

1 SB130  
2 189468-1  
3 By Senator Pittman  
4 RFD: Finance and Taxation General Fund  
5 First Read: 09-JAN-18

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under current law, the Simplified Sellers  
9 Use Tax Program allows an eligible seller to  
10 voluntarily participate in the program and collect  
11 and remit simplified sellers use tax. However, an  
12 eligible seller who subsequently acquires an  
13 affiliate with a sales and use tax filing  
14 obligation is no longer allowed to participate in  
15 the program.

16 This bill would eliminate the affiliate  
17 restriction and allow eligible sellers with such an  
18 affiliate to participate in the program. The bill  
19 also clarifies certain sales of tangible personal  
20 property cannot be reported under the program and  
21 are subject to sales tax.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1 To amend Section 40-23-191 and 40-23-193, Code of  
2 Alabama 1975, relating to simplified sellers use tax; to  
3 eliminate the affiliate restriction on eligible sellers; to  
4 clarify certain sales of tangible personal property cannot be  
5 reported under the program and are subject to sales tax.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 40-23-191 and 40-23-193, Code of  
8 Alabama 1975, are amended to read as follows:

9 "§40-23-191.

10 "(a) This part shall be titled The Simplified Seller  
11 Use Tax Remittance Act.

12 "(b) For the purpose of this part, the following  
13 terms shall have the respective meanings ascribed to them in  
14 this section:

15 "(1) DEPARTMENT. The Alabama Department of Revenue.

16 "(2) ELIGIBLE SELLER. A seller making sales of any  
17 tangible personal property that is not removed from a retail  
18 location in this state nor is delivered from or at a retail  
19 location in this state. ~~An individual, trust, estate,~~  
20 fiduciary, partnership, limited liability company, limited  
21 liability partnership, corporation, or other legal entity that  
22 sells tangible personal property or a service, but does not  
23 have a physical presence in this state or is not otherwise  
24 required to collect and remit state and local sales or use tax  
25 for sales delivered into the state. The seller shall remain  
26 eligible for participation in the Simplified Use Tax  
27 Remittance Program unless the seller establishes a presence

1 through a physical business address for the purpose of making  
2 instate retail sales within the State of Alabama or becomes  
3 otherwise required to collect and remit sales or use tax  
4 pursuant to Section 40-23-190 through an affiliate making  
5 retail sales at a physical business address in Alabama.

6 "(3) LOCALITY. A county, municipality, or other  
7 local governmental taxing authority which levies a local sales  
8 and/or use tax.

9 "(4) SELLER. An individual, trust, estate,  
10 fiduciary, partnership, limited liability company, limited  
11 liability partnership, corporation, or other legal entity.

12 "~~(4)~~ (5) SIMPLIFIED SELLERS USE TAX. The eight  
13 percent tax to be collected, reported, and remitted by  
14 eligible sellers who are participating in the program pursuant  
15 to requirements and procedures established pursuant to this  
16 part.

17 "~~(5)~~ (6) SIMPLIFIED USE TAX REMITTANCE PROGRAM or  
18 PROGRAM. The program established in this part to provide a  
19 mechanism for eligible sellers to collect, report, and remit  
20 the simplified sellers use tax established pursuant to this  
21 part. The program may not be used to report sales tax  
22 obligations subject to the sales tax imposed by Chapter 23 of  
23 Title 40, Code of Alabama 1975, or any local law or municipal  
24 ordinance or any county ordinance enacted pursuant to Section  
25 40-12-4 imposing a sales tax, for those sales which are sold  
26 or removed from or at a retail location in this state or  
27 delivered at a retail location in this state.

1           "~~(6)~~ (7) STATE. The State of Alabama."

2           "§40-23-193.

3           "(a) The simplified sellers use tax due under the  
4 program is eight percent of the sales price on any tangible  
5 personal property sold or delivered ~~into Alabama~~ by an  
6 eligible seller participating in the program. The collection  
7 and remittance of simplified sellers use tax relieves the  
8 eligible seller and the purchaser from any additional state or  
9 local sales and use taxes on the transaction. State and local  
10 sales and use taxes shall be due on the sale of tangible  
11 personal property sold or removed from a retail location in  
12 this state or is delivered from or at a retail location in  
13 this state and shall not be collected and remitted under the  
14 program.

15           "(b) The simplified sellers use tax collected by the  
16 eligible seller, at the rate of eight percent, shall be  
17 electronically reported in the manner prescribed by the  
18 department on or before the 20th day of the month next  
19 succeeding the month in which the tax accrues. The eligible  
20 seller shall remit the tax at the required rate or the amount  
21 of the tax collected, whichever is greater. The required  
22 monthly reporting from the eligible seller shall only include  
23 statewide totals of the simplified sellers use taxes collected  
24 and remitted, and shall not require information related to the  
25 location of purchasers or amount of sales into a specific  
26 locality. The department may not require an eligible seller to

1 report and remit the simplified sellers use tax more  
2 frequently than is required for other sellers.

3 "(c) No eligible seller shall be required to collect  
4 the tax at a rate greater than eight percent, regardless of  
5 the combined actual tax rates that may otherwise be  
6 applicable. Additionally, no sales for which the simplified  
7 sellers use tax is collected shall be subject to any  
8 additional sales or use tax from any locality levying a sales  
9 or use tax with respect to the purchase or use of the  
10 property, regardless of the actual tax rate that might have  
11 otherwise been applicable.

12 "(d) The participating eligible seller shall collect  
13 the tax on all purchases delivered into Alabama unless the  
14 purchaser furnishes the eligible seller with a valid exemption  
15 certificate, sales tax license, or direct pay permit issued by  
16 the department. The eligible seller shall retain all exemption  
17 certificates, sales tax licenses, or direct pay permits in its  
18 files, or in such other manner as directed by the department.

19 "(e) The eligible seller shall provide the purchaser  
20 with a statement or invoice showing that the simplified  
21 sellers use tax was collected and is to be remitted on the  
22 purchaser's behalf. The statement shall be in a manner  
23 prescribed by the department."

24 Section 2. This act shall become effective  
25 immediately following its passage and approval by the  
26 Governor, or upon its otherwise becoming law.