by a person, including a

person who is elderly, has a physical disability, has had a stroke, or is a burn victim, who does not have full use or control of the person's hands or arms;

(14) subject to Subsection (d), a dietary supplement;

(15) intravenous systems, supplies, and replacement parts designed or intended to be used in the diagnosis or treatment of humans;

(16) a wound care dressing;

(17) an adult or a children's diaper; and

(18) a baby wipe.

(b) Each of the following items is exempted from the tax imposed by this chapter if the item is used by a person who is deaf to enable the person to function more independently:

(1) a light signal and device to adapt items such as telecommunication devices for the deaf (TDDs), telephones, doorbells, and smoke alarms; and

(2) adaptive devices or adaptive software for computers used by persons who are deaf.

(c) A product is a drug or medicine for purposes of this section if the product:

(1) is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, illness, injury, or pain;

(2) is applied to the human body or is a product that a human ingests or inhales;

(3) is not an appliance or device; and

(4) is not food.

(d) A product is a dietary supplement for purposes of this section if:

(1) the product:

(A) contains one or more vitamins, minerals, herbs or botanicals, amino acids, or substances that supplement the daily dietary intake;

(B) is not represented as food or the sole item of a meal or the diet; and

(C) is labeled "dietary supplement" or "supplement"; or

(2) the product is labeled or required to be labeled with a "Supplement Facts" panel in accordance with regulations of the federal Food and Drug Administration.

(e) A product is an intravenous system for purposes of this section if, regardless of whether the product is designed or intended to be inserted subcutaneously into any part of the body, the product is designed or intended to be used to administer fluids, electrolytes, blood and blood products, or drugs to patients or to withdraw blood or fluids from patients. The term includes access ports, adapters, bags and bottles, cannulae, cassettes, catheters, clamps, connectors, drip chambers, extension sets, filters, in-line ports, luer locks, needles, poles, pumps and batteries, spikes, tubing, valves, volumetric chambers, and items designed or intended to connect qualifying products to one another or secure qualifying products to a patient. The term does not include a wound drain.

(f) A product is a hospital bed for purposes of this section if it is a bed purchased, sold, leased, or rented, regardless of the terms of the contract, that is specially designed for the comfort and well-being of patients and the convenience of health care workers, with special features that may include wheels, adjustable height, adjustable side rails, and electronic buttons to operate both the bed and other nearby devices. The term does not include bed linens, stretchers, gurneys, delivery tables, or detached accessories such as over-bed tables, trapeze devices, or scales. The term includes:

(1) a mattress for the bed;

(2) any devices built into the bed or designed for use with the bed;

(3) infant warmers;

(4) incubators;

(5) other beds for neonatal and pediatric patients; and

(6) beds specifically designed and marketed for use in the rest, recuperation, and treatment of obese patients, obstetric patients, and burn patients.

(g) A product is a wound care dressing for purposes of this

section if the product is used to prevent bacterial contamination of a wound by absorbing wound drainage, protecting healing tissue, or maintaining a moist or dry wound environment. The term includes individual sterile adhesive bandages, sterile rolls or pads of gauze, and surgical and medical tape used to secure a wound care dressing to a patient. The term does not include general purpose absorption items, such as cotton balls, cotton swabs, or tissues, or appliances or devices used to drain bodily fluids or irrigate body cavities, such as drains, suction catheters, or irrigation systems.

(h) A product is:

(1) a diaper for purposes of this section if the product is an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements;

(2) an adult diaper for purposes of this section if the product is a diaper other than a children's diaper; and

(3) a children's diaper for purposes of this section if the product is a diaper marketed to be worn by children.

(i) A product is a baby wipe for purposes of this section if the product is a moistened and disposable tissue or towel intended for cleansing the skin of a young child.

Acts 1981, 67th Leg., p. 1562, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2758, ch. 752, Sec. 5(a), eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 2746, ch. 470, Sec. 1, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 705, Sec. 14, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 12, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 394, Sec. 5, eff. April 1, 2000; Acts 1999, 76th Leg., ch. 683, Sec. 1, eff. July 1, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 20, eff. Oct. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 18.009, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 19, eff. Oct. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 4, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1061 (H.B. 3169), Sec. 2, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 1056 (S.B. 379), Sec. 1, eff.

September 1, 2023.

Sec. 151.3131. FIREARM SAFETY EQUIPMENT. (a) In this section, "firearm safety equipment" means a gun lock box, a gun safe, a barrel lock, a trigger lock, a firearm safety training manual or electronic publication, or another item designed to ensure the safe handling or storage of a firearm.

(b) The sale, storage, use, or other consumption of firearm safety equipment is exempted from the taxes imposed by this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 554 (S.B. 313), Sec. 1, eff. September 1, 2021.

Sec. 151.3132. FEMININE HYGIENE PRODUCTS. (a) In this section, "feminine hygiene product" means a tampon, sanitary napkin, menstrual cup, menstrual sponge, menstrual pad, or other similar tangible personal property sold for the principal purpose of feminine hygiene in connection with the menstrual cycle or postpartum care.

(b) The sale, storage, use, or other consumption of a feminine hygiene product is exempted from the taxes imposed by this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 1056 (S.B. 379), Sec. 2, eff. September 1, 2023.

Sec. 151.3133. MATERNITY CLOTHING. (a) In this section, "maternity clothing" means clothing labeled for a woman to wear during pregnancy that is designed to accommodate the changes in body size and shape that occur as a result of a pregnancy or to facilitate breastfeeding. The term includes a nursing bra or nursing pad.

(b) The sale, storage, use, or other consumption of an article of maternity clothing is exempted from the taxes imposed by this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 1056 (S.B. 379), Sec. 2, eff. September 1, 2023.

Sec. 151.3134. BREAST MILK PUMPING PRODUCTS. (a) In this section:

(1) "Breast milk pumping product" means a breast pump, a breast milk storage bag or other container designed to store pumped breast milk, or a pumping bra.

(2) "Breast pump" means an electrically or manually controlled device designed or marketed to be used to express milk from a human breast during lactation, including accessories necessary for use of the device such as flanges and tubing. The term includes any battery, AC adapter, or other power supply unit packaged and sold with the device to power the device.

(b) The sale, storage, use, or other consumption of a breast milk pumping product is exempted from the taxes imposed by this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 1056 (S.B. 379), Sec. 2, eff. September 1, 2023.

Sec. 151.3135. BABY BOTTLES. (a) In this section, "baby bottle" means a bottle fitted with a nipple for giving milk and other drinks to a young child.

(b) The sale, storage, use, or other consumption of a baby bottle is exempted from the taxes imposed by this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 1056 (S.B. 379), Sec. 2, eff. September 1, 2023.

Sec. 151.314. FOOD AND FOOD PRODUCTS. (a) Food products for human consumption are exempted from the taxes imposed by this chapter.

(b) "Food products" shall include, except as otherwise provided herein, but shall not be limited to cereals and cereal products; milk and milk products, including ice cream; oleomargarine; meat and meat products; poultry and poultry products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit and fruit products; spices, condiments, and salt; sugar and sugar products; coffee and coffee substitutes; tea; cocoa products; snack items; or any combination of the above.

(b-1) For purposes of this section, "snack items" means:

(1) breakfast bars, granola bars, nutrition bars, sports bars, protein bars, or yogurt bars, unless labeled and marketed as candy;

(2) snack mix or trail mix;

(3) nuts, but not including pine nuts or candy-coated nuts;

(4) popcorn;

(5) chips, crackers, hard pretzels, pork rinds, or corn nuts;

(6) sunflower seeds or pumpkin seeds;

(7) ice cream, sherbet, or frozen yogurt; and

(8) ice pops, juice pops, sorbet, or other frozen fruit items containing not more than 50 percent fruit juice by volume.

(b-2) For purposes of this section:

(1) "Bakery" means a retail location that primarily sells bakery items from a display case or counter, predominantly for consumption off the premises.

(2) "Bakery items" means bread, rolls, buns, biscuits, bagels, croissants, pastries, doughnuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas, and similar items.

(c) "Food products" shall not include:

(1) drugs, medicines, tonics, vitamins, dietary supplements, and medicinal preparations in any form;

(2) carbonated and noncarbonated packaged soft drinks, which are nonalcoholic beverages that contain natural or artificial sweeteners;

(3) ice; or

(4) candy.

(c-1) For purposes of this section, diluted juice that is more than 50 percent vegetable or fruit juice by volume is not considered to be a soft drink.

(c-2) The exemption provided by Subsection (a) does not include the following prepared food:

(1) except as provided by Subsection (c-3)(1), food, food products, and drinks, including meals, milk and milk products,

fruit and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juice, and ice cream in cones or small cups, served, prepared, or sold ready for immediate consumption by restaurants, lunch counters, cafeterias, delis, vending machines, hotels, or like places of business or sold ready for immediate consumption from pushcarts, motor vehicles, or any other form of vehicle;

(2) except as provided by Subsection (c-3)(1), food sold in a heated state or heated by the seller; or

(3) two or more food ingredients mixed or combined by the seller for sale as a single item, including items that are sold in an unheated state by weight or volume as a single item, but not including food that is only cut, repackaged, or pasteurized by the seller.

(c-3) The exemption provided by Subsection (a) includes:

(1) bakery items sold by a bakery, regardless of whether the items are:

(A) heated by the consumer or seller; or

(B) served with plates or other eating utensils;

(2) bakery items sold at a retail location other than a bakery without plates or other eating utensils; and

(3) eggs, fish, meat, and poultry, and foods containing these raw animal foods, that require cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Section 401.11 of its Food Code to prevent food-borne illness and any other food that requires cooking by the consumer before the food is edible.

(c-4) For purposes of Subdivision (c-2)(1), if a grocery store or convenience store contains a type of location listed in that subdivision, the store is considered a like place of business for purposes of that subdivision, but only in relation to items sold at that location.

(d) Food products, meals, soft drinks, and candy for human consumption are exempted from the taxes imposed by this chapter if:

(1) served by a public or private school, school district, student organization, booster club or other school support organization, or parent-teacher association under an

agreement with the proper school authorities in an elementary or secondary school during the regular school day or by a parent-teacher association during a fund-raising sale the proceeds of which do not benefit an individual;

(2) sold by a church or at a function of a church;

(3) served to a patient or inmate of a hospital or other institution licensed by the state for the care of humans;

(4) served to a permanent resident of a retirement facility which provides permanent housing and residence to individuals, a majority of whom are 60 years or older; or

(5) sold during an event sponsored or sanctioned by an elementary or secondary school or school district at a concession stand operated by a booster club or other school support organization formed to support the school or school district, but only if the proceeds from the sales benefit the school or school district.

(e) Food products, candy, and soft drinks are exempted from the taxes imposed by this chapter if sold at an exempt sale qualifying under this subsection or if stored or used by the purchaser of the item at the exempt sale. A sale is exempted under this subsection if:

Text of subsec. (e)(1) as amended by Acts 2003, 78th Leg., ch. 1310, Sec. 103

(1) the sale is made by a person under 19 years old who is a member of a nonprofit organization devoted to the exclusive purpose of education or religious or physical training or by a group associated with a public or private elementary or secondary school;

Text of subsec. (e)(1) as amended by Acts 2003, 78th Leg., ch. 209, Sec. 20

(1) the sale is made by a member of or volunteer for a nonprofit organization devoted to the exclusive purpose of education or religious or physical training or by a group associated with a public or private elementary or secondary school;

(2) the sale is made as a part of a fund-raising drive sponsored by the organization or group; and

(3) all net proceeds from the sale go to the organization or group for its exclusive use.

(f) The exemption provided by this section does not apply to the sale of food products through the use or operation of a vending machine for which the receipts or sales prices are determined by Section 151.007(d).

(g) The exemption provided by Subsection (d)(3) does not apply to food products, meals, soft drinks, and candy sold to a person confined in a correctional facility operated under the authority or jurisdiction of or under contract with this state or a political subdivision of the state.

(h) The exemption provided by Subsection (a) does not apply to a snack item if the item is sold through a vending machine or is sold in individual-sized portions. For purposes of this subsection, an individual-sized portion is a portion that:

(1) is labeled as having not more than one serving; or

(2) contains less than 2.5 ounces.

Acts 1981, 67th Leg., p. 1562, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1040, ch. 235, art. 7, Sec. 4(a), eff. Sept. 1, 1983; Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 20, eff. Oct. 2, 1984; Acts 1987, 70th Leg., ch. 704, Sec. 1, eff. June 19, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 23; Acts 1989, 71st Leg., ch. 299, Sec. 1, eff. Oct. 1, 1989; Acts 1995, 74th Leg., ch. 79, Sec. 1, eff. Oct. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 13, eff. Oct. 1, 1995; Acts 2003, 78th Leg., ch. 209, Sec. 20, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 103, eff. Oct. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 774 (S.B. 1151), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 873 (H.B. 697), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 21, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 379 (H.B. 4054), Sec. 1, eff.

September 1, 2017.

Sec. 151.3141. FOOD STAMP PURCHASES. (a) Items purchased in whole or in part with food coupons issued under the food stamp program from a business approved for participation in the food stamp program are exempted from the taxes imposed by this chapter. The exemption applies only to items permitted by law to be purchased with food coupons under the food stamp program. If two or more items are purchased together and paid for with a combination of food stamps and other means of payment, for purposes of this section the food stamps are applied first to the purchase of items that would be taxable under this chapter in the absence of the exemption provided by this section.

(b) For purposes of this section, "food stamp program" means the program operated under 7 U.S.C. Chapter 51.

(c) This section and Subsection (e) of Section 151.412 of this code expire on the first day of the next calendar quarter after the comptroller certifies and publishes in the Texas Register notice of the certification that federal law no longer prohibits a state from participating in the food stamp program if the secretary of the United States Department of Agriculture determines that state or local sales taxes are collected on items purchased with food coupons issued under the food stamp program or that for any other reason the exemption provided by this section is no longer required for this state to participate in the food stamp program. The comptroller shall make a certification under this subsection if information sufficient to make the determination becomes known to the comptroller.

Added by Acts 1987, 70th Leg., ch. 1116, Sec. 1, eff. Oct. 1, 1987.

Sec. 151.315. WATER. Water is exempted from the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1563, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.316. AGRICULTURAL ITEMS. (a) Subject to Section 151.1551, the following items are exempted from the taxes imposed by this chapter:

(1) horses, mules, and work animals;

(2) animal life the products of which ordinarily constitute food for human consumption;

(3) feed for farm and ranch animals;

(4) feed for animals that are held for sale in the regular course of business;

(5) seeds and annual plants the products of which:

(A) ordinarily constitute food for human consumption;

(B) are to be sold in the regular course of business; or

(C) are used to produce feed for animals exempted by this section;

(6) fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:

(A) food for human consumption;

(B) feed for animal life; or

(C) other agricultural products to be sold in the regular course of business;

(7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business;

(8) machinery and equipment exclusively used in, and pollution control equipment required as a result of, the processing, packing, or marketing of agricultural products by an original producer at a location operated by the original producer for processing, packing, or marketing the producer's own products if:

(A) 50 percent or more of the products processed, packed, or marketed at or from the location are produced by the original producer and not purchased or acquired from others; and

(B) the producer does not process, pack, or market for consideration any agricultural products that belong to other persons in an amount greater than five percent of the total agricultural products processed, packed, or marketed by the producer;

(9) ice exclusively used by commercial fishing boats in the storing of aquatic species including but not limited to shrimp, other crustaceans, finfish, mollusks, and other similar creatures;

(10) tangible personal property, including a tire, sold or used to be installed as a component part of a motor vehicle, machinery, or other equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business;

(11) machinery and equipment exclusively used in an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3;

(12) tangible personal property incorporated into a structure that is used for the disposal of poultry carcasses in accordance with Section 26.303, Water Code;

(13) tangible personal property incorporated into or attached to a structure that is located on a commercial dairy farm, is used or employed exclusively for the production of milk, and is:

(A) a free-stall dairy barn; or

(B) a dairy structure used solely for maternity purposes;

(14) telecommunications services exclusively provided or used for the navigation of machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business;

(15) exotic animals, as defined by Section 23.51; and

(16) game animals, as described by Section 63.001, Parks and Wildlife Code.

(b) Subject to Section 151.1551, tangible personal property sold or used to be installed as a component of an underground irrigation system is exempt from the taxes imposed by this chapter if the system is exclusively used or employed on a farm or ranch in the production of:

(1) food for human consumption;

(2) grass;

(3) feed or forage for:

(A) animal life the products of which ordinarily constitute food for human consumption; or

(B) horses, mules, and work animals; or

(4) other agricultural products to be sold in the regular course of business.

(c) In this section:

(1) "Farm or ranch" includes one or more tracts of land used, in whole or in part, in the production of crops, livestock, or other agricultural products held for sale in the regular course of business. The term includes feedlots, dairy farms, poultry farms, commercial orchards, commercial nurseries, and similar commercial agricultural operations. The term does not include a home garden or a timber operation.

(2) "Original producer" means a person who:

(A) brings an agricultural product into being and is the owner of the agricultural product from the time it is brought into being until it is processed, packed, or marketed; or

(B) is the grower of an agricultural product, exercises predominant operational control over the raising of the agricultural product, and bears a risk of loss of investment in the agricultural product.

(d) Two or more corporations that operate agricultural activities on the same tract or adjacent tracts of land and that are

entirely owned by an individual or a combination of the individual, the individual's spouse, and the individual's children may qualify as an original producer for the purposes of Subsection (a)(8).

Acts 1981, 67th Leg., p. 1563, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 9, Sec. 1, eff. Oct. 1, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 24; Acts 1993, 73rd Leg., ch. 486, Sec. 1.07, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1000, Sec. 14, eff. Oct. 1, 1995. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1162 (H.B. 3144), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1373 (S.B. 958), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 23.003, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1030 (H.B. 2810), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 236 (S.B. 140), Sec. 2, eff. September 1, 2015.

Acts 2025, 89th Leg., R.S., Ch. 7 (H.B. 135), Sec. 1, eff. May 13, 2025.

Sec. 151.3162. TIMBER ITEMS. (a) In this section, "original producer" means a person who:

(1) harvests timber that the person owns and continues to own until the timber is processed, packed, or marketed; or

(2) grows timber, exercises predominant operational control over the growth of the timber, and bears the risk of loss of investment in the timber.

(b) Subject to Section 151.1551, the following items are exempted from the tax imposed by this chapter:

(1) seedlings of trees grown for commercial timber;

(2) defoliants, desiccants, equipment, fertilizers,

fungicides, herbicides, insecticides, and machinery exclusively used in the production of timber to be sold in the regular course of business;

(3) machinery and equipment used in, and pollution control equipment required as a result of, the processing, packing, or marketing of timber products by an original producer if:

(A) the processing, packing, or marketing occurs at or from a location operated by the original producer;

(B) at least 50 percent of the value of the timber products processed, packed, or marketed at or from the location is attributable to products produced by the original producer and not purchased or acquired from others; and

(C) the original producer does not process, pack, or market for consideration timber products that belong to another person with a value greater than five percent of the total value of the timber products processed, packed, or marketed by the producer; and

(4) tangible personal property sold or used to be installed as a component of an underground irrigation system exclusively used in the production of timber to be sold in the regular course of business.

(c) Two or more corporations that operate timber activities on the same or adjacent tracts of land and that are entirely owned by the same individual or a combination of the individual and the individual's spouse or children are considered to be a single original producer for the purposes of Subsection (b)(3).

(d) The exemption provided by Subsection (b) takes effect January 1, 2008. Until that date, a person is entitled to a credit or refund of a portion of the taxes paid under this chapter on an item that after January 1, 2008, will be exempted from the taxes imposed by this chapter under Subsection (b). The amount of the credit or refund is determined as follows:

(1) for an item for which the taxable event occurs on or after October 1, 2001, and before January 1, 2004, the taxpayer is entitled to a refund or credit in an amount equal to 33 percent of the tax paid on the item;

(2) for an item for which the taxable event occurs on

or after January 1, 2004, and before January 1, 2006, the taxpayer is entitled to a refund or credit in an amount equal to 50 percent of the tax paid on the item; and

(3) for an item for which the taxable event occurs on or after January 1, 2006, and before January 1, 2008, the taxpayer is entitled to a refund or credit in an amount equal to 75 percent of the tax paid on the item.

(e) A taxpayer entitled to a credit or refund under Subsection (d) may elect to receive either a credit or a refund. A taxpayer who elects to receive a credit must claim the credit on the return for a period that ends not later than the first anniversary of the date on which the taxable event occurred. A taxpayer who elects to receive a refund must apply to the comptroller for the refund before or during the calendar year following the year in which the tax on the item was paid.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 14, eff. Oct. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 5, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 5, eff. September 1, 2011.

Sec. 151.317. GAS AND ELECTRICITY. (a) Subject to Sections 151.1551, 151.359, and 151.3595 and Subsection (d) of this section, gas and electricity are exempted from the taxes imposed by this chapter when sold for:

(1) residential use;

(2) use in powering equipment exempt under Section 151.318 or 151.3185 by a person processing tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2);

(3) use in lighting, cooling, and heating in the manufacturing area during the actual manufacturing or processing of tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2);

(4) use directly in exploring for, producing, or transporting, a material extracted from the earth;

(5) use in agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation;

(6) use directly in electrical processes, such as electroplating, electrolysis, and cathodic protection;

(7) use directly in the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property;

(8) use directly in providing, under contracts with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or defense-related platform modifications or upgrades;

(9) use directly by a data center or large data center project that is certified by the comptroller as a qualifying data center under Section 151.359 or a qualifying large data center project under Section 151.3595 in the processing, storage, and distribution of data;

(10) a direct or indirect use, consumption, or loss of electricity by an electric utility engaged in the purchase of electricity for resale; or

(11) use in timber operations, including pumping for irrigation of timberland.

(b) The sale, production, distribution, lease, or rental of, and the use, storage, or other consumption in this state of, gas and electricity sold for the uses listed in Subsection (a), are exempted from the taxes imposed by a municipality under Chapter 321 except as provided by Sections 151.359(j) and 321.105.

(c) In this section, "residential use" means use:

(1) in a family dwelling or in a multifamily apartment or housing complex or building or in a part of a building occupied as a home or residence when the use is by the owner of the dwelling, apartment, complex, or building or part of the building occupied; or

(2) in a dwelling, apartment, house, or building or part of a building occupied as a home or residence when the use is by

a tenant who occupies the dwelling, apartment, house, or building or part of a building under a contract for an express initial term for longer than 29 consecutive days.

(d) To qualify for the exemptions in Subsections (a)(2)-(9), the gas or electricity must be sold to the person using the gas or electricity in the exempt manner. For purposes of this subsection, the use of gas or electricity in an exempt manner by an independent contractor engaged by the purchaser of the gas or electricity to perform one or more of the exempt activities identified in Subsections (a)(2)-(9) is considered use by the purchaser of the gas or electricity.

(e) Natural gas or electricity used during a regular monthly billing period for both exempt and taxable purposes under a single meter is totally exempt or taxable based on the predominant use of the natural gas or electricity measured by that meter. The comptroller may prescribe by rule the procedures by which a purchaser must establish the predominant use of the natural gas or electricity.

Acts 1981, 67th Leg., p. 1563, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 411, Sec. 1, eff. Oct. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 25; Acts 1995, 74th Leg., ch. 1000, Sec. 16, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 21, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 631, Sec. 15, eff. Oct. 1, 2001; Acts 1999, 76th Leg., ch. 1467, Sec. 2.18, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 21, eff. Oct. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 104, 105, eff. Oct. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 6, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 412 (H.B. 2712), Sec. 2, eff. June 10, 2015.

Sec. 151.3171. SULPHUR. Sulphur is exempted from the taxes imposed by this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 470 (S.B. 757), Sec. 8, eff. September 1, 2015.

Sec. 151.318. PROPERTY USED IN MANUFACTURING. (a) The following items are exempted from the taxes imposed by this chapter if sold, leased, or rented to, or stored, used, or consumed by a manufacturer:

(1) tangible personal property that will become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale;

(2) tangible personal property directly used or consumed in or during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication operation and directly makes or causes a chemical or physical change to:

(A) the product being manufactured, processed, or fabricated for ultimate sale; or

(B) any intermediate or preliminary product that will become an ingredient or component part of the product being manufactured, processed, or fabricated for ultimate sale;

(3) services performed directly on the product being manufactured prior to its distribution for sale and for the purpose of making the product more marketable;

(4) actuators, steam production equipment and its fuel, in-process flow through tanks, cooling towers, generators, heat exchangers, transformers and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the transformers, electronic control room equipment, computerized control units, pumps, compressors, and hydraulic units, that are used to power, supply, support, or control equipment that qualifies for exemption under Subdivision (2) or (5) or to generate electricity, chilled water, or steam for ultimate sale; transformers located at an electric generating facility that increase the voltage of electricity generated for ultimate sale,

the electrical cable that carries the electricity from the electric generating equipment to the step-up transformers, and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the step-up transformers; and transformers that decrease the voltage of electricity generated for ultimate sale and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the step-down transformers;

(5) tangible personal property used or consumed in the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to a pollution control process;

(6) lubricants, chemicals, chemical compounds, gases, or liquids that are used or consumed during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if their use or consumption is necessary and essential to prevent the decline, failure, lapse, or deterioration of equipment exempted by this section;

(7) gases used on the premises of a manufacturing plant to prevent contamination of raw material or product, or to prevent a fire, explosion, or other hazardous or environmentally damaging situation at any stage in the manufacturing process or in loading or storage of the product or raw material on premises;

(8) tangible personal property used or consumed during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to a quality control process that tests tangible personal property that is being manufactured, processed, or fabricated for ultimate sale;

(9) safety apparel or work clothing that is used during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if:

(A) the manufacturing process would not be possible without the use of the apparel or clothing; and

(B) the apparel or clothing is not resold to the employee;

(10) tangible personal property used or consumed in the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to comply with federal, state, or local laws or rules that establish requirements related to public health; and

(11) tangible personal property specifically installed to:

(A) reduce water use and wastewater flow volumes from the manufacturing, processing, fabrication, or repair operation;

(B) reuse and recycle wastewater streams generated within the manufacturing, processing, fabrication, or repair operation; or

(C) treat wastewater from another industrial or municipal source for the purpose of replacing existing freshwater sources in the manufacturing, processing, fabrication, or repair operation.

(b) The exemption includes:

(1) chemicals, catalysts, and other materials that are used during a manufacturing, processing, or fabrication operation to produce or induce a chemical or physical change, to remove impurities, or to make the product more marketable;

(2) semiconductor fabrication cleanrooms and equipment; and

(3) pharmaceutical biotechnology cleanrooms and equipment that are installed as part of the construction of a new facility on which construction began after July 1, 2003.

(c) The exemption does not include:

(1) intraplant transportation equipment, including intraplant transportation equipment used to move a product or raw material in connection with the manufacturing process and specifically including all piping and conveyor systems, provided that the following remain eligible for the exemption:

(A) piping or conveyor systems that are a

component part of a single item of manufacturing equipment or pollution control equipment eligible for the exemption under Subsection (a)(2), (a)(4), or (a)(5);

(B) piping through which the product or an intermediate or preliminary product that will become an ingredient or component part of the product is recycled or circulated in a loop between the single item of manufacturing equipment and the ancillary equipment that supports only that single item of manufacturing equipment if the single item of manufacturing equipment and the ancillary equipment operate together to perform a specific step in the manufacturing process; and

(C) piping through which the product or an intermediate or preliminary product that will become an ingredient or component part of the product is recycled back to another single item of manufacturing equipment and its ancillary equipment in the same manufacturing process;

(2) hand tools;

(3) maintenance supplies not otherwise exempted under this section, maintenance equipment, janitorial supplies or equipment, office equipment or supplies, equipment or supplies used in sales or distribution activities, research or development of new products, or transportation activities;

(4) machinery and equipment or supplies to the extent not otherwise exempted under this section used to maintain or store tangible personal property; or

(5) tangible personal property used in the transmission or distribution of electricity, including transformers, cable, switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units not otherwise exempted under this section, and lines, conduit, towers, and poles.

(d) In this section, "manufacturing" includes each operation beginning with the first stage in the production of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) that it has when transferred by the

manufacturer to another.

(e) This section does not apply to any taxable item rented or leased for less than one year to a person engaged in manufacturing.

(f) For purposes of Subsection (c)(1), piping through which material is transported forward from one single item of manufacturing equipment and its ancillary support equipment to another single item of manufacturing equipment and its ancillary support equipment is not considered a component part of a single item of manufacturing equipment and is not exempt. An integrated group of manufacturing and processing machines and ancillary equipment that operate together to create or produce the product or an intermediate or preliminary product that will become an ingredient or component part of the product is not a single item of manufacturing equipment.

(g) Repealed by Acts 1999, 76th Leg., ch. 1467, Sec. 4.01(3), eff. June 19, 1999.

(h) to (m) Repealed by Acts 1997, 75th Leg., ch. 1390, Sec. 3, eff. Oct. 1, 1997.

(n) A person engaged in overhauling, retrofitting, or repairing jet turbine aircraft engines and their component parts is entitled to an exemption from the tax imposed by this chapter for the purchase of machinery, equipment, or replacement parts or accessories with a useful life in excess of six months, or supplies, including aluminum oxide, nitric acid, and sodium cyanide, used in electrochemical plating or a similar process that are used or consumed in the overhauling, retrofitting, or repairing.

(o) The production of a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval is considered "manufacturing" for purposes of this section.

(p) For the purposes of this section, the manufacturing of computer software begins with the design and writing of the code or program for the software and includes the testing or demonstration of the software.

(q) For purposes of Subsection (b), "semiconductor

fabrication cleanrooms and equipment" means all tangible personal property, without regard to whether the property is affixed to or incorporated into realty, used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually contained in the cleanroom environment. The term includes integrated systems, fixtures, and piping, all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances, and production equipment and machinery. The term does not include the building or a permanent, nonremovable component of the building, that houses the cleanroom environment. The term includes moveable cleanroom partitions and cleanroom lighting. "Semiconductor fabrication cleanrooms and equipment" are not "intraplant transportation equipment" as that term is used in Subsection (c)(1).

(q-1) For purposes of Subsection (b), "pharmaceutical biotechnology cleanrooms and equipment" means all tangible personal property, without regard to whether the property is affixed to or incorporated into realty, used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a pharmaceutical biotechnology product, without regard to whether the property is actually contained in the cleanroom environment. The term includes integrated systems, fixtures, and piping, all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances, and production equipment and machinery. The term does not include the building or a permanent, nonremovable component of the building that houses the cleanroom environment. The term includes moveable cleanroom partitions and cleanroom lighting. "Pharmaceutical biotechnology cleanrooms and equipment" are not "intraplant transportation equipment" as that term is used in Subsection (c)(1).

(r) A taxpayer claiming an exemption under this section has the burden of proof that the exemption is applicable and that no

exclusion under Subsection (c) applies.

(s) The following do not apply to the semiconductor fabrication cleanrooms and equipment in Subsection (q) or the pharmaceutical biotechnology cleanrooms and equipment in Subsection (q-1):

(1) limitations in Subsection (a)(2) that refer to tangible personal property directly causing chemical and physical changes to the product being manufactured, processed, or fabricated for ultimate sale;

(2) Subsection (c)(1); and

(3) Subsection (c)(4).

(t) In addition to the other items exempted under this section, pre-press machinery, equipment, and supplies, including computers, cameras, photographic props, film, film developing chemicals, veloxes, plate-making machinery, plate metal, litho negatives, color separation negatives, proofs of color negatives, production art work, and typesetting or composition proofs, that are necessary and essential to and used in connection with the printing process are exempted from the tax imposed by this chapter if they are purchased by a person engaged in:

(1) printing or imprinting tangible personal property for sale; or

(2) producing a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval.

Acts 1981, 67th Leg., p. 1564, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 13, 19, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 26; Acts 1989, 71st Leg., ch. 154, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 705, Sec. 15, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.081(a); Acts 1993, 73rd Leg., ch. 404, Sec. 1, eff. Oct. 1, 1993; Acts 1993, 73rd Leg., ch. 587, Sec. 14, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 1000, Sec. 17, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1010, Sec. 4.40, eff. July 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 22, eff. Oct. 1, 1997; Acts 1997, 75th Leg., ch. 1390, Sec. 1 to 3,

eff. Oct. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(91), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.19, eff. Oct. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 4.01, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 22, eff. Oct. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(100), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 106, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 6(a), eff. July 1, 2007.

Sec. 151.3181. DIVERGENT USE OF PROPERTY USED IN MANUFACTURING. (a) In this section:

(1) "Divergent use" means the use of property in a manner or for a purpose other than the manner or purpose that qualified the sale, lease, rental, use, or other consumption of the property for exemption under Section 151.318.

(2) "Property" means tangible personal property regardless of whether the tangible personal property is permanently affixed to or incorporated into realty after its purchase.

(b) Divergent use of property exempted under Section 151.318 will not result in sales and use tax being due on the property if the divergent use occurs after the fourth anniversary of the date the property is purchased.

(c) Except as provided by Subsection (d), divergent use of property exempted under Section 151.318 that occurs during any month before the fourth anniversary of the date the property is purchased results in sales and use tax being due for that month. The amount of the sales and use tax due for a month is equal to 1/48 of the purchase price of the property multiplied by the percentage of divergent use during that month multiplied by the sales and use tax rate applicable at the time of purchase.

(d) Divergent use of property exempted under Section 151.318 that occurs during a month before the fourth anniversary of the date the property is purchased does not result in sales and use tax being due for that month if the percentage of divergent use during that month does not exceed five percent of the total use of

the property that month.

(e) The amount of divergent use during a month is:

(1) the total time the property operates for a divergent use during a month, measured in hours; or

(2) the total output of the property during divergent use during a month, measured in a manner applicable to that property.

(f) The total use of property is:

(1) the total time the property operates during a month, measured in hours; or

(2) the total output of the property during a month, measured in a manner applicable to that property.

(g) The percentage of divergent use for a month is determined by:

(1) dividing the amount of divergent use determined under Subsection (e)(1) by the amount of total use of the property determined under Subsection (f)(1); or

(2) dividing the amount of divergent use determined under Subsection (e)(2) by the amount of total use of the property determined under Subsection (f)(2).

(h) The use of "pharmaceutical biotechnology cleanrooms and equipment," as that term is defined by Section 151.318(q-1), to manufacture, process, or fabricate a pharmaceutical biotechnology product that is not sold is not a divergent use if the use occurs during the certification process by the United States Food and Drug Administration.

Added by Acts 2001, 77th Leg., ch. 1263, Sec. 23, eff. Oct. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 107, eff. June 20, 2003.

Sec. 151.3185. PROPERTY USED IN THE PRODUCTION OF MOTION PICTURE, VIDEO, OR AUDIO RECORDINGS AND BROADCASTS. (a) The sale, lease, or rental or storage, use, or other consumption of the following items are exempted from the taxes imposed by this chapter:

(1) tangible personal property that will become an ingredient or component part of:

(A) a motion picture, video, or audio master recording, a copy of which is sold or offered for ultimate sale, licensed, distributed, broadcast, or otherwise exhibited for consideration; or

(B) a broadcast by a producer of cable programs or by a radio or television station licensed by the Federal Communications Commission;

(2) tangible personal property that is necessary or essential to and used or consumed in or during:

(A) the production of a motion picture, video, or audio master recording, a copy of which is sold or offered for ultimate sale, licensed, distributed, broadcast, or otherwise exhibited for consideration; or

(B) the production of a broadcast by or for a cable program producer or by or for a radio or television station licensed by the Federal Communications Commission; and

(3) except as provided by Subsection (c), services that are necessary and essential to and used directly in a production described by Subdivision (2)(A) or (B).

(b) The exemption includes:

(1) cameras, film, and film developing chemicals that are necessary and essential to and used or consumed in a production described by Subsection (a)(2)(A) or (B);

(2) lights, props, sets, teleprompters, microphones, digital equipment, special effects equipment and supplies, and other equipment that is necessary and essential to and used or consumed directly in a production described by Subsection (a)(2)(A) or (B); and

(3) audio or video routing switchers located in a studio that are necessary and essential to and used or consumed directly in a production described by Subsection (a)(2)(A) or (B).

(c) The exemption does not include:

(1) office equipment or supplies;

(2) maintenance or janitorial equipment or supplies;

(3) machinery, equipment, or supplies used in sales, transmission, or transportation activities;

(4) machinery, equipment, or supplies used in

distribution activities, unless otherwise exempted by this section;

(5) taxable items that are used incidentally in a production described by Subsection (a)(2)(A) or (B); or

(6) the following taxable items, regardless of whether they are used incidentally in a production described by Subsection (a)(2)(A) or (B):

(A) telecommunications equipment and services;

(B) transmission equipment;

(C) security services;

(D) motor vehicle parking services; and

(E) food ready for immediate consumption.

(d) A production described by Subsection (a)(2)(A) or (B) does not include a production for broadcast that is not intended to be broadcast to either the general public or to cable television service subscribers or paying customers.

(e) The sale of a motion picture, video, or audio master recording by the producer of the master recording is exempt from the taxes imposed by this chapter.

(f) Tangible personal property that is sold to an entity to which 47 C.F.R. Section 73.624(b) applies is exempt from the taxes imposed by this chapter if the property is necessary for the entity to comply with 47 C.F.R. Section 73.682(d).

(g) Tangible personal property that is sold to an entity to which 47 C.F.R. Section 73.404(a) applies is exempt from the taxes imposed by this chapter if the property is necessary to provide the broadcast service described by 47 C.F.R. Section 73.403 or 73.404.

(h) In this section, "master recording" means the principal media on which images, sound, or a combination of images and sound are first fixed and from which copies are commercially made available for sale, license, distribution, broadcast, or exhibition for consideration.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 2.20, eff. Oct. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 24, eff. Oct. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 410 (H.B. 2507), Sec. 1, eff.

September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 323 (H.B. 3086), Sec. 1, eff. May 31, 2019.

Acts 2019, 86th Leg., R.S., Ch. 323 (H.B. 3086), Sec. 2, eff. May 31, 2019.

Sec. 151.3186. PROPERTY USED IN CABLE TELEVISION, INTERNET ACCESS, OR TELECOMMUNICATIONS SERVICES. (a) In this section, "provider" means a provider of cable television service, Internet access service, or telecommunications services.

(b) A provider is entitled to a refund of the tax imposed by this chapter on the sale, lease, or rental or storage, use, or other consumption of tangible personal property if:

(1) the property is sold, leased, or rented to or stored, used, or consumed by a provider or a subsidiary of a provider; and

(2) the property is directly used or consumed by the provider or subsidiary described by Subdivision (1) in or during:

(A) the distribution of cable television service;

(B) the provision of Internet access service; or

(C) the transmission, conveyance, routing, or reception of telecommunications services.

(c) Notwithstanding Subsection (b), property directly used or consumed in or during the provision, creation, or production of a data processing service or information service is not eligible for a refund under this section.

(d) The amount of the refund to which a provider or subsidiary, as described by Subsection (b)(1), is entitled under this section for a calendar year is equal to:

(1) the amount of the tax paid by the provider or subsidiary during the calendar year on property eligible for a refund under this section, if the total amount of tax paid by all providers and subsidiaries described by Subsection (b)(1) that are eligible for a refund under this section is not more than $50 million for the calendar year; or

(2) a pro rata share of $50 million, if the total

amount of tax paid by all providers and subsidiaries described by Subsection (b)(1) that are eligible for a refund under this section is more than $50 million for the calendar year.

(e) The refund provided by this section does not apply to the taxes imposed under Subtitle C, Title 3.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1272 (H.B. 1133), Sec. 1, eff. September 1, 2013.

Sec. 151.319. NEWSPAPERS AND PROPERTY USED IN NEWSPAPER PUBLICATION. (a) A newspaper sold or distributed by individual copy or by subscription is exempted from the taxes imposed by this chapter.

(b) A transaction involving a sale of a newspaper that has been produced, fabricated, or printed to the special order of a customer is exempted from the taxes imposed by this chapter if:

(1) the customer is responsible for gathering substantially all of the information contained in the newspaper and for formulating the design, layout, and format of the newspaper; and

(2) the customer would be entitled to the exemption provided by Section 151.318(t) if the customer had a printing facility capable of processing and printing the newspaper and printed and processed the newspaper.

(c) The sale of a handbill, circular, flyer, advertising supplement, or similar item that is printed to the special order of a customer and tangible personal property that will become an ingredient or component part of such item are exempted from the taxes imposed by this chapter if the item is printed for the exclusive purpose of being distributed as a part of a newspaper, is actually distributed as a part of the newspaper, and is delivered to the person who is responsible for the distribution of the newspaper in which the item is distributed and not to the customer.

(d), (e) Repealed by Acts 2001, 77th Leg., ch. 1263, Sec. 84(1), eff. October 1, 2001.

(f) In this section, "newspaper" means a publication that is printed on newsprint, the average sales price of which for each copy over a 30-day period does not exceed $3, and that is printed and

distributed at a daily, weekly, or other short interval for the dissemination of news of a general character and of a general interest. "Newspaper" does not include a magazine, handbill, circular, flyer, sales catalog, or similar printed item unless the printed item is printed for distribution as a part of a newspaper and is actually distributed as a part of a newspaper. For the purposes of this section, an advertisement is news of a general character and of a general interest. Notwithstanding any other provision of this subsection, "newspaper" includes:

(1) a publication containing articles and essays of general interest by various writers and advertisements that is produced for the operator of a licensed and certified carrier of persons and distributed by the operator to its customers during their travel on the carrier; and

(2) a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval.

Acts 1981, 67th Leg., p. 1565, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4770, ch. 840, Sec. 4, eff. Aug. 29, 1983; Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 12, Sec. 3, eff. Oct. 2, 1984; Acts 1987, 70th Leg., ch. 378, Sec. 1, eff. Oct. 1, 1987; Acts 1991, 72nd Leg., ch. 705, Sec. 16, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.09; Acts 1995, 74th Leg., ch. 1000, Sec. 18, eff. Oct. 1, 1995; Acts 2001, 77th Leg., ch. 1263, Sec. 25, 84(1), eff. Oct. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 21, 94, eff. Oct. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1061 (H.B. 3169), Sec. 3, eff. September 1, 2013.

Sec. 151.320. MAGAZINES. (a) Subscriptions to magazines that are sold for a semiannual or longer period and are entered as second class mail are exempted from the taxes imposed by this chapter.

(b) "Magazine" means a publication that is usually paperbacked and sometimes illustrated, that appears at a regular

interval, and that contains stories, articles, and essays by various writers and advertisements. "Magazine" does not mean the publication of current information which is taxable pursuant to Section 151.0038 of this code as an "information service."

Added by Acts 1987, 70th Leg., ch. 378, Sec. 2, eff. Oct. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 1031, Sec. 22, eff. Sept. 1, 1993.

Sec. 151.321. UNIVERSITY AND COLLEGE STUDENT ORGANIZATIONS. (a) A taxable item sold by a qualified student organization and for which the sales price is $5,000 or less, is exempted from the taxes imposed by Subchapter C, except that a taxable item manufactured by or donated to the organization is exempt from the taxes imposed by Subchapter C regardless of sales price unless sold to the donor, if the student organization:

(1) sells the item at a sale that may last for one day only and the primary purpose of which is to raise funds for the organization; and

(2) holds not more than one sale described by Subdivision (1) each month for which an exemption is claimed for an item sold.

(b) In each calendar year, the first $5,000 of a qualified student organization's total receipts from sales of taxable items not otherwise exempt under Subsection (a) is exempt from the taxes imposed by Subchapter C.

(c) A student organization qualifies for the exemptions under Subsections (a) and (b) if the student organization:

(1) is affiliated with an institution of higher education as defined by Section 61.003, Education Code, or a private or independent college or university that is located in this state and that is accredited by a recognized accrediting agency under Section 61.003, Education Code;

(2) has as its primary purpose a purpose other than engaging in business or performing an activity designed to make a profit; and

(3) files a certification with the comptroller as required by Subsection (d).

(d) A student organization must file with the comptroller a certification issued by the institution, college, or university described in Subsection (c)(1) showing that the organization is affiliated with the institution, college, or university.

(e) The storage, use, or consumption of a taxable item acquired tax-free under this section is exempted from the use tax imposed by Subchapter D until the item is resold or subsequently transferred.

Added by Acts 1995, 74th Leg., ch. 155, Sec. 1, eff. Oct. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 23, eff. Oct. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.21, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 58, Sec. 1, eff. Oct. 1, 2001.

Sec. 151.322. CONTAINERS. (a) The following are exempted from the taxes imposed by this chapter:

(1) a container sold with its contents if the sales price of the contents is not taxed under this chapter;

(2) a nonreturnable container sold without contents to a person who fills the container and sells the contents and the container together; and

(3) a returnable container sold with its contents or resold for refilling.

(b) In this section:

(1) "Returnable container" means a container of a kind customarily returned for reuse by the buyer of the contents.

(2) "Nonreturnable container" means a container other than a returnable container.

(3) "Container" means glass, plastic, or metal bottles, cans, barrels, and cylinders, but does not include any item of a type described in Section 151.302(d).

Acts 1981, 67th Leg., p. 1566, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.10.

Sec. 151.323. CERTAIN TELECOMMUNICATIONS SERVICES. (a) There are exempted from the taxes imposed by this chapter the receipts from the sale, use, or other consumption in this state of:

(1) long-distance telecommunications services that

are not both originated from and billed to a telephone number or billing or service address within Texas;

(2) access to a local exchange telephone company's network by a regulated provider of telecommunications services; and

(3) broadcasts, other than cable television service, by commercial radio or television stations licensed or regulated by the Federal Communications Commission.

(b) The exemption provided by this section does not apply to mobile telecommunications services.

Acts 1981, 67th Leg., p. 1566, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 206, Sec. 9, eff. Oct. 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 27; Acts 2003, 78th Leg., ch. 209, Sec. 22, eff. Oct. 1, 2003.

Sec. 151.324. EQUIPMENT USED ELSEWHERE FOR MINERAL EXPLORATION OR PRODUCTION. (a) The following items are exempted from the sales tax imposed by Subchapter C of this chapter:

(1) drill pipe, casing, tubing, and other pipe used for the exploration for or production of oil, gas, sulphur, or other minerals offshore not in this state; and

(2) tangible personal property exclusively used for the exploration for or production of oil, gas, sulphur, or other minerals offshore not in this state.

(b) Drilling equipment that is used for the exploration for or production of oil, gas, sulphur, or other minerals, that is built for exclusive use outside this state, and that is, on completion, removed forthwith from this state is exempted from the taxes imposed by this chapter.

(c) The delivery of items exempted by this section to the purchaser or lessee in this state does not disqualify the purchaser or lessee from the exemption if the property is removed from the state by any means, including by the use of the purchaser's or lessee's own facilities.

(d) The shipment to a place in this state of equipment exempted by this section for further assembly or fabrication does not disqualify the purchaser or lessee from the exemption if on

completion of the further assembly or fabrication the equipment is removed forthwith from this state. This section applies to a sale that may occur when the equipment exempted is further assembled or fabricated if on completion the equipment is removed forthwith from the state.

Acts 1981, 67th Leg., p. 1567, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.326. CLOTHING AND FOOTWEAR FOR LIMITED PERIOD. (a) The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than $100; and

(2) the sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at 12 midnight on the following Sunday.

(b) This section does not apply to:

(1) any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally worn except when used for the athletic activity or protective use for which it is designed;

(2) accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing; and

(3) the rental of clothing or footwear.

Added by Acts 1999, 76th Leg., ch. 394, Sec. 7, eff. June 3, 1999. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 121(27), eff. Oct. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 10(a), eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 7, eff. June 15, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 33.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 525 (S.B. 485), Sec. 1, eff.

June 14, 2013.

Acts 2025, 89th Leg., R.S., Ch. 62 (S.B. 1415), Sec. 1, eff. September 1, 2025.

Sec. 151.327. SCHOOL SUPPLIES AND SCHOOL BACKPACKS BEFORE START OF SCHOOL. (a) In this section:

(1) "Backpack" means a messenger bag, book bag, or a pack with straps that a person wears on the person's back, including a backpack with wheels if the backpack can also be worn on the back. The term does not include an item that is commonly considered luggage, a briefcase, an athletic bag, a duffle bag, a gym bag, a computer bag, a purse, or a framed backpack.

(2) "School supply" has the meaning assigned by the Streamlined Sales and Use Tax Agreement adopted November 12, 2002, including all amendments made to the agreement on or before December 14, 2006.

(a-1) The sale or storage, use, or other consumption of a school supply or a school backpack is exempted from the taxes imposed by this chapter if the school supply or backpack is purchased:

(1) for use by a student in a public or private elementary or secondary school;

(2) during the period described by Section 151.326(a)(2); and

(3) for a sales price of less than $100.

(b) A retailer is not required to obtain an exemption certificate stating that school supplies or school backpacks are purchased for use by students in a public or private elementary or secondary school unless the school supplies or backpacks are purchased in a quantity that indicates that the school supplies or backpacks are not purchased for use by students in a public or private elementary or secondary school.

Added by Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 10(b), eff. June 15, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 8, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1126 (H.B. 1801), Sec. 1, eff. July 1, 2009.

Sec. 151.328. AIRCRAFT. (a) Aircraft are exempted from the taxes imposed by this chapter if:

(1) sold to a person using the aircraft as a certificated or licensed carrier of persons or property;

(2) sold to a person who:

(A) has a sales tax permit issued under this chapter; and

(B) uses the aircraft for the purpose of providing flight instruction that is:

(i) recognized by the Federal Aviation Administration;

(ii) under the direct or general supervision of a flight instructor certified by the Federal Aviation Administration; and

(iii) designed to lead to a pilot certificate or rating issued by the Federal Aviation Administration or otherwise required by a rule or regulation of the Federal Aviation Administration;

(3) sold to a foreign government;

(4) sold in this state to a person for use and registration in another state or nation before any use in this state other than flight training in the aircraft and the transportation of the aircraft out of this state; or

(5) sold in this state to a person for use exclusively in connection with an agricultural use, as defined by Section 23.51, and used for:

(A) predator control;

(B) wildlife or livestock capture;

(C) wildlife or livestock surveys;

(D) census counts of wildlife or livestock;

(E) animal or plant health inspection services; or

(F) crop dusting, pollination, or seeding.

(b) Repair, remodeling, and maintenance services to

aircraft, including an engine or other component part of aircraft, operated by a person described by Subsection (a)(1), (a)(2), or (a)(5) are exempted from the taxes imposed by this chapter.

(c) In this section, "aircraft" does not include a rocket or missile, but does include:

(1) a fixed wing, heavier-than-air craft that is driven by propeller or jet and supported by the dynamic reaction of the air against its wings;

(2) a helicopter; and

(3) an airplane flight simulation training device approved by the Federal Aviation Administration under Appendices A and B, 14 C.F.R. Part 60.

(d) Machinery, tools, supplies, and equipment used or consumed exclusively in the repair, remodeling, or maintenance of aircraft, aircraft engines, or aircraft component parts by or on behalf of a person described by Subsection (a)(1) or (a)(2) are exempted from the taxes imposed by this chapter.

(e) Tangible personal property that is permanently affixed or attached as a component part of an aircraft owned or operated by a person described by Subsection (a)(1) or (a)(2), or that is necessary for the normal operations of the aircraft and is pumped, poured, or otherwise placed in the aircraft, is exempted from the taxes imposed by this chapter.

(f) To qualify for the exemption provided under Subsection (a)(4), the person purchasing the aircraft in this state must sign at the time of purchase an exemption certificate that:

(1) is designated as an exemption certificate for the purchase of an aircraft for out-of-state registration and use;

(2) is on a form designated by the comptroller;

(3) contains all information the comptroller considers reasonable;

(4) is signed by the purchaser at the time of the purchase; and

(5) provides that purchaser, by signing the certificate, authorizes the comptroller to provide a copy of the certificate to the state or nation of intended use and registration.

(g) A person commits an offense if the person gives an exemption certificate required under Subsection (f) to a seller for an aircraft that the person knows, at the time of purchase, will be used in a manner other than that expressed in the exemption certificate or the person gives an exemption certificate with fraudulent intent or intent to evade wrongfully the payment of the tax imposed under this chapter. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $500.

(h) For purposes of the exemption under Subsection (a)(5), an aircraft is considered to be for use exclusively in connection with an agricultural use if 95 percent of the use of the aircraft is for a purpose described by Subsections (a)(5)(A)-(F). Travel to a location to perform a service described by Subsections (a)(5)(A)-(F) does not disqualify an aircraft from the exemption under Subsection (a)(5). A person who claims an exemption under Subsection (a)(5) must maintain and make available to the comptroller flight records for all uses of the aircraft.

Acts 1981, 67th Leg., p. 1567, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 14, Sec. 1, eff. Oct. 2, 1984; Acts 1989, 71st Leg., ch. 231, Sec. 6, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 587, Sec. 15, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 147, Sec. 1, eff. July 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 9, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1373 (S.B. 958), Sec. 2, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 983 (S.B. 1214), Sec. 1, eff. September 1, 2019.

Sec. 151.329. CERTAIN SHIPS AND SHIP EQUIPMENT. The following items are exempted from the taxes imposed by this chapter:

(1) materials, equipment, and machinery that enter into and become component parts of a ship or vessel that is of eight or more tons displacement and is:

(A) used exclusively and directly in a commercial

enterprise, including commercial fishing; or

(B) used commercially as a vessel for pleasure fishing by individuals as paying passengers on the vessel;

(2) a ship or vessel of eight or more tons displacement, that is used exclusively and directly in a commercial enterprise and is sold by the vessel's builder;

(3) materials and labor used in repairing, renovating, or converting a ship or vessel that is of eight or more tons displacement and that is used exclusively and directly in a commercial enterprise;

(4) materials and supplies purchased by the owner or operator of a ship or vessel operating exclusively in foreign or interstate coastal commerce if the materials and supplies:

(A) are loaded on the ship or vessel and used in the maintenance and operation of the ship or vessel; or

(B) enter into and become component parts of the ship or vessel; and

(5) materials and supplies purchased by a person providing stevedoring services for a ship or vessel operating exclusively in foreign or interstate coastal commerce if the materials and supplies are loaded aboard the ship or vessel and are not removed before the departure of the ship or vessel.

Acts 1981, 67th Leg., p. 1568, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 230, Sec. 1, eff. July 1, 1995.

Sec. 151.3291. BOATS AND BOAT MOTORS. (a) The sale, other than the lease or rental, and the storage, use, or other consumption of a taxable boat or motor is exempt from the taxes imposed by this chapter.

(b) In this section, "taxable boat or motor" has the meaning assigned by Section 160.001.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.02, eff. Oct. 1, 1991.

Sec. 151.330. INTERSTATE SHIPMENTS, COMMON CARRIERS, AND SERVICES ACROSS STATE LINES. (a) The sale of tangible personal property that under the sales contract is shipped to a point outside

this state is exempted from the sales tax imposed by Subchapter C of this chapter if the shipment is made by the seller by means of:

(1) the facilities of the seller;

(2) delivery by the seller to a carrier for shipment to a consignee at a point outside this state; or

(3) delivery by the seller to a forwarding agent for shipment to a location in another state of the United States or its territories or possessions.

(b) The temporary storage of tangible personal property acquired outside this state and then moved into this state is exempted from the use tax imposed by Subchapter D of this chapter if after being moved into this state the property is stored here temporarily and:

(1) is used solely outside this state; or

(2) is physically attached to or incorporated into other tangible personal property that is used solely outside this state.

(c) The storage, use, or other consumption of tangible personal property that is acquired outside this state is exempted from the use tax imposed by Subchapter D of this chapter if the sale, use, or storage of the property would be exempted from the taxes imposed by this chapter had it been sold, leased, or rented in this state.

(d) If, pursuant to Subdivision (2) of Subsection (a) of this section a delivery is made to a carrier for shipment to a location outside the United States, then the seller must maintain the same documents required by Subsection (b) of Section 151.307 of this chapter.

(e) Services performed for use outside this state are exempt from the tax imposed by Subchapter C of this chapter.

(f) Services performed for use both within and outside this state are exempt to the extent the services are for use outside this state and made taxable on or after September 1, 1987.

(g) The exemption provided by Subsections (e) and (f) of this section do not apply to services performed outside this state for use within this state.

(h) The sale of tangible personal property to a common

carrier is exempted from the sales tax imposed by Subchapter C if the tangible personal property:

(1) is shipped to a point outside this state using the purchasing carrier's facilities under a bill of lading; and

(2) is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier outside this state.

(i) The storage or use of tangible personal property acquired outside this state for use as a repair or replacement part for and actually affixed in this state to a self-propelled vehicle that is used as a licensed and certificated common carrier of persons or property is exempted from the use tax imposed by Subchapter D.

Acts 1981, 67th Leg., p. 1568, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 74, Sec. 1, eff. Oct. 1, 1985; Acts 1985, 69th Leg., ch. 235, Sec. 2, 3, eff. Aug. 26, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 28; Acts 1993, 73rd Leg., ch. 587, Sec. 16, eff. Oct. 1, 1993; Acts 1997, 75th Leg., ch. 1040, Sec. 24, eff. Oct. 1, 1997.

Sec. 151.331. ROLLING STOCK; TRAIN FUEL AND SUPPLIES. (a) Rolling stock, locomotives, and fuel and supplies essential to the operation of locomotives and trains are exempted from the taxes imposed by this chapter.

(b) Electricity, natural gas, and other fuels used or consumed predominately in the repair, maintenance, or restoration of rolling stock are exempt from the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1569, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1025, Sec. 1, eff. Oct. 1, 1995.

Sec. 151.332. CERTAIN SALES BY SENIOR CITIZEN ORGANIZATIONS. (a) There are exempted from the sales tax imposed by Subchapter C of this chapter the receipts from the sale of tangible personal property that has been manufactured, produced, made, or assembled exclusively by a person 65 years old or older and that is sold at a qualified sale. A sale under this section

qualifies for the exemption only if it is made as a part of a fund-raising drive held or sponsored by a nonprofit organization created for the sole purpose of providing assistance to elderly persons. All of the net proceeds derived from sales made during the fund-raising drive must go to the organization, to the persons who manufactured, produced, made, or assembled the items sold, or to both. An organization created for the purpose of providing assistance to the elderly is entitled to conduct not more than four separate tax exempt fund-raising drives during each calendar year, and the aggregate number of days during a calendar year during which one or more tax exempt fund-raising drives may be held by the organization is 20. Any sale occurring after the end of the fourth separate fund-raising drive in a calendar year or after the 20th day on which a fund-raising drive is held in a calendar year is not exempted by this section.

(b) There are exempted from the taxes imposed by this chapter the use, storage, or other consumption in this state of tangible personal property by a purchaser at a sale exempted by this section.

Added by Acts 1981, 67th Leg., p. 2771, ch. 752, Sec. 7(b), eff. Jan. 1, 1982.

Sec. 151.333. ENERGY-EFFICIENT PRODUCTS. (a) In this section, "energy-efficient product" means a product that has been designated as an Energy Star qualified product under the Energy Star program jointly operated by the United States Environmental Protection Agency and the United States Department of Energy.

(b) This section applies only to the following energy-efficient products:

(1) an air conditioner the sales price of which does not exceed $6,000;

(2) a clothes washer;

(3) a ceiling fan;

(4) a dehumidifier;

(5) a dishwasher;

(6) an incandescent or fluorescent lightbulb;

(7) a programmable thermostat; and

(8) a refrigerator the sales price of which does not exceed $2,000.

(c) The sale of an energy-efficient product to which this section applies is exempted from the taxes imposed by this chapter if the sale takes place during a period beginning at 12:01 a.m. on the Saturday preceding the last Monday in May (Memorial Day) and ending at 11:59 p.m. on the last Monday in May.

Added by Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 16, eff. September 1, 2007.

Sec. 151.3335. WATER-EFFICIENT PRODUCTS. (a) In this section:

(1) "Water-conserving product":

(A) means tangible personal property that:

(i) is used on private residential property and is not used for business or trade; and

(ii) when used or planted in an outdoor residential property, may result in:

(a) water conservation or groundwater retention;

(b) water table recharge; or

(c) a decrease in ambient air temperature that limits water evaporation; and

(B) includes:

(i) a soaker or drip-irrigation hose;

(ii) a moisture control for a sprinkler or irrigation system;

(iii) mulch;

(iv) a rain barrel or an alternative rain and moisture collection system; and

(v) a permeable ground cover surface that allows water to reach underground basins, aquifers, or water collection points. "WaterSense product" means a product that has been designated as a WaterSense certified product under the WaterSense program operated by the United States Environmental Protection Agency, or a similar successor program.

(b) The sale of a water-conserving product or WaterSense

product is exempted from the taxes imposed by this chapter if the sale takes place during the period described by Section 151.333(c).
Added by Acts 2015, 84th Leg., R.S., Ch. 1197 (S.B. 1356), Sec. 1, eff. October 1, 2015.

Sec. 151.334. COMPONENTS OF TANGIBLE PERSONAL PROPERTY USED IN CONNECTION WITH SEQUESTRATION OF CARBON DIOXIDE. Components of tangible personal property used in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, or a clean energy project, as defined by Section 120.001, Natural Resources Code, are exempted from the taxes imposed by this chapter if:

(1) the components are installed to capture carbon dioxide from an anthropogenic emission source, transport or inject carbon dioxide from such a source, or prepare carbon dioxide from such a source for transportation or injection; and

(2) the carbon dioxide is sequestered in this state:

(A) as part of an enhanced oil recovery project that qualifies for a tax rate reduction under Section 202.0545, as provided by Subsection (c) of that section; or

(B) in a manner and under conditions that create a reasonable expectation that at least 99 percent of the carbon dioxide will remain sequestered from the atmosphere for at least 1,000 years.

Added by Acts 2009, 81st Leg., R.S., Ch. 1109 (H.B. 469), Sec. 4, eff. September 1, 2009.

Sec. 151.336. CERTAIN COINS AND PRECIOUS METALS. The sale of gold, silver, or numismatic coins or of platinum, gold, or silver bullion is exempted from the taxes imposed by this chapter.

Added by Acts 1989, 71st Leg., ch. 231, Sec. 7, eff. Aug. 28, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 844 (H.B. 78), Sec. 1, eff. October 1, 2013.

Sec. 151.337. SALES BY OR TO INDIAN TRIBES. (a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, a

tribal council or a business owned by a tribal council of the Alabama-Coushatta Indian Tribe, the Tigua Indian Tribe, or the Texas Band of Kickapoo Indians is exempted from the taxes imposed by this chapter.

(b) A taxable item sold, leased, or rented by a tribal council or a business owned by a tribal council of the Alabama-Coushatta Indian Tribe, the Tigua Indian Tribe, or the Texas Band of Kickapoo Indians is exempted from the taxes imposed by this chapter if the item is:

(1) made by a member of the Indian tribe;

(2) a cultural artifact of the Indian tribe; and

(3) sold at a location within the boundaries of a reservation or of trust land held by such an Indian tribe.

(c) The storage, use, or consumption of a taxable item acquired in a transaction exempted by Subsection (b) of this section is exempted from the use tax imposed by Subchapter D of this chapter until the item is resold or subsequently transferred.

Added by Acts 1983, 68th Leg., p. 4870, ch. 859, Sec. 2, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 717, Sec. 11, eff. Sept. 1, 1985.

Sec. 151.338. ENVIRONMENT AND CONSERVATION SERVICES. (a) Subject to Subsections (b) and (c), labor to repair, remodel, maintain, or restore tangible personal property is exempted from the taxes imposed by this chapter if:

(1) the repair, remodeling, maintenance, or restoration is required by statute, ordinance, order, rule, or regulation of any commission, agency, court, or political, governmental, or quasi-governmental entity in order to protect the environment or to conserve energy; and

(2) the charge for the labor is itemized separately from the charge for materials furnished.

(b) The exemption provided by Subsection (a) does not apply to the charge for materials furnished by the service provider to the purchaser as part of the service.

(c) Sixty-five percent of a lump-sum charge for labor and materials to repair, remodel, maintain, or restore tangible

personal property is exempted from the taxes imposed by this chapter if:

(1) the repair, remodeling, maintenance, or restoration is required under the circumstances described by Subsection (a)(1); and

(2) the labor and materials are purchased for a health care facility, as defined by Section 108.002, Health and Safety Code, or for an oncology center.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 16, eff. Oct. 2, 1984.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 638 (S.B. 1525), Sec. 4, eff. June 10, 2019.

Sec. 151.339. PREEXISTING CONTRACTS AND BIDS. The receipts from the sale, use, or rental of and the storage, use, or consumption in this state of taxable services are exempt from the tax imposed by this chapter, if:

(1) the services are used for the performance of a written contract entered into prior to the date this chapter takes effect if the contract is not subject to change or modification by reason of the tax; or

(2) the services are used pursuant to an obligation of a bid or bids submitted prior to the date this chapter takes effect if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this chapter; and

(3) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the comptroller within 60 days from the date this chapter takes effect.

The exemption provided by this section shall have no effect after September 30, 1987.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 18, eff. Oct. 2, 1984.

Sec. 151.340. OFFICIAL STATE COIN. Official state coins produced under Section 11.05, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), are exempted

from the taxes imposed by this chapter.

Added by Acts 1987, 70th Leg., ch. 910, Sec. 2, eff. Aug. 31, 1987.

Sec. 151.341. ITEMS SOLD TO OR USED BY DEVELOPMENT CORPORATIONS. (a) A taxable item sold, leased, or rented to or stored, used, or consumed by a nonprofit corporation formed under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code), is exempted from the taxes imposed by this chapter if the item is for the exclusive use and benefit of the nonprofit corporation.

(b) The exemption provided by this section does not apply to an item that is a project or a part of a project that is to be leased, sold, or lent by the nonprofit corporation.

Added by Acts 1983, 68th Leg., p. 1038, ch. 235, art. 7, Sec. 1(a), eff. Sept. 1, 1983. Renumbered from Sec. 151.333 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(52), eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.71, eff. April 1, 2009.

Sec. 151.3415. ITEMS SOLD TO OR USED TO CONSTRUCT, MAINTAIN, EXPAND, IMPROVE, EQUIP, OR RENOVATE MEDIA PRODUCTION FACILITIES AT MEDIA PRODUCTION LOCATIONS; REPORT. (a) In this section, "qualified person" and "qualified media production location" have the meanings assigned by Section 485A.002, Government Code.

(b) The sale, lease, or rental of a taxable item to a qualified person is exempted from the taxes imposed by this chapter for a maximum of two years if the item is used:

(1) for the construction, maintenance, expansion, improvement, or renovation of a media production facility at a qualified media production location;

(2) to equip a media production facility at a qualified media production location; or

(3) for the renovation of a building or facility at a qualified media production location that is to be used exclusively as a media production facility.

(c) A qualified person shall submit an annual report to the comptroller regarding the sale, lease, or rental of taxable items for which a tax exemption is granted to the qualified person under this section. The report must be in the form and manner prescribed by the comptroller.

(d) The comptroller shall share information from reports submitted under Subsection (c), on request, with the Music, Film, Television, and Multimedia Office within the office of the governor.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 2, eff. September 1, 2009.

Sec. 151.342. AGRIBUSINESS ITEMS. (a) There are exempted from the tax imposed by this chapter bins used exclusively as containers in transporting fruit or vegetables from the field or place of harvest to a location where the items are processed, packaged, or marketed.

(b) There are exempted from the tax imposed by this chapter poultry cages used exclusively as containers in transporting poultry from a poultry farm to a location where the poultry is processed, packaged, or marketed.

Added by Acts 1983, 68th Leg., p. 5052, ch. 913, Sec. 1, eff. Aug. 29, 1983. Renumbered from Sec. 151.333 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(52), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 19, eff. Oct. 1, 1995.

Sec. 151.343. ANIMALS SOLD BY NONPROFIT ANIMAL SHELTERS OR NONPROFIT ANIMAL WELFARE ORGANIZATIONS. The sale, including the acceptance of a fee for adoption, of an animal by a nonprofit animal shelter, as that term is defined by Section 823.001, Health and Safety Code, or a nonprofit animal welfare organization, as that term is defined by Section 821.021, Health and Safety Code, is exempted from the taxes imposed by this chapter.

Added by Acts 1999, 76th Leg., ch. 247, Sec. 1, eff. July 1, 1999.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 293 (S.B. 197), Sec. 1, eff. October 1, 2021.

Sec. 151.344. POST EXCHANGES ON STATE MILITARY PROPERTY. (a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, a post exchange under Section 437.110, Government Code, is exempt from the taxes imposed by this chapter.

(b) A taxable item sold, leased, or rented by a post exchange under Section 437.110, Government Code, is exempt from the taxes imposed by this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1110 (S.B. 1732), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.21, eff. September 1, 2013.

Sec. 151.346. INTERCORPORATE SERVICES. (a) There are exempt from the taxes imposed by this chapter service transactions among affiliated entities, at least one of which is a corporation, that report their income to the Internal Revenue Service on a single consolidated return for the tax year in which the transaction occurs.

(b) For purposes of this section, "affiliated entity" includes an entity that would be classified as a member of an affiliated group under 26 U.S.C. Section 1504 but for the exclusions provided by that section.

(c) An exemption authorized by this section does not apply to a service that would have been taxable under this chapter as it existed on September 1, 1987.

(d) Services that are exempt under this section may not be purchased for resale by the providing company.

(e) Tangible personal property that is transferred as an integral part of a service exempted under this section may not be purchased for resale by the providing company.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 29. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 17, eff. Sept. 1, 1991.

Sec. 151.347. CERTAIN LAWN AND YARD SERVICE. There are

exempted from the taxes imposed by this chapter lawn mowing and other yard maintenance:

(1) performed by an individual younger than 18 years of age whose total receipts from taxable services described by Section 151.0048(1) or (2) of this code in the most recent four calendar quarters do not exceed $5,000;

(2) performed by an individual 65 years of age or older whose total receipts from taxable services described by Section 151.0048(1) or (2) of this code in the most recent four calendar quarters do not exceed $5,000; or

(3) performed by an individual:

(A) who is self-employed; and

(B) whose total receipts from taxable services described by Section 151.0048(1) or (2) of this code in the most recent four calendar quarters do not exceed $5,000.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 30. Amended by Acts 1989, 71st Leg., ch. 365, Sec. 1, eff. Oct. 1, 1989; Acts 1995, 74th Leg., ch. 308, Sec. 1, eff. July 1, 1995.

Sec. 151.348. COOPERATIVE RESEARCH AND DEVELOPMENT VENTURES. (a) There are exempted from the taxes imposed by this chapter items sold in connection with a joint research and development venture as defined by 15 U.S.C. Section 4301 that are sold by the joint research and development venture to a participating entity, if the items are created, developed, or substantially modified by or for the joint research and development venture, including items developed as a result of research and/or development agreements entered into by the joint research and development venture with third parties.

(b) There are exempted from the taxes imposed by this chapter items purchased by, and to carry out the purpose of, a joint research and development venture, as defined by 15 U.S.C. Section 4301, notice of whose establishment and participants was first published in the Federal Register on January 17, 1985, or May 19, 1988, if the items have a useful life in excess of six months when placed in service by the joint research and development venture.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec.

31. Amended by Acts 1989, 71st Leg., ch. 334, Sec. 1, eff. Aug. 28, 1989.

Sec. 151.350. LABOR TO RESTORE CERTAIN PROPERTY. (a) Labor to restore real or tangible personal property is exempted from the taxes imposed by this chapter if:

(1) the amount of the charge for labor is separately itemized; and

(2) the restoration is performed on property damaged within a disaster area by the condition that caused the area to be declared a disaster area.

(b) The exemption under this section does not apply to tangible personal property transferred by the service provider to the purchaser as part of the service.

(c) In this section, "disaster area" means:

(1) an area declared a disaster area by the governor under Chapter 418, Government Code; or

(2) an area declared a disaster area by the president of the United States under 42 U.S.C. Section 5141.

(d) In this section, "restore" means:

(1) launder, clean, repair, treat, or apply protective chemicals to an item, to the extent the service is a personal service as defined in Section 151.0045; and

(2) repair, restore, or remodel, to the extent the service is:

(A) a real property repair or remodeling service as defined in Section 151.0047; or

(B) defined as a taxable service in Section 151.0101(a)(5).

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 17, eff. Oct. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 20, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.22, eff. Oct. 1, 1999.

Sec. 151.3501. LABOR TO RESTORE, REPAIR, OR REMODEL HISTORIC SITES. (a) Labor to restore, repair, or remodel an improvement to real property is exempted from the taxes imposed by this chapter if:

(1) the amount of the charge for labor is separately itemized; and

(2) the restoration, repair, or remodeling is performed on an improvement to real property listed in the National Register of Historic Places.

(b) The exemption provided by this section does not apply to tangible personal property transferred by the service provider to the purchaser as part of the service.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 23, eff. Oct. 1, 2003.

Sec. 151.3503. SERVICES BY EMPLOYEES. (a) The following are exempted from the taxes imposed by this chapter:

(1) a service performed by an employee for the employee's employer in the regular course of business, within the scope of the employee's duties, and for which the employee is paid regular wages or salary;

(2) a service performed by an employee of a temporary employment service for a host employer to supplement the host employer's existing work force on a temporary basis, if:

(A) the service is normally performed by the host employer's own employees;

(B) the host employer provides all supplies and equipment necessary to perform the service, other than personal protective equipment provided by the temporary employment service pursuant to a federal law or regulation;

(C) the host employer does not rent, lease, purchase, or otherwise acquire for use the supplies and equipment described by Paragraph (B), other than the personal protective equipment described by that paragraph, from the temporary employment service or an entity that is a member of an affiliated group of which the temporary employment service is also a member; and

(D) the host employer has the sole right to supervise, direct, and control the work performed by the employee of the temporary employment service as necessary to conduct the host employer's business or to comply with any licensing, statutory, or regulatory requirement applicable to the host

employer; or

(3) a service performed by covered employees of a professional employer organization, either licensed under Chapter 91, Labor Code, or exempt from the licensing requirements of that chapter, for a client under a written contract that provides for shared employment responsibilities between the professional employer organization and the client for the covered employees, most of whom must have been previously employed by the client.

(b) The comptroller shall prescribe by rule the minimum percentage of covered employees that must have been previously employed by the client, the minimum time period the covered employees must have been employed by the client prior to the commencement of its contract, and such other criteria as the comptroller may deem necessary to properly implement Subsection (a)(3).

(c) In this section:

(1) "Affiliated group" has the meaning assigned by Section 171.0001.

(2) "Host employer" means the employer who owns, manages, or controls the property or worksite where an employee of a temporary employment service performs a service.

(3) "Temporary employment service" has the meaning assigned by Section 93.001, Labor Code.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 6, Sec. 9, eff. Oct. 2, 1984. Amended by Acts 1989, 71st Leg., ch. 254, Sec. 1, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1040, Sec. 18, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 14, eff. Oct. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 117 (S.B. 1286), Sec. 22, eff. September 1, 2013.

Transferred, redesignated and amended from Tax Code, Section 151.057 by Acts 2017, 85th Leg., R.S., Ch. 573 (S.B. 745), Sec. 1, eff. September 1, 2017.

Sec. 151.351. INFORMATION SERVICES AND DATA PROCESSING SERVICES. There is exempted from the taxes imposed by this chapter 20 percent of the value of information services and data processing

services.

Added by Acts 1999, 76th Leg., ch. 394, Sec. 8, eff. Oct. 1, 1999.

Sec. 151.353. COURT REPORTING SERVICES. (a) Court reporting services relating to the preparation of a document or other record in a civil or criminal suit by a notary public or a court reporter licensed by the Judicial Branch Certification Commission are exempted from the taxes imposed by this chapter if the document is:

(1) prepared for the use of a person participating in a suit or the court in which a suit or administrative proceeding is brought; and

(2) sold to a person participating in the suit.

(b) Court reporting services covered by this section include services in the preparation of a:

(1) deposition or discovery document;

(2) transcript of testimony; and

(3) statement of facts.

(c) The exemption provided by this section applies to a document or record on audio or video tape or a computer readable format and courtroom presentation of same.

(d) Court reporting services by a video photographer who is not a court reporter and who videotapes or films a deposition, testimony, discovery document, or statement of fact pertaining to a civil or criminal suit are exempted from the taxes imposed by this chapter if the services are provided and sold as described by Subsections (a)(1) and (2).

Added by Acts 1995, 74th Leg., ch. 973, Sec. 1, eff. Oct. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 25, eff. Oct. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 2.28, eff. September 1, 2014.

Sec. 151.354. SERVICES BY EMPLOYEES OF PROPERTY MANAGEMENT COMPANIES. (a) There are exempted from the taxes imposed by this chapter services performed by an employee of a property management

company if:

(1) the employee is permanently assigned to one rental property by the property management company;

(2) the property management company is reimbursed on a dollar-for-dollar basis for the services provided; and

(3) the employee remains assigned to that property while employed by successive owners or management companies.

(b) This exemption does not apply to services performed by an employee for properties other than the one to which the employee is permanently assigned.

(c) For purposes of this section, a person is an employee of a property management company if either the property management company or an affiliate of the property management company employs the person.

(d) The property management company must:

(1) be contractually obligated to the property owner to exercise control over the activities of the employee providing the service; and

(2) manage and direct the employee's day-to-day activities.

(e) The property management company or the affiliate must pay tax on the taxable items purchased and provided to employees providing services on managed property.

(f) In this section, "property management company" means a person:

(1) who, for consideration, operates and manages all the activities at a property held by the owner for purposes of rental, including an office building, mall, or other retail or office complex, an apartment complex, a duplex, or a home; and

(2) whose responsibilities include securing tenants, hiring, and supervising employees for operation or upkeep of the property, receiving and applying revenues, and incurring and paying expenses derived from the operation of the property as directed by the owner.

(g) In this section, a corporation, limited liability company, partnership, trust, or estate is an affiliate of the property management company if an 80 percent ownership interest in

the property management company or the corporation, limited liability company, partnership, trust, or estate is held by the other, or if a third person has an 80 percent ownership interest either directly or indirectly in both the property management company and the corporation, limited liability company, partnership, trust, or estate.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 2.23, eff. Oct. 1, 1999.

Sec. 151.355. WATER-RELATED EXEMPTIONS. The following are exempted from taxes imposed by this chapter:

(1) rainwater harvesting equipment or supplies, water recycling and reuse equipment or supplies, or other equipment, services, or supplies used solely to reduce or eliminate water use;

(2) equipment, services, or supplies used solely for desalination of surface water or groundwater;

(3) equipment, services, or supplies used solely for brush control designed to enhance the availability of water;

(4) equipment, services, or supplies used solely for precipitation enhancement;

(5) equipment, services, or supplies used solely to construct or operate a water or wastewater system certified by the Texas Commission on Environmental Quality as a regional system;

(6) equipment, services, or supplies used solely to construct or operate a water supply or wastewater system by a private entity as a public-private partnership as certified by the political subdivision that is a party to the project; and

(7) tangible personal property specifically used to process, reuse, or recycle wastewater that will be used in fracturing work performed at an oil or gas well.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.25, eff. Sept. 1, 2001, and Acts 2001, 77th Leg., ch. 1234, Sec. 39. Amended by Acts 2003, 78th Leg., ch. 209, Sec. 24, eff. Oct. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1352 (H.B. 4), Sec. 14, eff. June 15, 2007.

Sec. 151.356. OFFSHORE SPILL RESPONSE CONTAINMENT PROPERTY. (a) In this section, "offshore spill response containment property" means tangible personal property:

(1) described by Section 11.271(c);

(2) owned or leased by an entity described by Section 11.271(f); and

(3) used or intended to be used solely in an offshore spill response containment system as defined by Section 11.271(a).

(b) This section does not apply to an item used, wholly or partly, for the exploration for or production of oil, gas, sulfur, or other minerals, including the equipment, piping, casing, and other components of an oil or gas well. For purposes of this subsection, the offshore capture of fugitive oil, gas, sulfur, or other minerals that is entirely incidental to the item's temporary use as an offshore spill response containment system is not considered to be production of those substances.

(c) The sale, lease, rental, storage, use, or other consumption by an entity described by Section 11.271(f) of offshore spill response containment property used solely for the purposes described by Section 11.271(c) and this section is exempted from the taxes imposed by this chapter.

(d) A service performed exclusively on offshore spill response containment property is exempted from the taxes imposed by this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 942 (H.B. 1712), Sec. 3, eff. June 14, 2013.

Sec. 151.3565. EMERGENCY PREPARATION SUPPLIES FOR LIMITED PERIOD. (a) The sale of an emergency preparation item is exempted from the taxes imposed by this chapter if the sale takes place during a period beginning at 12:01 a.m. on the Saturday before the last Monday in April and ending at 12 midnight on the last Monday in April.

(b) For purposes of this section, "emergency preparation item" means:

(1) a portable generator used to provide light or communications or to preserve perishable food in the event of a

power outage, the sales price of which is less than $3,000;

(2) an item listed in this subdivision, the sales price of which is less than $300:

(A) a storm protection device manufactured, rated, and marketed specifically to prevent damage to a glazed or non-glazed opening during a storm; or

(B) an emergency or rescue ladder; or

(3) an item listed in this subdivision, the sales price of which is less than $75:

(A) a reusable or artificial ice product;

(B) a portable, self-powered light source;

(C) a gasoline or diesel fuel container;

(D) a AAA cell, AA cell, C cell, D cell, 6 volt, or 9 volt battery, or a package containing more than one battery, other than an automobile or boat battery;

(E) a nonelectric cooler or ice chest for food storage;

(F) a tarpaulin or other flexible waterproof sheeting;

(G) a ground anchor system or tie-down kit;

(H) a mobile telephone battery or battery charger;

(I) a portable self-powered radio, including a two-way radio or weatherband radio;

(J) a fire extinguisher, smoke detector, or carbon monoxide detector;

(K) a hatchet or axe;

(L) a self-contained first aid kit; or

(M) a nonelectric can opener.

Added by Acts 2015, 84th Leg., R.S., Ch. 475 (S.B. 904), Sec. 1, eff. September 1, 2015.

Sec. 151.359. PROPERTY USED IN CERTAIN DATA CENTERS; TEMPORARY EXEMPTION. (a) In this section:

(1) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent four quarterly periods for which data is available, as computed by the

Texas Workforce Commission, at the time a data center creates a job used to qualify under this section.

(2) "Data center" means at least 100,000 square feet of space in a single building or portion of a single building, which space:

(A) is located in this state;

(B) is specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data;

(C) is used by a single qualifying occupant for the processing, storage, and distribution of data;

(D) is not used primarily by a telecommunications provider to place tangible personal property that is used to deliver telecommunications services; and

(E) has an uninterruptible power source, generator backup power, a sophisticated fire suppression and prevention system, and enhanced physical security that includes restricted access, video surveillance, and electronic systems.

(3) "Permanent job" means an employment position that will exist for at least five years after the date the job is created.

(4) "Qualifying data center" means a data center that meets the qualifications prescribed by Subsection (d).

(5) "Qualifying job" means a full-time, permanent job that pays at least 120 percent of the county average weekly wage in the county in which the job is based. The term includes a new employment position staffed by a third-party employer if a written contract exists between the third-party employer and a qualifying owner, qualifying operator, or qualifying occupant that provides that the employment position is permanently assigned to an associated qualifying data center.

(6) "Qualifying operator" means a person who controls access to a qualifying data center, regardless of whether that person owns each item of tangible personal property located at the qualifying data center. A qualifying operator may also be the qualifying owner.

(7) "Qualifying owner" means a person who owns the building in which a qualifying data center is located. A qualifying owner may also be the qualifying operator.

(8) "Qualifying occupant" means a person who:

(A) contracts with a qualifying owner or qualifying operator to place, or cause to be placed, and to use tangible personal property at the qualifying data center; or

(B) in the case of a qualifying occupant who is also the qualifying owner and the qualifying operator, places or causes to be placed, and uses tangible personal property at the qualifying data center.

(b) Except as otherwise provided by this section, tangible personal property that is necessary and essential to the operation of a qualified data center is exempted from the taxes imposed by this chapter if the tangible personal property is purchased for installation at, incorporation into, or in the case of Subdivision (1), use in a qualifying data center by a qualifying owner, qualifying operator, or qualifying occupant, and the tangible personal property is:

(1) electricity;

(2) an electrical system;

(3) a cooling system;

(4) an emergency generator;

(5) hardware or a distributed mainframe computer or server;

(6) a data storage device;

(7) network connectivity equipment;

(8) a rack, cabinet, and raised floor system;

(9) a peripheral component or system;

(10) software;

(11) a mechanical, electrical, or plumbing system that is necessary to operate any tangible personal property described by Subdivisions (2)-(10);

(12) any other item of equipment or system necessary to operate any tangible personal property described by Subdivisions (2)-(11), including a fixture; and

(13) a component part of any tangible personal

property described by Subdivisions (2)-(10).

(c) The exemption provided by this section does not apply to:

(1) office equipment or supplies;

(2) maintenance or janitorial supplies or equipment;

(3) equipment or supplies used primarily in sales activities or transportation activities;

(4) tangible personal property on which the purchaser has received or has a pending application for a refund under Section 151.429;

(5) tangible personal property not otherwise exempted under Subsection (b) that is incorporated into real estate or into an improvement of real estate;

(6) tangible personal property that is rented or leased for a term of one year or less; or

(7) notwithstanding Section 151.3111, a taxable service that is performed on tangible personal property exempted under this section.

(d) Subject to Subsection (k), a data center may be certified by the comptroller as a qualifying data center for purposes of this section if, on or after September 1, 2013:

(1) a single qualifying occupant:

(A) contracts with a qualifying owner or qualifying operator to lease space in which the qualifying occupant will locate a data center; or

(B) occupies a space that was not previously used as a data center in which the qualifying occupant will locate a data center, in the case of a qualifying occupant who is also the qualifying operator and the qualifying owner; and

(2) the qualifying owner, qualifying operator, or qualifying occupant, jointly or independently:

(A) creates at least 20 qualifying jobs in the county in which the data center is located, not including jobs moved from one county in this state to another county in this state; and

(B) makes or agrees to make a capital investment, on or after September 1, 2013, of at least $200 million in that particular data center over a five-year period beginning on the

date the data center is certified by the comptroller as a qualifying data center.

(e) A data center that is eligible under Subsection (d) to be certified by the comptroller as a qualified data center shall apply to the comptroller for certification as a qualifying data center and for issuance of a registration number or numbers by the comptroller. The application must be made on a form prescribed by the comptroller and include the information required by the comptroller. The application must include the name and contact information for the qualifying occupant and, if applicable, the name and contact information for the qualifying owner and the qualifying operator who will claim the exemption authorized under this section. The application form must include a section for the applicant to certify that the capital investment required by Subsection (d)(2)(B) will be met independently or jointly by the qualifying occupant, qualifying owner, or qualifying operator within the time period prescribed by Subsection (d)(2)(B).

(f) The exemption provided by this section begins on the date the data center is certified by the comptroller as a qualifying data center and expires:

(1) on the 10th anniversary of that date, if the qualifying occupant, qualifying owner, or qualifying operator independently or jointly makes a capital investment of at least $200 million but less than $250 million as provided by Subsection (d)(2)(B); or

(2) on the 15th anniversary of that date, if the qualifying occupant, qualifying owner, or qualifying operator independently or jointly makes a capital investment of $250 million or more as provided by Subsection (d)(2)(B).

(g) Each person who is eligible to claim an exemption authorized by this section must hold a registration number issued by the comptroller. The registration number must be stated on the exemption certificate provided by the purchaser to the seller of tangible personal property eligible for the exemption.

(h) The comptroller shall revoke all registration numbers issued in connection with a qualifying data center that the comptroller determines does not meet the requirements prescribed by

Subsection (d). Each person who has the person's registration number revoked by the comptroller is liable for taxes, including penalty and interest from the date of purchase, imposed under this chapter on purchases for which the person claimed an exemption under this section, regardless of whether the purchase occurred before the date the registration number was revoked.

(i) The comptroller shall adopt rules consistent with and necessary to implement this section, including rules relating to:

(1) a qualifying data center, qualifying owner, qualifying operator, and qualifying occupant;

(2) issuance and revocation of a registration number required under this section; and

(3) reporting and other procedures necessary to ensure that a qualifying data center, qualifying owner, qualifying operator, and qualifying occupant comply with this section and remain entitled to the exemption authorized by this section.

(j) The exemption in this section does not apply to the taxes imposed under Chapter 321, 322, or 323.

(k) A data center is not eligible to receive an exemption under this section if the data center is subject to an agreement limiting the appraised value of the data center's property under former Subchapter B or C, Chapter 313.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 378 (H.B. 4038), Sec. 1, eff. June 1, 2017.

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 19.002(a), eff. September 1, 2025.

Sec. 151.3595. PROPERTY USED IN CERTAIN LARGE DATA CENTER PROJECTS; TEMPORARY EXEMPTION. (a) In this section:

(1) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent four quarterly periods for which data is available, as computed by the Texas Workforce Commission, at the time a large data center project creates a job used to qualify under this section.

(2) "Large data center project" means a project that:

(A) is located in this state;

(B) is composed of one or more buildings comprising at least 250,000 square feet of space located or to be located on a single parcel of land or on contiguous parcels of land that are commonly owned or owned by affiliation with the qualifying operator;

(C) is specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data;

(D) is used by a single qualifying occupant for the processing, storage, and distribution of data;

(E) is not used primarily by a telecommunications provider to place tangible personal property used to deliver telecommunications services; and

(F) has an uninterruptible power source, a backup generator, a fire suppression and prevention system, and physical security that includes restricted access, video surveillance, and electronic systems.

(3) "Permanent job" means an employment position that will exist for at least five years after the date the job is created.

(4) "Qualifying job" means a full-time, permanent job that pays at least 120 percent of the county average weekly wage in the county in which the job is based. The term includes a new employment position staffed by a third-party employer if a written contract exists between the third-party employer and a qualifying owner, qualifying operator, or qualifying occupant that provides that the employment position is permanently assigned to an associated qualifying large data center project.

(5) "Qualifying large data center project" means a large data center project that meets the qualifications prescribed by Subsection (d).

(6) "Qualifying operator" means a person who controls access to a qualifying large data center project, regardless of whether that person owns each item of tangible personal property

located at the qualifying large data center project. A qualifying operator may also be the qualifying owner.

(7) "Qualifying owner" means a person who owns a building in which a qualifying large data center project is located. A qualifying owner may also be the qualifying operator.

(8) "Qualifying occupant" means a person who:

(A) contracts with a qualifying owner or qualifying operator to place, or cause to be placed, and to use tangible personal property at the qualifying large data center project; or

(B) in the case of a qualifying occupant who is also the qualifying owner and the qualifying operator, places or causes to be placed and uses tangible personal property at the qualifying large data center project.

(b) Except as otherwise provided by this section, tangible personal property that is necessary and essential to the operation of a qualifying large data center project is exempted from the taxes imposed by this chapter if the tangible personal property is purchased for installation at, incorporation into, or in the case of electricity, use in a qualifying large data center project by a qualifying owner, qualifying operator, or qualifying occupant, and the tangible personal property is:

(1) electricity;

(2) an electrical system;

(3) a cooling system;

(4) an emergency generator;

(5) hardware or a distributed mainframe computer or server;

(6) a data storage device;

(7) network connectivity equipment;

(8) a rack, cabinet, and raised floor system;

(9) a peripheral component or system;

(10) software;

(11) a mechanical, electrical, or plumbing system that is necessary to operate any tangible personal property described by Subdivisions (2)-(10);

(12) any other item of equipment or system necessary

to operate any tangible personal property described by Subdivisions (2)-(11), including a fixture; and

(13) a component part of any tangible personal property described by Subdivisions (2)-(10).

(c) The exemption provided by this section does not apply to:

(1) office equipment or supplies;

(2) maintenance or janitorial supplies or equipment;

(3) equipment or supplies used primarily in sales activities or transportation activities;

(4) tangible personal property on which the purchaser has received or has a pending application for a refund under Section 151.429;

(5) tangible personal property not otherwise exempted under Subsection (b) that is incorporated into real estate or into an improvement of real estate;

(6) tangible personal property that is rented or leased for a term of one year or less; or

(7) notwithstanding Section 151.3111, a taxable service that is performed on tangible personal property exempted under this section.

(d) Subject to Subsection (j), a large data center project may be certified by the comptroller as a qualifying large data center project for purposes of this section if, on or after June 1, 2015:

(1) a single qualifying occupant:

(A) contracts with a qualifying owner or qualifying operator to lease space in which the qualifying occupant will locate a large data center project; or

(B) occupies a space that was not previously used as a data center in which the qualifying occupant will locate a large data center project, in the case of a qualifying occupant who is also the qualifying operator and the qualifying owner; and

(2) the qualifying owner, qualifying operator, or qualifying occupant, independently or jointly:

(A) creates at least 40 qualifying jobs in the county in which the large data center project is located, not

including jobs moved from one county in this state to another county in this state;

(B) on or after May 1, 2015, makes or agrees to make a capital investment of at least $500 million in that particular large data center project, the amount of which may not include a capital investment to replace personal property previously placed in service in that large data center project, over a five-year period beginning on the earlier of:

(i) the date the large data center project submits the application described by Subsection (e); or

(ii) the date the large data center project is certified by the comptroller as a qualifying large data center project; and

(C) agrees to contract for at least 20 megawatts of transmission capacity for operation of the large data center project.

(e) A large data center project that is eligible under Subsection (d) to be certified by the comptroller as a qualifying large data center project shall apply to the comptroller for certification and for the issuance of a registration number or numbers by the comptroller. The application must be made on a form prescribed by the comptroller and must include the information required by the comptroller. The application must include the name and contact information for the qualifying occupant, and, if applicable, the name and contact information for the qualifying owner and the qualifying operator who will claim the exemption authorized under this section. The application form must include a section for the applicant to certify that the capital investment required by Subsection (d)(2)(B) will be met independently or jointly by the qualifying occupant, qualifying owner, or qualifying operator within the time period prescribed by Subsection (d)(2)(B).

(f) The exemption provided by this section begins on the date the large data center project is certified by the comptroller as a qualifying large data center project and expires on the 20th anniversary of that date, if the qualifying occupant, qualifying owner, or qualifying operator, independently or jointly makes the capital investment of at least $500 million as provided by

Subsection (d)(2)(B).

(g) Each person who is eligible to claim an exemption authorized by this section must hold a registration number issued by the comptroller. The registration number must be stated on the exemption certificate provided by the purchaser to the seller of tangible personal property eligible for the exemption.

(h) The comptroller shall revoke all registration numbers issued in connection with a qualifying large data center project that the comptroller determines does not meet the requirements prescribed by Subsection (d). Each person who has the person's registration number revoked by the comptroller is liable for taxes, including penalty and interest from the date of purchase, imposed under this chapter on purchases for which the person claimed an exemption under this section, regardless of whether the purchase occurred before the date the registration number was revoked.

(i) The comptroller shall adopt rules consistent with and necessary to implement this section, including rules relating to:

(1) a qualifying large data center project, qualifying owner, qualifying operator, and qualifying occupant;

(2) issuance and revocation of a registration number required under this section; and

(3) reporting and other procedures necessary to ensure that a qualifying large data center project, qualifying owner, qualifying operator, and qualifying occupant comply with this section and remain entitled to the exemption authorized by this section.

(j) A data center is not eligible to receive an exemption under this section if the data center is subject to an agreement limiting the appraised value of the data center's property under former Subchapter B or C, Chapter 313.

Added by Acts 2015, 84th Leg., R.S., Ch. 412 (H.B. 2712), Sec. 1, eff. June 10, 2015.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. 1620), Sec. 19.002(b), eff. September 1, 2025.

SUBCHAPTER I. REPORTS, PAYMENTS, AND METHODS OF REPORTING

Sec. 151.401. TAX DUE DATES. (a) The taxes imposed by this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month unless a taxpayer qualifies as a quarterly filer under Subsection (b) of this section or unless the taxpayer prepays the tax on a quarterly basis as permitted by Section 151.424 of this code.

(b) If a taxpayer owes less than $500 for a calendar month or $1,500 for a calendar quarter, the taxes are due and payable on the 20th day of the month following the end of the calendar quarter.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(1), eff. June 14, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(1), eff. June 14, 2013.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(1), eff. June 14, 2013.

Acts 1981, 67th Leg., p. 1569, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2779, ch. 752, Sec. 10, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 1362, ch. 281, Sec. 1, eff. Oct. 1, 1983; Acts 1993, 73rd Leg., ch. 486, Sec. 2.01, eff. Sept. 1, 1994.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 13.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(1), eff. June 14, 2013.

Sec. 151.402. TAX REPORT DATES. (a) A tax report required by this chapter for a reporting period is due on the same date that the tax payment for the period is due as provided by Section 151.401.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(2), eff. June 14, 2013.

Acts 1981, 67th Leg., p. 1569, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 2.02, eff. Sept. 1, 1994.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 13.02, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(2), eff. June 14, 2013.

Sec. 151.403. WHO MUST FILE A REPORT. (a) A person subject to the sales tax shall file a tax report.

(b) A retailer engaged in business in this state as provided by Section 151.107 of this code shall file a tax report with respect to the use tax.

(c) A person who acquires a taxable item, the storage, use, or consumption of which is subject to the use tax, shall file a tax report if the person did not pay the use tax to a retailer.

Acts 1981, 67th Leg., p. 1569, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.405. OTHER DUE DATES SET BY COMPTROLLER. (a) The comptroller may require a seller, retailer, or purchaser to file a return or pay the taxes imposed by this chapter for a period other than a monthly period if necessary to ensure the payment or to facilitate the collection of the taxes due.

(b) A requirement under Subsection (a) of this section may by rule be made generally applicable to retailers providing amusement services at locations other than the regular business establishment of the retailer or to retailers who provide amusement services and who have no regular business establishment in this state.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1363, ch. 281, Sec. 2, eff. Oct. 1, 1983; Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 17, eff. Oct. 2, 1984.

Sec. 151.406. CONTENTS AND FORM OF REPORT. (a) Except as provided by Section 151.407, a tax report required by this chapter must:

(1) for sales tax purposes, show the amount of the total receipts of a seller for the reporting period;

(2) for use tax purposes, show the amount of the total

receipts from sales by a retailer of taxable items during the reporting period for storage, use, or consumption in this state;

(3) show the amount of the total sales prices of taxable items that are subject to the use tax during the reporting period and that were acquired for storage, use, or consumption in this state by a purchaser who did not pay the tax to a retailer;

(4) show the amount of the taxes due for the reporting period;

(5) show the amount of sales tax refunded for items exported beyond the territorial limits of the United States after receiving documentation under Section 151.307(b)(2); and

(6) include other information that the comptroller determines to be necessary for the proper administration of this chapter.

(b) The comptroller by rule may determine the manner of reporting gross proceeds from taxable rentals and leases of tangible personal property.

(c) The report must be in the form as prescribed by the comptroller.

(d) A tax report must be signed by the person required to file it or by the person's authorized agent.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2003, 78th Leg., ch. 1001, Sec. 5, eff. Jan. 1, 2004.

Sec. 151.407. SPECIAL USE TAX REPORTS. (a) The comptroller may require any person or class of persons who have in their possession or custody information relating to the sale of a taxable item, the storage, use, or consumption of which is subject to the use tax, to file a report.

(b) A report required under this section must:

(1) be filed at the time required by the comptroller; and

(2) contain the name and address of the purchaser of the tangible personal property, the sales price of the property, the date of the sale, and other information required by the comptroller.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.408. ACCOUNTING BASIS FOR REPORTS. A taxpayer whose regular books are kept on a cash basis, accrual basis, or some other generally recognized accounting basis that accurately reflects the operation of the business may file the tax reports required by this chapter on the same basis that is used for the taxpayer's regular books.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.409. REPORTS AND PAYMENTS: WHERE MADE. A tax report or tax payment shall be delivered to the office of the comptroller.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.410. METHOD OF REPORTING SALES TAX: GENERAL RULE. A seller shall compute the sales tax imposed by Subchapter C of this chapter to be paid to the comptroller by multiplying the percentage rate of the sales tax times the total receipts of the seller from all sales of taxable tangible personal property and of taxable services.

Acts 1981, 67th Leg., p. 1571, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.411. METHOD OF REPORTING: SELLERS HAVING SALES BELOW TAXABLE AMOUNT. (a) If not less than 50 percent of the total receipts of a seller from the sale of taxable items come from separate transactions in which the sales price is an amount on which no tax is produced, the seller may exclude the receipts from those transactions when reporting and paying the sales tax.

(b) A seller may not exclude any receipts from sales as permitted under Subsection (a) of this section unless the seller has received from the comptroller before the filing of the tax report written approval allowing the exclusion, and all receipts from sales of taxable tangible personal property and taxable services are subject to the tax until the approval is granted.

(c) The comptroller shall approve the reporting and computation of the sales tax as permitted under Subsection (a) of

this section by a seller if the seller qualifies for the exclusion and if the seller submits to the comptroller satisfactory evidence that the seller can and will maintain records adequate to substantiate the authorized exclusion.

Acts 1981, 67th Leg., p. 1571, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 13, Sec. 3, eff. Oct. 2, 1984; Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 4, eff. Jan. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 3, Sec. 2.

Sec. 151.412. OPTIONAL METHOD OF REPORTING: PERCENTAGE OF SALES. (a) A seller who is a retail grocer, a seller who operates a separate grocery department having separate records that are separately auditable, or any other seller whose taxable receipts from the sale of taxable items are less than 10 percent of the total receipts of the seller may determine the total taxable receipts of the grocer, separate grocery department, or other seller by:

(1) adding the amount of all invoices for merchandise sold to the seller during the preceding calendar or fiscal year to obtain the total sum of merchandise purchased;

(2) adding the amount of all invoices for exempt merchandise sold to the seller during the preceding calendar or fiscal year to obtain the total sum of exempt merchandise purchased;

(3) dividing the sum obtained under Subdivision (2) of this subsection by the sum obtained under Subdivision (1) of this subsection to obtain a percentage relationship;

(4) multiplying the percentage obtained under Subdivision (3) of this subsection times the total sales by the seller for the reporting period to obtain the total nontaxable sales of the seller; and

(5) subtracting the total nontaxable sales of the seller obtained under Subdivision (4) of this subsection from the total sales by the seller during the reporting period to obtain the total taxable receipts of the seller from sales of tangible personal property.

(b) A seller determining taxable receipts as provided by

Subsection (a) of this section shall add to the total taxable receipts the sales prices of all purchases made by the seller that are subject to the use tax and on which the use tax has not been paid.

(c) If the comptroller audits a seller who qualifies for and uses the method of reporting allowed by this section and determines that the actual tax liability of the seller computed on the actual taxable receipts of the seller differs from the amount reported and paid under this section, the comptroller shall collect the difference due to the state, if any, or refund or credit the seller with the difference that is an overpayment to the state, if any.

(d) The comptroller may not assess a penalty or interest against a seller because of an underpayment of the actual tax due disclosed by an audit under Subsection (c) of this section unless the audit discloses wilful evasion of the tax or fraud. The state may not pay interest on an overpayment disclosed by an audit under Subsection (c) of this section.

(e) Under procedures adopted by and with the consent of the comptroller, a seller eligible to determine its total taxable receipts under this section may add to the amount provided by Subdivision (2) of Subsection (a) of this section an additional amount that represents that portion of the amount of all invoices for merchandise sold to the seller during the preceding calendar or fiscal year that was not considered exempt merchandise for purposes of Subdivision (1) of Subsection (a) of this section but that became exempt under Section 151.3141 of this code when sold.

Acts 1981, 67th Leg., p. 1571, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., c. 1116, Sec. 2, eff. Oct. 1, 1987.

Sec. 151.413. OPTIONAL METHOD OF REPORTING: SMALL GROCERS. (a) A seller who is a retail grocer and whose annual total receipts do not exceed $100,000 may pay the taxes imposed by this chapter by multiplying 15 percent times the total receipts of the seller to obtain the amount of taxable receipts.

(b) A state audit of a retailer electing to report his taxable receipts as provided by this section is limited to determining whether or not the grocer is eligible to use this

method. No additional tax may be assessed or a refund or credit granted because of a showing that the tax liability of the retail grocer electing this method of reporting differs or would differ under any other method of reporting.

(c) A retail grocer who elects to report under this section shall continue to report as provided by this section for three years unless the grocer's total receipts for a year exceed $100,000.

(d) If a retail grocer electing to report under this section has gross receipts in excess of $100,000 for a year, the grocer is ineligible to continue reporting under this section beginning on the first day of the calendar month after the month in which the limitation was exceeded, shall report the ineligibility to the comptroller, and shall immediately cease to use the method of reporting permitted by this section.

(e) Subsection (b) of this section does not apply to audits or the tax liability of a retail grocer who fails to report his ineligibility to the comptroller as required by Subsection (d) of this section.

Acts 1981, 67th Leg., p. 1572, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.414. "RETAIL GROCER" DEFINED. In this subchapter, "retail grocer" means a retail vendor who sells food for human consumption off the premises, together with household supplies and nondurable household goods.

Acts 1981, 67th Leg., p. 1572, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.415. ASSESSMENT OF PENALTIES AND INTEREST AGAINST SELLER USING OPTIONAL METHOD OF REPORTING. The comptroller may assess a penalty and interest against a seller using an optional method of reporting under Section 151.412 or Section 151.413 of this code if the seller fails to file a tax report on or before its due date or fails to remit the correct amount of tax due with the report. This section prevails over Section 151.412(d) and Section 151.413(b) of this code.

Acts 1981, 67th Leg., p. 1572, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.416. COMMINGLED RECEIPTS AND TAX. A seller who has

an accounting system under which the taxes collected under this chapter are commingled with the receipts from the sales of taxable items may compute his taxable receipts by:

(1) subtracting from the total receipts of the seller the receipts from the sales of items that are exempted or are specifically excluded from the taxes imposed by this chapter to obtain a remainder consisting of the commingled receipts from taxable sales and the taxes collected; and

(2) dividing this remainder by one plus the sales tax rate expressed as a decimal fraction to obtain a quotient that is the taxable receipts that may be reported under Section 151.410 of this code.

Acts 1981, 67th Leg., p. 1573, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 13, Sec. 4, eff. Oct. 2, 1984; Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 3, eff. Jan. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 3, Sec. 3.

Sec. 151.417. DIRECT PAYMENT OF TAX BY PURCHASER. (a) The holder of a direct payment permit issued by the comptroller may give a blanket exemption certificate to sellers who sell, lease, or rent taxable items to the holder of the direct payment permit. The blanket exemption certificate covers all future sales of taxable items to the permit holder and relieves the seller of the obligation of collecting the taxes imposed by this chapter from the permit holder.

(b) A blanket exemption certificate given under this section must contain the direct payment permit number and the statement that the direct payment permit holder agrees to accrue and pay to this state all taxes that are or may become due on the taxable items sold under the exemption certificate to the permit holder.

Acts 1981, 67th Leg., p. 1573, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.4171. OPTIONAL REPORTING METHOD: PERCENTAGE-BASED. (a) In this section, "percentage-based reporting method" means a method by which a taxpayer categorizes

purchase transactions according to standards specified in the letter of authorization, reviews an agreed-on sample of invoices in that category to determine the percentage of taxable transactions, and uses that percentage to calculate the amount of tax to be reported.

(b) The comptroller may authorize the holder of a direct payment permit to use a percentage-based reporting method. The authorized percentage must be used for a three-year period specified by the comptroller, unless the authorization is revoked by the comptroller.

(c) The comptroller may revoke the authorization to report under this section if the comptroller determines that the percentage being used is no longer representative because of a change:

(1) in law, including a change in the interpretation of a law or rule; or

(2) in the taxpayer's business operations.

(d) The decision of the comptroller to deny or revoke authorization under this section is not appealable.

(e) In deciding whether to authorize reporting under this section, the comptroller may categorize transactions by dollar amount, by type of taxable item purchased, by the purpose for which the taxable item will be used, or by other standards appropriate to the taxpayer's operations.

(f) The comptroller by rule may specify additional procedures that must be followed and conditions that must be met before the comptroller authorizes a taxpayer to report under this section.

Added by Acts 1999, 76th Leg., ch. 457, Sec. 2, eff. Oct. 1, 1999.

Sec. 151.418. ISSUANCE OF DIRECT PAYMENT PERMIT. (a) The comptroller shall issue a direct payment permit to an applicant for the permit who qualifies as provided by Section 151.419 of this code.

(b) The comptroller is the sole judge of an applicant's qualifications, and the comptroller's refusal to issue a permit to an applicant is not appealable.

(c) An applicant for a direct payment permit who has been denied the issuance of a permit may:

(1) request permission from the comptroller to submit an amended application; or

(2) submit a new application for a direct payment permit after a reasonable period after the denial of the original application.

Acts 1981, 67th Leg., p. 1573, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.419. APPLICATION FOR DIRECT PAYMENT PERMITS: QUALIFICATIONS. (a) A person desiring a direct payment permit must file with the comptroller a written application for the permit.

(b) The application must be accompanied with:

(1) an agreement that is signed by the applicant or a responsible officer of an applicant corporation, that is in a form prescribed by the comptroller, and that provides that the applicant agrees to:

(A) accrue and pay all taxes imposed by Subchapter D of this chapter on the storage and use of all taxable items sold to or leased or rented by the permit holder unless the items are exempted from the taxes imposed by this chapter;

(B) pay the imposed taxes monthly on or before the 20th day of the month following the end of each calendar month; and

(C) waive the discount permitted by Section 151.423 of this code on the payment of all taxes under the direct payment permit only;

(2) a description, in the amount of detail that the comptroller requires, of the accounting method by which the applicant proposes to differentiate between taxable and exempt transactions; and

(3) records establishing that the applicant is a responsible person who annually purchases taxable items that have a value when purchased of $800,000 or more excluding the value of taxable items for which resale certificates were or could have been given.

Acts 1981, 67th Leg., p. 1573, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 849, ch. 197, Sec. 1, eff. May 24, 1983; Acts 1983, 68th Leg. p. 1363, ch. 281, Sec. 3, eff. Oct. 1, 1983.

Sec. 151.420. REVOCATION OF DIRECT PAYMENT PERMIT. (a) A person to whom a direct payment permit has been issued holds the permit as a matter of revocable privilege and not as a matter of right. The comptroller on his own initiative may cancel a direct payment permit, and the cancellation is not appealable.

(b) A person whose direct payment permit is canceled by the comptroller is entitled to written notice of the cancellation, which shall be sent by the comptroller by registered mail.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.421. VOLUNTARY RELINQUISHMENT OF DIRECT PAYMENT PERMIT. (a) The holder of a direct payment permit may notify the comptroller that the direct payment permit is to be voluntarily relinquished.

(b) A direct payment permit and the direct payment agreement remain valid and enforceable until the comptroller issues a termination notice.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.422. CANCELLATION OR TERMINATION OF DIRECT PAYMENT PERMIT: DUTY OF PERMIT HOLDER. (a) On the receipt of a notice issued under Section 151.420 of this code canceling a direct payment permit or of a notice issued under Section 151.421 of this code terminating a direct payment permit, the person who held the permit shall immediately notify each seller to whom a blanket exemption certificate has been given that the exemption certificate is no longer valid.

(b) The failure of a person to notify a seller as required by Subsection (a) of this section is a failure and refusal to pay the taxes imposed by this chapter by the person required to make the notification.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.423. REIMBURSEMENT TO TAXPAYER FOR TAX COLLECTIONS. A taxpayer may deduct and withhold one-half of one percent of the amount of taxes due from the taxpayer on a timely return as reimbursement for the cost of collecting the taxes imposed by this chapter. The comptroller shall provide a card with each form distributed for the collection of taxes under this chapter. The card may be inserted by the taxpayer with the tax payment to provide for contribution of all or part of the reimbursement provided by this section for use as grants under Subchapter M, Chapter 56, Education Code. If the taxpayer chooses to contribute the reimbursement for the grants, the taxpayer shall include the amount of the reimbursement contribution with the tax payment. The comptroller shall transfer money contributed under this section for grants under Subchapter M, Chapter 56, Education Code, to the appropriate fund.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1364, ch. 281, Sec. 4, eff. Oct. 1, 1983; Acts 1985, 69th Leg., ch. 708, Sec. 18, eff. Aug. 26, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 32; Acts 1999, 76th Leg., ch. 1590, Sec. 4, eff. June 19, 1999.

Sec. 151.424. DISCOUNT FOR PREPAYMENTS. (a) A taxpayer who prepays the taxpayer's tax liability on the basis of a reasonable estimate of the tax liability for a quarter in which a prepayment is made or for a month in which a prepayment is made may deduct and withhold 1.25 percent of the amount of the prepayment in addition to the amount permitted to be deducted and withheld under Section 151.423 of this code. A reasonable estimate of the tax liability must be at least 90 percent of the tax ultimately due or the amount of tax paid in the same quarter, or month, if a monthly prepayer, in the last preceding year. Failure to prepay a reasonable estimate of the tax will result in the loss of the entire prepayment discount.

(b) In order to qualify for the deduction permitted by Subsection (a) of this section, the taxpayer must make the tax prepayment:

(1) on or before the 15th day of the second month of the calendar quarter for which the prepayment is made if the

taxpayer pays the tax quarterly; or

(2) on or before the 15th day of the month for which the prepayment is made if the taxpayer pays the tax monthly.

(c) A taxpayer who prepays the tax liability as permitted by this section must file a report when due as provided by this chapter. The amount of a prepayment made by a taxpayer under this section shall be credited against the amount of actual tax liability of the taxpayer as shown on the tax report of the taxpayer. If there is a tax liability owed by the taxpayer in excess of the prepayment credit, the taxpayer shall send to the comptroller the remaining tax liability at the time of filing the quarterly or monthly report. The taxpayer is entitled to the deduction permitted under Section 151.423 of this code on the amount of the remaining tax liability.

(d) If the amount of a prepayment exceeds the actual tax liability, the excess of the prepayment shall be credited against future tax liability of the taxpayer or refunded to the taxpayer as provided by Subchapter C of Chapter 111 of this code.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1364, ch. 281, Sec. 5, eff. Oct. 1, 1983.

Sec. 151.425. FORFEITURE OF DISCOUNT OR REIMBURSEMENT. If a taxpayer fails to file a report required by this chapter when due or to pay the tax when due, the taxpayer forfeits any claim to a deduction or discount allowed under Section 151.423 or Section 151.424 of this code.

Acts 1981, 67th Leg., p. 1575, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.426. CREDITS AND REFUNDS FOR BAD DEBTS, RETURNED MERCHANDISE, AND REPOSSESSIONS. (a) A seller may withhold the payment of the tax on a portion of the sales price of a taxable item that remains unpaid by the purchaser if:

(1) during the reporting period in which the item was sold, leased, or rented the seller determines that the unpaid portion will remain unpaid;

(2) the seller enters the unpaid portion of the sales

price in the seller's books as a bad debt; and

(3) the bad debt is claimed as a deduction for federal tax purposes during the same or a subsequent reporting period.

(b) If the portion of a debt determined to be bad under Subsection (a) of this section is paid, the seller shall report and pay the tax on the portion during the reporting period in which the payment is made.

(c) Subject to Subsection (e), a retailer or any person who extends credit to a purchaser under a retailer's private label credit agreement, or an assignee or affiliate of either, is entitled to credit or reimbursement for taxes paid on the portion of:

(1) an account determined to be worthless and actually charged off for federal income tax purposes; or

(2) the remaining unpaid sales price of a taxable item when the item is repossessed under a conditional sales contract.

(d) A seller is entitled to credit for the amount of taxes paid on the amount of a refund or credit made to a purchaser under a bona fide agreement in which the sales price of a taxable item is renegotiated. This credit applies to a refund or credit made under an agreement in settlement of a claim for an alleged breach of warranty on a taxable item sold by the seller to the person with whom the agreement is made.

(e) A person is entitled to a credit or reimbursement provided by Subsection (c) only if:

(1) the retailer:

(A) has a valid sales or use tax permit; and

(B) remits the tax for which the credit or reimbursement is sought;

(2) all payments on an account are prorated between taxable and nontaxable charges; and

(3) the retailer or person claiming the credit or reimbursement provides detailed records outlining:

(A) the amount the purchaser contracted to pay;

(B) taxable and nontaxable charges;

(C) the tax collected and remitted;

(D) the unpaid portion of the sales price

assigned; and

(E) the taxpayer number of the seller who collected and remitted the tax.

(f) A person whose volume and character of uncollectible accounts warrants an alternative method of substantiating the reimbursement or credit may:

(1) maintain records other than the records specified in Subsection (e) if:

(A) the records fairly and equitably apportion taxable and nontaxable elements of a bad debt and compute the amount of sales tax imposed and remitted with respect to the taxable charges remaining unpaid on the debt; and

(B) the comptroller approves the procedures used; or

(2) implement a system to report its future tax responsibilities based on a historical percentage calculated from a sample of transactions if:

(A) the system utilizes records provided by the person claiming the credit or reimbursement; and

(B) the comptroller approves the procedures used.

(g) The comptroller may revoke the authorization to report under Subsection (f)(2) if the comptroller determines that the percentage being used is no longer representative because of:

(1) a change in law, including a change in the interpretation of an existing law or rule; or

(2) a change in the taxpayer's business operations.

(h) A person claiming a credit or reimbursement under this section shall remit tax on any payments received on an account that has been written off and claimed as a bad debt.

(i) A person who is not a retailer may claim a credit or reimbursement authorized by Subsection (c) only for taxes imposed by Section 151.051 or 151.101.

(j) For purposes of this section, "affiliate" means any entity or entities that would be classified as a member of an affiliated group under 26 U.S.C. Section 1504.

Acts 1981, 67th Leg., p. 1575, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 1043, ch. 235, art. 7, Sec. 6, eff. Sept. 1, 1983; Acts 1999, 76th Leg., ch. 1467, Sec. 2.24, eff. Oct. 1, 1999.

Sec. 151.4261. CREDIT OR REIMBURSEMENT IN RETURN TRANSACTIONS. A seller is entitled to a credit or reimbursement equal to the amount of sales tax refunded to a purchaser when the purchaser receives a full or partial refund of the sales price of a returned taxable item.

Added by Acts 2009, 81st Leg., R.S., Ch. 1378 (S.B. 1199), Sec. 2, eff. September 1, 2009.

Sec. 151.427. DEDUCTION FOR PROPERTY ON WHICH THE TAX IS PAID AND HELD FOR RESALE. (a) A seller who has paid the tax imposed by this chapter on the sales price of tangible personal property acquired for storage or use may deduct the amount of the tax paid if the seller resells, leases, or rents the item to another in the regular course of business before the seller has made any use of the property other than retaining, displaying, or demonstrating it while holding it for sale in the regular course of business.

(b) If a deduction is taken under Subsection (a) of this section, the person who sold the property to the seller may not receive a credit or refund with respect to the sale of the property to the seller.

(c) The deduction allowed by Subsection (a) of this section must be taken in accordance with any rule on the deduction made by the comptroller.

Acts 1981, 67th Leg., p. 1576, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.428. INTEREST CHARGED BY RETAILER ON AMOUNTS OF TAXES FINANCED. (a) A retailer who sells taxable items on credit or under any other deferred payment agreement and charges interest or time price differential on the amount of the credit extended for the payment of the sales price of the item and the amount of all sales taxes, and who remits the tax and files tax reports to the comptroller on the basis of the cash system of accounting, shall pay to the comptroller at the time of making each tax report under this

chapter an amount calculated according to whichever of the following yields the greater amount:

(1) one-half of the amount of interest or time price differential received by the retailer on credit extended to the purchaser for the payment of the amount of all sales taxes imposed; or

(2)(A) the amount of interest or time price differential received by the retailer on credit extended to the purchaser for the payment of the amount of all sales taxes imposed, less

(B) an amount of interest or time price differential at a rate of nine percent per year received on credit extended by the retailer to the purchaser for the payment of the sales tax.

(b) The deduction provided by Paragraph (B) of Subdivision (2) of Subsection (a) of this section is allowed only if the rate of interest or time price differential charged by the retailer on the credit extended for payment of the sales tax and the method of computing the interest or the time price differential are uniform with the rate charged by the retailer on the credit extended on the sales price and the method of computing the interest or time price differential.

(c) The reporting, collection, refund, and penalty provisions of this chapter and Subtitle B of this title apply to the payments required by this section, except that Sections 151.423 and 151.424 of this code do not apply to this section.

(d) The payments required by this section are in addition to other taxes imposed by this chapter, Chapter 321 of this code, Subchapter I, Chapter 451, Transportation Code, and Subchapter I, Chapter 452, Transportation Code.

(e) The revenue received under this section is allocated as provided by Section 151.801 of this code.

Added by Acts 1983, 68th Leg., p. 1039, ch. 235, art. 7, Sec. 3(a), eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.27(b)(2), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 30.250, eff. Sept. 1, 1997.

Sec. 151.429. TAX REFUNDS FOR ENTERPRISE PROJECTS.

(a) An enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of all taxable items purchased for use at the qualified business site related to the project or activity.

(b) Subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section based on the amount of capital investment made at the qualified business site, the project's designation level, and the refund per job with a maximum refund to be included in a computation of a tax refund for the project. A capital investment at the qualified business site of:

(1) $40,000 to $399,999 will result in a refund of up to $2,500 per job with a maximum refund of $25,000 for the creation or retention of 10 jobs;

(2) $400,000 to $999,999 will result in a refund of up to $2,500 per job with a maximum refund of $62,500 for the creation or retention of 25 jobs;

(3) $1,000,000 to $4,999,999 will result in a refund of up to $2,500 per job with a maximum refund of $312,500 for the creation or retention of 125 jobs;

(4) $5,000,000 or more will result in a refund of up to $2,500 per job with a maximum refund of $1,250,000 for the creation or retention of 500 jobs, except as provided by Subdivision (5) or (6);

(5) $150,000,000 to $249,999,999 will result in a refund of up to $5,000 per new permanent job with a maximum refund of $2,500,000 for the creation of 500 new permanent jobs if the Texas Economic Development Bank designates the project as a double jumbo enterprise project; or

(6) $250,000,000 or more will result in a refund of up to $7,500 per new permanent job with a maximum refund of $3,750,000 for the creation of at least 500 new permanent jobs if the Texas Economic Development Bank designates the project as a triple jumbo enterprise project.

(c) The total amount of tax refund that an enterprise project may apply for in a state fiscal year may not exceed

$250,000, at not more than $2,500 per job. The total amount of tax refund that a double jumbo enterprise project may apply for in a state fiscal year may not exceed $500,000, at not more than $5,000 per new permanent job. The total amount of tax refund that a triple jumbo enterprise project may apply for in a state fiscal year may not exceed $750,000, at not more than $7,500 per new permanent job. If an enterprise project, double jumbo enterprise project, or triple jumbo enterprise project qualifies in a state fiscal year for a refund of taxes in an amount in excess of the applicable limitation provided by this subsection, it may apply for a refund of those taxes in a subsequent year, subject to the applicable limitation for each year. The total amount that may be refunded to:

(1) an enterprise project under this section may not exceed the amount determined by multiplying $250,000 by the number of state fiscal years during which the enterprise project created or retained one or more jobs for qualified employees;

(2) a double jumbo enterprise project under this section may not exceed the amount determined by multiplying $500,000 by the number of state fiscal years during which the double jumbo enterprise project created one or more new permanent jobs for qualified employees; or

(3) a triple jumbo enterprise project under this section may not exceed the amount determined by multiplying $750,000 by the number of state fiscal years during which the triple jumbo enterprise project created one or more new permanent jobs for qualified employees.

(d) To receive a refund under this section, an enterprise project must apply to the comptroller for the refund. The Texas Economic Development Bank established under Chapter 489, Government Code, shall provide the comptroller with the assistance that the comptroller requires in administering this section.

(e) In this section:

(1) "Enterprise project" means a project or activity designated by the Texas Economic Development Bank as an enterprise project under Chapter 2303, Government Code.

(2) "Qualified employee" and "qualified hotel

project" have the meanings assigned to those terms by Section 2303.003, Government Code.

(3) "New permanent job" has the meaning assigned by Section 2303.401, Government Code.

(4) "Retained job" has the meaning assigned by Section 2303.401, Government Code.

(5) "Double jumbo enterprise project" and "triple jumbo enterprise project" have the meanings assigned by Section 2303.407, Government Code.

(6) "Half enterprise project" means an enterprise project split into two half designations as provided by Section 2303.406(d-1), Government Code.

(f) For the purposes of Subsection (a), items bought by a project after the date it is designated as a project, or within 90 days before the date of designation, may be considered eligible for refund.

(g) The refund provided by this section is conditioned on the enterprise project maintaining at least the same level of employment of qualified employees as existed at the time it qualified for a refund for a period of three years from that date. The comptroller shall annually certify whether that level of employment of qualified employees has been maintained. On certifying that such a level has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in employment, including penalty and interest from the date of the refund.

(h) Notwithstanding the other provisions of this section, the owner of a qualified hotel project shall receive a rebate, refund, or payment of 100 percent of the sales and use taxes paid or collected by the qualified hotel project or businesses located in the qualified hotel project pursuant to this chapter and 100 percent of the hotel occupancy taxes paid by persons for the use or possession of or for the right to the use or possession of a room or space at the qualified hotel project pursuant to the provisions of Chapter 156 during the first 10 years after such qualified hotel project is open for initial occupancy. The comptroller shall deposit the taxes in trust in a separate suspense account of the

qualified hotel project. A suspense account is outside the state treasury, and the comptroller may make a rebate, refund, or payment authorized by this section without the necessity of an appropriation. The comptroller shall rebate, refund, or pay to each qualified hotel project eligible taxable proceeds to which the project is entitled under this section at least monthly.

(i) As provided by Subsection (c), a double jumbo enterprise project is eligible for a maximum refund of $500,000 and a triple jumbo enterprise project is eligible for a maximum refund of $750,000 in each state fiscal year.

(j) An enterprise project approved by the Texas Economic Development Bank after September 1, 2003, may not receive a refund before September 1, 2005.

(k) A half enterprise project is eligible for a maximum refund not to exceed $125,000 in each state fiscal year and is subject to the capital investment and job allocation requirements under Subsection (b)(1), (2), or (3).

Added by Acts 1987, 70th Leg., ch. 765, Sec. 2, eff. Aug. 31, 1987. Amended by Acts 1989, 71st Leg., ch. 471, Sec. 5, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 21, 22, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 56, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 231, Sec. 9, 10, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 268, Sec. 41, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 986, Sec. 28, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.57, 5.95(21), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 977, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 985, Sec. 11, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1121, Sec. 6, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.25, 2.26, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1134, Sec. 1.06, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1134, Sec. 2.04, eff. Sept. 1, 2005; Acts 2001, 77th Leg., ch. 1420, Sec. 18.010, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 814, Sec. 3.51, 3.52, 3.53, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 20, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 179 (S.B. 977), Sec. 2, eff.

May 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 490 (S.B. 1719), Sec. 3, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 227 (H.B. 1964), Sec. 3, eff. May 29, 2015.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 11, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 12, eff. September 1, 2015.

Sec. 151.4291. TAX REFUNDS FOR DEFENSE READJUSTMENT PROJECTS.

(a) A defense readjustment project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of:

(1) equipment or machinery sold to a defense readjustment project for use in a readjustment zone;

(2) building materials sold to a defense readjustment project for use in remodeling, rehabilitating, or constructing a structure in a readjustment zone;

(3) labor for remodeling, rehabilitating, or constructing a structure by a defense readjustment project in a readjustment zone; and

(4) electricity and natural gas purchased and consumed in the normal course of business in the readjustment zone.

(b) Subject to the limitations provided by Subsection (c) of this section, a defense readjustment project qualifies for a refund of taxes under this section of $2,500 for each new permanent job or job that has been retained by the defense readjustment project for a qualified employee.

(c) The total amount of tax refund that a defense readjustment project may apply for in a state fiscal year may not exceed $250,000. If a defense readjustment project qualifies in a state fiscal year for a refund of taxes in an amount in excess of the limitation provided by this subsection, it may apply for a refund of those taxes in a subsequent year, subject to the $250,000 limitation for each year. However, a defense readjustment project

may not apply for a refund under this section after the end of the state fiscal year immediately following the state fiscal year in which the defense readjustment project's designation as a defense readjustment project expires or is removed. The total amount that may be refunded to a defense readjustment project under this section may not exceed the amount determined by multiplying $250,000 by the number of state fiscal years during which the defense readjustment project created one or more jobs for qualified employees.

(d) To receive a refund under this section, a defense readjustment project must apply to the comptroller for the refund. The Texas Economic Development Bank shall provide the comptroller with the assistance that the comptroller requires in administering this section.

(e) In this section:

(1) "Defense readjustment project" means a person designated by the Texas Economic Development Bank as a defense readjustment project under Chapter 2310, Government Code.

(2) "Readjustment zone" and "qualified employee" have the meanings assigned to those terms by Section 2310.001, Government Code.

(3) "New permanent job" means a new employment position created by a qualified business as described by Section 2310.302, Government Code, that:

(A) has provided at least 1,820 hours of employment a year to a qualified employee; and

(B) is intended to exist during the period that the qualified business is designated as a defense readjustment project under Chapter 2310, Government Code.

(f) For the purposes of Subsection (a), items bought by a project after the date it is designated as a project, or within 90 days before the date of designation, may be considered eligible for a refund.

(g) The refund provided by this section is conditioned on the defense readjustment project maintaining at least the same level of employment of qualified employees as existed at the time it qualified for a refund for a period of three years from that date.

The comptroller shall annually certify to the Legislative Budget Board whether that level of employment of qualified employees has been maintained. On certifying that such a level has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in employment, including penalty and interest from the date of the refund.

(h) Notwithstanding Section 171.103 or 171.1032, a receipt from a service performed by a defense readjustment project in a readjustment zone is not a receipt from business done in this state. Added by Acts 1997, 75th Leg., ch. 114, Sec. 2, eff. May 19, 1997. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.27, 2.28, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1134, Sec. 1.07, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1134, Sec. 2.05, eff. Sept. 1, 2005; Acts 2003, 78th Leg., ch. 814, Sec. 3.54, 3.55, eff. Sept. 1, 2003.

For expiration of this section, see Subsection (m).

Sec. 151.4292. TAX REFUND PILOT PROGRAM FOR CERTAIN PERSONS WHO EMPLOY APPRENTICES. (a) In this section:

(1) "Executive director" means the executive director of the Texas Workforce Commission.

(2) "Qualified apprenticeship" means an apprenticeship program that is:

(A) certified as an industry-recognized apprenticeship program by an entity determined to meet United States Department of Labor criteria; or

(B) registered with the United States Department of Labor and qualified to receive funding provided through the Texas Workforce Commission under Chapter 133, Education Code.

(b) A person is eligible for a refund in the amount and under the conditions provided by this section of the taxes paid under this chapter during a calendar year if the person is certified by the executive director under Subsection (f) and employs at least one apprentice in a qualified apprenticeship position for at least seven months during the calendar year. A person is not considered to be employed in a qualified apprenticeship position for purposes of this section:

(1) after the earlier of:

(A) the fourth anniversary of employment in the position; or

(B) the conclusion of the term of the apprenticeship position; or

(2) if the person was employed in another position by the employer immediately before beginning employment in the apprenticeship position.

(c) Subject to Subsections (d) and (e), the amount of the refund for a calendar year in connection with each apprentice described by Subsection (b) is $2,500.

(d) The total amount of the refund for a calendar year is equal to the lesser of:

(1) the amount allowed under Subsection (c) for the calendar year for each apprentice described by Subsection (b), not to exceed the maximum number of apprentices provided by Subsection (e); or

(2) the amount of sales and use taxes paid by the person during the calendar year.

(e) The maximum number of apprentices in connection with whom a person may receive a refund in a calendar year is:

(1) one; or

(2) not more than six if at least half of the apprentices employed are:

(A) foster children who have transitioned or are transitioning to independent living, as described in Section 264.121, Family Code;

(B) military veterans, as defined by Section 55.001, Occupations Code;

(C) military spouses, as defined by Section 55.001, Occupations Code; or

(D) women.

(f) A person may not apply for a refund under this section unless the executive director certifies that the person is able to employ apprentices in qualified apprenticeships. A person must apply to the executive director to obtain certification. The executive director shall create an application form for the

certification.

(g) The executive director may certify not more than 100 persons under Subsection (f) at any time. If the number of eligible applicants exceeds the limit provided by this subsection, the executive director shall select applicants for certification according to rules adopted under Subsection (h).

(h) The executive director shall adopt rules that establish merit-based criteria for selecting persons to certify from among those who apply. The rules must require that the executive director give preference to applicants who:

(1) offer qualified apprenticeships in areas of this state that are not designated as metropolitan statistical areas by the United States Office of Management and Budget; and

(2) provide training and skills development in emerging or developing occupational fields.

(i) The executive director shall issue a certificate to each person certified under Subsection (f). The certificate must confirm that the person is eligible to apply for a refund under this section.

(j) A person must apply to the comptroller for a refund under this section. The person must include with the application the certificate issued to the person under Subsection (i) and any other information the comptroller requires.

(k) Not later than September 1, 2024, the executive director shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over taxation a report that evaluates the effect of the pilot program on the employment outcomes and earnings of apprentices with respect to whom refunds are granted under the pilot program under this section. The report must include a recommendation regarding whether the pilot program should be continued, expanded, or terminated.

(l) A person who applies for a refund under this section shall provide to the executive director information the executive director requests to prepare the report described by Subsection (k).

(m) This section expires December 31, 2026.

Added by Acts 2021, 87th Leg., R.S., Ch. 401 (S.B. 1524), Sec. 1, eff. January 1, 2022.

Sec. 151.430. DETERMINATION OF OVERPAID AMOUNTS. (a) This section applies to the tax on purchases paid by a person holding a permit under this chapter who has purchased taxable items for use in this state and has remitted tax on those items in error to this state or has paid tax on those items in error to a retailer holding a permit under this chapter.

(b) A person to whom this section applies may compute the amount of overpayment by use of a projection based on a sampling of transactions. The sampling method used must comply with generally accepted sampling methods as approved by the comptroller.

(c) The person may obtain reimbursement for amounts determined to have been overpaid by taking a credit on one or more sales tax returns or by filing a claim for refund with the comptroller within the limitation period specified by Subchapter D, Chapter 111.

(d) The person must record the method by which the projection and computation were performed and must make available on request by the comptroller the records on which the projection and computation were based.

(e) The comptroller may adopt rules specifying additional procedures that must be followed in connection with claiming a credit under this section.

Added by Acts 1999, 76th Leg., ch. 457, Sec. 3, eff. Oct. 1, 1999.

Sec. 151.4305. TAX REFUNDS FOR OIL OR GAS SEVERANCE TAXPAYERS. (a) Notwithstanding Section 111.104(b), a person who files a report under Section 201.203, 201.2035, 202.201, or 202.202 and who does not hold a permit under this chapter may obtain a refund for taxes paid under this chapter in error to a person who holds a permit under this chapter by filing a claim for refund with the comptroller within the limitation period specified by Subchapter D, Chapter 111.

(b) The comptroller by rule may provide additional

procedures for claiming a refund under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 183 (S.B. 833), Sec. 1, eff. September 1, 2021.

Sec. 151.431. SALES AND USE TAX REFUND FOR JOB RETENTION. (a) A qualified business operating in the jurisdiction of the nominating governmental entity for at least three consecutive years may apply for and be granted a onetime refund of sales and use tax paid by the qualified business after certification of the qualified business as provided by Subsection (b) of this section to a vendor or directly to the state for the purchase of equipment or machinery sold to the business for use in an enterprise project if the governing body or bodies certify to the comptroller that the business is retaining 10 or more jobs held by qualified employees during the year. For the purposes of this subsection "job" means an existing employment position of a qualified business that has provided employment to a qualified employee of at least 1,820 hours annually.

(b) Only qualified businesses that have been certified as eligible for a refund under this section by the governing body or bodies to the comptroller, including certification of the number of jobs retained, are entitled to the refund.

(c) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(10).

(d) The total amount of the onetime refund that a qualified business may apply for may not exceed $500 for each qualified employee retained, up to a limit of $5,000 for each qualified business.

(e) In this section:

(1) "Enterprise zone" and "qualified employee" have the meanings assigned to those terms by Section 2303.003, Government Code.

(2) "Governing body" means the governing body of a municipality or county that applied to have the project or activity of a qualified business designated as an enterprise project under Section 2303.405, Government Code.

(3) "Qualified business" means a person that is

certified as a qualified business under Section 2303.402, Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 23, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 42, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.58, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.29, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 814, Sec. 3.56, 3.57, 6.01(10), eff. Sept. 1, 2003.

Sec. 151.432. DEDUCTIONS OF TAX ON TICKET OR ADMISSION DOCUMENT TO AMUSEMENT SERVICE. (a) A reseller of a ticket or admission document to an amusement service may deduct from taxable sales reported the adjusted value of the ticket or admission document purchased for resale from a non-permitted purchaser of the ticket or admission document if:

(1) the taxes imposed by this chapter were paid by the purchaser and the purchaser does not hold a permit issued under this chapter;

(2) language on the ticket or admission document purchased for resale states that all taxes have been included in the price of the ticket or admission document;

(3) the ticket or admission document for which a deduction is claimed was not purchased tax-free by use of a resale or exemption certificate; and

(4) the ticket or admission document is actually resold.

(b) The reseller's books and records must be kept in accordance with the requirements of Section 151.025 and must:

(1) identify the non-permitted purchaser;

(2) document the face value of any ticket or admission document purchased by a non-permitted purchaser;

(3) document that sales tax was included in a ticket or admission document purchased by a non-permitted purchaser;

(4) document the sale of the ticket or admission document; and

(5) account for any remaining inventory of unsold tickets or admission documents.

(c) The reseller may satisfy Subsection (b)(3) by retaining a reproduction of a ticket or admission document to the amusement service.

(d) In this section, "adjusted value of a ticket or admission document" means the face value of the ticket or admission document, less the included state or local sales or use taxes.

Added by Acts 1997, 75th Leg., ch. 1099, Sec. 1, eff. Oct. 1, 1997.

Sec. 151.433. DEDUCTION FOR CERTAIN TAXPAYERS PURCHASING TEXAS FARM-RAISED OYSTERS. (a) In this section:

(1) "Food service establishment" has the meaning assigned by Section 437.001, Health and Safety Code.

(2) "Texas farm-raised oyster" means an oyster cultivated in the waters of this state in accordance with all applicable state and federal regulations.

(b) A taxpayer may deduct from the taxpayer's taxable sales for the year, quarter, or month in which the sale is reported the amount determined under Subsection (c) if the taxpayer owns a food service establishment and purchases Texas farm-raised oysters to be prepared and served at the establishment.

(c) A taxpayer may deduct from the taxpayer's taxable sales for a year, quarter, or month for each food service establishment for which a permit has been issued to the taxpayer under this chapter the amount equal to $5 for every 100 Texas farm-raised oysters purchased for preparation and service at the food service establishment during the year, quarter, or month, as applicable.

(d) The comptroller may require a taxpayer to provide any information the comptroller determines is reasonably necessary to determine the accuracy of the amount deducted by the taxpayer under this section.

(e) The comptroller may adopt rules necessary to implement and administer this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 626 (H.B. 3486), Sec. 1, eff. October 1, 2025.

Sec. 151.434. DEDUCTION FOR CERTAIN TAXPAYERS PARTICIPATING IN OYSTER SHELL RECYCLING PROGRAM. (a) In this

section:

(1) "Food service establishment" has the meaning assigned by Section 437.001, Health and Safety Code.

(2) "Qualified oyster shell recycling program" means an oyster shell recycling program recognized by the comptroller as a qualified oyster shell recycling program.

(b) A taxpayer may deduct from the taxpayer's taxable sales for the year, quarter, or month in which the sale is reported the amount determined under Subsection (c) if the taxpayer owns a food service establishment and participates in a qualified oyster shell recycling program.

(c) A taxpayer may deduct from the taxpayer's taxable sales for a year, quarter, or month for each food service establishment for which a permit has been issued to the taxpayer under this chapter the amount equal to $2 for each 50 pounds of oyster shells collected at the food service establishment and provided by the taxpayer to a project that recycles oyster shells as a result of the taxpayer's participation in a qualified oyster shell recycling program during the year, quarter, or month, as applicable.

(d) The comptroller may require a taxpayer to provide any information the comptroller determines is reasonably necessary to determine the accuracy of the amount deducted by the taxpayer under this section. The comptroller may request the assistance of the Parks and Wildlife Department in determining whether an oyster shell recycling program should be recognized as a qualified oyster shell recycling program and may consult with the department regarding other matters related to the implementation and administration of this section.

(e) The comptroller may adopt rules necessary to implement and administer this section, and may consult with the Parks and Wildlife Department and other relevant institutions and organizations when adopting the rules.

Added by Acts 2025, 89th Leg., R.S., Ch. 627 (H.B. 3487), Sec. 1, eff. October 1, 2025.

SUBCHAPTER I-1. REPORTS BY PERSONS INVOLVED IN THE MANUFACTURE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES

Sec. 151.461. DEFINITIONS. In this subchapter:

(1) "Brewer" means a person required to hold a brewer's license under Chapter 62, Alcoholic Beverage Code.

(1-a) "Brewpub" means a brewpub for which a person holds a brewpub license under Chapter 74, Alcoholic Beverage Code.

(2) "Distributor" means a person required to hold:

(A) a general distributor's license under Chapter 64, Alcoholic Beverage Code; or

(B) a branch distributor's license under Chapter 66, Alcoholic Beverage Code.

(3) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(b), eff. September 1, 2021.

(4) "Package store local distributor" means a person required to hold:

(A) a package store permit under Chapter 22, Alcoholic Beverage Code; and

(B) a local distributor's permit under Chapter 23, Alcoholic Beverage Code.

(5) "Retailer" means a person required to hold:

(A) a wine and malt beverage retailer's permit under Chapter 25, Alcoholic Beverage Code;

(B) a wine and malt beverage retailer's off-premise permit under Chapter 26, Alcoholic Beverage Code;

(C) a nonprofit entity temporary event permit under Chapter 30, Alcoholic Beverage Code;

(D) a mixed beverage permit under Chapter 28, Alcoholic Beverage Code;

(E) a private club registration permit under Chapter 32, Alcoholic Beverage Code;

(F) a certificate issued to a fraternal or veterans organization under Section 32.11, Alcoholic Beverage Code;

(G) a retail dealer's on-premise license under Chapter 69, Alcoholic Beverage Code;

(H) a retail dealer's off-premise license under Chapter 71, Alcoholic Beverage Code, except for a dealer who also holds a package store permit under Chapter 22, Alcoholic Beverage Code; or

(I) a brewpub license under Chapter 74, Alcoholic Beverage Code.

(6) "Wholesaler" means a person required to hold:

(A) a winery permit under Chapter 16, Alcoholic Beverage Code;

(B) a wholesaler's permit under Chapter 19, Alcoholic Beverage Code; or

(C) a general Class B wholesaler's permit under Chapter 20, Alcoholic Beverage Code.

Transferred, redesignated and amended from Tax Code, Section 151.433 by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 398, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(b), eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 19.003, eff. September 1, 2021.

Sec. 151.462. REPORTS BY BREWERS, BREWPUBS, WHOLESALERS, AND DISTRIBUTORS. (a) The comptroller shall require each brewer, brewpub, wholesaler, distributor, or package store local distributor to file with the comptroller a report each month of alcoholic beverage sales to retailers in this state.

(b) Each brewer, brewpub, wholesaler, distributor, or package store local distributor shall file a separate report for each permit or license held on or before the 25th day of each month. The report must contain the following information for the

preceding calendar month's sales in relation to each retailer:

(1) the brewer's, brewpub's, wholesaler's, distributor's, or package store local distributor's name, address, taxpayer number and outlet number assigned by the comptroller, and alphanumeric permit or license number issued by the Texas Alcoholic Beverage Commission;

(2) the retailer's:

(A) name and address, including street name and number, city, and zip code;

(B) taxpayer number assigned by the comptroller; and

(C) alphanumeric permit or license number issued by the Texas Alcoholic Beverage Commission for each separate retail location or outlet to which the brewer, brewpub, wholesaler, distributor, or package store local distributor sold the alcoholic beverages that are listed on the report; and

(3) the monthly net sales made by the brewer, brewpub, wholesaler, distributor, or package store local distributor to the retailer for each outlet or location covered by a separate retail permit or license issued by the Texas Alcoholic Beverage Commission, including separate line items for:

(A) the number of units of alcoholic beverages;

(B) the individual container size and pack of each unit;

(C) the brand name;

(D) the type of beverage, such as distilled spirits, wine, or malt beverage;

(E) the universal product code of the alcoholic beverage; and

(F) the net selling price of the alcoholic beverage.

(c) Except as provided by this subsection, the brewer, brewpub, wholesaler, distributor, or package store local distributor shall file the report with the comptroller electronically. The comptroller may establish procedures to temporarily postpone the electronic reporting requirement for a brewer, brewpub, wholesaler, distributor, or package store local

distributor who demonstrates to the comptroller an inability to comply because undue hardship would result if it were required to file the return electronically. If the comptroller determines that another technological method of filing the report is more efficient than electronic filing, the comptroller may establish procedures requiring its use by brewers, brewpubs, wholesalers, distributors, and package store local distributors.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 399, eff. September 1, 2021.

Sec. 151.463. RULES. The comptroller may adopt rules to implement this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Sec. 151.464. CONFIDENTIALITY. Except as provided by Section 111.006, information contained in a report required to be filed by this subchapter is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Sec. 151.465. APPLICABILITY TO CERTAIN BREWERS. This subchapter applies only to a brewer permitted under Chapter 12A, Alcoholic Beverage Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 533 (S.B. 516), Sec. 3, eff. June 14, 2013.

Sec. 151.466. APPLICABILITY TO CERTAIN BREWERS. This

subchapter applies only to a brewer licensed under Chapter 62A, Alcoholic Beverage Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 3, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 400, eff. September 1, 2021.

Sec. 151.4661. APPLICABILITY TO CERTAIN BREWPUBS. This subchapter applies only to a brewpub that engages in activities authorized by Section 74.08, Alcoholic Beverage Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 5, eff. September 1, 2019.

Sec. 151.467. SUSPENSION OR CANCELLATION OF PERMIT. If a person fails to file a report required by this subchapter or fails to file a complete report, the comptroller may suspend or cancel one or more permits issued to the person under Section 151.203.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Sec. 151.468. CIVIL PENALTY; CRIMINAL PENALTY. (a) If a person fails to file a report required by this subchapter or fails to file a complete report, the comptroller may impose a civil or criminal penalty, or both, under Section 151.703(d) or 151.709.

(b) In addition to the penalties imposed under Subsection (a), a brewer, brewpub, wholesaler, distributor, or package store local distributor shall pay the state a civil penalty of not less than $25 or more than $2,000 for each day a violation continues if the brewer, brewpub, wholesaler, distributor, or package store local distributor:

(1) violates this subchapter; or

(2) violates a rule adopted to administer or enforce this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff.

September 1, 2011.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.02, eff. October 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 401, eff. September 1, 2021.

Sec. 151.469. ACTION BY TEXAS ALCOHOLIC BEVERAGE COMMISSION. If a person fails to file a report required by this subchapter or fails to file a complete report, the comptroller may notify the Texas Alcoholic Beverage Commission of the failure and the commission may take administrative action against the person for the failure under the Alcoholic Beverage Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Sec. 151.470. AUDIT; INSPECTION. The comptroller may audit, inspect, or otherwise verify a brewer's, brewpub's, wholesaler's, distributor's, or package store local distributor's compliance with this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 402, eff. September 1, 2021.

Sec. 151.471. ACTION BY ATTORNEY GENERAL; VENUE; ATTORNEY'S FEES. (a) The comptroller may bring an action to enforce this subchapter and obtain any civil remedy authorized by this subchapter or any other law for the violation of this subchapter. The attorney general shall prosecute the action on the comptroller's behalf.

(b) Venue for and jurisdiction of an action under this

section is exclusively conferred on the district courts in Travis County.

(c) If the comptroller prevails in an action under this section, the comptroller and attorney general are entitled to recover court costs and reasonable attorney's fees incurred in bringing the action.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

SUBCHAPTER I-2. REPORTS BY MANUFACTURERS AND DISTRIBUTORS OF CERTAIN OFF-HIGHWAY VEHICLES PURCHASED OUTSIDE THIS STATE

Sec. 151.481. DEFINITIONS.

In this subchapter:

(1) "Distributor" means a person that distributes off-highway vehicles and is required to hold a distributor's license under Chapter 2301, Occupations Code.

(1-a) "Manufacturer" means a person that manufactures off-highway vehicles and is required to hold a manufacturer's license under Chapter 2301, Occupations Code.

(2) "New off-highway vehicle" means an off-highway vehicle that has not been the subject of a retail sale.

(3) "Off-highway vehicle" has the meaning assigned by Section 501.0301, Transportation Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 297 (S.B. 586), Sec. 2, eff. September 1, 2021.

Sec. 151.482. REPORTS BY MANUFACTURERS AND DISTRIBUTORS.

(a) The comptroller shall require each manufacturer and distributor to file with the comptroller a report not later than March 1 of each year listing each warranty issued by the manufacturer or distributor for a new off-highway vehicle that was, during the preceding calendar year, sold to a resident of this state by a retailer located outside this state. The report must:

(1) be in a form prescribed by the comptroller; and

(2) contain, at a minimum, the following information for each warranty:

(A) the vehicle identification number of the vehicle;

(B) the make, model, and model year of the vehicle; and

(C) the name and address, including street name and number, city, and zip code, of the purchaser of the vehicle.

(b) As soon as practicable after receiving a report submitted under this section, the comptroller shall use the information in the report to investigate and collect any unpaid use taxes imposed under Subchapter D on an off-highway vehicle described in the report.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 297 (S.B. 586), Sec. 3, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 297 (S.B. 586), Sec. 4, eff. September 1, 2021.

Sec. 151.483. RULES. The comptroller may adopt rules as necessary to implement this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Sec. 151.484. CONFIDENTIALITY. Except as provided by Section 111.006, information contained in a report required to be filed by this subchapter is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Sec. 151.485. CIVIL PENALTY. (a) If a manufacturer or distributor fails to file a report required by this subchapter or fails to file a complete report, the comptroller may impose a civil penalty under Section 151.703(d).

(b) In addition to the penalty imposed under Subsection (a), a manufacturer or distributor shall pay the state a civil penalty of not less than $25 or more than $2,000 for each day a violation continues if the manufacturer or distributor:

(1) violates this subchapter; or

(2) violates a rule adopted to administer or enforce this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 297 (S.B. 586), Sec. 5, eff. September 1, 2021.

Sec. 151.486. ACTION BY TEXAS DEPARTMENT OF MOTOR VEHICLES. If a manufacturer or distributor fails to file a report required by this subchapter or fails to file a complete report, the comptroller may notify the Texas Department of Motor Vehicles of the failure and the department may take administrative action against the manufacturer or distributor for the failure under Chapter 2301, Occupations Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 297 (S.B. 586), Sec. 6, eff. September 1, 2021.

Sec. 151.487. AUDIT; INSPECTION. The comptroller may audit, inspect, or otherwise verify a manufacturer's or distributor's compliance with this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 297 (S.B. 586), Sec. 7, eff. September 1, 2021.

Sec. 151.488. ACTION BY ATTORNEY GENERAL; VENUE; ATTORNEY'S FEES. (a) The comptroller may bring an action to enforce this

subchapter and obtain any civil remedy authorized by this subchapter or any other law for the violation of this subchapter. The attorney general shall prosecute the action on the comptroller's behalf.

(b) Venue for and jurisdiction of an action under this section is exclusively conferred on the district courts in Travis County.

(c) If the comptroller prevails in an action under this section, the comptroller and attorney general are entitled to recover court costs and reasonable attorney's fees incurred in bringing the action.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

SUBCHAPTER J. TAX DETERMINATIONS

Sec. 151.501. DETERMINATION AFTER THE FILING OF A REPORT. If a person has filed a tax report, the comptroller may issue a deficiency determination under Section 111.008 of this code.

Acts 1981, 67th Leg., p. 1576, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.503. DETERMINATION IF NO REPORT FILED. (a) If a person fails to file a report, the comptroller shall estimate the amount of receipts of the person subject to the sales tax, the amount of total sales prices of taxable items sold, leased, or rented by the person to another for storage, use, or consumption in this state, and the total sales prices of taxable items acquired by the person for storage, use, or consumption without the payment of the use tax to a retailer for each period or the total period for which the person failed to report as required by this chapter.

(b) The estimate required by Subsection (a) of this section may be made on any information available to the comptroller.

(c) On the basis of the estimate, the comptroller shall compute and determine the amount required to be paid to the state for each period.

(d) The comptroller shall add to the determination an amount equal to 10 percent of the amount computed under Subsection (c) of

this section as a penalty.

(e) A determination under this section may be issued for one or more periods, and more than one determination may be issued for a single period.

Acts 1981, 67th Leg., p. 1576, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.504. DETERMINATION WHEN A BUSINESS IS DISCONTINUED. If a business is discontinued, the comptroller may make a determination of tax liability under this subchapter before the date a report or tax payment is due with respect to the discontinued business.

Acts 1981, 67th Leg., p. 1576, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.505. WHEN DETERMINATION BECOMES FINAL. A determination made under Section 151.501, 151.503, or 151.504 of this code becomes final on the expiration of 30 days after the day on which the determination was served by personal service or by mail, unless a petition for a redetermination is filed before the determination becomes final.

Acts 1981, 67th Leg., p. 1577, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.507. LIMITATIONS ON DETERMINATION. (a) A notice of a deficiency determination must be personally served or mailed within the period provided by Subchapter D, Chapter 111 of this code after the last day of the calendar month following the close of the regular reporting period of the taxpayer for which the amount is proposed to be determined or within the period provided by Subchapter D, Chapter 111 of this code after the report is filed, whichever period expires the later.

(b) The limitations provided by Subsection (a) of this section do not apply to a determination proposed to be made:

(1) for the collection of an amount of sales tax on the sale of a taxable item if a deficiency notice has been given or is given for the collection of the use tax on the same taxable item; or

(2) for the collection of the use tax on the storage, use, or consumption of a taxable item if a deficiency notice has been or is given for the collection of the sales tax on the same

taxable item.

(c) Relettered as (b) by Acts 1985, 69th Leg., ch. 37, Sec. 4, eff. Aug. 26, 1985.

Acts 1981, 67th Leg., p. 1577, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 37, Sec. 4, eff. Aug. 26, 1985.

Sec. 151.508. OFFSETS. In making a determination, the comptroller may offset an overpayment for one or more periods against an underpayment, penalty, and interest accrued on the underpayment for the same period or one or more other periods. Any interest accrued on the overpayment shall be included in the offset.

Acts 1981, 67th Leg., p. 1577, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.509. PETITION FOR REDETERMINATION. A person petitioning for a redetermination of a determination made under Section 111.022 must file, before the determination becomes final, security as the comptroller requires to ensure compliance with this chapter. The security may be sold by the comptroller in the manner provided by Subchapter A, Chapter 111.

Acts 1981, 67th Leg., p. 1577, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(2), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 21, eff. Oct. 1, 1995.

Sec. 151.510. HEARING ON REDETERMINATION. (a) If a petition for a redetermination is filed before the determination becomes final, the petitioner is entitled on a request stated in the petition to an oral hearing on the redetermination and to at least 20 days' notice of the time and place of the hearing.

(b) The comptroller may continue the hearing from time to time as is necessary.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.511. REDETERMINATION. (a) The comptroller may decrease the amount of a determination at any time before the determination becomes final.

(b) The comptroller may increase the amount of a

determination that is not final if the additional claim is asserted by the comptroller at or before a hearing on a redetermination.

(c) If an additional claim is asserted, the petitioner is entitled to a 30-day continuance of the hearing to permit the petitioner to obtain and present evidence applicable to the items on which the additional claim is based.

(d) Repealed by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(3), eff. Sept. 1, 1991.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(3), eff. Sept. 1, 1991.

Sec. 151.512. INTEREST. Unpaid taxes imposed by this chapter draw interest beginning 60 days after the date on which the tax or the amount of the tax required to be collected became due and payable to the state.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.514. NOTICES. The comptroller shall give notice of a determination made under this subchapter promptly as provided by Sections 111.008(b) and (c) of this code. Any other notice required by this subchapter shall be given in the same manner. Notices under this subchapter are effective as provided by Section 111.008(c) of this code.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.515. PROCEEDINGS AGAINST CONSUMER. This chapter does not prohibit the comptroller from proceeding against a consumer for an amount of tax that the consumer should have paid but failed to pay.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER K. PROCEDURES FOR COLLECTION OF DELINQUENT TAXES

Sec. 151.601. SUIT. The comptroller may bring an action in a court of this state, another state, or the United States to collect an amount of the taxes imposed by this chapter that is due

and unpaid, including penalties and interest. The action shall be prosecuted by the attorney general.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.602. VENUE. A suit brought under this subchapter against a taxpayer in a court of this state may be filed and heard in the county where the person owing the tax resides or has a place of business or in Travis County.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.603. EVIDENCE: COMPTROLLER'S CERTIFICATE. In an action brought under this subchapter a certificate of the comptroller showing the delinquency is prima facie evidence of the determination of the tax or the amount of the tax, of the amount of penalties and interest stated, of the delinquency of the amounts stated, and of the compliance of the comptroller with this chapter in computing and determining the amounts due.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.604. FORM OF ACTION. A suit under this subchapter against any person for recovery of the tax is in the form of an action for debt.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.605. WRITS OF ATTACHMENT. In a suit under this subchapter, no bond or affidavit is required before the issuance of a writ of attachment.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.606. SERVICE OF PROCESS. In a suit under this subchapter, a seller or retailer may be served with process as provided by the rules of civil procedure or by service on an agent or clerk in this state employed by the retailer or seller in a place of business in this state maintained by the seller or retailer. If process is served on the agent or clerk of the retailer or seller, a copy of the process shall forthwith be sent by registered mail to the retailer or seller at his principal or home office.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.607. LIMITATION PERIOD. The limitation period provided by Section 111.202 of this code applies to a suit brought under this subchapter, except that the suit may be brought at any time within 3 years after a determination made under Subchapter J of this code becomes final or within 3 years after the last recording of a lien under this title.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1044, ch. 235, art. 7, Sec. 7, eff. Sept. 1, 1983.

Sec. 151.608. JUDGMENTS. (a) A judgment in favor of the state obtained in an action under this chapter may be filed for record with the county clerk of any county in the state and when filed constitutes a lien on all of the real property located in the county and belonging to the person named in the judgment as the defendant. The lien applies to all real property in the county owned by the defendant at the time of the filing or acquired by him after the filing of the judgment.

(b) The lien has the force and effect of a judgment lien for 10 years after the date of the judgment unless the lien is released or discharged before the expiration of the 10-year period.

(c) On the payment in full of the amount of a judgment obtained under this chapter, the comptroller may release the lien.

(d) A prior judgment is not a bar to a subsequent suit under this chapter for additional taxes, penalties, and interest accruing after the prior judgment if the suit is brought before the expiration of the limitation period.

(e) Execution on a judgment obtained under this chapter may issue in the same manner as an execution under other judgments, and the sale under an execution is held as provided by the rules of civil procedure and the statutes of this state.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.614. RES JUDICATA. In the determination of a suit arising under this chapter, the rule of res judicata applies only if

the liability at issue is for the same quarterly period as was at issue in a previously determined suit.

Acts 1981, 67th Leg., p. 1582, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.615. TAX SUIT COMITY. A court of this state shall recognize and enforce a liability for a sales or use tax lawfully imposed by another state if the other state extends a like comity to this state.

Acts 1981, 67th Leg., p. 1582, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER L. PROHIBITED ACTS AND CIVIL AND CRIMINAL PENALTIES

Sec. 151.701. USE OF STAMPS OR TOKENS PROHIBITED. No person may use stamps or tokens for the purpose of collecting or enforcing the collection of the taxes imposed by this chapter or for any other purpose connected with the taxes.

Acts 1981, 67th Leg., p. 1582, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.703. FAILURE TO REPORT OR PAY TAX. (a) A person who fails to file a report as required by this chapter or who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional five percent.

(b) The minimum penalty provided by Subsection (a) of this section is $1.

(c) A delinquent tax draws interest beginning 60 days from the due date.

(d) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.03,

eff. October 1, 2011.

Sec. 151.7032. FAILURE TO PAY TAXES COLLECTED; CRIMINAL PENALTY AND AGGREGATION OF AMOUNTS INVOLVED. (a) A person commits an offense if the person intentionally or knowingly fails to pay to the comptroller, as required by this chapter, the tax collected by that person.

(b) An offense under this section is:

(1) a Class C misdemeanor if the amount of the tax collected and not paid is less than $50;

(2) a Class B misdemeanor if the amount of the tax collected and not paid is $50 or more but less than $500;

(3) a Class A misdemeanor if the amount of the tax collected and not paid is $500 or more but less than $1,500;

(4) a state jail felony if the amount of the tax collected and not paid is $1,500 or more but less than $20,000;

(5) a felony of the third degree if the amount of the tax collected and not paid is $20,000 or more but less than $100,000;

(6) a felony of the second degree if the amount of the tax collected and not paid is $100,000 or more but less than $200,000; and

(7) a felony of the first degree if the amount of the tax collected and not paid is $200,000 or more.

(c) When tax is collected and not paid in violation of Subsection (a) pursuant to one scheme or continuous course of conduct, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 12, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 15, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 16, eff. September 1, 2011.

Sec. 151.704. SALES TAX ABSORPTION; CRIMINAL PENALTY. (a) Except as provided by Subsections (b) and (c), a retailer

commits an offense if the retailer directly or indirectly advertises, holds out, or states to a customer or to the public that the tax is not part of the sales price payable by the customer.

(b) A retailer may directly or indirectly advertise, hold out, or state to a customer or to the public that the retailer will pay the tax for the customer if:

(1) the retailer indicates in the advertisement, holding out, or statement that the retailer is paying the tax for the customer;

(2) the retailer does not indicate or imply in the advertisement, holding out, or statement that the sale is exempt or excluded from taxation; and

(3) any purchaser's receipt or other statement given to the customer listing the sales price paid or to be paid by the customer separately states the amount of the tax and indicates that the tax will be paid by the retailer.

(c) This section does not prohibit a utility from billing a customer in one lump-sum price including the utility sales price and the amount of the tax imposed by this chapter.

(d) An offense under this section is a misdemeanor punishable by a fine of not more than $500.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1119 (H.B. 2358), Sec. 2, eff. October 1, 2019.

Sec. 151.705. COLLECTION OF USE TAX; CRIMINAL PENALTY. A retailer engaged in business in this state who violates Section 151.103 of this code commits a misdemeanor punishable by a fine of not more than $500.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.707. RESALE OR EXEMPTION CERTIFICATE; CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) intentionally or knowingly makes a false entry in, or a fraudulent alteration of, an exemption or resale certificate;

(2) makes, presents, or uses an exemption certificate

or resale certificate with knowledge that it is false and with the intent that it be accepted as a valid resale or exemption certificate; or

(3) intentionally conceals, removes, or impairs the verity or legibility of an exemption or resale certificate or unreasonably impedes the availability of an exemption or resale certificate.

(b) An offense under Subsection (a) is:

(1) a Class C misdemeanor if the tax avoided by the use of the exemption or resale certificate is less than $20;

(2) a Class B misdemeanor if the tax avoided by the use of the exemption or resale certificate is $20 or more, but less than $200;

(3) a Class A misdemeanor if the tax avoided by the use of the exemption or resale certificate is $200 or more, but less than $750;

(4) a felony of the third degree if the tax avoided by the use of the exemption or resale certificate is $750 or more, but less than $20,000; or

(5) a felony of the second degree if the tax avoided by the use of the exemption or resale certificate is $20,000 or more.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 1.09, eff. Sept. 1, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 17, eff. September 1, 2011.

Sec. 151.7075. FAILURE TO PRODUCE CERTAIN RECORDS AFTER USING RESALE CERTIFICATE; CRIMINAL PENALTY. (a) A person commits an offense if the person intentionally fails to produce to the comptroller records that document a taxpayer's taxable sale of items that the taxpayer obtained using a resale certificate.

(b) The records to which Subsection (a) applies are records:

(1) required to be kept under Section 151.025; and

(2) requested by the comptroller under Section 151.023 that are not produced in the period required by that section.

(c) The items to which Subsection (a) applies are items the sales of which are required to be reported to the comptroller under Section 151.433, 154.212, or 155.105.

(d) An offense under this section is:

(1) a Class C misdemeanor if the tax avoided by the use of the resale certificate is less than $20;

(2) a Class B misdemeanor if the tax avoided by the use of the resale certificate is $20 or more but less than $200;

(3) a Class A misdemeanor if the tax avoided by the use of the resale certificate is $200 or more but less than $750;

(4) a felony of the third degree if the tax avoided by the use of the resale certificate is $750 or more but less than $20,000; or

(5) a felony of the second degree if the tax avoided by the use of the resale certificate is $20,000 or more.

(e) It is an affirmative defense to prosecution under this section that the items listed for purchase on the resale certificate had not been resold at the time of the comptroller's request for records under Section 151.023.

(f) If conduct described by Subsection (a) is related to one scheme or continuous course of conduct, the conduct may be considered as one offense and the amounts of tax avoided may be aggregated in determining the grade of the offense.

Added by Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 18, eff. September 1, 2011.

Sec. 151.708. SELLING WITHOUT PERMIT; CRIMINAL PENALTY. (a) A person or officer of a corporation commits an offense if the person or corporation engages in business as a retailer in this state without a permit required by this chapter or after the permit is suspended.

(b) A first offense under this section is a Class C misdemeanor.

(c) If it is shown on the trial of an offense under this section that the person or officer has previously been finally convicted of one offense under this section, on conviction the person or officer shall be punished for a Class B misdemeanor

punishable by a fine only, not to exceed $2,000.

(d) If it is shown on the trial of an offense under this section that the person or officer has previously been finally convicted of two offenses under this section, on conviction the person or officer shall be punished for a Class A misdemeanor punishable by a fine only, not to exceed $4,000.

(e) If it is shown on the trial of an offense under this section that the person or officer has previously been finally convicted of three or more offenses under this section, on conviction the person or officer shall be punished for a Class A misdemeanor punishable by a fine not to exceed $4,000, confinement in jail for a term not to exceed one year, or both the fine and confinement.

(f) Each day a person or an officer of a corporation operates a business without a permit or with a suspended permit is a separate offense under this section.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 442, Sec. 13, eff. Sept. 1, 2001.

Sec. 151.709. FAILURE TO FURNISH REPORT; CRIMINAL PENALTY. (a) A person commits an offense if the person refuses to furnish a report as required by this chapter or by the comptroller as authorized by this chapter.

(b) A first offense under this section is a Class C misdemeanor.

(c) If it is shown on the trial of an offense under this section that the person has previously been finally convicted of one offense under this section, on conviction the person shall be punished for a Class B misdemeanor punishable by a fine only, not to exceed $2,000.

(d) If it is shown on the trial of an offense under this section that the person has previously been finally convicted of two or more offenses under this section, on conviction the person shall be punished for a Class A misdemeanor punishable by a fine only, not to exceed $4,000.

Acts 1981, 67th Leg., p. 1584, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 2001, 77th Leg., ch. 442, Sec. 14, eff. Sept. 1, 2001.

Sec. 151.7101. ELECTION OF OFFENSES. If a violation of a criminal provision of this chapter by a taxpayer constitutes another offense under the laws of this state, the state may elect the offense for which it will prosecute the taxpayer.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 15, eff. Sept. 1, 2001.

Sec. 151.7102. FALSE ENTRY OR FAILURE TO ENTER IN RECORDS. (a) A person commits an offense if the person intentionally or knowingly conceals, destroys, makes a false entry in, or fails to make an entry in records that are required to be made or kept under this chapter.

(b) An offense under this section is a felony of the third degree.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 15, eff. Sept. 1, 2001.

Sec. 151.7103. FAILURE TO PRODUCE FOR INSPECTION OR ALLOW INSPECTION OF RECORDS. (a) A person commits an offense if the person is asked, by a person authorized by the comptroller, to produce or allow inspection of a record required to be kept under this chapter and the person fails to produce the record or allow the inspection after the allowed time.

(b) An offense under this section is a Class C misdemeanor. Each day the person fails to allow inspection of records or produce records for inspection after receiving a request is a separate offense.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 15, eff. Sept. 1, 2001.

Sec. 151.711. LIMITATIONS ON PROSECUTIONS. An indictment or information for a criminal offense brought under this chapter must be presented within four years after the commission of the offense or it is barred.

Acts 1981, 67th Leg., p. 1584, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.712. CIVIL PENALTY FOR PERSONS CERTIFYING EXPORTS.

(a) A person may not sign or certify proof of export documentation for the purpose of showing an exemption under Section 151.307(b)(2) unless:

(1) the person is:

(A) a customs broker licensed by the comptroller under Section 151.157; or

(B) an authorized employee of a customs broker licensed by the comptroller under Section 151.157; and

(2) the tangible personal property the export of which the person certifies is exported on the date and to the place shown on the export documentation signed by the person.

(b) A person who provides proof of documentation that tangible personal property has been exported outside of the United States or a person who may benefit from the provision of the proof of documentation, including a customs broker, authorized employee, authorized independent contractor, seller of the property or agent or employee of the seller, or a consumer of the property or agent or employee of the consumer, may not sell or buy the proof of documentation, including stamps required for the documentation. This subsection does not apply to a customs broker who accepts a fee for providing documentation under Section 151.307(b) if the customs broker provides the documentation in accordance with Section 151.157 and rules adopted by the comptroller.

(c) Except as provided by Subsection (e), a person who violates this section is subject to a monetary penalty that may not exceed:

(1) $500 for the first violation;

(2) $1,000 for the second violation; and

(3) $3,000 for each subsequent violation.

(d) Except as provided by Subsection (e), each violation of this section is subject to a separate monetary penalty.

(e) The aggregate of monetary penalties imposed under this section against any person for all violations that occur in a calendar year may not exceed $30,000.

(f) In addition to any monetary penalty under this section, the comptroller shall revoke under Section 151.157 the license of a customs broker who violates this section. A person whose license is

revoked under this subsection may not apply for a new license under Section 151.157 before the first anniversary of the date on which the previous license was revoked.

(g) A proceeding to impose a civil penalty or suspend or revoke a license because of a violation of this section is a contested case under Chapter 2001, Government Code. Judicial review is by trial de novo. The district courts of Travis County have exclusive original jurisdiction of a suit under this section.

(h) The comptroller must give notice of the comptroller's intent to impose a monetary or other penalty under this section not later than two years after the date of the alleged commission of a violation of this section or the comptroller may not impose a monetary or other penalty.

(i) In this section, "customs broker" and "authorized employee" have the meanings assigned by Section 151.157.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 4, eff. June 19, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 22, eff. Oct. 1, 1995; Acts 2003, 78th Leg., ch. 1001, Sec. 6, eff. Jan. 1, 2004.

Sec. 151.713. FURNISHING FALSE INFORMATION TO CUSTOMS BROKER; CIVIL PENALTY. (a) A person may not obtain or attempt to obtain export documentation for the purpose of showing an exemption under Section 151.307(b)(2) from a customs broker or an authorized employee of a customs broker if the person knows, at the time the documentation is sought, that the information provided to the broker or employee is materially false, in whole or in part, and the documentation is sought for the purpose of evading the tax imposed by this chapter.

(b) After notice as provided by this section, a person who violates this section is subject to a monetary penalty that may not exceed:

(1) $500 for the first violation;

(2) $1,000 for the second violation; and

(3) $3,000 for each subsequent violation.

(c) Each violation of this section is subject to a separate monetary penalty.

(d) If the comptroller believes that a person has violated this section, the comptroller shall give written notice to the person to show cause why the person should not be subject to a monetary penalty for the violation. The notice must advise the person of the allegations and explain that the person has a right to respond to the allegations in writing and request an oral hearing before the 31st day after the date that the notice is issued.

(e) The comptroller may not impose a monetary penalty under this section until the comptroller or a person designated by the comptroller:

(1) considers the allegations against the person;

(2) considers any timely written response made by the person;

(3) considers any evidence properly admitted at any oral hearing held on the allegations; and

(4) issues a written decision.

(f) The comptroller must give notice of the comptroller's intent to impose a monetary penalty under this section not later than four years after the date of the alleged commission of a violation of this section or the comptroller may not impose a monetary penalty.

(g) The penalty imposed by this section is in addition to any tax, penalty, and interest that may be assessed against a person who violates this section.

(h) In this section, "customs broker" and "authorized employee" have the meanings assigned by Section 151.157.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 4, eff. June 19, 1993.

Sec. 151.714. VENUE FOR CRIMINAL PROSECUTION. Venue for prosecution for an offense under this chapter is in:

(1) the county in which any element of the offense occurs; or

(2) Travis County.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 16, eff. Sept. 1, 2001.

SUBCHAPTER M. DISPOSITION OF PROCEEDS

Sec. 151.801. DISPOSITION OF PROCEEDS. (a) Except for amounts otherwise allocated under this section, all proceeds from the collection of the taxes imposed by this chapter shall be deposited to the credit of the general revenue fund.

(b) The amount of the proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of lubricating and motor oils used to propel motor vehicles over the public roadways shall be deposited to the credit of the state highway fund.

(c) The proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of sporting goods shall be deposited as follows:

(1) an amount equal to 93 percent of the proceeds shall be credited to the Parks and Wildlife Department for the purposes described by Subsection (c-1) and deposited to department accounts as provided by that subsection; and

(2) an amount equal to seven percent of the proceeds shall be credited to the Texas Historical Commission and deposited to the credit of the historic site account under Section 442.073, Government Code.

(c-1) The legislature shall allocate the money credited to the Parks and Wildlife Department under Subsection (c) to department accounts specified in the Parks and Wildlife Code in specific amounts provided in the General Appropriations Act, and those amounts may be used only for the following purposes:

(1) to acquire, operate, maintain, and make capital improvements to parks;

(2) for a purpose authorized under Chapter 24, Parks and Wildlife Code;

(3) to pay debt service on park-related bonds;

(4) to fund the state contributions for benefits and benefit-related costs attributable to the salaries and wages of department employees paid from sporting goods sales tax receipts; and

(5) to fund the portion of the state contributions for annuitant group coverages under the group benefits program operated by the Employees Retirement System of Texas under Chapter 1551,

Insurance Code, attributable to sporting goods sales tax receipts.

(c-2) An amount equal to the revenue derived from the collection of taxes at the rate of two percent on each sale at retail of fireworks shall be deposited to the credit of the rural volunteer fire department insurance fund established under Section 614.075, Government Code.

(c-3) Subject to the limitation imposed under Section 2028.2041, Occupations Code, an amount equal to the proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of horse feed, horse supplements, horse tack, horse bedding and grooming supplies, and other taxable expenditures directly related to horse ownership, riding, or boarding shall be deposited to the credit of the escrow account administered by the Texas Racing Commission and established under Section 2028.204, Occupations Code.

(d) The comptroller shall determine the amount to be deposited to the highway fund under Subsection (b) according to available statistical data indicating the estimated average or actual consumption or sales of lubricants used to propel motor vehicles over the public roadways. The comptroller shall determine the amounts to be deposited to the accounts under Subsection (c) according to available statistical data indicating the estimated or actual total receipts in this state from taxable sales of sporting goods, and according to the specific amounts provided in the General Appropriations Act in accordance with Subsection (c-1). The comptroller shall determine the amount to be deposited to the fund under Subsection (c-2) according to available statistical data indicating the estimated or actual total receipts in this state from taxes imposed on sales at retail of fireworks. The comptroller shall determine the amount to be deposited to the account under Subsection (c-3) according to available statistical data indicating the estimated or actual total receipts in this state from taxable sales of horse feed, horse supplements, horse tack, horse bedding and grooming supplies, and other taxable expenditures directly related to horse ownership, riding, or boarding. If satisfactory data are not available, the comptroller may require taxpayers who make taxable sales or uses of those lubricants, of

sporting goods, of fireworks, or of horse feed, horse supplements, horse tack, horse bedding and grooming supplies, or other taxable expenditures directly related to horse ownership, riding, or boarding to report to the comptroller as necessary to make the allocation required by Subsection (b), (c), (c-2), or (c-3).

(e) In this section:

(1) "Motor vehicle" means a trailer, a semitrailer, or a self-propelled vehicle in or by which a person or property can be transported upon a public highway. "Motor vehicle" does not include a device moved only by human power or used exclusively on stationary rails or tracks, a farm machine, a farm trailer, a road-building machine, or a self-propelled vehicle used exclusively to move farm machinery, farm trailers, or road-building machinery.

(2) "Sporting goods" means an item of tangible personal property designed and sold for use in a sport or sporting activity, excluding apparel and footwear except that which is suitable only for use in a sport or sporting activity, and excluding board games, electronic games and similar devices, aircraft and powered vehicles, and replacement parts and accessories for any excluded item.

(3) "Fireworks" means any composition or device that is designed to produce a visible or audible effect by combustion, explosion, deflagration, or detonation that is classified as Division 1.4G explosives by the United States Department of Transportation in 49 C.F.R. Part 173 as of September 1, 1999. The term does not include:

(A) a toy pistol, toy cane, toy gun, or other device that uses a paper or plastic cap;

(B) a model rocket or model rocket motor designed, sold, and used for the purpose of propelling a recoverable aero model;

(C) a propelling or expelling charge consisting of a mixture of sulfur, charcoal, and potassium nitrate;

(D) a novelty or trick noisemaker;

(E) a pyrotechnic signaling device or distress signal for marine, aviation, or highway use in an emergency

situation;

(F) a fusee or railway torpedo for use by a railroad;

(G) a blank cartridge for use in a radio, television, film, or theater production, for signal or ceremonial purposes in athletic events, or for industrial purposes; or

(H) a pyrotechnic device for use by a military organization.

(4) "Horse feed" means a product clearly packaged and labeled as feed for a horse.

(5) "Horse supplement" means a product clearly packaged and labeled as a supplement for a horse, including a vitamin, mineral, or other nutrient intended to supplement horse feed.

(f) The comptroller shall deposit each fiscal year $100,000 of the revenue received under this chapter to the credit of the Texas music incubator account under Section 485.046, Government Code.

Text of subsection effective until August 31, 2035

(g) Not later than the 30th day of each state fiscal biennium, the comptroller shall deposit to the credit of the Texas moving image industry incentive fund established under Section 485.0225, Government Code, $300 million of the proceeds from the collection of the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1584, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 65, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.14, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 45, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 835 (H.B. 7), Sec. 14, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 82 (S.B. 1366), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 82 (S.B. 1366), Sec. 6, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 145 (H.B. 158), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 471 (S.B. 761), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 471 (S.B. 761), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 11, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 503 (S.B. 26), Sec. 7, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 503 (S.B. 26), Sec. 8, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 503 (S.B. 26), Sec. 9, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1365 (H.B. 2463), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1365 (H.B. 2463), Sec. 8, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 2, eff. September 1, 2021.

Acts 2025, 89th Leg., R.S., Ch. 1187 (S.B. 22), Sec. 2.07, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 1187 (S.B. 22), Sec. 3.05(4), eff. August 31, 2035.