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# 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





**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. Effective July 1, 2030. (HB2507 HD1)

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

