



B2B and Digital Products (in Texas)

MTC Uniformity Committee

July, 25 2023

Obligatory Disclaimer

- The views expressed in this presentation are those of the presenter and should not be attributed to the Comptroller of Public Accounts or the State of Texas.

B2B Exemptions in Texas

Not 2B



So, how do we avoid pyramiding?

1. Sale-for-Resale

- A taxable item acquired for the purpose of reselling it may be purchased tax-free.
- Sellers are allowed a good-faith reliance on properly completed resale certificates.
 - Tex. Tax Code §151.006 and 34 Tex. Admin. Code 3.285


 STATE OF TEXAS
 (Rev. 4-13-08)

Texas Sales and Use Tax Resale Certificate

Name of purchaser, firm or agency as shown on permit		Phone (Area code and number)
Address (Street & number, P.O. Box or Route number)		
City, State, ZIP code		
Texas Sales and Use Tax Permit Number (must contain 11 digits)		
<input style="width: 100%; height: 15px;" type="text"/>		
Out-of-state retailer's registration number or Federal Taxpayers Registry (RFC) number for retailers based in Mexico		
<input style="width: 100%; height: 15px;" type="text"/> (Retailers based in Mexico must also provide a copy of their Mexico registration form to the seller.)		

I, the purchaser named above, claim the right to make a non-taxable purchase (for resale of the taxable items described below or on the attached order or invoice) from:

Seller: _____

Street address: _____

City, State, ZIP code: _____

Description of items to be purchased on the attached order or invoice:

Description of the type of business activity generally engaged in or type of items normally sold by the purchaser:

The taxable items described above, or on the attached order or invoice, will be resold, rented or leased by me within the geographical limits of the United States of America, its territories and possessions or within the geographical limits of the United Mexican States, in their present form or attached to other taxable items to be sold.

I understand that if I make any use of the items other than retention, demonstration or display while holding them for sale, lease or rental, I must pay sales tax on the items at the time of use based upon either the purchase price or the fair market rental value for the period of time used.

I understand that it is a criminal offense to give a resale certificate to the seller for taxable items that I know, at the time of purchase, are purchased for use rather than for the purpose of resale, lease or rental, and depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

Purchaser sign here	Title	Date
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This certificate should be furnished to the supplier.
 Do not send the completed certificate to the Comptroller of Public Accounts.

So, how do we avoid pyramiding?

Pyramid fun fact: Did you know that Cleopatra's reign was closer in time to the moon landing than the construction of the Great Pyramid at Giza?



← 2,500 years →



← 2,000 years →



So, how do we avoid pyramiding?

- 2. Manufacturing Exemption. Exemption includes:
 - TPP that will become a part of TPP for ultimate sale or that is consumed in manufacturing,
 - Equipment used in manufacturing (that makes a chemical or physical change)
 - TPP used in quality and environmental control,
 - Wrapping and packaging,
 - And so much more!
 - 2023: \$10,709,800,000
 - Tex. Tax Code §151.318
and 34 Tex. Admin. Code 3.300



Digital Taxation in Texas

- Computer Programs (151.0031)
- The electronic form of taxable TPP (151.010)
 - Books, movies, movies, etc.



Digital Taxation in Texas

Data Processing Tex. Tax Code §151.003

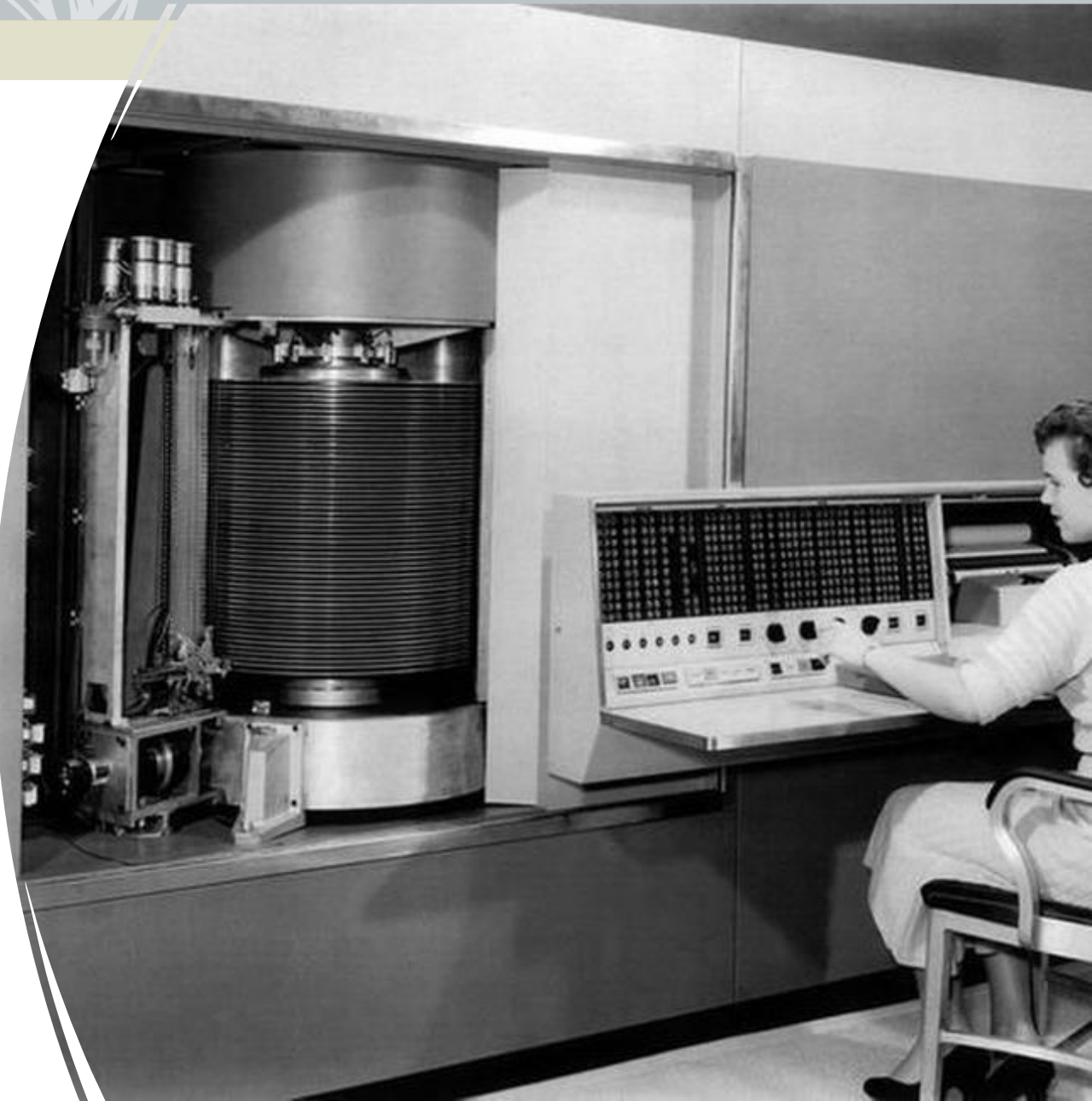
- What it is:
 - Data entry, word processing, payroll and business accounting,
 - Computerized data and information storage or manipulation
- What it is not:
 - Medical transcription,
 - Payment processing.



Digital Taxation in Texas

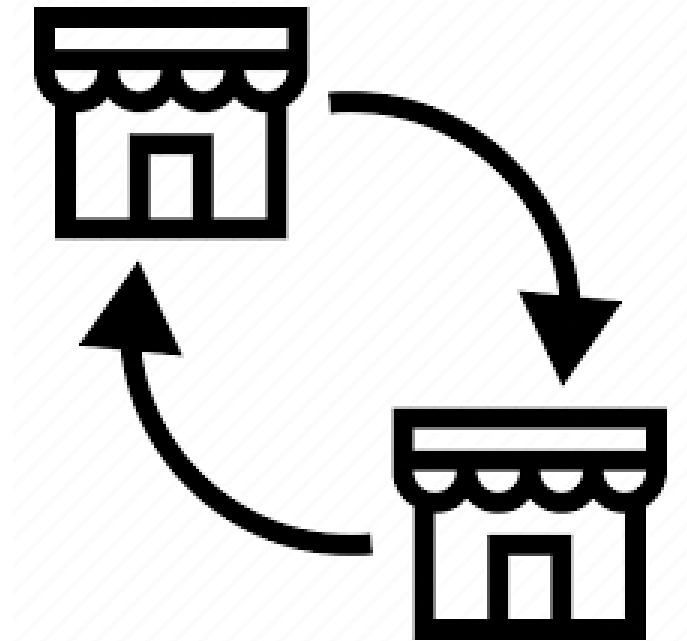
Fun fact about digital storage

- This is the 305 RAMAC. It was the first computer with magnetic disc storage. It was released by IBM in 1956. It weighed over a ton, leased for \$3,200 a month and stored 5MB of data.
- (that's \$35,895.18 in today's dollars)



How much are we talking?

- B2B Software Transactions:
 - 2022: \$1,294,000,000.00
 - 2023: \$1,369,000,000.00



How much are we talking?

- Data Processing:

–2022: \$360,000,000.00

–2023: \$392,000,000.00



How much are we talking?

- During the legislative session, HB 5070 was filed which would remove the services provided by a marketplace provider from the definition of data processing.
 - These types of transactions are almost all B2B.
 - The fiscal note on the bill was \$47,700,000.00 for the 2024-25 biennium.

When you ask Chat GPT for a joke

Why did the data scientist go broke?

Because they used up all their cache!

