

ALASKA STATE LEGISLATURE



REPRESENTATIVE GERAN TARR

House Bill 3006

“An Act relating to a State Sales Tax”

Sectional Analysis

Section 1: Amends AS 28.10.021(a) to include the newly established sales/use tax in a list of requisite fees and taxes for purchasing a motor vehicle.

Section 2: Amends AS 29.10.200 (56), part of the statutes that determine the limitations to the powers of home rule municipalities. Changes references to AS 29.45.650 to conform to new language establishing a state sales and use tax.

Section 3: Amends AS 29.10.200 (57), part of the statutes that determine the limitations to the powers of home rule municipalities. Changes references to different subsections of AS 45.700 to conform to new language establishing a state sales and use tax.

Section 4: Amends AS 29.10.200 to include a new subsection (68), which refers to the ability for boroughs to levy sales taxes on specific categories of property and services.

Section 5: Amends AS 29.35.110(a), referring to the limitations of the powers of boroughs, to change all uses of the word “collected” to the word “levied” to reflect the establishment of a statewide general sales and use tax. Under this legislation, the state will be responsible for the collection of the sales and use tax, although boroughs can still levy specific sales/use taxes.

Section 6: Amends 29.35.110(c), referring to the limitations of the powers of cities within a borough, to change all uses of the word “collected” to the word “levied” to reflect the establishment of a statewide general sales tax.

Section 7: Amends AS 29.35.170(a), referring to the assessment and collection of taxes by boroughs, to remove references to general sales and use taxes. It also amends subsection (b) by inserting qualifying language exempting the collection of a general sales and use taxes from the purview of the boroughs. The boroughs may still collect other forms of taxes other than the general sales/use tax.

Section 8: Amends AS 29.35.170 by adding a new subsection (c), which states that in municipalities that currently levy general sales taxes, the municipality can continue to collect those taxes through December 31, 2022. Since this section also states that the state will be responsible for levying and collecting a statewide general sales tax starting July 1, 2022, we can consider this section a transition period for municipalities to conform to this new regime.

Section 9: Repeals AS 29.45.650(a) and reenacts (a) to state that a borough can levy a general sales tax on the sale and rental of tangible and intangible property and on services provided in the borough.

Section 10: Repeals AS 29.45.650(b) and reenacts (b) to state that a borough levying a general sales tax can levy a use tax on the storage, use, or consumption of personal property and on services provided in the borough. The use tax will equal the amount of the sales tax rate.

Section 11: Repeals AS 29.45.650(c) and reenacts (c) to state that the state shall administer and collect a general sales and use tax. The rules for this tax will adhere to the guidelines provided under AS 43.44. This language is intended to harmonize AS 29 with the exemptions and collection procedures listed under AS 43.44.

Section 12: Amends AS 29.45 to add a new section, AS 29.45.655. This section states that a borough can levy and collect sales and excise taxes on specific categories of property or services, such as bed taxes, car rental taxes, liquor taxes, cigarette taxes, fish taxes, and motor fuel taxes.

Section 13: Amends AS 29.45.660(a) to remove the references to boroughs collecting a general sales tax and use tax. This also requires boroughs levying a general sales/use tax to provide notice for the tax rate on the website of the borough in addition to the local newspaper (or public location if no local newspaper exists in the borough).

Section 14: AS 29.45.700 is repealed and reenacted to state that a city may levy a sales and use tax provided for boroughs under AS 29.45.650 – 29.45.660 with the same limitations.

Section 15: Amends AS 29.45.750(b) to remove references to municipalities collecting a sales tax on mobile telecommunications services, as this will now be the responsibility of the state.

Section 16: AS 29.45.810(a) is amended to remove references to collection of taxes by a municipality under a contract developed under the Alaska Stranded Gas Development Act (AS 43.82).

Section 17: AS 43.05.240(a) is amended to include the revocation or suspension of a seller's permit or resale exemption certificate (issued under the newly created chapter 44 under AS 43) in the Dept. of Revenue appeals process.

Section 18: Amends AS 43 to add a new chapter, AS 43.44, establishing the statewide sales and use tax.

Article 1: Creates a 2% Statewide Sales/Use Tax.

- Sec. 43.44.010 levies a 2% sales tax on the sale/lease of tangible personal property and the sale of services. It also levies a use tax on persons using tangible personal property or services acquired on or after July 1, 2022 (given that the property/service would be subject to sales tax if purchased in Alaska).
- Sec. 43.44.020 states that the Department of Revenue shall collect the municipal sales and use taxes levied under AS 29.45.650, and then remit the proceeds to the given municipality.

- Sec. 43.44.030 states that the sales/use taxes will be imposed on the purchaser of a given service or personal property, but the seller will be responsible for applying, collecting, and paying the tax to the Department of Revenue. The taxes collected shall be held in trust for the state.
- Sec. 43.44.040 states that if the sales price is below the value of a given service or property (or if there is tax due without a sale occurring), the use tax will be imposed on the untaxed value of the property or service. Additionally, the sales price must be determined at the time of acquisition, introduction into the state, or conversion to use, whichever is latest.
- Sec. 43.44.050(a) states that if a seller collects excess sales/use tax, the excess will be remitted to the Department of Revenue.
Sec. 43.44.050(b) states that a seller will list all sales tax separately (other than sales from certain categories, such as vending machine sales, admission fees, taxi fares, etc.)
Sec. 43.44.050(c) states that sellers cannot advertise, hold out, or state to the public or customers that the sales tax will be absorbed or refunded.
- Sec. 43.44.060 states that the user of property subject to the use tax is liable for the payment of this tax on the sales price of the property.

Article 2: Delineates exemptions to the sales/use tax.

- Sec. 43.44.070 provides a list of exemptions to the sales and use tax.
 - Sales by, sales to, or use by the US federal government, exempt corporations (i.e., c(3) nonprofits), the state of Alaska, or an instrumentality of the state of Alaska (such as AIDEA) are exempt from this tax. Municipalities are exempt from this tax, outside of utility sales.
 - Union dues are exempt from this tax, as are state licenses or permits.
 - Food intended for human consumption off the premises of the store (such as groceries) will be exempt from this tax. This does not apply to businesses where a majority of the food prepared is consumed on premises (i.e., restaurants). Alcohol, tobacco, and marijuana are also not exempt from this tax.
 - Wages, salaries, commission, tips, and other forms of payment (including financial assets such as stocks, bonds, securities, dividends/interests from these assets, proceeds from the sale of these assets, and associated fees) paid by an employer to an employee are exempt from this tax.
 - Fees for financial services (such as fees for a deposit account, purchase of checks/currency, loan fees, etc.) are exempted from this tax.
 - Isolated or occasional sale or lease of property or service for people who do not regularly engage in the sale/lease of that type of property or service are exempt from this tax.
 - Personal effects brought into the state for initial residence for an individual's own nonbusiness use and effects brought by nonresidents while temporarily in the state are exempt from this tax.
 - Sales for resale will be exempt given the possession of a resale exemption certificate.
 - Services between affiliated persons under 26 U.S.C. on a single consolidated return will be exempt from this tax.
 - Transactions between the joint holders of a given interest or business will be exempt from this tax.

- The sale, lease, or construction of real property will be exempt from this tax.
- Jet fuel sold for use in international flights will be exempt from this tax.
- Insurance premiums that are currently taxed under AS 21.09.210 (tax on insurers) are exempt from this tax.
- The transportation, handling, and storage (and other related services) of property that is being transported across state lines or internationally will be exempt from this tax.
- Several health care services and products will be exempt from this tax:
 - Health care services provided by a certified/licensed professional under AS 08 or by a health care facility.
 - Drugs, durable medical equipment, mobility-enhancing equipment, or prosthetic equipment provided through a licensed professional or health care facility.
 - Feminine hygiene products (tampons, liners, menstrual cups, sanitary napkins, and other similar products).
- Childcare services are exempt from this tax.
- Heating oil is exempt from this tax.

Article 3: Delineates further guidelines for seller's permits, resale exemptions, and credits.

- Sec. 43.44.080 states that if a purchaser has paid sales or use tax to another state on a given service or tangible personal property, that will be fully credited to their Alaskan tax liability.
- Sec. 43.44.090 requires that a person seeking to engage in business in Alaska must obtain a seller's permit – and provides guidelines for the permit application.
- Sec. 43.44.100 exempts sales for resale from this tax. The person seeking an exemption must have a certificate issued under AS 43.44.110 and must present it at the time of sale for resale.
- Sec. 43.44.110 creates guidelines for the aforementioned resale exemption certificate.
- Sec. 43.44.120 provides guidelines for revoking or suspending the seller's certificate or resale exemption certificate. These are the guidelines referred to in Section 17 of this bill.
- Sec. 43.44.130 creates a penalty for improper use of the resale exemption certificate, of \$100 or 100% of their tax liability, whichever is larger. This tax applies to each transaction that violated the proper use of the resale exemption certificate.
- Sec. 43.44.140 states that if property purchased using a resale exemption certificate is commingled with identical property not purchased with the certificate, then the mass of commingled property will be treated as property purchased under the resale exemption certificate until the quantity sold satisfies the quantity listed in the resale certificate.
- Sec. 43.44.150 states that the sales/use tax liability remains until the tax has been paid to the Department of Revenue.
- Sec. 43.44.160 states that the seller with the seller's permit is responsible for reporting and paying this tax with the same accounting method that they use for federal tax reporting. This provides consistency for auditing purposes.
- Sec. 43.44.170 states that a seller must collect and pay the sales tax monthly, along with filing a tax return.
- Sec. 43.44.180 delineates methodologies for payment of tax and auditing, such as using rounding and statistical sampling methods for auditing purposes.

- Sec. 43.44.190 delineates procedures for deducting bad debts for sales that are found to be worthless. These debts must qualify under federal guidelines. If a bad debt that is deducted is later collected, the seller must remit the sales tax on the amount collected.
- Sec. 43.44.200 provides an allowance of \$75 or 1% of the tax, whichever is lower, as an incentive for timely filing.
- Sec. 43.44.210 provides security for the Department of Revenue by allowing the department to require a security deposit from a seller. This deposit may not be more than twice the estimated tax liability, or \$10,000, whichever is less. This deposit may include property, which may then be auctioned by the department. The department may also require the seller to file a bond to guarantee solvency or require executives to provide a personal guaranty and assume liability for the payment of the tax.
- Sec. 43.44.220 states that, within 10 days of a seller quitting their business, transferring ownership of the business, or disposing of the inventory of the business, the seller must file and pay their tax liability. This statute also delineates the tax liability of the business's successor (the individual who acquires the business or stock of the business).
- Sec. 43.44.230 states that the sales tax liability imposed will become personal debt to the individual required to file the return under AS 43.44.170. Additionally, if a representative of an estate distributes assets without reserving enough assets to pay the estate's sales tax liability, the representative will become personally liable.

Article 4: Lists general provisions and logistical guidelines for the sales/use tax.

- Sec. 43.44.250 states that the Department of Revenue will enter into the Streamlined Sales and Use Tax Agreement. This agreement is a set of national standards and regulations that modernize the collection of sales and use taxes. By creating uniform standards for sales tax collection, it greatly aids in facilitating online sales, for instance.
- Sec. 43.44.260 states that the Department of Revenue can participate in electronic sales/use tax registration systems in concert with other states that are part of the Streamlined Sales and Use Tax Agreement. Additionally, the department can use electronic forms for filing, signatures, and authentications.
- Sec. 43.44.300 defines several of the terms used in AS 43.44.

Section 19: AS 44.64.030(a) is amended to include a reference to AS 43.44.

Section 20: Repeals AS 29.45.650(f), AS 29.45.650(h), AS 29.45.650(i), AS 29.45.650(j), and AS 29.45.650(k).

Section 21: Repeals and reenacts Section 4, ch. 100, SLA 2002, to amend AS 29.45.650(a). AS 29.45.650(a) is amended to state that a borough may levy a general sales tax on the sale/rental of property or services provided in the borough on the purchaser.

Section 22: Adds several provisions to the uncodified law of Alaska.

These include giving the Department of Revenue the regulatory authority necessary to implement this sales/use tax, requiring municipalities that currently impose a general sales/use tax to conform to the new regulations by July 1, 2022, and exempting services from contracts paid in full within 12 months of the effective date of this bill from the tax.

Section 23: States that Section 22 of this legislation will take effect immediately.

Section 24: Sets an effective date of July 1, 2022.