

PROPOSED
SENATE AMENDMENTS TO S.B. 1004
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 42, chapter 1, article 2, Arizona Revised
3 Statutes, is amended by adding section 42-1054, to read:

4 42-1054. Tax administration for remote sellers; central
5 clearinghouse; rules; definitions

6 A. IF ANOTHER STATE TAX AGENCY EXTENDS COMITY TO THIS STATE IN THE
7 TAX ADMINISTRATION FOR REMOTE SELLERS, THE DEPARTMENT SHALL ALLOW A REMOTE
8 SELLER TO COMMUNICATE EXCLUSIVELY THROUGH THE STATE TAX AGENCY OF THE STATE
9 IN WHICH THE REMOTE SELLER IS LOCATED, INCLUDING ALLOWING THE REMOTE SELLER
10 TO REPORT AND REMIT THE TAX OWED TO THIS STATE TO THE STATE TAX AGENCY OF
11 THE STATE IN WHICH THE REMOTE SELLER IS LOCATED FOR THAT STATE TAX AGENCY
12 TO REMIT TO THIS STATE ON BEHALF OF THE REMOTE SELLER.

13 B. IF A CENTRAL CLEARINGHOUSE IS ESTABLISHED, THE DEPARTMENT, IN
14 CONJUNCTION WITH OTHER STATE TAX OFFICIALS, SHALL USE THE CENTRAL
15 CLEARINGHOUSE TO ACCEPT ALL TAX RETURNS AND REMITTANCES FOR REMOTE
16 SELLERS. THE DEPARTMENT SHALL COOPERATE WITH OTHER STATE TAX AGENCIES, AS
17 NECESSARY, IN THE DEVELOPMENT OF THE CENTRAL CLEARINGHOUSE.

18 C. THE DEPARTMENT MAY ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS
19 NECESSARY TO ADMINISTER THIS SECTION.

20 D. FOR THE PURPOSES OF THIS SECTION:

21 1. "CENTRAL CLEARINGHOUSE" MEANS AN INTERMEDIARY BETWEEN REMOTE
22 SELLERS AND STATE TAX AGENCIES THAT ACCEPTS TAX RETURNS AND REMITTANCES

1 FROM REMOTE SELLERS AND PROVIDES THE TAX RETURNS AND DISTRIBUTES THE
2 REMITTANCES TO THE APPROPRIATE STATE AGENCY.

3 2. "REMOTE SELLER" HAS THE SAME MEANING PRESCRIBED IN SECTION
4 42-5001.

5 Sec. 2. Title 42, chapter 5, article 1, Arizona Revised Statutes, is
6 amended by adding section 42-5009.01, to read:

7 42-5009.01. Compliant purchaser certificate

8 A. THE DEPARTMENT SHALL PRESCRIBE A COMPLIANT PURCHASER CERTIFICATE
9 FOR A PURCHASER THAT PURCHASES TANGIBLE PERSONAL PROPERTY FOR RESALE FROM A
10 REMOTE SELLER THAT ALLOWS THE PURCHASER TO PAY THE TAX THAT THE REMOTE
11 SELLER WOULD HAVE BEEN REQUIRED TO PAY UNDER THIS ARTICLE DIRECTLY TO THE
12 DEPARTMENT.

13 B. THE DEPARTMENT MAY ESTABLISH CRITERIA FOR A PURCHASER TO QUALIFY
14 FOR THE COMPLIANT PURCHASER CERTIFICATE, AN APPLICATION PROCESS AND
15 REPORTING AND REMITTANCE REQUIREMENTS FOR TAXES OWED PURSUANT TO THIS
16 SECTION.

17 C. A REMOTE SELLER THAT OBTAINS A COMPLIANT PURCHASER CERTIFICATE
18 FROM A PURCHASER HAS NO OBLIGATION TO COLLECT, REMIT OR PAY THE TAX OWED
19 UNDER THIS ARTICLE FOR THAT SALE. THE PURCHASER IS LIABLE FOR AN AMOUNT
20 EQUAL TO ANY TAX, PENALTY AND INTEREST THE SELLER WOULD HAVE BEEN REQUIRED
21 TO PAY UNDER THIS ARTICLE FOR THE SALE.

22 Sec. 3. Section 42-5044, Arizona Revised Statutes, is amended to
23 read:

24 42-5044. Nexus; out-of-state businesses; threshold;
25 applicability; rulemaking; reporting; definition

26 A. Notwithstanding any other law, any person that conducts business
27 in an activity classified under section 42-5061 with purchasers in this
28 state is engaging or continuing in business in this state, is subject to
29 this article and shall pay the taxes levied under this article, section
30 42-5061 and chapter 6 of this title and any duly enacted special district
31 transaction privilege taxes imposed under title 48 on retail sales of

1 tangible personal property if the person meets either of the following
2 criteria in the previous or current calendar year:

3 1. If the person is a remote seller: ~~;~~

4 (a) FOR CALENDAR YEARS 2019 THROUGH 2022, the gross proceeds of
5 sales or gross income derived from the remote seller's business with
6 customers in this state pursuant to section 42-5061 that is not facilitated
7 by a marketplace facilitator is more than the following:

8 ~~(a)~~ (i) For calendar year 2019, \$200,000.

9 ~~(b)~~ (ii) For calendar year 2020, \$150,000.

10 ~~(c)~~ (iii) For calendar year 2021 and ~~for each calendar year~~
11 ~~thereafter~~ 2022, \$100,000.

12 (b) FOR CALENDAR YEAR 2023 AND EACH CALENDAR YEAR THEREAFTER, THE
13 TAXABLE SALES DERIVED FROM THE REMOTE SELLER'S BUSINESS WITH CUSTOMERS IN
14 THIS STATE PURSUANT TO SECTION 42-5061 THAT IS NOT FACILITATED BY A
15 MARKETPLACE FACILITATOR IS MORE THAN \$100,000.

16 2. If the person is a marketplace facilitator, the gross proceeds of
17 sales or gross income derived from the marketplace facilitator's business
18 on its own behalf or on behalf of at least one marketplace seller with
19 customers in this state pursuant to section 42-5061 is more than \$100,000.

20 B. For the purpose of determining whether a person meets any of the
21 criteria prescribed in subsection A of this section, all affiliated persons
22 shall be aggregated.

23 C. If the threshold provided in subsection A of this section was not
24 met in the previous calendar year and is met partway through the current
25 calendar year, the person shall obtain a transaction privilege tax license
26 from the department ~~once the threshold is met~~ and begin remitting the tax
27 on ~~the first day of the month that starts at least thirty days after the~~
28 ~~threshold is met for the remaining of the current year and~~ JANUARY 1 OF the
29 next calendar year. If the person does not meet the threshold in the next
30 calendar year, the person is not required to remit the transaction
31 privilege tax for the calendar year following that calendar year and may
32 cancel the person's transaction privilege tax license. If the threshold is

1 met in a subsequent calendar year, the person shall remit the transaction
2 privilege tax pursuant to this section.

3 D. The department may adopt rules pursuant to title 41, chapter 6 to
4 carry out this section.

5 E. A marketplace facilitator shall report the tax due under this
6 section from transactions facilitated on behalf of marketplace sellers. A
7 marketplace facilitator may report the tax due under this section with the
8 tax collected from transactions made directly by the marketplace
9 facilitator on a combined tax return or on a separate return.

10 F. For the purposes of this section, "affiliated person" means a
11 person that, with respect to another person, either:

12 1. Has an ownership interest of more than five percent, whether
13 direct or indirect, in that other person.

14 2. Is related to the other person because a third person, or a group
15 of third persons that are affiliated persons with respect to each other,
16 holds an ownership interest of more than five percent, whether direct or
17 indirect, in the related persons.

18 Sec. 4. Title 42, chapter 6, article 1, Arizona Revised Statutes, is
19 amended by adding section 42-6018, to read:

20 42-6018. Single municipal tax rate for remote sellers;
21 election; rate; liability; rules; definition

22 A. BEGINNING IN CALENDAR YEAR 2023, A REMOTE SELLER WHO IS REQUIRED
23 TO COLLECT AND REMIT TAXES LEVIED UNDER THIS CHAPTER AND ANY DULY ENACTED
24 SPECIAL DISTRICT TRANSACTION PRIVILEGE TAXES IMPOSED UNDER TITLE 48 ON
25 RETAIL SALES OF TANGIBLE PERSONAL PROPERTY PURSUANT TO SECTION 42-5044 MAY
26 ELECT TO PAY A SINGLE MUNICIPAL TAX RATE INSTEAD OF THE MUNICIPAL TAX RATES
27 FOR RETAIL SALES OF TANGIBLE PERSONAL PROPERTY IN EFFECT FOR EACH CITY,
28 TOWN OR SPECIAL DISTRICT.

29 B. A REMOTE SELLER WHO ELECTS TO USE THE SINGLE MUNICIPAL TAX RATE
30 SHALL NOTIFY THE DEPARTMENT BEFORE USING THE SINGLE MUNICIPAL TAX RATE.
31 THE ELECTION APPLIES TO ALL TAXABLE RETAIL SALES OF TANGIBLE PERSONAL

1 PROPERTY MADE BY THE REMOTE SELLER UNLESS THE REMOTE SELLER REVOKES THE
2 ELECTION BY NOTIFYING THE DEPARTMENT.

3 C. THE SINGLE MUNICIPAL TAX RATE EFFECTIVE IN A CALENDAR YEAR IS
4 EQUAL TO THE AVERAGE RATE OF MUNICIPAL TAXES IMPOSED IN THIS STATE DURING
5 THE PRECEDING FISCAL YEAR. AS SOON AS PRACTICABLE AFTER THE END OF EACH
6 FISCAL YEAR, THE DEPARTMENT SHALL DETERMINE THE AVERAGE RATE OF MUNICIPAL
7 TAXES IMPOSED IN THIS STATE DURING THE PRECEDING FISCAL YEAR AND DETERMINE
8 THE SINGLE MUNICIPAL TAX RATE FOR THE FOLLOWING CALENDAR YEAR.

9 D. A REMOTE SELLER IS NOT LIABLE FOR ANY ADDITIONAL AMOUNT OF
10 MUNICIPAL TAXES IF THE REMOTE SELLER ELECTS TO USE THE SINGLE MUNICIPAL TAX
11 RATE UNDER THIS SECTION.

12 E. THE DEPARTMENT SHALL ADMINISTER, COLLECT AND ENFORCE THE SINGLE
13 MUNICIPAL TAX RATE IN THE SAME MANNER THAT THE DEPARTMENT ADMINISTERS,
14 COLLECTS AND ENFORCES TAXES LEVIED UNDER THIS CHAPTER AND ANY DULY ENACTED
15 SPECIAL DISTRICT TRANSACTION PRIVILEGE TAXES IMPOSED UNDER TITLE 48 ON
16 RETAIL SALES OF TANGIBLE PERSONAL PROPERTY.

17 F. THE DEPARTMENT MAY ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS
18 NECESSARY TO ADMINISTER THIS SECTION.

19 G. FOR THE PURPOSES OF THIS SECTION, "REMOTE SELLER" HAS THE SAME
20 MEANING PRESCRIBED IN SECTION 42-5001.

21 Sec. 5. Exemption from rulemaking

22 Notwithstanding any other law, for the purposes of this act, the
23 department of revenue is exempt from the rulemaking requirements of title
24 41, chapter 6, Arizona Revised Statutes, for one year after the effective
25 date of this act.

26 Sec. 6. Legislative findings

27 The Legislature intends to ease the administrative burden on remote
28 sellers doing business with purchasers in this state. Other states are
29 encouraged to adopt similar provisions relating to tax administration for
30 remote sellers and doing so will make it easier for remote sellers to
31 comply with each state's tax laws when conducting business in multiple
32 states.

- 1 Sec. 7. Short title
- 2 This act may be cited as the "Sales Tax Simplification Act of 2022".
- 3 Amend title to conform

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