

HOUSE BILL NO. 293

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Introduced: 4/30/03

Referred: House Special Committee on Ways and Means, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act levying and collecting a state sales and use tax; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 43 is amended by adding a new chapter to read:

5 **Chapter 44. Sales and Use Tax.**

6 **Article 1. Levy and Collection of the Tax.**

7 **Sec. 43.44.010. Levy of sales and use tax.** (a) There is levied a sales tax on
8 sales and rents of tangible personal property, and on services.

9 (b) For the privilege of using property in this state, there is levied a use tax on
10 the person using property that was:

11 (1) manufactured by the person using the property in this state;

12 (2) acquired outside this state as the result of a transaction that would
13 have been subject to the sales tax had it occurred within this state;

14 (3) acquired as the result of a transaction that was not initially subject

1 to the sales tax imposed by subsection (a) or the use tax imposed by subsection (b)(1)
 2 or (b)(2) but which transaction, because of the buyers subsequent use of the property,
 3 is subject to the sales tax or use tax.

4 (c) For the privilege of using services in this state, there is levied a use tax on
 5 the person using services. Services taxable under this section must have been
 6 rendered as the result of a transaction that was not initially subject to the sales tax or
 7 use tax but that because of the buyer's subsequent use of the service is subject to the
 8 sales tax or use tax.

9 (d) The rate of levy of the sales tax levied under (a) of this section and of the
 10 use taxes levied under (b) and (c) of this section is three percent of the price of sales
 11 and rents of tangible personal property and on services.

12 (e) For purposes of this section, the value of property must be determined as
 13 of the time of acquisition, introduction into this state, or conversion to use, whichever
 14 is latest.

15 **Sec. 43.44.020. Collection of tax.** (a) The tax described in AS 43.44.010(a)
 16 is imposed on the purchaser and must be collected by the seller and paid to the
 17 department by the seller as provided in AS 43.44.340. The seller holds all taxes
 18 collected in trust for the state. The tax must be applied to the sales price.

19 (b) The purchaser of property subject to the tax described in AS 43.44.010(b)
 20 is responsible for payment of the tax as provided in AS 43.44.340.

21 (c) The purchaser of services subject to the tax described in AS 43.44.010(c)
 22 is responsible for payment of the tax as provided in AS 43.44.340.

23 **Sec. 43.44.030. Presumption of taxability - value -- rules.** (a) In order to
 24 prevent evasion of the sales tax or use tax and to aid in its administration, it is
 25 presumed that:

26 (1) all sales by a person engaging in business are subject to the sales
 27 tax or use tax; and

28 (2) all property bought or sold by any person for delivery into this state
 29 is bought or sold for a taxable use in this state.

30 (b) In determining the amount of tax due on the use of property or services, it
 31 is presumed, in the absence of preponderant evidence of another value, that value

1 means the total amount of property or the reasonable value of other consideration paid
 2 for the use of the property or service, exclusive of any type of time-price differential.
 3 However, in an exchange in which the amount of money paid does not represent the
 4 value of the property or service purchased, the use tax must be imposed on the
 5 reasonable value of the property or service purchased.

6 (c) The department shall adopt rules providing for the payment of the sales tax
 7 and use tax based on a rounding method.

8 **Sec. 43.44.040. Separate statement of tax -- no advertising to absorb or**
 9 **refund tax.** (a) If any person collects a tax in excess of the tax imposed by
 10 AS 43.44.010(a), both the tax and the excess tax must be remitted to the department.

11 (b) The sales tax must be stated separately for all sales, except for sales from
 12 coin-operated or currency-operated machines.

13 (c) A person may not advertise, hold out, or state to the public or to any
 14 customer that the tax imposed by AS 44.43.010(a) will be absorbed or refunded.

15 **Sec. 43.44.050. Liability of user for payment of use tax.** (a) A person in
 16 this state who uses property is liable to the state for payment of the use tax if the tax is
 17 payable on the value of the property but has not been paid.

18 (b) The liability imposed by this section is discharged if the buyer has paid the
 19 use tax to the seller for payment to the department.

20 **Sec. 43.44.060. Listing of business locations and agents - severability.** A
 21 person whose sales are not subject to the sales tax shall collect the use tax from the
 22 purchaser and pay the tax collected to the department, if that person has nexus with the
 23 State of Alaska. Nexus is asserted to the fullest extent of the United States
 24 Constitution.

25 **Sec. 43.44.070. Nontaxable transaction certificate -- requirements.** (a) A
 26 nontaxable transaction certificate executed by a buyer or lessee must be in the
 27 possession of the seller or lessor at the time that a nontaxable transaction occurs.

28 (b) A nontaxable transaction certificate must contain the information and be in
 29 the form prescribed by the department.

30 (c) Only a buyer or lessee who has registered with the department and whose
 31 seller's permit is valid may execute a nontaxable transaction certificate.

1 (d) If the seller or lessor accepts a nontaxable transaction certificate within the
2 required time and believes in good faith that the buyer or lessee will employ the
3 property or service transferred in a nontaxable manner, the properly executed
4 nontaxable transaction certificate is considered conclusive evidence, as to the seller or
5 lessor, that the sale is nontaxable.

6 **Sec. 43.44.080. Nontaxable transaction certificate - form.** (a) The
7 department shall provide for a uniform nontaxable transaction certificate. A purchaser
8 shall use the certificate when purchasing goods or services for resale or for other
9 nontaxable transactions.

10 (b) At a minimum, the certificate must provide:

11 (1) the number of the seller's permit issued to the purchaser as
12 provided in AS 43.44.260;

13 (2) the general character of property or service sold by the purchaser in
14 the regular course of business;

15 (3) the property or service purchased for resale;

16 (4) the name and address of the purchaser; and

17 (5) a signature line for the purchaser.

18 (c) The department shall adopt rules to provide procedures for application for
19 and provision of a nontaxable transaction certificate to a person engaging in business
20 in this state prior to the applicability date of this section. The rules adopted by the
21 department must ensure that each person engaging in business in this state prior to the
22 applicability date of this section who has applied in a timely fashion is issued a
23 nontaxable transaction certificate prior to the applicability date of this section.

24 **Sec. 43.44.090. Exemption - government agencies - exception.** (a) Except
25 as provided in (b) of this section, all sales by, sales to, or uses by the United States,
26 this state, an agency or instrumentality of the United States or of this state, a political
27 subdivision of this state, an Indian tribe, or a foreign government are exempt from the
28 sales tax and use tax.

29 (b) The sale of natural gas, water, electricity, telephone communications
30 services, refuse collection, or other utility services is not exempt from the sales tax and
31 use tax.

1 **Sec. 43.44.100. Exemption – food stamps -- special supplemental food**
2 **program for women, infants, and children.** The sale of food purchased with food
3 coupons, food stamps, or other type of certificate issued under 7 U.S.C. 2011-2025
4 (Food Stamp Act), or purchased with food instruments, food vouchers, or other type of
5 certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for
6 Women, Infants, and Children), is exempt from the sales tax and use tax.

7 **Sec. 43.44.110. Exemption - wages.** Wages, salaries, commissions, and any
8 other form of remuneration for personal services are exempt from the sales tax if paid
9 by an employer to an employee.

10 **Sec. 43.44.120. Exemption --insurance premiums.** The premiums of an
11 insurance company, a health service corporation, a health maintenance organization,
12 or a fraternal benefit society or of an agent of the company, corporation, organization,
13 or society are exempt from the sales tax.

14 **Sec. 43.44.130. Exemption - dividends and interest.** The following are
15 exempt from the sales tax:

- 16 (1) interest on money loaned or deposited;
- 17 (2) dividends or interest from stocks, bonds, or securities; and
- 18 (3) proceeds from the sale of stocks, bonds, or securities.

19 **Sec. 43.44.140. Exemption -- isolated or occasional sale or lease of**
20 **property or services.** The isolated or occasional sale or lease of property, other than
21 a vehicle, or the performance of a service by a person who is not regularly engaged in
22 or who does not aim to be engaged in the business of selling or leasing the same or a
23 similar property or service is exempt from the sales tax and use tax. Occasional sales
24 include sales that are occasional but not continuous and that are made for the purpose
25 of fundraising by nonprofit organizations, including but not limited to youth clubs,
26 service clubs, and fraternal organizations.

27 **Sec. 43.44.150. Exemption - personal effects.** The use by an individual of
28 personal or household effects brought into the state for the establishment by the
29 individual of an initial residence in this state and the use of property brought into the
30 state by a nonresident for the nonresident's own non-business use while temporarily
31 within this state is exempt from the use tax.

1 **Sec. 43.44.160. Nontaxability-- sale or property for resale.** The sale of
2 property is nontaxable if:

3 (1) the sale is made to a buyer who delivers a nontaxable transaction
4 certificate to the seller; and

5 (2) the buyer resells the property either by itself or in combination with
6 other property in the ordinary course of business and the property will be subject to the
7 sales tax imposed by AS 43.44.010(a).

8 **Sec. 43.44.170. Nontaxability - sale of service for resale.** The sale of a
9 service for resale is nontaxable if:

10 (1) the sale is made to a person who delivers a nontaxable transaction
11 certificate;

12 (2) the buyer resells the service and separately states the value of the
13 service purchased in the charge for the service in the subsequent sale; and

14 (3) the subsequent sale is in the ordinary course of business and subject
15 to the sales tax imposed by AS 43.44.010(a).

16 **Sec. 43.44.180. Nontaxability-- sale to miner or manufacturer.** (a) The
17 sale of property to a buyer engaged in the business of mining or manufacturing is
18 nontaxable if:

19 (1) the buyer delivers a nontaxable transaction certificate to the seller;
20 and

21 (2) the buyer incorporates the property as an ingredient or component
22 part of the product in the business of mining or manufacturing; or

23 (3) the buyer uses the property to extract a mineral and the property is
24 required to be abandoned in place, in accordance with state regulations, when
25 production of the mineral from a mine or wellhead permanently ceases.

26 (b) For the purposes of this section, electrical energy or electricity used or
27 consumed by electrolytic reduction used in the reduction or refinement of ores is
28 considered a component part of the product.

29 **Sec. 43.44.190. Nontaxability - sale of tangible personal property for**
30 **leasing.** The sale of property, other than furniture or appliances, and the rental or
31 lease of mobile homes and property, other than coin-operated or currency-operated

1 machines, is nontaxable if:

2 (1) the sale is made to a buyer who delivers a nontaxable transaction
3 certificate to the seller;

4 (2) the buyer is engaged in a business deriving more than 50% of its
5 receipts from leasing or selling property of the type leased; and

6 (3) the buyer does not use the property in any manner other than
7 holding it for lease or sale or leasing or selling it, either by itself or in combination
8 with other property, in the ordinary course of business.

9 **Sec. 43.44.200. Lease for subsequent lease.** The lease of property, other than
10 furniture or appliances, and the rental or lease of mobile homes and property, other
11 than coin-operated or currency-operated machines, is nontaxable if:

12 (1) the lease is made to a lessee who delivers a nontaxable transaction
13 certificate;

14 (2) the lessee does not use the property in any manner other than for
15 subsequent lease in the ordinary course of business; and

16 (3) the subsequent lease is subject to the tax imposed by
17 AS 43.44.010(a).

18 **Sec. 43.44.210. Nontaxability - transactions in interstate commerce.** A
19 transaction in interstate commerce is nontaxable to the extent that the imposition of the
20 sales tax or use tax would be unlawful under the United States constitution.

21 **Sec. 43.44.220. Nontaxability - certain intrastate transportation and**
22 **services in interstate commerce.** (a) The transport of persons or property from one
23 point within this state to another point within this state is not taxable if the persons or
24 property, including any reasonably necessary services, are being transported in
25 interstate or foreign commerce under a single contract.

26 (b) Handling, storage, drayage, or packing of property or any other accessorial
27 services on property are not taxable if:

28 (1) the property has been or will be moved in interstate or foreign
29 commerce;

30 (2) the services are performed by a local agent for a carrier or by a
31 carrier; and

1 (3) the services are performed under a single contract in relation to
2 interstate transportation services.

3 **Sec. 43.44.230. Nontaxability - sale of certain services to out-of-state**
4 **buyer.** (a) Sales of a service are not taxable if the sale is made to a buyer who
5 delivers to the seller either a nontaxable transaction certificate or other evidence
6 acceptable to the department that the transaction and the person who delivers the
7 nontaxable transaction certificate or other evidence acceptable to the department meet
8 the conditions set out in subsection (b).

9 (b) Sales of a service are not taxable if the buyer of the service, any of the
10 buyer's employees, or any person in privity with the buyer:

11 (1) does not make initial use of the product or the service in this state;

12 (2) does not take delivery of the product or the service in this state; or

13 (3) concurrent with the performance of the service, does not maintain
14 an office or other place of business in this state or spend more than brief and
15 occasional periods of time in this state and:

16 (A) does not have any communication in this state related in
17 any way to the subject matter, performance, or administration of the service
18 with the person performing the service; or

19 (B) does not personally perform work in this state related to the
20 subject matter of the service.

21 (c) Services that initially were nontaxable under this section but that no longer
22 meet the criteria in subsection (b) are nontaxable only for the period prior to the
23 disqualification and are, after disqualification, taxable.

24 **Sec. 43.44.240. Nontaxability - use of property for leasing.** The value of
25 leased property is not considered in computing the use tax due if the person holding
26 the property for lease:

27 (1) is engaged in a business that derives a substantial portion of its
28 receipts from leasing or selling property of the type leased;

29 (2) does not use the property in any manner other than holding it for
30 lease or sale or leasing or selling it either by itself or in combination with other
31 tangible personal property in the ordinary course of business; and

1 (3) does not use the property in a manner incidental to the performance
2 of a service.

3 **Sec. 43.44.250. Credit - out-of-state taxes.** If a sales, use, or similar tax has
4 been levied by another state or a political subdivision of another state on property that
5 was bought outside this state but that will be used or consumed in this state and the tax
6 was paid by the current user, the amount of tax paid may be credited against any use
7 tax due this state on the same property. The credit may not exceed the sales tax or use
8 tax due this state.

9 **Sec. 43.44.260. Seller's permit.** (a) A person wishing to engage in business
10 in this state shall obtain a seller's permit before engaging in business in this state.

11 (b) Upon an applicant's compliance with this chapter, the department shall
12 issue to the applicant a separate, numbered seller's permit for each location in which
13 the applicant maintains an office or other place of business within Alaska. A permit is
14 valid until revoked or suspended but is not assignable. A permit is valid only for the
15 person in whose name it is issued and for the transaction of business at the place
16 designated. The permit must be conspicuously displayed at all times at the place for
17 which it is issued.

18 (c) The department shall adopt rules to provide procedures for application for
19 and provision of a seller's permit to a person engaging in business in this state prior to
20 the applicability date of this section. The rules adopted by the department must ensure
21 that each person engaging in business in this state prior to the applicability date of this
22 section has the reasonable opportunity to be issued a seller's permit prior to the
23 applicability date of this section.

24 **Sec. 43.44.270. Permit application - requirements - place of business -**
25 **form.** (a) A person desiring to engage in the business of making retail sales or
26 providing services in Alaska shall file with the department an application for a permit.
27 If the person has more than one location in which the person maintains an office or
28 other place of business, an application may include multiple locations. A vending
29 machine operator who has more than one vending machine location is considered to
30 have only one place of business for purposes of this section. An applicant who does
31 not maintain an office or other place of business and who moves from place to place is

1 considered to have only one place of business and shall attach the permit to the
2 applicant's cart, stand, truck, or other merchandising device.

3 (b) Each person or class of persons obligated to file a return under this chapter
4 is required to file an application for a permit.

5 (c) Each application for a permit must be on a form prescribed by the
6 department and must set forth the name under which the applicant intends to transact
7 business, the location of the applicant's place or places of business, and other
8 information that the department may require. The application must be filed by the
9 owner if the owner is a natural person, by a member or partner if the owner is an
10 association or partnership, or by a person authorized to sign the application if the
11 owner is a corporation.

12 **Sec. 43.44.280. Revocation or suspension of permit - hearing--notice--**
13 **appeal.** (a) Subject to the provisions of subsection (b), the department may, for
14 reasonable cause, revoke or suspend any permit held by a person who fails to comply
15 with the provisions of this chapter.

16 (b) The department shall provide written notice and an opportunity for a
17 hearing on a proposed revocation or suspension. The hearing must be conducted
18 informally and is not subject to the Alaska Administrative Procedure Act.

19 (c) If a permit is revoked, the department may not issue a new permit except
20 upon application accompanied by reasonable evidence of the intention of the applicant
21 to comply with the provisions of this chapter. The department may require security in
22 addition to that authorized by AS 43.44.370 in an amount reasonably necessary to
23 ensure compliance with this chapter as a condition for the issuance of a new permit to
24 the applicant.

25 (d) A person aggrieved by the department's final decision to revoke a permit
26 as provided in subsection (a) may appeal the decision to the superior court.

27 **Sec. 43.44.290. Improper use of subject of purchase obtained with**
28 **nontaxable transaction certificate - penalty.** (a) If a purchaser who uses a
29 nontaxable transaction certificate uses the subject of the purchase for a purpose other
30 than one allowed as nontaxable under this chapter, the use is considered a taxable sale
31 as of the time of first use by the purchaser and the sales price is the price that the

1 purchaser paid. If the sole nonexempt use is rental while holding for sale, the
 2 purchaser shall include in the sales price the amount of the rental charged. Upon
 3 subsequent sale of the property, the seller shall include the entire amount of the sales
 4 price, without deduction of amounts previously received as rentals.

5 (b) A person who uses a certificate for property that will be used for purposes
 6 other than the purpose claimed is subject to a penalty, payable to the department, of
 7 \$100 for each transaction in which an improper use of a certificate has occurred.

8 (c) Upon a showing of good cause, the department may abate or waive the
 9 penalty or a portion of the penalty.

10 **Sec. 43.44.300. Commingling nontaxable certificate goods.** If a purchaser
 11 uses a nontaxable transaction certificate with respect to the purchase of fungible goods
 12 and commingles these goods with fungible goods that were not purchased with a
 13 nontaxable transaction certificate but that are of such similarity that the identity of the
 14 goods in the commingled mass cannot be determined, sales from the mass of
 15 commingled goods are considered to be sales of the goods purchased with the
 16 certificate until the quantity of commingled goods sold equals the quantity of goods
 17 originally purchased under the certificate.

18 **Sec. 43.44.310. Liability for payment of tax - security for retailer without**
 19 **place of business - penalty.** (a) Liability for the payment of the sales tax and use tax
 20 is not extinguished until the taxes have been paid to the department.

21 (b) A retailer who does not maintain an office or other place of business in this
 22 state is liable for the sales tax or use tax in accordance with this chapter and may be
 23 required to furnish adequate security as provided in AS 43.44.370 to ensure collection
 24 and payment of the taxes. When authorized and except as otherwise provided in this
 25 chapter, the retailer is liable for the taxes upon all property sold and services provided
 26 in this state in the same manner as a retailer who maintains an office or other place of
 27 business within this state. The seller's permit provided for in AS 43.44.260 may be
 28 canceled at any time if the department considers the security inadequate or believes
 29 that the taxes can be collected more effectively in another manner.

30 (c) An agent, canvasser, or employee of a retailer doing business in this state
 31 who does not possess a seller's permit issued by the department may not sell, solicit

1 orders for, or deliver any property or services in Alaska. If an agent, canvasser, or
 2 employee violates the provisions of this chapter, the person is subject to a fine of not
 3 more than \$100 for each separate transaction or event.

4 **Sec. 43.44.320. Interstate and intrastate carriers as retailers.** A person
 5 engaged in the business of intrastate or interstate transportation of property or
 6 passengers shall register as a retailer and pay the taxes imposed by AS 43.44.010.

7 **Sec. 43.44.330. Application for permission to report on accrual basis.** (a)
 8 A person who has a seller's permit may apply to the department for permission to
 9 report and pay the sales tax or use tax on an accrual basis.

10 (b) The application must be made on a form, prescribed by the department,
 11 which contains information that the department may require.

12 (c) A person may not report or pay the sales tax or use tax on an accrual basis
 13 unless the person has received written permission from the department.

14 **Sec. 43.44.340. Returns - payment--authority of department.** (a) Except
 15 as provided in subsection (b), on or before the 20th day of each month in which the tax
 16 imposed by AS 43.44.010 is payable, a return, on a form provided by the department,
 17 and payment of the tax for the preceding month must be filed with the department.
 18 Each person engaged in business in this state or using property in this state that is
 19 subject to tax under AS 43.44.010 shall file a return. A person making retail sales at
 20 two or more places of business shall file a separate return for each separate place of
 21 business.

22 (b) A person who has a tax liability that averages less than \$100 per month
 23 may report and pay the tax imposed by AS 43.44.010 on a quarterly basis and shall
 24 file a return with payment on or before the 15th day of the month following the end of
 25 the quarter.

26 (c) For the purposes of the sales tax or use tax, a return must be filed by:

27 (1) a retailer required to collect the tax; and

28 (2) a person who:

29 (A) purchases any items the storage, use, or other consumption
 30 of which is subject to the sales tax or use tax; and

31 (B) has not paid the tax to a retailer required to pay the tax.

1 (d) Each return must be authenticated by the person filing the return or by the
2 person's agent authorized in writing to file the return.

3 **Sec. 43.44.350. Credit for taxes paid on worthless accounts - taxes paid if**
4 **account collected.** (a) Sales taxes paid on an accrual basis by a person filing a return
5 under AS 43.44.340 on sales found to be worthless and actually deducted by the
6 person as a bad debt for federal income tax purposes may be credited on a subsequent
7 payment of the tax.

8 (b) If the accounts are subsequently collected, the sales tax must be paid on
9 the amount collected.

10 **Sec. 43.44.360. Vendor allowance.** (a) A person filing a return under
11 AS 43.44.340 may claim a monthly vendor allowance for each permitted location in
12 the amount of 2% of the tax determined to be payable to the state or \$75 a month,
13 whichever is less.

14 (b) A person filing a quarterly return may claim 2% of the tax determined to
15 be payable to the state or \$15 a quarter, whichever is more.

16 (c) The allowance may be deducted on the return. In no case shall the
17 allowance be greater than the tax determined to be payable to the state.

18 **Sec. 43.44.370. Security -- limitations - sale of security deposit at auction -**
19 **- bond.** (a) The department may require a retailer to deposit, with the department,
20 security in a form and amount that the department determines is appropriate. The
21 deposit may not be more than twice the estimated average liability for the period for
22 which the return is required to be filed or \$10,000, whichever is less. The amount of
23 security may be increased or decreased by the department, subject to the limitations
24 provided in this section.

25 (b) If necessary, the department may sell, at public auction, property deposited
26 as security to recover any sales tax or use tax amount required to be collected,
27 including interest and penalties. Notice of the sale must be served personally upon or
28 sent by certified mail to the person who deposited the security. After the sale, any
29 surplus above the amount due that is not required as security under this section must
30 be returned to the person who deposited the security.

31 (c) In lieu of security, the department may require a retailer to file a bond,

1 issued by a surety company authorized to transact business in this state, to guarantee
2 solvency and responsibility.

3 (d) In addition to the other requirements of this section, the department may
4 require the corporate officers, directors, or shareholders of a corporation to provide a
5 personal guaranty and assumption of liability for the payment of the tax due under this
6 chapter.

7 **Sec. 43.44.380. Taxpayer quitting business - liability of successor.** (a) All
8 taxes payable under this chapter are due and payable immediately whenever a
9 taxpayer quits business, sells, exchanges, or otherwise disposes of the business or
10 disposes of the stock of goods. The taxpayer shall make a return and pay the taxes due
11 within 10 days after the taxpayer quits business, sells, exchanges, or otherwise
12 disposes of the business or disposes of the stock of goods.

13 (b) Except as provided in subsection (d), a person who becomes a successor is
14 liable for the full amount of the tax and shall withhold from the sales price payable to
15 the taxpayer a sum sufficient to pay any tax due until the taxpayer produces either a
16 receipt from the department showing payment in full of any tax due or a statement
17 from the department that tax is not due.

18 (c) If a tax is due but has not been paid as provided in (a) of this section, the
19 successor is liable for the payment of the full amount of tax. The payment of the tax
20 by the successor is considered to be a payment upon the sales price and, if the payment
21 is greater in amount than the sales price, the amount of the difference becomes a debt
22 due to the successor from the taxpayer owing the tax under subsection (a).

23 (d) A successor is not liable for any tax due from the person from whom the
24 successor acquired a business or stock of goods if (1) the successor gives written
25 notice to the department of the acquisition; and (2) an assessment is not issued by the
26 department against the former operator of the business within 6 months of receipt of
27 the notice from the successor. If an assessment is issued by the department, a copy of
28 the assessment must also be mailed to the successor, or if an assessment is not mailed
29 to the successor, the successor is not liable for the tax due.

30 **Sec. 43.44.390. Tax as debt.** (a) The tax imposed by this chapter and related
31 interest and penalties become a personal debt of the person required to file a return

1 from the time the liability arises, regardless of when the time for payment of the
2 liability occurs.

3 (b) The debt of the personal representative of the estate of a decedent or a
4 fiduciary is limited to the person's official or fiduciary capacity. However, if the
5 person has voluntarily distributed the assets held in that capacity without reserving
6 sufficient assets to pay the taxes, interest, and penalties, the person is personally liable
7 for any deficiency.

8 (c) This section applies to those corporate officers, directors, or shareholders
9 required by the department to personally guarantee the payment of the taxes for their
10 corporations. In addition to the liability imposed by subsection (c)(1), the officer or
11 employee of a corporation whose duty it is to collect, truthfully account for, and pay to
12 the state the amounts imposed by this chapter and who fails to pay the tax is liable to
13 the state for the amounts imposed by this chapter and the penalty and interest due on
14 the amounts.

15 **Sec. 43.44.900. Definitions.** In this chapter,

16 (1) "calendar quarter" means each of the three-month periods ending
17 March 31, June 30, September 30, and December 31;

18 (2) "engaging in business" means carrying on or causing to be carried
19 on any activity with the purpose of direct or indirect benefit.

20 (3) "lease," "leasing," or "rental" means an arrangement in which, for
21 consideration, property is used for or by a person other than the owner of the property.

22 (4) "maintaining an office or other place of business" means:

23 (A) any person having or maintaining within this state, directly
24 or by a subsidiary, an office, distribution house, sales house, warehouse, or
25 place of business; or

26 (B) any agent operating within this state under the authority of
27 the person or its subsidiary, whether the place of business or agent is located in
28 the state permanently or temporarily or whether or not the person or subsidiary
29 is authorized to do business within this state.

30 (5) "manufacturing" means combining or processing components or
31 materials, including the processing of ores in a mill, smelter, refinery, or reduction

1 facility, to increase their value for sale in the ordinary course of business. The term
2 does not include construction.

3 (6) "permit" or "seller's permit" means a seller's permit as described in
4 AS 43.44.260

5 (7) "person" means an individual, estate, trust, receiver, cooperative
6 association, club, corporation, company, firm, partnership, joint venture, syndicate, or
7 other entity, including any gas, water, or electric utility owned or operated by a
8 county, municipality, or other political subdivision of the state.

9 (8) "sale," "selling," or "buying" means the transfer of property for
10 consideration or the performance of a service for consideration.

11 (9) "sales price," in addition to the other meanings provided in this
12 subsection, means the total amount of money or the value of other consideration,
13 except trade-in property of like kind, received from selling property in Alaska, from
14 leasing property used in Alaska, or from performing services in Alaska. The term
15 includes all consideration from the sale of property handled on consignment but
16 excludes cash discounts allowed and taken and any type of time-price differential. In
17 an exchange in which the money or other consideration received does not represent the
18 value of the property or service exchanged, sales price means the reasonable value of
19 the property or service exchanged. When the sale of property or services is made
20 under any type of charge or conditional or time-sales contract or the leasing of
21 property is made under a leasing contract, the seller or lessor shall treat the sales price,
22 excluding any type of time-price differential, under the contract as the sales price at
23 the time of the sale. If the seller or lessor transfers an interest in a contract referred to
24 in this paragraph to a third person, the third person or lessee shall pay the sales tax or
25 use tax upon the full sale or leasing contract amount, excluding any type of time-price
26 differential. Sales price includes the total commissions or fees derived from the
27 business of buying, selling, or promoting the purchase, sale, or lease, as an agent or
28 broker on a commission or fee basis, of any property, service, stock, bond, or security.
29 Sales price includes all amounts paid by members of a cooperative association or
30 similar organization for sales or leases of personal property or performance of services
31 by the organization.

1 (10) "sales tax" and "use tax" mean the applicable tax imposed by
2 AS 43.44.010.

3 (11) "service" means an activity that is engaged in for another person
4 for consideration and that is distinguished from the sale or lease of property. The term
5 includes: (A) activities performed by a person for its members or shareholders; (B)
6 construction activities and all tangible personal property that will become an
7 ingredient or component part of a construction project; and (C) includes labor,
8 professional services, transportation, telephone or other communications service,
9 entertainment, including cable, subscription, or pay television or other
10 telecommunications service, the supplying of food, lodging, or other accommodations
11 in hotels, restaurants, or elsewhere, admission to exhibitions, the use of a computer,
12 computer time, a computer system, a computer program, a computer network, or any
13 part of a computer system or network, and the supplying of equipment for use. In
14 determining what a service is, the intended use, principal objective, or ultimate
15 objective of the contracting parties is irrelevant.

16 (12) "tax" means the tax levied by AS 43.44.010.

17 (13) "use" or "using" includes use, consumption, or storage, other than
18 storage for resale or for use solely outside this state, in the ordinary course of business.

19 * **Sec. 2.** AS 29.45.650 is amended to read:

20 **Sec. 29.45.650. Sales and use tax.** (a) Except as provided in
21 AS 04.21.010(c), AS 29.45.750, and in (f) and (h) of this section, a borough may levy
22 [AND COLLECT] a sales tax on sales, rents, and on services provided in the borough.
23 **The sales tax authorized by this section will be administered and collected by the**
24 **state. The exemptions to the sales tax will be those set out in AS 43.44.010, et,**
25 **seq.** [THE SALES TAX MAY APPLY TO ANY OR ALL OF THESE SOURCES.
26 EXEMPTIONS MAY BE GRANTED BY ORDINANCE.]

27 (b) A borough levying a sales tax may also by ordinance levy a use tax on the
28 storage, use, or consumption of tangible personal property in the borough. The use tax
29 rate must equal the sales tax rate and the use tax shall be levied only on buyers. **The**
30 **use tax authorized by this section will be administered and collected by the state,**
31 **pursuant to AS 43.44.010 et seq. The exemptions to the use tax will be those set**

1 **out in AS 43.44.010, et. seq.**

2 [(c) A PERSON WHO FURNISHES PROOF, IN THE FORM REQUIRED
3 BY THE BOROUGH TAX COLLECTOR, THAT THE PERSON HAS PAID A
4 SALES TAX ON THE SOURCE ON WHICH A USE TAX IS LEVIED BY THE
5 BOROUGH IS REQUIRED TO PAY THE USE TAX ONLY TO THE EXTENT OF
6 THE DIFFERENCE BETWEEN THE AMOUNT OF THE SALES TAX PAID AND
7 THE AMOUNT OF THE USE TAX LEVIED BY THE BOROUGH. THIS
8 SUBSECTION APPLIES TO A SALES TAX LEVIED IN ANY TAXING
9 JURISDICTION WHETHER INSIDE OR OUTSIDE THE STATE.

10 (d) IF THE ASSEMBLY CHARGES INTEREST ON SALES TAXES NOT
11 PAID WHEN DUE, THE RATE OF INTEREST MAY NOT EXCEED 15 PERCENT
12 A YEAR ON THE DELINQUENT TAXES AND SHALL BE CHARGED FROM
13 THE DUE DATE UNTIL PAID IN FULL. THIS SUBSECTION APPLIES TO
14 HOME RULE AND GENERAL LAW MUNICIPALITIES.

15 (e) A BOROUGH MAY PROVIDE FOR THE CREATION, RECORDING,
16 AND NOTICE OF A LIEN ON REAL OR PERSONAL PROPERTY TO SECURE
17 THE PAYMENT OF A SALES AND USE TAX, AND THE INTEREST,
18 PENALTIES, AND ADMINISTRATION COSTS IN THE EVENT OF
19 DELINQUENCY. WHEN RECORDED, THE SALES TAX LIEN HAS PRIORITY
20 OVER ALL OTHER LIENS EXCEPT (1) LIENS FOR PROPERTY TAXES AND
21 SPECIAL ASSESSMENTS; (2) LIENS THAT WERE PERFECTED BEFORE THE
22 RECORDING OF THE SALES TAX LIEN FOR AMOUNTS ACTUALLY
23 ADVANCED BEFORE THE RECORDING OF THE SALES TAX LIEN; (3)
24 MECHANICS' AND MATERIALMEN'S LIENS FOR WHICH CLAIMS OF LIEN
25 UNDER AS 34.35.070 OR NOTICES OF RIGHT TO LIEN UNDER AS 34.35.064
26 HAVE BEEN RECORDED BEFORE THE RECORDING OF THE SALES TAX
27 LIEN. THIS SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW
28 MUNICIPALITIES.

29 (f) A BOROUGH MAY NOT LEVY AND COLLECT A SALES TAX ON A
30 PURCHASE MADE WITH (1) FOOD COUPONS, FOOD STAMPS, OR OTHER
31 TYPE OF ALLOTMENT ISSUED UNDER 7 U.S.C. 2011 - 2036 (FOOD STAMP

1 PROGRAM); OR (2) FOOD INSTRUMENTS, FOOD VOUCHERS, OR OTHER
 2 TYPE OF CERTIFICATE ISSUED UNDER 42 U.S.C. 1786 (SPECIAL
 3 SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND
 4 CHILDREN). FOR PURPOSES OF THIS SUBSECTION, THE VALUE OF A
 5 FOOD STAMP ALLOTMENT PAID IN THE FORM OF A WAGE SUBSIDY AS
 6 AUTHORIZED UNDER AS 47.25.975(b) IS NOT CONSIDERED TO BE AN
 7 ALLOTMENT ISSUED UNDER 7 U.S.C. 2011 - 2036 (FOOD STAMP
 8 PROGRAM). THIS SUBSECTION APPLIES TO HOME RULE AND GENERAL
 9 LAW MUNICIPALITIES.

10 (g) REPEALED

11 (h) A BOROUGH MAY NOT LEVY OR COLLECT A SALES TAX ON
 12 SALES, RENTS, AND SERVICES, OR A USE TAX ON THE STORAGE, USE, OR
 13 CONSUMPTION OF PERSONAL PROPERTY ON THE FOLLOWING
 14 ACTIVITIES:

15 (1) THE SALE, LEASE, RENTAL, STORAGE, CONSUMPTION,
 16 OR DISTRIBUTION IN THIS STATE OF OR THE PROVISION OF SERVICES
 17 RELATING TO AN ORBITAL SPACE FACILITY, SPACE PROPULSION
 18 SYSTEM, OR SPACE VEHICLE, SATELLITE, OR STATION OF ANY KIND
 19 POSSESSING SPACE FLIGHT CAPACITY, INCLUDING THE COMPONENTS
 20 OF THEM;

21 (2) THE SALE, LEASE, RENTAL, STORAGE, CONSUMPTION,
 22 OR USE OF TANGIBLE PERSONAL PROPERTY PLACED ON OR USED
 23 ABOARD AN ORBITAL SPACE FACILITY, SPACE PROPULSION SYSTEM, OR
 24 SPACE VEHICLE, SATELLITE, OR STATION OF ANY KIND, REGARDLESS
 25 OF WHETHER THE TANGIBLE PERSONAL PROPERTY IS RETURNED TO
 26 THIS STATE FOR SUBSEQUENT USE, STORAGE, OR CONSUMPTION; AN
 27 EXEMPTION UNDER THIS PARAGRAPH IS NOT AFFECTED BY THE
 28 FAILURE OF A LAUNCH TO OCCUR, OR THE DESTRUCTION OF A LAUNCH
 29 VEHICLE OR A COMPONENT OF A LAUNCH VEHICLE.]

30 * **Sec. 3.** AS 29.45.700 is amended to read:

31 **Sec. 29.45.700. Power of levy.** (a) A city [IN A BOROUGH THAT LEVIES

1 AND COLLECTS AREAWIDE SALES AND USE TAXES] may levy sales and use
 2 taxes. **The sales and use taxes authorized by this section will be administered and**
 3 **collected by the state. The exemptions to the sales and use taxes will be those set**
 4 **out in AS 43.44.010, et, seq.** [ON ALL SOURCES TAXED BY THE BOROUGH IN
 5 THE MANNER PROVIDED FOR BOROUGHES. EXCEPT AS PROVIDED IN (d)
 6 OF THIS SECTION, THE ASSEMBLY MAY BY ORDINANCE AUTHORIZE A
 7 CITY TO LEVY AND COLLECT SALES AND USE TAXES ON OTHER
 8 SOURCES.

9 (b) A CITY IN A BOROUGH THAT DOES NOT LEVY AND COLLECT
 10 SALES AND USE TAXES FOR AREAWIDE BOROUGH FUNCTIONS MAY
 11 LEVY AND COLLECT SALES AND USE TAXES IN THE MANNER PROVIDED
 12 FOR BOROUGHES.

13 (c) A CITY OUTSIDE A BOROUGH MAY LEVY AND COLLECT SALES
 14 AND USE TAXES IN THE MANNER PROVIDED FOR BOROUGHES.

15 (d) A CITY THAT LEVIES AND COLLECTS SALES AND USE TAXES
 16 UNDER (a) OF THIS SECTION MAY NOT LEVY AND COLLECT A SALES
 17 TAX ON A PURCHASE MADE WITH (1) FOOD COUPONS, FOOD STAMPS,
 18 OR OTHER TYPES OF ALLOTMENTS ISSUED UNDER 7 U.S.C. 2011 - 2036
 19 (FOOD STAMP PROGRAM); OR (2) FOOD INSTRUMENTS, FOOD
 20 VOUCHERS, OR OTHER TYPE OF CERTIFICATE ISSUED UNDER 42 U.S.C.
 21 1786 (SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS,
 22 AND CHILDREN). FOR PURPOSES OF THIS SUBSECTION, THE VALUE OF A
 23 FOOD STAMP ALLOTMENT PAID IN THE FORM OF A WAGE SUBSIDY AS
 24 AUTHORIZED UNDER AS 47.25.975(b) IS NOT CONSIDERED TO BE AN
 25 ALLOTMENT ISSUED UNDER 7 U.S.C. 2011 - 2036 (FOOD STAMP
 26 PROGRAM). THIS SUBSECTION APPLIES TO HOME RULE AND GENERAL
 27 LAW MUNICIPALITIES.]

28 * **Sec. 4.** AS 28.10.021(a) is amended to read:

29 **Sec. 28.10.021. Application for registration.** (a) The owner of a vehicle
 30 subject to registration shall apply for registration under this chapter by properly
 31 completing the form prescribed by the commissioner under AS 28.05.041. Before the

1 issuance of a certificate of registration by the department, the owner shall

2 (1) pay all registration fees and taxes required under this chapter and
3 federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code
4 of 1954), **and pay the sales or use tax levied under AS 43.44.010;**

5 (2) unless the owner qualifies as a self-insurer under AS 28.20.400 or
6 is exempted from obtaining liability insurance under AS 28.22.011, certify to the
7 department the existence of a motor vehicle liability policy that complies with
8 AS 28.22.011 for the vehicle being registered; in this paragraph, "certify" means to
9 indicate by check-off on the vehicle registration form prescribed by the department the
10 existence of a policy of insurance, if a policy is required at that time, and the intention
11 to continue the policy or obtain a policy as required by this subsection; and

12 (3) comply with other applicable statutes and regulations.

13 (b) At the time of application for registration or renewal of registration, the
14 department shall provide the applicant written information explaining the state's
15 financial responsibility law.

16 (c) An employee of the department who processes an application for
17 registration or renewal of registration, other than an application received by mail or an
18 application for registration under AS 28.10.152, shall ask the applicant orally whether
19 the applicant wishes to execute an anatomical gift or a living will. The department
20 shall make known to all applicants the procedure for executing a gift under AS 13.50
21 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living Wills and Do
22 Not Resuscitate Orders) by displaying posters in the offices in which applications are
23 taken, by providing a brochure or other written information to each person who
24 applies in person or by mail, and, if requested, by providing oral advice.

25 * **Sec. 5.** This Act takes effect January 1, 2004.