

Senate Engrossed

TPT; administration; remote sellers

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1325

AN ACT

AMENDING TITLE 42, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-1054; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5009.01; AMENDING SECTION 42-5044, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6018; RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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
9 STATE IN WHICH THE REMOTE SELLER IS LOCATED, INCLUDING ALLOWING THE REMOTE
10 SELLER TO REPORT AND REMIT THE TAX OWED TO THIS STATE TO THE STATE TAX
11 AGENCY OF THE STATE IN WHICH THE REMOTE SELLER IS LOCATED FOR THAT STATE
12 TAX AGENCY 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
23 FROM REMOTE SELLERS AND PROVIDES THE TAX RETURNS AND DISTRIBUTES THE
24 REMITTANCES TO THE APPROPRIATE STATE AGENCY.

25 2. "REMOTE SELLER" HAS THE SAME MEANING PRESCRIBED IN SECTION
26 42-5001.

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

29 42-5009.01. Compliant purchaser certificate

30 A. THE DEPARTMENT SHALL PRESCRIBE A COMPLIANT PURCHASER CERTIFICATE
31 FOR A PURCHASER THAT PURCHASES TANGIBLE PERSONAL PROPERTY FOR RESALE FROM
32 A REMOTE SELLER THAT ALLOWS THE PURCHASER TO PAY THE TAX THAT THE REMOTE
33 SELLER WOULD HAVE BEEN REQUIRED TO PAY UNDER THIS ARTICLE DIRECTLY TO THE
34 DEPARTMENT.

35 B. THE DEPARTMENT MAY ESTABLISH CRITERIA FOR A PURCHASER TO QUALIFY
36 FOR THE COMPLIANT PURCHASER CERTIFICATE, AN APPLICATION PROCESS AND
37 REPORTING AND REMITTANCE REQUIREMENTS FOR TAXES OWED PURSUANT TO THIS
38 SECTION.

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

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

3 42-5044. Nexus; out-of-state businesses; threshold;
4 applicability; rulemaking; reporting; definition

5 A. Notwithstanding any other law, any person that conducts business
6 in an activity classified under section 42-5061 with purchasers in this
7 state is engaging or continuing in business in this state, is subject to
8 this article and shall pay the taxes levied under this article, section
9 42-5061 and chapter 6 of this title and any duly enacted special district
10 transaction privilege taxes imposed under title 48 on retail sales of
11 tangible personal property if the person meets either of the following
12 criteria in the previous or current calendar year:

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

14 (a) FOR CALENDAR YEARS 2019 THROUGH 2023, the gross proceeds of
15 sales or gross income derived from the remote seller's business with
16 customers in this state pursuant to section 42-5061 that is not
17 facilitated by a marketplace facilitator is more than the following:

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

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

20 ~~(c)~~ (iii) For calendar ~~year~~ YEARS 2021 ~~and for each calendar year~~
21 ~~thereafter~~ THROUGH 2023, \$100,000.

22 (b) FOR CALENDAR YEAR 2024 AND EACH CALENDAR YEAR THEREAFTER, THE
23 TAXABLE SALES DERIVED FROM THE REMOTE SELLER'S BUSINESS WITH CUSTOMERS IN
24 THIS STATE PURSUANT TO SECTION 42-5061 THAT IS NOT FACILITATED BY A
25 MARKETPLACE FACILITATOR IS MORE THAN \$100,000.

26 2. If the person is a marketplace facilitator, the gross proceeds
27 of sales or gross income derived from the marketplace facilitator's
28 business on its own behalf or on behalf of at least one marketplace seller
29 with customers in this state pursuant to section 42-5061 is more than
30 \$100,000.

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

34 C. If the threshold provided in subsection A of this section was
35 not met in the previous calendar year and is met partway through the
36 current calendar year, the person shall obtain a transaction privilege tax
37 license from the department ~~once the threshold is met~~ and begin remitting
38 the tax on ~~the first day of the month that starts at least thirty days~~
39 ~~after the threshold is met for the remaining of the current year and~~
40 JANUARY 1 OF the next calendar year. If the person does not meet the
41 threshold in the next calendar year, the person is not required to remit
42 the transaction privilege tax for the calendar year following that
43 calendar year and may cancel the person's transaction privilege tax
44 license. If the threshold is met in a subsequent calendar year, the
45 person shall remit the transaction privilege tax pursuant to this section.

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

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

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

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

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

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

18 42-6018. Single municipal tax rate for remote sellers:
19 election; rate; liability; rules; definition

20 A. BEGINNING IN CALENDAR YEAR 2024, A REMOTE SELLER WHO IS REQUIRED
21 TO COLLECT AND REMIT TAXES LEVIED UNDER THIS CHAPTER AND ANY DULY ENACTED
22 SPECIAL DISTRICT TRANSACTION PRIVILEGE TAXES IMPOSED UNDER TITLE 48 ON
23 RETAIL SALES OF TANGIBLE PERSONAL PROPERTY PURSUANT TO SECTION 42-5044 MAY
24 ELECT TO PAY A SINGLE MUNICIPAL TAX RATE INSTEAD OF THE MUNICIPAL TAX
25 RATES FOR RETAIL SALES OF TANGIBLE PERSONAL PROPERTY IN EFFECT FOR EACH
26 CITY, TOWN OR SPECIAL DISTRICT.

27 B. A REMOTE SELLER WHO ELECTS TO USE THE SINGLE MUNICIPAL TAX RATE
28 SHALL NOTIFY THE DEPARTMENT BEFORE USING THE SINGLE MUNICIPAL TAX RATE.
29 THE ELECTION APPLIES TO ALL TAXABLE RETAIL SALES OF TANGIBLE PERSONAL
30 PROPERTY MADE BY THE REMOTE SELLER UNLESS THE REMOTE SELLER REVOKES THE
31 ELECTION BY NOTIFYING THE DEPARTMENT.

32 C. THE SINGLE MUNICIPAL TAX RATE EFFECTIVE IN A CALENDAR YEAR IS
33 EQUAL TO THE AVERAGE RATE OF MUNICIPAL TAXES IMPOSED IN THIS STATE DURING
34 THE PRECEDING FISCAL YEAR. AS SOON AS PRACTICABLE AFTER THE END OF EACH
35 FISCAL YEAR, THE DEPARTMENT SHALL DETERMINE THE AVERAGE RATE OF MUNICIPAL
36 TAXES IMPOSED IN THIS STATE DURING THE PRECEDING FISCAL YEAR AND DETERMINE
37 THE SINGLE MUNICIPAL TAX RATE FOR THE FOLLOWING CALENDAR YEAR.

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

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

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

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

5 Sec. 5. Exemption from rulemaking

6 Notwithstanding any other law, for the purposes of this act, the
7 department of revenue is exempt from the rulemaking requirements of title
8 41, chapter 6, Arizona Revised Statutes, for one year after the effective
9 date of this act.

10 Sec. 6. Legislative findings

11 The legislature intends to ease the administrative burden on remote
12 sellers doing business with purchasers in this state. Other states are
13 encouraged to adopt similar provisions relating to tax administration for
14 remote sellers and doing so will make it easier for remote sellers to
15 comply with each state's tax laws when conducting business in multiple
16 states.

17 Sec. 7. Short title

18 This act may be cited as the "Sales Tax Simplification Act of 2023".