

# ALASKA STATE LEGISLATURE



REPRESENTATIVE GERAN TARR

## House Bill 4005

### “An Act relating to a State Sales Tax”

#### Sectional Analysis

**Section 1:** Amends AS 28.10.021(a) (1) to require an owner of a vehicle subject to registration to pay the newly established sales/use tax created by this bill, in addition to registration fees and other taxes.

**Section 2:** Amends AS 28.10.021(a) (1) to remove the changes created by Section 1, returning the statute to its original form. This is due to a sunset provision that is in the bill under Section 10.

**Section 3:** Amends AS 43.05.240(a) to include the revocation or suspension of a seller’s permit/resale exemption certificate in the list of actions that can be appealed to the Department of Revenue.

**Section 4:** Amends AS 43.05.240(a) to remove the changes created by Section 3, returning the statute to its original form. This is due to a sunset provision that is in the bill under Section 10.

**Section 5:** 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 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. 43.44.030** 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. 43.44.040(a)** states that if a seller collects excess sales/use tax, the excess will be remitted to the Department of Revenue.  
**Sec. 43.44.040(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. 43.44.040(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. 43.44.050** 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. 43.44.060** 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. 43.44.070** 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. 43.44.080** 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. 43.44.090** exempts sales for resale from this tax. The person seeking an exemption must have a certificate issued under AS 43.44.100 and must present it at the time of sale for resale.
- **Sec. 43.44.100** creates guidelines for the aforementioned resale exemption certificate.
- **Sec. 43.44.110** 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. 43.44.120** 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. 43.44.130** 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. 43.44.140** states that the sales/use tax liability remains until the tax has been paid to the Department of Revenue.
- **Sec. 43.44.150** 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. 43.44.160** states that a seller must collect and pay the sales tax monthly, along with filing a tax return.
- **Sec. 43.44.170** delineates methodologies for payment of tax and auditing, such as using rounding and statistical sampling methods for auditing purposes.
- **Sec. 43.44.180** 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. 43.44.190** provides an allowance of \$75 or 1% of the tax, whichever is lower, as an incentive for timely filing.
- **Sec. 43.44.200** 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. 43.44.210** 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. 43.44.220** 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. Additionally, if a specific officer/employee of a corporation is responsible for the collection and payment of this tax liability to the state, then fails to pay that tax, that employee will be held personally liable.

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

- **Sec. 43.44.230** 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. 43.44.240** 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. 43.44.290** defines several of the terms used in AS 43.44.

**Section 6:** AS 44.64.030(a) is amended to include a reference to AS 43.44.

**Section 7:** Repeals AS 43.44.010, 43.44.020, 43.44.030, 43.44.040, 43.44.050, 43.44.060, 43.44.070, 43.44.080, 43.44.090, 43.44.100, 43.44.110, 43.44.120, 43.44.130, 43.44.140, 43.44.150, 43.44.160, 43.44.170, 43.44.180, 43.44.190, 43.44.200, 43.44.210, 43.44.220, 43.44.230, 43.44.240, 43.44.290, and AS 44.64.030(a)(52).

**Section 8:** 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, exempting services from contracts paid in full within 12 months of the effective date of this bill from the tax, and states that individuals may apply for (and receive from the Department of Revenue) a seller's permit/resale exemption certificate before the effective date of Section 5 of this bill.

**Section 9:** States that Section 8 of this legislation will take effect immediately.

**Section 10:** States that Sections 2, 4, and 7 take effect on July 1, 2029.

**Section 11:** Sets an effective date of July 1, 2022, except as provided in Sections 9 and 10.