

FIRST REGULAR SESSION

HOUSE BILL NO. 1207

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RAZER.

2417H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 144, RSMo, by adding thereto six new sections relating to sales tax.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 144, RSMo, is amended by adding thereto six new sections, to be known as sections 144.530, 144.535, 144.540, 144.545, 144.565, and 144.575, to read as follows:

144.530. For the purposes of sections 144.530 to 144.565, the following terms shall mean:

(1) "Department", the department of revenue;

(2) "Eligible seller", a person or business selling tangible personal property or services designated and defined as taxable under the provisions of sections 144.010 to 144.565 for delivery into Missouri who does not have a physical presence in the state but who meets either of the following criteria in the previous or current calendar year:

(a) The seller's gross revenue from delivery of tangible personal property into this state in the previous or current calendar year exceeds one hundred thousand dollars; or

(b) The seller sold tangible personal property into this state in two hundred or more separate transactions in the previous or current calendar year;

(3) "Locality", a county, municipality, or other political subdivision authorized to impose a local sales or use tax;

(4) "Simplified remote sales tax", the tax to be collected, reported, and remitted by eligible sellers who are participating in the simplified remote sales tax remittance program under sections 144.530 to 144.565;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

17 (5) "Simplified remote sales tax remittance program" or "program", the program
18 established under sections 144.530 to 144.565 to provide a mechanism for eligible sellers
19 to collect, report, and remit the simplified remote sales tax.

 144.535. 1. Notwithstanding any provision of law to the contrary, all eligible sellers
2 in this state shall participate in the simplified remote sales tax remittance program
3 authorized under subsection 2 of this section, and shall collect, report, and remit the state
4 sales tax authorized under section 144.540 according to any rules of the program as may
5 be promulgated by the department of revenue. No obligation to collect and remit the sales
6 tax required by this subsection shall be applied prior to January 1, 2020.

 2. There is hereby established the "Simplified Remote Sales Tax Remittance
8 Program" designed to allow an eligible seller who participates in the program to collect,
9 report, and remit the simplified remote sales tax authorized under the provisions of
10 sections 144.530 to 144.565.

 3. The program shall be administered by the department, which shall develop and
12 make available to eligible sellers an easily accessible online system in which to collect,
13 report, and remit the simplified remote sales tax.

 4. Sellers participating in the program shall:

 (1) Submit a statement, annually, certifying that such seller meets the requirements
16 under subdivision (2) of section 144.530 to be considered an eligible seller;

 (2) Collect, report, and remit the simplified remote sales tax for all sales delivered
18 into the state;

 (3) Provide the director of revenue with information related to sales into the state
20 as required by this section or requested by the department; and

 (4) Comply with all program reporting requirements.

 144.540. 1. The simplified remote sales tax due shall be equal to four and two-
2 hundred-twenty-five-thousandths of one percent of the sales price on any tangible personal
3 property, excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats,
4 and outboard motors required to be titled under the laws of the state of Missouri and
5 subject to tax under subdivision (9) of subsection 1 of section 144.020, sold or delivered into
6 the state by an eligible seller.

 2. The simplified remote sales tax collected by the eligible seller shall be reported
8 in the same manner as provided under sections 144.090 to 144.115. The required reporting
9 from the eligible seller shall include only statewide totals of the simplified remote sales
10 taxes collected and remitted, and shall not require information related to the location of
11 purchasers or amount of sales into a specific locality.

12 **3. (1) The simplified remote sales tax shall be imposed in lieu of any state sales or**
13 **use tax that may otherwise be applicable, and no sales for which the simplified remote sales**
14 **tax is collected shall be subject to any additional sales or use tax from any locality levying**
15 **a sales or use tax with respect to the purchase or use of the property, regardless of the**
16 **actual tax rate that might have otherwise been applicable.**

17 **(2) No eligible seller shall be required to collect the sales tax at a rate greater than**
18 **the rate provided under subsection 1 of this section, regardless of the combined actual tax**
19 **rates that may otherwise be applicable.**

20 **4. The eligible seller shall collect the tax on all purchases delivered into the state**
21 **unless the purchaser furnishes the eligible seller with a valid exemption certificate or direct**
22 **pay agreement authorized by the department. The eligible seller shall retain all exemption**
23 **certificates or direct pay agreements in its files or in such other manner as directed by the**
24 **department.**

25 **5. The eligible seller shall provide the purchaser with a statement or invoice**
26 **showing that the simplified remote sales tax was collected and is to be remitted on the**
27 **purchaser's behalf.**

28 **6. The provisions of sections 144.071 to 144.510 are incorporated by reference to**
29 **the collection and remittance of the simplified remote sales tax.**

30 **7. Notwithstanding any provision of law to the contrary, all revenue generated**
31 **under the simplified remote sales tax shall be deposited in the simplified remote sales tax**
32 **fund created in this section and appropriated solely for the approved purposes. The**
33 **department of revenue shall track and report the collections generated under this act.**

34 **8. There is hereby created in the state treasury the "Simplified Remote Sales Tax**
35 **Fund", which shall consist of moneys collected under this subsection. The state treasurer**
36 **shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state**
37 **treasurer may approve disbursements. The fund shall be a dedicated fund and, upon**
38 **appropriation, moneys in the fund shall be transferred as follows, for the first fifteen years**
39 **following the effective date of this act: one hundred percent of the first thirty million**
40 **dollars collected shall be transferred to pay outstanding transportation bond debt and all**
41 **funds in excess of thirty million dollars shall be transferred to the state general revenue**
42 **fund. After fifteen years following the effective date of this act, one hundred percent of all**
43 **funds collected shall be transferred to the state general revenue fund. Notwithstanding the**
44 **provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end**
45 **of the biennium shall not revert to the credit of the general revenue fund. The state**
46 **treasurer shall invest moneys in the fund in the same manner as other funds are invested.**
47 **Any interest and moneys earned on such investments shall be credited to the fund.**

144.545. 1. Any purchaser who pays a simplified remote sales tax higher than the actual combined state and local sales tax levied in the locality where the sale was delivered may file for a refund of the excess amount paid to the eligible seller, pursuant to procedures established by the director. All other taxpayers may claim a refund in the manner prescribed under section 144.190.

2. Any purchaser seeking a refund or credit of excess taxes paid to an eligible seller shall maintain records documenting the amount of simplified remote sales tax paid. Refund requests shall require proper documentation of amounts paid by the purchaser and shall be submitted to the director with the claim for refund.

144.565. For the purpose of more efficiently securing the payment and accounting for the simplified remote sales tax, the director of revenue shall make, promulgate, and enforce reasonable rules and regulations for the administration and enforcement of the provisions of sections 144.530 to 144.565. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2019, shall be invalid and void.

144.575. 1. For the purposes of this section, the following terms shall mean:

(1) "Marketplace facilitator", a person that contracts with sellers to facilitate, for consideration, regardless of whether deducted as fees from the transaction, the sale of the seller's products through an electronic marketplace operated by a person and engages:

(a) Either directly or indirectly, through one or more affiliated persons, in any of the following:

a. Transmitting or otherwise communicating the offer or acceptance between the purchaser and marketplace seller;

b. Owning or operating the infrastructure, electronic or physical, or technology that brings purchasers and marketplace sellers together;

c. Providing a virtual currency that purchasers are allowed or required to use to purchase products from the marketplace seller; or

d. Software development or research and development activities related to any of the activities described under paragraph (b) of this subdivision if such activities are directly related to an electronic marketplace operated by a person or an affiliated person; and

- 17 **(b) In any of the following activities with respect to the marketplace seller's**
 18 **products:**
- 19 **a. Payment processing services;**
 - 20 **b. Fulfillment or storage services;**
 - 21 **c. Listing products for sale;**
 - 22 **d. Setting prices;**
 - 23 **e. Branding sales as those of the marketplace facilitator;**
 - 24 **f. Order taking;**
 - 25 **g. Advertising or promotion; or**
 - 26 **h. Providing customer service or accepting or assisting with returns or exchanges.**

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28 **A marketplace facilitator is a seller and shall comply with the provisions of this chapter;**

29 **(2) "Marketplace seller", a seller that makes sales through any electronic**
 30 **marketplace operated by a marketplace facilitator;**

31 **(3) "Person", any individual, firm, copartnership, joint venture, association,**
 32 **corporation, municipal or private, whether organized for profit or not, state, county,**
 33 **political subdivision, state department, commission, board, bureau or agency except the**
 34 **department of transportation, estate, trust, business trust, receiver or trustee appointed by**
 35 **the state or federal court, syndicate, or any other group or combination acting as a unit;**

36 **(4) "Purchaser", any person who is the recipient, for a valuable consideration, of**
 37 **any sale of tangible personal property acquired for use, storage, or consumption in this**
 38 **state;**

39 **(5) "Retail sale", the same meaning as defined under section 144.011, excluding**
 40 **motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors**
 41 **required to be titled under the laws of the state and subject to tax under subdivision (9) of**
 42 **subsection 1 of section 144.020;**

43 **(6) "Seller", a person selling or furnishing tangible personal property or rendering**
 44 **services on the receipts from which a tax is imposed under section 144.020 or section**
 45 **144.540.**

46 **2. By no later than January 1, 2020, marketplace facilitators that reach the**
 47 **threshold provided under subdivision (2) of section 144.530 shall register with the**
 48 **department to collect and remit sales tax on sales made through the marketplace**
 49 **facilitator's marketplace by or on behalf of a marketplace seller that are delivered in the**
 50 **state, whether by the marketplace facilitator or another person. Such retail sales shall**
 51 **include those made directly by the marketplace facilitator and shall also include those**
 52 **retail sales made by marketplace sellers through the marketplace facilitator's marketplace.**

53 **The collection and reporting requirements of this subsection shall not apply to retail sales**
54 **other than those made through a marketplace facilitator's marketplace.**

55 **3. Marketplace facilitators that collect sales tax under this section shall report and**
56 **remit the tax in accordance with the provisions of sections 144.530 to 144.565, and shall**
57 **maintain records of all sales delivered to a location in the state, including copies of invoices**
58 **showing the purchaser, address, purchase amount, and sales tax collected. Such records**
59 **shall be made available for review and inspection upon request by the department.**

60 **4. Marketplace facilitators who properly collect and remit to the department, in a**
61 **timely manner, sales tax on sales in accordance with the provisions of this section, by or on**
62 **behalf of marketplace sellers, shall be eligible for any discount provided under this**
63 **chapter.**

64 **5. The marketplace facilitator shall provide the purchaser with a statement or**
65 **invoice showing that the sales tax was collected and shall be remitted on the purchaser's**
66 **behalf.**

67 **6. Any taxpayer who remits sales tax under this section shall be entitled to refunds**
68 **or credits to the same extent and in the same manner provided under section 144.190 for**
69 **taxes collected and remitted under this section.**

70 **7. Marketplace facilitators shall be subject to the penalty provisions, procedures,**
71 **and reporting requirements of this chapter.**

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