



LEWISVILLE

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May 14, 2024

Ms. Jenny Burleson, Director  
Tax Policy Division  
P.O. Box 13528  
Austin, Texas 78711

Re: Latest Proposed Amendment to Rule 3.334

Dear Ms. Burleson,

On behalf of the City of Lewisville, I am submitting comments regarding the Comptroller's proposed rules changes to Section 3.334. This most recent amendment is the fourth such attempt to correct issues or overlooked items made to the initial rule that was first published January 3, 2020. These comments are in addition to those previously made by our City and statements submitted separately on behalf of Lewisville and other cities by the Coalition for Appropriate Sales Tax Law Enactment (CASTLE).

The ongoing attempts to revise Chapter 321 of the Tax Code are not simplifying matters for Texas businesses. Instead, changes such as redefining the concept of "place of business" and introducing additional distinctions between small and large businesses only serve to increase complexity and impose greater burdens.

Although the content of this proposed repeal and replacement of Section 3.334 is essentially the same as the prior version, there are points in the rule published on April 19, 2024, we would like to address.

1. A further examination of the fiscal implications of a change of this magnitude must be undertaken. The Comptroller's position that reliable estimates of net changes in revenue cannot feasibly be produced is untenable. The adverse effects on Texas communities stemming from this change should be thoroughly evaluated before any revisions are made Section 321.
2. The expenses associated with implementing these rule changes outweigh the anticipated benefits. Those compelled to adhere to the new regulations will face additional economic burdens. Suggesting that these costs solely arise from non-compliance is misleading. Mandating a single business entity to report sales across multiple jurisdictions will pose significant burdens.
3. The introduction of subsection (b)(6) in the proposed new rule establishes a distinction in treatment between small and large businesses. This addition states, "If a small business seller or micro-business seller operates a single location out of which it conducts all its business activities, the comptroller will presume that the location is a place of business of the seller." This is true even if all sales are generated through online sales. What is the reasoning behind

this differentiation? It seems that like transactions for both small and large businesses should be handled uniformly to maintain consistency, fairness, and equity.

Efforts to address sales tax sourcing were proposed in the 2021 and 2023 legislative sessions, indicating that the state legislature recognized that to make such a large shift from origin to destination would require a legislative change. Both of those proposed bills were unsuccessful, suggesting a lack of backing or interest from state policymakers. Respectfully, we believe the proposed rule changes reflect the Comptroller's effort to usurp the state legislature's decision-making authority. We assert that any substantial changes to the longstanding state procedure are more than just administrative matters, and that sourcing in local sales taxation should be subject to legislative scrutiny. We respectfully urge for the restoration of the rules in place prior to 2020 and recommend deferring any future revisions to Section 3.334 until proper authorization is sought by the Texas Legislature.

Sincerely,



[Thomas J. \(TJ\) Gilmore \(May 16, 2024 12:55 CDT\)](#)

TJ Gilmore, Mayor  
City of Lewisville