

By: Hancock

S.B. No. 608

A BILL TO BE ENTITLED

AN ACT

relating to an exemption for certain tangible personal property
related to medical data centers from the sales and use tax.

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

SECTION 1. Sections 151.317(a) and (b), Tax Code, are
amended to read as follows:

(a) Subject to Sections 151.359, 151.360, and 151.1551 and
Subsection (d) of this section, gas and electricity are exempted
from the taxes imposed by this chapter when sold for:

(1) residential use;

(2) use in powering equipment exempt under Section
151.318 or 151.3185 by a person processing tangible personal
property for sale as tangible personal property, other than
preparation or storage of prepared food described by Section
151.314(c-2);

(3) use in lighting, cooling, and heating in the
manufacturing area during the actual manufacturing or processing of
tangible personal property for sale as tangible personal property,
other than preparation or storage of prepared food described by
Section 151.314(c-2);

(4) use directly in exploring for, producing, or
transporting, a material extracted from the earth;

(5) use in agriculture, including dairy or poultry
operations and pumping for farm or ranch irrigation;

(6) use directly in electrical processes, such as electroplating, electrolysis, and cathodic protection;

(7) use directly in the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property;

(8) use directly in providing, under contracts with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or defense-related platform modifications or upgrades;

(9) use directly by a data center or medical data center that is certified by the comptroller as a qualifying data center or qualifying medical data center under Section [151.359](#) or [151.360](#) in the processing, storage, and distribution of data;

(10) a direct or indirect use, consumption, or loss of electricity by an electric utility engaged in the purchase of electricity for resale; or

(11) use in timber operations, including pumping for irrigation of timberland.

(b) The sale, production, distribution, lease, or rental of, and the use, storage, or other consumption in this state of, gas and electricity sold for the uses listed in Subsection (a)[7] are exempted from the taxes imposed by a municipality under Chapter 321 except as provided by Sections [151.359\(j\)](#), [151.360\(k\)](#), and [321.105](#).

SECTION 2. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.360 to read as follows:

Sec. 151.360. PROPERTY USED IN CERTAIN MEDICAL DATA

CENTERS; EXEMPTION. (a) In this section:

(1) "Medical data center" means at least 75,000 square feet of space in a single building or portion of a single building, or cumulatively in multiple buildings or portions of multiple buildings that are owned by a single qualifying owner, operated by a single qualifying operator, and occupied by a single qualifying occupant, which space:

(A) is located in this state;

(B) is specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data and services used to directly and indirectly support health care, including electronic patient records, medical data, and business records;

(C) is used by a single qualifying occupant for the purposes described by Paragraph (B);

(D) is not used primarily by a telecommunications provider to place tangible personal property that is used to deliver telecommunications services; and

(E) has an uninterruptible power source, generator backup power, a sophisticated fire suppression and prevention system, and enhanced physical security that includes restricted access, video surveillance, and electronic systems.

(2) "Qualifying medical data center" means a medical data center that meets the qualifications prescribed by Subsection (e).

(3) "Qualifying occupant" means a person who:

1 (A) contracts with a qualifying owner or
2 qualifying operator to place, or cause to be placed, and to use
3 tangible personal property at the qualifying medical data center;
4 or

5 (B) in the case of a qualifying occupant who is
6 also the qualifying owner and the qualifying operator, places, or
7 causes to be placed, and uses tangible personal property at the
8 qualifying medical data center.

9 (4) "Qualifying operator" means a person who controls
10 access to a qualifying medical data center, regardless of whether
11 that person owns each item of tangible personal property located at
12 the qualifying medical data center. A qualifying operator may also
13 be the qualifying owner.

14 (5) "Qualifying owner" means a person who owns a
15 building in which a qualifying medical data center is located. A
16 qualifying owner may also be the qualifying operator.

17 (b) For purposes of this section:

18 (1) multiple buildings occupied by a qualifying
19 occupant or a subsidiary or affiliate of the occupant who meets the
20 requirements prescribed by Subsection (a)(3) are considered to be
21 occupied by a single qualifying occupant;

22 (2) multiple buildings operated by a qualifying
23 operator or a subsidiary or affiliate of the operator who meets the
24 requirements prescribed by Subsection (a)(4) are considered to be
25 operated by a single qualifying operator; and

26 (3) multiple buildings owned by a qualifying owner or
27 a subsidiary or affiliate of the owner who meets the requirements

prescribed by Subsection (a)(5) are considered to be owned by a single qualifying owner.

(c) Except as otherwise provided by this section, tangible personal property that is necessary and essential to the operation of a qualified medical data center is exempted from the taxes imposed by this chapter if the tangible personal property is purchased for installation at, incorporation into, or in the case of Subdivision (1), use in a qualifying medical data center by a qualifying owner, qualifying operator, or qualifying occupant, and the tangible personal property is:

- (1) electricity;
- (2) an electrical system;
- (3) a cooling system;
- (4) an emergency generator;
- (5) hardware or a distributed mainframe computer or server;
- (6) a data storage device;
- (7) network connectivity equipment;
- (8) a rack, cabinet, and raised floor system;
- (9) a peripheral component or system;
- (10) software;
- (11) a mechanical, electrical, or plumbing system that is necessary to operate any tangible personal property described by Subdivisions (2)-(10);
- (12) any other item of equipment or system necessary to operate any tangible personal property described by Subdivisions (2)-(11), including a fixture; or

1 (13) a component part of any tangible personal
2 property described by Subdivisions (2)-(10).

3 (d) The exemption provided by this section does not apply
4 to:

5 (1) office equipment or supplies;

6 (2) maintenance or janitorial supplies or equipment;

7 (3) equipment or supplies used primarily in sales
8 activities or transportation activities;

9 (4) tangible personal property on which the purchaser
10 has received or has a pending application for a refund under Section
11 [151.429](#);

12 (5) tangible personal property not otherwise exempted
13 under Subsection (c) that is incorporated into real estate or into
14 an improvement of real estate; or

15 (6) tangible personal property that is rented or
16 leased for a term of one year or less.

17 (e) Subject to Subsection (1), a medical data center may be
18 certified by the comptroller as a qualifying medical data center
19 for purposes of this section if, on or after September 1, 2015:

20 (1) a single qualifying occupant:

21 (A) contracts with a qualifying owner or
22 qualifying operator to lease space in which the qualifying occupant
23 will locate a medical data center; or

24 (B) occupies a space that was not previously used
25 as a medical data center in which the qualifying occupant will
26 locate a medical data center, in the case of a qualifying occupant
27 who is also the qualifying operator and the qualifying owner; and

(2) the qualifying owner, qualifying operator, or qualifying occupant jointly or independently makes or agrees to make a capital investment, on or after September 1, 2015, of at least \$200 million in that medical data center over a five-year period beginning on the date the medical data center is certified by the comptroller as a qualifying medical data center.

(f) A medical data center that is eligible under Subsection (e) to be certified by the comptroller as a qualified medical data center shall apply to the comptroller for certification as a qualifying medical data center and for issuance of a registration number or numbers by the comptroller. The application must be made on a form prescribed by the comptroller and include the information required by the comptroller. The application must include the name and contact information for the qualifying occupant and, if applicable, the name and contact information for the qualifying owner and the qualifying operator who will claim the exemption authorized under this section. The application form must include a section for the applicant to certify that the capital investment required by Subsection (e)(2) will be met independently or jointly by the qualifying owner, qualifying operator, or qualifying occupant within the time period prescribed by Subsection (e)(2).

(g) The exemption provided by this section begins on the date the medical data center is certified by the comptroller as a qualifying medical data center and expires on the date that the medical data center ceases operating as a medical data center.

(h) Each person who is eligible to claim an exemption authorized by this section must hold a registration number issued

1 by the comptroller. The registration number must be stated on the
2 exemption certificate provided by the purchaser to the seller of
3 tangible personal property eligible for the exemption.

4 (i) The comptroller shall revoke all registration numbers
5 issued in connection with a qualifying medical data center that the
6 comptroller determines does not meet the requirements prescribed by
7 Subsection (e). Each person who has the person's registration
8 number revoked by the comptroller is liable for taxes, including
9 penalty and interest from the date of purchase, imposed under this
10 chapter on purchases for which the person claimed an exemption
11 under this section, regardless of whether the purchase occurred
12 before the date the registration number was revoked.

13 (j) The comptroller shall adopt rules consistent with and
14 necessary to implement this section, including rules relating to:

15 (1) a qualifying medical data center, qualifying
16 owner, qualifying operator, and qualifying occupant;

17 (2) issuance and revocation of a registration number
18 required under this section; and

19 (3) reporting and other procedures necessary to ensure
20 that a qualifying medical data center, qualifying owner, qualifying
21 operator, and qualifying occupant comply with this section and
22 remain entitled to the exemption authorized by this section.

23 (k) The exemption in this section does not apply to the
24 taxes imposed under Chapter 321, 322, or 323.

25 (l) A medical data center is not eligible to receive an
26 exemption under this section if the medical data center is subject
27 to an agreement limiting the appraised value of the medical data

1 center's property under Subchapter B or C, Chapter 313.

2 SECTION 3. Section 313.010, Tax Code, as added by Chapter
3 1274 (H.B. 1223), Acts of the 83rd Legislature, Regular Session,
4 2013, is amended to read as follows:

5 Sec. 313.010. CERTAIN ENTITIES INELIGIBLE. An entity that
6 has been issued a registration number under Section 151.359 or
7 151.360 is not eligible to receive a limitation on appraised value
8 under this chapter.

9 SECTION 4. Section 321.208, Tax Code, is amended to read as
10 follows:

11 Sec. 321.208. STATE EXEMPTIONS APPLICABLE. The exemptions
12 provided by Subchapter H, Chapter 151, apply to the taxes
13 authorized by this chapter, except as provided by Sections
14 151.359(j), 151.360(k), and 151.317(b).

15 SECTION 5. Section 323.207, Tax Code, is amended to read as
16 follows:

17 Sec. 323.207. STATE EXEMPTIONS APPLICABLE. The exemptions
18 provided by Subchapter H, Chapter 151, apply to the taxes
19 authorized by this chapter, except as provided by Sections
20 151.359(j), 151.360(k), and 151.317(b).

21 SECTION 6. The change in law made by this Act does not
22 affect tax liability accruing before the effective date of this
23 Act. That liability continues in effect as if this Act had not been
24 enacted, and the former law is continued in effect for the
25 collection of taxes due and for civil and criminal enforcement of
26 the liability for those taxes.

27 SECTION 7. This Act takes effect September 1, 2015.