

1 AN ACT

2 relating to the place of business of a retailer for purposes of the
3 collection of the municipal sales and use tax.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: .

5 SECTION 1. Section 321.002(a)(3), Tax Code, is amended to
6 read as follows:

7 (3) "Place of business of the retailer" means an
8 established outlet, office, or location operated by the retailer or
9 the retailer's agent or employee for the purpose of receiving
10 orders for taxable items and includes any location at which three or
11 more orders are received by the retailer during a calendar year. A
12 warehouse, storage yard, or manufacturing plant is not a "place of
13 business of the retailer" unless at least three orders are received
14 by the retailer during the calendar year at the warehouse, storage
15 yard, or manufacturing plant. An outlet, office, facility, or
16 location that contracts with a retail or commercial business
17 engaged in activities to which this chapter applies to process for
18 that business invoices or bills of lading onto which sales tax is
19 added is not a "place of business of the retailer" if the
20 comptroller determines that the outlet, office, facility, or
21 location functions or exists to avoid the tax imposed by this
22 chapter or to rebate a portion of the tax imposed by this chapter to
23 the contracting business.

24 SECTION 2. Section 321.203, Tax Code, is amended by adding

1 Subsection (1) to read as follows:

2 (1) If there is no place of business of the retailer because
3 the comptroller determines that an outlet, office, facility, or
4 location contracts with a retail or commercial business to process
5 for that business invoices or bills of lading and that the outlet,
6 office, facility, or location functions or exists to avoid the tax
7 imposed by this chapter or to rebate a portion of the tax imposed by
8 this chapter to the contracting business, a sale is consummated at
9 the place of business of the retailer from whom the outlet, office,
10 facility, or location purchased the taxable item for resale to the
11 contracting business.

12 SECTION 3. (a) This Act takes effect September 1, 2003, and
13 applies only to a sale of a taxable item that occurs on or after that
14 date. A sale of a taxable item that occurs before that date is
15 governed by the law in effect on the date the item is sold, and that
16 law is continued in effect for that purpose.

17 (b) Notwithstanding Subsection (a) of this section, the
18 change in law made to Section 321.002(a)(3), Tax Code, by this Act,
19 may not, before September 1, 2005, be applied to an outlet, office,
20 facility, or location that was in existence on May 27, 2003.

David Swinhart

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 3534 was passed by the House on May 5, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 3534 on May 30, 2003, by a non-record vote.

Robert Hamey

Chief Clerk of the House

I certify that H.B. No. 3534 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 30, Nays 1.

Lacey Spaw

Secretary of the Senate

APPROVED: 20 JUN 03

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

8:32P O'CLOCK

Ann Shea
Secretary of State