

SUBJECT: Exempting from sales taxes certain rentals to full service event businesses

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 8 ayes — D. Bonnen, Bohac, Button, Darby, Murphy, Parker, Springer, Wray

3 nays — Y. Davis, Martinez Fischer, C. Turner

WITNESSES: For — (*Registered, but did not testify*: Scott Joslove, Texas Hotel and Lodging Association)

Against — None

BACKGROUND: Tax Code, sec. 151.302 exempts sales for resale from the sales tax.

DIGEST: HB 2844 would include in the definition of a “sale for resale” the lease or rental of reusable personal property to a full service event business if the event business used the property in the sale of a taxable item.

The bill would define “full service event business” to mean a person engaged in the business of preparing food or drinks for events and providing at least one of the following for those events:

- staff;
- rentals of tangible personal property;
- design elements; or
- floral items.

The bill would not affect tax liability accruing before its effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: HB 2844 would end the double taxation that occurs when an item is leased to a full service event company that must charge its customers sales tax for the use of the same property. A catering company that leases plates from a vendor, for instance, is taxed when it leases the plates for use at an event. The same plates are taxed again when the customer pays sales tax on the services provided by the catering company. In short, the same item is taxed twice.

The Tax Code recognizes that double taxation is unsound economic policy. This is why it excludes items that are used to make other items or items being sold to a distributor or dealer. The Tax Code is written to explicitly exclude “tax pyramiding,” in which the cost of an item increases significantly from being taxed multiple times before it reaches the end consumer.

OPPONENTS SAY: HB 2844 would unfairly provide a tax break to full service event companies. No one person is being double taxed in the instance of supplying plates for an event — the first tax is levied on the vendor who sells the plates, and the second tax is levied on the full service event company’s services. This is no different from taxing a video rental company when it first purchases the movies from a publisher and then requiring customers to pay sales tax when they rent the movies. Double taxation is only problematic if it taxes the same person for the same item twice. In this case, different people are being taxed.

NOTES: The Legislative Budget Board’s fiscal note indicates that the bill would have a negative effect of \$8.6 million in lost sales tax revenue through fiscal 2016-17 if the bill took immediate effect. If the bill took effect September 1, 2015, its estimated negative impact would be \$7.7 million through fiscal 2016-17.