

**Your Chamber has your BACK! We have been monitoring the activity of a Bad Business Bill, HB 4072. The Ways and Means House Committee Chairman Meyers suspended the Rules and voted out a number of bills including HB 4072. This bill will place an unnecessary burden on our business community, particularly small businesses. If the very few sales tax agreements are the problem, the State Comptroller's office already has a mechanism to address this. We are asking why apply a sledgehammer to a problem best addressed by a laser?**

Facts:

- HB 4072 requires local sales taxes to be collected/reported based on where an item is "shipped to" rather than from where the order is produced/sold.
- Texas has the most local sales tax jurisdictions than any other state (over 1,650); thus, businesses would need to know the sales tax rate for individual cities and another other taxing jurisdictions within the city (transit, etc.).
- More than 93% of all businesses (614,000+) currently report state/local sales taxes to their single place of business at a single rate (This would change effective October 2021 if this bill is passed)
- Once effective, the change will require businesses to determine the sales tax rate of the jurisdiction(s) (cities, transit, etc.) involved at the time of invoice creation to ensure the seller has no liabilities on over/under collection of sales taxes.
  - If a business collects a lesser amount of tax due than is actually due, the business is liable for the uncollected tax. Similarly, if a business collects more sales taxes than actually due, the purchaser is entitled to a refund of the excess tax charged.
- On each sales tax report, the business must total and report to each separate locality the amount of taxable sales delivered into that jurisdiction.

What the Proponents of the Bill are Saying:

- Proponents of HB 4072 state this bill will make sales tax distribution fairer and more equitable across the state.
- The bill would fix "abusive 380 agreements for 'sale for resale' customer service centers" who are "gaming" the system. Note that in Chapter 321.203(m), the Comptroller already has the authority to address abuses and "unwind" such transactions. If the Comptroller determines that this particular statute is insufficient to address these abuses, then the Legislature should tweak 32.1203(m), not throw out 50+ years of tax policy that businesses are already set-up to manage.

Concerns:

- Why is there little discussion about the 99.9% of businesses that are not "gaming" the system. Businesses are not aware of this proposed change. Are their voices being heard?
- What URGENT problem is this bill fixing? Particularly during this critical time of recovery.
- Most businesses, particularly small businesses' accounting systems are not set-up to calculate this change. The Comptroller is apparently developing a 'tool' for businesses to use to calculate the sales tax rates. We understand this tool is a database that a business will have to update regularly and then integrate into their accounting systems. More information is being researched.
- The bill is lacking liability protections for businesses or at least a grace period for businesses to ramp up their systems to comply. In addition, is there training and education that will be offered to businesses?

- To our knowledge, there has not been an analysis of how this impacts local governments and their prior planning for land use or of sales tax receipts.

We are asking you to take action now and write your elected official.

Dear Elected Official,

I am writing you today to put a stop to HB 4072. HB 4072 would place an unnecessary burden on businesses by requiring them to collect sales tax based on where their product is shipped to rather than from where the order is produced/sold. This means that our state's businesses – including vital small businesses – would need to have the ability to calculate taxes of more than 1,650 sales tax jurisdictions (Texas has the most of any other state). More than 93% of all businesses (614,000+) currently report state/local sales taxes to their single place of business at a single rate. Not only does this stress businesses still in the recovery of COVID-19, but it opens them up for liability should calculation be mistaken. This an unnecessary burden on our business community, particularly small businesses like mine.