

S U S A N

C O M B S

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

P.O. Box 13528 • AUSTIN, TX 78711-3528



Dear Municipal or County Authority:

Senate Bill 636, passed by the 81st Legislature, changes how retailers who operate multiple places of business in Texas should collect local sales taxes beginning Sept. 1, 2009. The bill also contains a temporary exclusion clause that requires qualifying municipalities and counties to provide certain information to the Comptroller's office by Sept. 1, 2009. This notice explains the changes related to the collection of local sales taxes and provides instructions to municipalities and counties regarding registration for the temporary exclusion clause.

Retailers Operating Multiple Places of Business – Local Tax Collection Changes are Effective Immediately

Prior to the enactment of SB 636, Tax Code Sections 321.203 and 323.203 provided that the local sales tax collected on delivery sales by a seller with more than one place of business in Texas was determined by the place of business from which the items were shipped, not the location where the order was received.

Senate Bill 636 amends Tax Code Sections 321.203 and 323.203 to specify that each sale of a taxable item is now consummated at the retailer's place of business in this state where the retailer first accepts the order, provided that the order is placed in person by the purchaser or lessee of the taxable item. Now, when a purchaser places an order in person, retailers should collect local sales tax based on the location of the place of business where the order is received rather than the place of business from which the item is shipped.

Retailers should continue to collect local sales tax based on the "ship from" location on all delivery sales of taxable items that are shipped from a place of business in Texas when the order is not placed in person by the purchaser or lessee. Orders placed over the Internet, by telephone or through the mail are still consummated at the retailer's place of business in this state from which the items are shipped, if the items are shipped from a place of business of the seller in Texas.

See *Guidelines for Collecting Local Sales and Use Tax* (Publication 94-105), at www.window.state.tx.us/taxinfo/taxpubs/tx94_105.pdf for more information concerning sellers' responsibilities for collecting local sales and use taxes.

The Temporary Exclusion Clause and Registration Requirements for Qualifying Local Jurisdictions

Temporarily excluded from this change are warehouses that are places of business of a retailer as defined under Tax Code Section 321.002, *if* the retailer has an existing economic development agreement with the municipality or county in which the warehouse is located that was entered

into under Local Government Code Chapter 380, 381, 504 or 505, or a predecessor statute, before Jan. 1, 2009. This exclusion expires Sept. 1, 2014.

To be eligible for the exclusion, the county or municipality must provide the Comptroller's office with the information listed below on or before Sept. 1, 2009. Please note that in order to provide the information requested, you will require the assistance of the taxpayer operating the warehouse:

- a copy of the economic development agreement for each warehouse with which the jurisdiction has a qualifying economic development agreement;
- detailed information about the warehouse including the taxpayer name, DBA name (if applicable), 11-digit Texas taxpayer number and the warehouse address;
- a list of all retail outlets in existence and identified as being served by the warehouse as of Jan. 1, 2009.

Form 01-159, enclosed and also available at www.cpa.state.tx.us/taxinfo/taxforms/01-159.pdf, may be used to provide the detailed information concerning the warehouse and retail locations. Please submit a separate form for each warehouse with which the jurisdiction has a qualifying economic development agreement.

We hope this information is helpful. If you have any questions concerning this notice or Texas sales and use tax, please feel free to call us at (800) 252-5555 or (512) 463-4600, or e-mail us at tax.help@cpa.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryant K. Lomax". The signature is fluid and cursive, with the first name being the most prominent.

Bryant K. Lomax
Manager, Tax Policy Division

Enclosure