

1 of personal property shipped or otherwise delivered into the
2 State.

3 "Simplified sellers use tax" means the tax to be collected,
4 reported, and remitted by eligible sellers who are participating
5 in the program pursuant to requirements and procedures
6 established by this chapter.

7 "Simplified sellers use tax remittance program" or
8 "program" means the program established by this chapter to
9 provide a mechanism for eligible sellers to collect, report, and
10 remit the simplified sellers use tax.

11 **§ -3 Simplified sellers use tax remittance program. (a)**

12 There is hereby established the simplified sellers use tax
13 remittance program, designed to allow an eligible seller to
14 collect, report, and remit the simplified sellers use tax
15 authorized in this chapter in lieu of the general excise or use
16 taxes otherwise due by or on behalf of Hawaii purchasers who
17 purchased from the eligible seller an item or items that were
18 shipped or otherwise delivered into Hawaii. Participation in
19 the program is voluntary and only eligible sellers accepted into
20 the program pursuant to this section shall collect, report, and
21 remit the simplified sellers use tax. Participation in the



1 program shall not subject an eligible seller to any other state
2 taxes or licensing requirements.

3 (b) The program shall be administered by the department of
4 taxation, which shall develop and make available to the eligible
5 seller an easily accessible, online system to report and remit
6 the simplified sellers use tax. Eligible sellers participating
7 in the program shall be required to collect, report, and remit
8 the simplified sellers use tax for all sales of personal
9 property shipped or otherwise delivered by the eligible seller
10 into the State. Eligible sellers may remain in the program as
11 long as they comply with this chapter and any rules adopted by
12 the department pursuant to this chapter.

13 (c) In order to participate in the program, an eligible
14 seller shall submit an application to the department. The
15 application shall require, at a minimum, that the applicant:

16 (1) Certify that the applicant is an eligible seller as
17 defined in section -2;

18 (2) Agree to collect, report, and remit the simplified
19 sellers use tax for all sales delivered into the State
20 as long as the eligible seller participates in the
21 program;



1 (3) Agree to provide the department with information
2 related to sales to Hawaii customers, as required by
3 this chapter or requested by the department; and

4 (4) Agree to comply with all program reporting
5 requirements established under this chapter and any
6 rules adopted pursuant to this chapter.

7 Any applicant who falsely certifies on an application that the
8 applicant is an eligible seller with the State shall be subject
9 to the penalties imposed under section 231-36.

10 (d) The department shall review all applications for
11 participation in the program and, if it determines that an
12 applicant satisfies the requirements to participate in the
13 program, the department shall establish a simplified sellers use
14 tax account for the eligible seller that will enable the
15 eligible seller to report and remit all use tax collected
16 pursuant to this chapter.

17 (e) An eligible seller shall be removed from the program:

18 (1) If the seller fails to collect, report, and remit
19 simplified sellers use taxes;

20 (2) If the seller fails to submit required reports on a
21 timely basis pursuant to this chapter;



1 (3) Upon a determination that the seller is no longer an
2 eligible seller, as defined by section -2; or

3 (4) If there is any other finding by the department that
4 the seller is not in compliance with the terms of
5 participation in the program.

6 Any seller who fails to report that the seller is no longer
7 eligible for participation in the program or falsely certifies
8 eligibility for the program on any report required by this
9 chapter shall be subject to the penalties imposed under section
10 231-36. Any seller removed from the program or assessed
11 penalties under section 231-36 shall have the right to appeal
12 under the procedures established in this title.

13 **§ -4 Collection and remittance of simplified sellers use**
14 **tax; reporting; statement.** (a) The simplified sellers use tax
15 shall be four per cent of the sale price on any tangible
16 personal property sold to a Hawaii purchaser and shipped or
17 otherwise delivered into Hawaii by an eligible seller
18 participating in the program. The collection of simplified
19 sellers use tax from the purchaser shall relieve the purchaser
20 of any additional general excise or use tax liability on the
21 transaction. The eligible seller's collection, reporting, and



1 remittance to the department of the simplified sellers use tax
2 shall relieve the eligible seller of any additional general
3 excise or use tax liability on the transaction.

4 (b) The use tax collected by the eligible seller, at the
5 rate of four per cent, shall be electronically reported and
6 remitted in the manner prescribed by the department on or before
7 the twentieth day of the month next succeeding the month in
8 which the tax accrues. The eligible seller shall remit the tax
9 at the required rate or the amount of the tax collected,
10 whichever is greater. The required monthly reporting from the
11 eligible seller shall include statewide totals of the simplified
12 sellers use taxes collected and remitted, and information
13 related to the location of the purchasers or the amount of sales
14 from a specific county shall not be required. The department
15 shall not require an eligible seller to report and remit the use
16 tax more frequently than is required for other sellers.

17 (c) No eligible seller shall be required to collect the
18 tax at a rate greater than four per cent, regardless of the
19 combined actual tax rates that may otherwise be applicable.
20 Additionally, no sales of personal property subject to this



1 chapter shall be subject to any county surcharges on state
2 general excise or use taxes.

3 (d) The eligible seller shall collect the tax on all
4 purchases shipped or otherwise delivered by the eligible seller
5 into Hawaii unless the purchaser furnishes the eligible seller
6 with a valid exemption certificate and general excise tax
7 license issued by the department. The eligible seller shall
8 retain all exemption certificates and general excise tax
9 licenses in its files, or in any other manner as directed by the
10 department.

11 (e) The eligible seller shall provide the purchaser with a
12 statement or invoice showing that the eligible sellers use tax
13 was collected for remittance to the department on the
14 purchaser's behalf. The statement shall include the eligible
15 seller's program account number issued by the department.

16 § -5 Discount. Eligible sellers may deduct and retain a
17 discount equal to two per cent of the simplified sellers use tax
18 properly collected and then remitted to the department in a
19 timely manner. No discount shall be allowed for any taxes that
20 are not timely reported and remitted to the department pursuant
21 to program procedures.



1 § -6 **Rulemaking authority; recordkeeping.** (a) The
2 department may adopt rules pursuant to chapter 91 related to the
3 implementation, administration, and participation in the
4 program. The department shall have exclusive responsibility for
5 reviewing and accepting applications for participation and for
6 the administration of the program, return processing, and review
7 of the eligibility of sellers participating in the program.
8 Eligible sellers participating in the program shall not be
9 subject to audit or review by any county.

10 (b) Eligible sellers shall maintain records of all sales
11 shipped or otherwise delivered by the eligible seller into
12 Hawaii, including copies of invoices showing the purchaser, the
13 purchaser's address, purchase amount, and simplified sellers use
14 tax collected. These records shall be made available for review
15 and inspection upon request by the department.

16 § -7 **Refund of excess taxes paid.** (a) Any taxpayer who
17 pays a simplified sellers use tax through the program that is
18 higher than the actual state general excise or use tax
19 applicable to the sale may file for a refund of the excess
20 amount paid to an eligible seller participating in the program.
21 All petitions for refunds shall be filed on forms and in the



1 manner prescribed by the department. The petition for refund
2 may only be filed once per year. If the amount due to be
3 refunded in a year is less than \$25, payment of the refund may
4 be deferred by the department and combined with amounts due to
5 be paid pursuant to subsequent annual refund petitions for a
6 period of up to three years.

7 (b) Any taxpayer seeking a refund of excess taxes paid to
8 an eligible seller participating in the program shall maintain
9 records documenting the amount of simplified sellers use taxes
10 paid. Refund requests shall require proper documentation of
11 amounts paid by the taxpayer and shall be submitted to the
12 department with the petition for refund.

13 (c) Notwithstanding any other provision of law, interest
14 due on any refund of taxes paid directly to the department under
15 this chapter shall be paid beginning ninety days after the
16 receipt date of the properly documented refund petition with
17 interest accruing beginning on the ninety-first day.

18 § -8 **Taxes state realizations.** All taxes collected
19 under this chapter shall be state realizations.

20 § -9 **Applicability.** If federal legislation is enacted
21 that authorizes the states to require a seller to collect taxes



1 on sales of goods to in-state purchasers without regard to the
2 location of the seller:

3 (1) This chapter shall be inapplicable as to any eligible
4 seller who is not registered with the department as a
5 participant in the program at least six months prior
6 to the effective date of the federal legislation; and

7 (2) This chapter shall continue to apply to any eligible
8 seller who has been approved by the department as a
9 participant in the program at least six months prior
10 to the effective date of the federal legislation and
11 to any taxpayer who has paid or pays the simplified
12 sellers use tax authorized under this chapter;
13 provided that the eligible seller continues to
14 collect, report, and remit the simplified sellers use
15 tax and otherwise complies with all procedures and
16 requirements of the program.

17 Eligible sellers participating in the program pursuant to this
18 section may continue to receive a discount of two per cent on
19 all simplified sellers use taxes properly remitted under this
20 chapter and shall continue to report sales under the conditions
21 set out in this section and section -4.



1 § -10 Amnesty for certain uncollected simplified sellers
2 use tax. (a) Subject to the limitations in this section, an
3 eligible seller participating in the program shall be granted
4 amnesty for any uncollected simplified sellers use tax that may
5 have been due on sales made to purchasers in the State for the
6 twelve-month period preceding the effective date of the eligible
7 seller's participation in the program.

8 (b) The amnesty shall preclude assessment for uncollected
9 simplified sellers use tax together with any penalty or interest
10 for sales made during the twelve-month period prior to the
11 effective date of the eligible seller's participation in the
12 program.

13 (c) The amnesty provided pursuant to subsection (a) shall
14 be granted to any eligible seller who is accepted into the
15 program by the department.

16 (d) Amnesty is not available:

17 (1) To an eligible seller with respect to any matter for
18 which the eligible seller has received notice of the
19 commencement of an audit and the audit is not yet
20 finally resolved, including any related administrative
21 and judicial processes; or



1 (2) For any simplified sellers use tax already paid or
2 remitted to the State or for taxes collected by the
3 eligible seller.

4 (e) Amnesty is fully effective, absent the eligible
5 seller's fraud or intentional misrepresentation of a material
6 fact, as long as the eligible seller continues the eligible
7 seller's participation in the program and continues to collect,
8 report, and remit applicable simplified sellers use tax for a
9 period of at least thirty-six months.

10 (f) Amnesty is applicable only to simplified sellers use
11 tax due from an eligible seller in the eligible seller's
12 capacity as an eligible seller and not to simplified sellers use
13 taxes due from a seller in that seller's capacity as a buyer."

14 SECTION 2. If any provision of this Act, or the
15 application thereof to any person or circumstance, is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.

20 SECTION 3. This Act shall take effect on July 1, 2038, and
21 shall apply to taxable years beginning after December 31, 2017.



Report Title:

Simplified Sellers Use Tax Remittance Act

Description:

Establishes a voluntary program to allow out-of-state vendors to collect, report, and remit a simplified sellers use tax to the State. (HB1413 HD1)

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