
A BILL FOR AN ACT

RELATING TO MARKETPLACE FAIRNESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 255D, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . ALTERNATIVE TO STREAMLINED SALES AND USE TAX
5 AGREEMENT

6 §255D-A Definitions. For the purposes of this part:

7 "Certified software provider" means a person that:

8 (1) Provides software to remote sellers to facilitate
9 state sales and use tax compliance; and

10 (2) Is certified by a state to provide such software.

11 "Remote sale" means a sale sourced to a state in which the
12 seller would not legally be required to pay, collect, or remit
13 state or local sales and use taxes unless provided for by an act
14 of Congress.

15 "Remote seller" means a person that makes a remote sale;
16 provided that the seller has gross annual receipts in total
17 remote sales in the United States in the preceding calendar year
18 exceeding \$1,000,000. For purposes of determining whether this



1 threshold is met, the gross annual receipts from remote sales of
2 two or more persons shall be aggregated if:

- 3 (1) The persons are related to the remote seller within
4 the meaning of subsections (b) and (c) of section 267
5 or section 707(b)(1) of the Internal Revenue Code; or
6 (2) The persons have one or more ownership relationships
7 and the relationships were designed with the principal
8 purpose to avoid collecting and remitting state or
9 local sales and use taxes.

10 "Sourced" means the location where a product or service
11 that is sold is received by the purchaser, based on the location
12 indicated by instructions for delivery that the purchaser
13 furnishes to the seller. When no delivery location is
14 specified, the remote sale is sourced to the customer's address
15 that is either known to the seller or, if not known, obtained by
16 the seller during the consummation of the transaction, including
17 the address of the customer's payment instrument if no other
18 address is available. If an address is unknown and a billing
19 address cannot be obtained, the remote sale is sourced to the
20 address of the seller from which the remote sale was made.

21 **§255D-B Implementation of minimum simplification**

22 **requirements.** If the State seeks to require sellers to collect



1 and remit sales and use taxes with respect to remote sales
2 sourced to the State, but is not a member state under the
3 Streamlined Sales and Use Tax Agreement, the department shall
4 establish rules to implement minimum simplification
5 requirements. These rules shall:

6 (1) Provide the following:

7 (A) A single entity within the State responsible for
8 all state and local sales and use tax
9 administration, return processing, and audits for
10 remote sales sourced to the State;

11 (B) A single audit of a remote seller for all state
12 and local taxing jurisdictions within that State;
13 and

14 (C) A single sales and use tax return to be used by
15 remote sellers to be filed with the single entity
16 responsible for tax administration;

17 provided that the department shall not require a
18 remote seller to file sales and use tax returns any
19 more frequently than returns are required for
20 nonremote sellers or impose requirements on remote
21 sellers that the department does not impose on



- 1 nonremote sellers with respect to the collection of
2 sales and use taxes;
- 3 (2) Provide a uniform sales and use tax base;
- 4 (3) Source all remote sales in compliance with the
5 sourcing definition set forth in section 255D-A;
- 6 (4) Provide the following:
- 7 (A) Information indicating the taxability of products
8 and services along with any product and service
9 exemptions from sales and use tax in the State
10 and a rates and boundary database;
- 11 (B) Software free of charge for remote sellers that
12 calculates sales and use taxes due on each
13 transaction at the time the transaction is
14 completed, that files sales and use tax returns,
15 and that is updated to reflect rate changes as
16 described in paragraph (8); and
- 17 (C) Certification procedures for persons to be
18 approved as certified software providers;
19 provided that the software provided by certified
20 software providers shall be capable of
21 calculating and filing sales and use taxes in all
22 states;



- 1 (5) Relieve remote sellers from liability to the State for
2 the incorrect collection, remittance, or noncollection
3 of sales and use taxes, including any penalties or
4 interest, if the liability is the result of an error
5 or omission made by a certified software provider;
- 6 (6) Relieve certified software providers from liability to
7 the State for the incorrect collection, remittance, or
8 noncollection of sales and use taxes, including any
9 penalties or interest, if the liability is the result
10 of misleading or inaccurate information provided by a
11 remote seller;
- 12 (7) Relieve remote sellers and certified software
13 providers from liability to the State for incorrect
14 collection, remittance, or noncollection of sales and
15 use taxes, including any penalties or interest, if the
16 liability is the result of incorrect information or
17 software provided by the State; and
- 18 (8) Provide remote sellers and certified software
19 providers with ninety days notice of a rate change by
20 the State and update the information described in
21 subparagraph (4) (A) accordingly and relieve any remote
22 seller or certified software provider from liability



1 for collecting sales and use taxes at the immediately
2 preceding effective rate during the ninety-day notice
3 period if the required notice is not provided."

4 SECTION 2. Chapter 255D, Hawaii Revised Statutes, is
5 amended by designating sections 255D-1 to 255D-9 as part I,
6 entitled:

7 "PART I. GENERAL PROVISIONS"

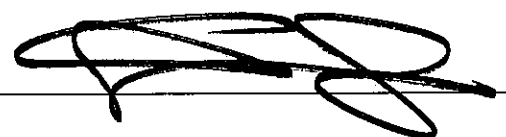
8 SECTION 3. In codifying the new sections added by section
9 1 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 4. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.

14

INTRODUCED BY:



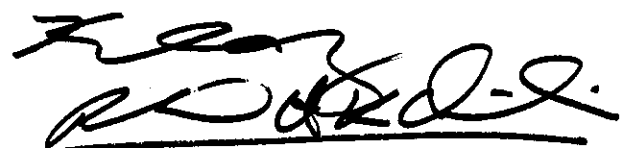
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H.B. NO. 2507

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JAN 23 2014



H.B. NO. 2507

Report Title:

Streamlined Sales and Use Tax Agreement; Alternative; Minimum Simplification Requirements

Description:

Provides an alternative to Hawaii becoming a member state under the Streamlined Sales and Use Tax Agreement. Directs DOTAX to establish rules to meet minimum simplification requirements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

