

CHAPTER 831

H.B. No. 85

AN ACT

relating to the taxation of property incorporated into or used for improvement of realty of an exempt entity.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 151.311, Tax Code, is amended to read as follows:

Sec. 151.311. ~~TAXABLE ITEMS INCORPORATED INTO OR [PROPERTY] USED FOR IMPROVEMENT OF REALTY OF AN EXEMPT ENTITY [OF A SCHOOL DISTRICT OR NONPROFIT HOSPITAL].~~ (a) *The purchase of tangible personal property for use in the performance of a contract for an improvement to realty for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the tangible personal property is incorporated into realty in the performance of the contract.*

(b) *The purchase of tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, for use in the performance of a contract for an improvement to realty for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the tangible personal property is:*

- (1) *necessary and essential for the performance of the contract; and*
- (2) *completely consumed at the job site.*

(c) *The purchase of a taxable service for use in the performance of a contract for an improvement to realty that is performed for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the service is performed at the job site and if:*

(1) *the contract expressly requires the specific service to be provided or purchased by the person performing the contract; or*

- (2) *the service is integral to the performance of the contract.*

(d) For purposes of this section, tangible personal property is completely consumed if after being used once for its intended purpose it is used up or destroyed. Tangible personal property that is rented or leased for use in the performance of the contract cannot be completely consumed for purposes of this section. [Tangible personal property purchased by a contractor for use in the performance of a contract for the improvement of realty for a school district or nonprofit hospital is exempted from the taxes imposed by this chapter to the extent of the value of the tangible personal property used or consumed or both in the performance of the contract. In this section "nonprofit hospital" means a hospital licensed under Chapter 241 or 577, Health and Safety Code, that is operated as a charitable or nonprofit establishment.]

SECTION 2. (a) There are exempted from the taxes imposed by Chapter 151, Tax Code, machinery or equipment and its accessories and repair and replacement parts purchased by a contractor for use in the performance of a contract for the improvement of realty for a school district or nonprofit hospital that became subject to sales or use tax because of amendments to Section 151.311, Tax Code, and that were purchased subject to a written contract or bid entered into on or before the effective date of this Act. The exemption provided by this section has no effect after three years from the effective date of this Act.

(b) In this section, "nonprofit hospital" means a hospital licensed under Chapter 241 or 577, Health and Safety Code, that is operated as a charitable or nonprofit establishment.

SECTION 3. This Act takes effect on the first day of the first quarter following the 91st day after the day on which the 73rd Legislature, Regular Session, 1993, adjourns.

SECTION 4. This Act applies to taxes due on or after the effective date of this Act. Taxes due before the effective date of this Act are governed by the law in effect when the taxes became due, and that law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 23, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 85 on May 24, 1993, by a non-record vote; passed by the Senate, with amendments, on May 21, 1993, by a viva-voce vote.

Approved June 19, 1993.

Effective Oct. 1, 1993.