SENATE BILL No. 257

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DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-4-16.7.

Synopsis: Sales tax on software. Provides that for purposes of the sales tax, a person is a retail merchant making a retail transaction when the person grants a user the right to use prewritten computer software delivered electronically. Specifies, however, that a transaction in which a user is granted the right to remotely access prewritten computer software: (1) is not considered to be a transaction in which prewritten computer software is delivered electronically; and (2) does not constitute a retail transaction (and is therefore not subject to sales tax); unless the prewritten computer software is also available in a substantially similar form to be purchased, rented, or leased in a physical medium or delivered electronically. Provides that if the transaction is for prewritten computer software that is both: (1) remotely accessed; and (2) electronically delivered or delivered by means of a tangible medium; the transaction is not considered a retail transaction if the transaction includes a service, the service is the true object of the transaction, the prewritten computer software is essential to the use or provision of the service, and the prewritten computer software is provided exclusively in connection with the service.

Effective: July 1, 2019.

Holdman

January 3, 2018, read first time and referred to Committee on Tax and Fiscal Policy.

SENATE BILL No. 257

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-4-16.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 16.7. (a) As used in this section,**
4 **"end user" means the person that uses the software.**
5 **(b) Except as provided in subsection (c), a person is a retail**
6 **merchant making a retail transaction when the person grants a**
7 **user the right to use prewritten computer software delivered**
8 **electronically.**
9 **(c) A transaction in which an end user is granted the right to**
10 **remotely access prewritten computer software over the Internet,**
11 **over private or public networks, or through wireless media:**
12 **(1) is not considered to be a transaction in which prewritten**
13 **computer software is delivered electronically; and**
14 **(2) does not constitute a retail transaction;**
15 **unless the prewritten computer software is also available in a**
16 **substantially similar form to be purchased, rented, or leased in a**
17 **physical medium or delivered electronically.**

1 **(d) For purposes of subsection (c), if the transaction is for**
2 **prewritten computer software that is both:**
3   **(1) remotely accessed; and**
4   **(2) delivered by means of a tangible medium or delivered**
5   **electronically;**
6 **the transaction is not considered a retail transaction if the**
7 **transaction includes a service, the service is the true object of the**
8 **transaction, the prewritten computer software is essential to the**
9 **use or provision of the service, and the prewritten computer**
10 **software is provided exclusively in connection with the service.**
11 SECTION 2. [EFFECTIVE JULY 1, 2019] **(a) IC 6-2.5-4-16.7, as**
12 **added by this act, applies only to transactions occurring after June**
13 **30, 2019.**
14 **(b) This SECTION expires July 1, 2020.**