

HOUSE BILL NO. 373

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE TARR

Introduced: 2/22/22

Referred: House Special Committee on Ways and Means, State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a state sales and use tax; authorizing the Department of Revenue to
2 enter into the Streamlined Sales and Use Tax Agreement; and providing for an effective
3 date."

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

5 * **Section 1.** AS 28.10.021(a) is amended to read:

6 (a) The owner of a vehicle subject to registration shall apply for registration
7 under this chapter by properly completing the form prescribed by the commissioner
8 under AS 28.05.041. Before the issuance of a certificate of registration by the
9 department, the owner shall

10 (1) pay all registration fees and taxes required under this chapter,
11 [AND] federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal
12 Revenue Code of 1954), and the sales or use tax levied under AS 43.44.010;

13 (2) unless the owner qualifies as a self-insurer under AS 28.20.400 or
14 is exempted from obtaining liability insurance under AS 28.22.011, certify to the

1 department the existence of a motor vehicle liability policy that complies with
 2 AS 28.22.011 for the vehicle being registered; in this paragraph, "certify" means to
 3 indicate by check-off on the vehicle registration form prescribed by the department the
 4 existence of a policy of insurance, if a policy is required at that time, and the intention
 5 to continue the policy or obtain a policy as required by this subsection; and

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

7 * **Sec. 2.** AS 28.10.021(a), as amended by sec. 1 of this Act, is amended to read:

8 (a) The owner of a vehicle subject to registration shall apply for registration
 9 under this chapter by properly completing the form prescribed by the commissioner
 10 under AS 28.05.041. Before the issuance of a certificate of registration by the
 11 department, the owner shall

12 (1) pay all registration fees and taxes required under this chapter **and**
 13 **[,] federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue**
 14 **Code of 1954) [, AND THE SALES OR USE TAX LEVIED UNDER AS 43.44.010];**

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

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

23 * **Sec. 3.** AS 43.05.240(a) is amended to read:

24 (a) A taxpayer aggrieved by the action of the department in fixing the amount
 25 of a tax or penalty **or the revocation or suspension of a seller's permit or a resale**
 26 **exemption certificate issued under AS 43.44.120 or 43.44.140** may apply to the
 27 department within 60 days after the date of mailing of the notice required to be given
 28 to the taxpayer by the department, giving notice of the grievance, and requesting an
 29 informal conference to be scheduled with an appeals officer. The taxpayer shall be
 30 given access to the taxpayer's file in the department in the matter for preparation for
 31 the informal conference. At the informal conference, the taxpayer may present to the

appeals officer arguments and evidence relevant to the amount of tax or penalty due the state. If the department determines that a correction is warranted, the department shall make the correction.

* **Sec. 4.** AS 43.05.240(a), as amended by sec. 3 of this Act, is amended to read:

(a) A taxpayer aggrieved by the action of the department in fixing the amount of a tax or penalty [OR THE REVOCATION OR SUSPENSION OF A SELLER'S PERMIT OR A RESALE EXEMPTION CERTIFICATE ISSUED UNDER AS 43.44.120 OR 43.44.140] may apply to the department within 60 days after the date of mailing of the notice required to be given to the taxpayer by the department, giving notice of the grievance, and requesting an informal conference to be scheduled with an appeals officer. The taxpayer shall be given access to the taxpayer's file in the department in the matter for preparation for the informal conference. At the informal conference, the taxpayer may present to the appeals officer arguments and evidence relevant to the amount of tax or penalty due the state. If the department determines that a correction is warranted, the department shall make the correction.

* **Sec. 5.** AS 43 is amended by adding a new chapter to read:

Chapter 44. Sales and Use Tax.

Article 1. Levy of the Tax.

Sec. 43.44.010. Levy of sales and use tax. (a) Except as provided in AS 43.44.020, a sales tax of two percent of the sales price is levied on the

(1) sale or lease of property delivered in the state; or

(2) sale of services delivered in the state.

(b) A use tax of two percent of the sales price is levied on the person using

(1) property acquired on or after July 1, 2022, and

(A) acquired outside this state as the result of a transaction that would have been subject to the sales tax had it occurred in this state; or

(B) acquired by a purchaser for a use that was exempt under AS 43.44.100 but later converted to a use that is subject to sales tax; or

(2) services in this state that would be subject to a sales tax if purchased in this state.

Sec. 43.44.020. State and local sales tax capped. If the combination of state

1 and local sales and use taxes exceeds eight percent of the sales price of property or a
 2 service, the tax under this chapter is the difference between the local sales or use tax
 3 and eight percent. The tax levied under this chapter is zero if local taxes are equal to or
 4 exceed eight percent of the sales price of property or a service.

5 **Sec. 43.44.030. Physical presence; collection of sales tax.** A seller who does
 6 not have a physical presence in the state is subject to the provisions of this chapter and
 7 shall remit the sales tax levied under this chapter if, in the previous or current calendar
 8 year, the

9 (1) seller's gross revenue from the sale of personal property or services
 10 delivered in the state exceeds \$100,000; or

11 (2) seller makes 200 or more separate sales of personal property or
 12 services delivered in the state.

13 **Sec. 43.44.040. Collection of sales tax by sellers; use tax responsibility.** (a)
 14 The tax described in AS 43.44.010(a) is imposed on the purchaser. However, a seller
 15 shall collect the tax and pay the tax to the department as provided in this chapter. A
 16 seller shall hold all taxes collected in trust for the state. A seller shall apply the tax to
 17 the sales price.

18 (b) The purchaser of property or services subject to the tax described in
 19 AS 43.44.010(b) is responsible for payment of the tax at the time of the first use of the
 20 property or service in the state.

21 **Sec. 43.44.050. Value, timing.** (a) If a sales price is less than the value of
 22 property or a service purchased or if a sale did not occur but tax is due under this
 23 chapter, the use tax shall be imposed on the untaxed value of the property or service.

24 (b) The sales price of property or a service must be determined at the time of
 25 acquisition, introduction into this state, or conversion to use, whichever is latest.

26 (c) If a sale is made on an installment basis, the seller shall collect the tax
 27 levied under this chapter at the time of each payment, using the tax rate in effect at the
 28 time of the acquisition.

29 (d) If a sale includes multiple, separately invoiced deliveries of property or a
 30 service, the seller shall collect the tax levied under this chapter at the time of each
 31 separately invoiced delivery, using the tax rate in effect at the time of the sale of the

property or the date the service is rendered.

Sec. 43.44.060. Separate statement of tax; no advertising to absorb or refund tax. (a) If a seller collects a tax in excess of the tax imposed by AS 43.44.010(a), the seller shall remit the excess to the department.

(b) A seller collecting the tax imposed by AS 43.44.010(a) shall separately state the sales tax for all sales, except for sales from vending machines, sales of drinks in a bar, sales from street vending carts, games of chance, admission fees, taxi fares, and other sales determined by regulation by the department.

(c) A seller may not advertise, hold out, or state to the public or to a customer that the seller will absorb or refund the tax imposed by AS 44.43.010(a).

Sec. 43.44.070. Liability of user for payment of use tax. A person in this state who uses property subject to the tax under this chapter is liable to the state for payment of the tax on the sales price of the property if the tax has not been paid. The liability imposed by this section is discharged when the person pays the sales or use tax to the seller for payment to the department.

Article 2. Exemptions.

Sec. 43.44.100. Exemptions. (a) A sale by, sale to, or use by

(1) the United States is exempt from a tax imposed under this chapter;

(2) the state or an instrumentality of the state, as that term is defined in AS 39.52.960, is exempt from a tax imposed under this chapter; this paragraph does not apply to a municipality, an unincorporated community, an Indian tribe included on the list published under 25 U.S.C. 5131, or a foreign government; in this paragraph, "unincorporated community" means a place that is not incorporated as a city and in which 25 or more persons reside as a social unit;

(3) a corporation that is exempt from taxation under 26 U.S.C. 501(c) (Internal Revenue Code) is exempt from a tax imposed under this chapter unless the property or service is used in the generation of unrelated business taxable income as defined in 26 U.S.C. 512;

(4) a municipality of the state is exempt from a tax imposed under this chapter, except that a sale by a municipal utility is not exempt under this subsection.

(b) A sale of a state license or permit is exempt from a tax imposed under this

chapter.

(c) Union dues paid to an organization that is exempt from taxation under 26 U.S.C. 501(c)(5) (Internal Revenue Code) are exempt from a tax imposed under this chapter.

(d) A sale of food for human consumption off the premises where the food is sold is exempt from the sales tax and use tax. The exemption in this subsection does not apply to prepared foods sold by a business if more than 50 percent of food sold by the business is consumed on premises. In this subsection, "food"

(1) means a substance, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion or chewing by humans and is consumed for its taste or nutritional value;

(2) does not include alcoholic beverages, tobacco, marijuana, or products containing marijuana.

(e) The following intangible items are exempt from a tax imposed under this chapter:

(1) wages, salaries, commissions, tips, and any other form of remuneration for personal services if paid by an employer to an employee; the terms used in this paragraph have the meanings given in 26 U.S.C. 3121 (Internal Revenue Code);

(2) interest on money loaned or deposited;

(3) dividends or interest from stocks, bonds, or securities;

(4) proceeds from the sale of stocks, bonds, or securities; and

(5) other intangible items designated by regulation.

(f) The following fees or charges related to financial services are exempt from a tax imposed under this chapter:

(1) fees for services associated with a deposit account;

(2) fees for purchases of cashier's checks, money orders, traveler's checks, currency, and similar products used for payment and transfer of funds;

(3) loan fees or charges;

(4) service charges related to the sale or purchase of financial instruments including stocks, bonds, and securities; and

1 (5) other financial services, fees, or charges designated by regulation.

2 (g) An isolated or occasional sale or lease of property or the performance of a
3 service by a person who is not regularly engaged in the business of selling or leasing
4 that type of property or service is exempt from a tax imposed under this chapter.
5 Occasional sales include sales that are not continuous and that are made for the
6 purpose of fundraising by a nonprofit organization.

7 (h) Personal or household effects brought into the state for the establishment
8 by the individual of an initial residence in the state and the use by a nonresident of
9 property brought into the state for the nonresident's own nonbusiness use while
10 temporarily in the state are exempt from a tax imposed under AS 43.44.010(b).

11 (i) A sale for resale and the cost of transportation associated with a sale for
12 resale is exempt from a tax imposed under this chapter if the purchaser presents, at the
13 time of the sale, a resale exemption certificate issued under AS 43.44.140 and the
14 resale will be

15 (1) made in the ordinary course of business of the reseller; and

16 (2) subject to the tax imposed under AS 43.44.010(a).

17 (j) Services among affiliated persons that report their income under 26 U.S.C.
18 (Internal Revenue Code) on a single consolidated return are exempt from a tax
19 imposed under this chapter.

20 (k) A transaction between the holders of a joint interest, or between the
21 partners in a business partnership, is exempt from a tax imposed under this chapter.

22 (l) The sale, lease, or construction of real property is exempt from a tax
23 imposed under this chapter. For purposes of this subsection, the sale or transportation
24 of tangible personal property that is later converted to real property is taxable under
25 this chapter unless the conversion is part of the construction of real property or
26 construction of an addition to real property.

27 (m) Fuel sold for use in jet propulsion aircraft operating in flights to or from
28 foreign countries is exempt from a tax imposed under this chapter.

29 (n) Insurance premiums subject to the tax imposed under AS 21.09.210 are
30 exempt from a tax imposed under this chapter.

31 (o) The transport, handling, storage, drayage, packing, or other related service

1 of property is exempt from a tax imposed under this chapter if the property is being
2 transported in interstate or foreign commerce.

3 (p) The following health care services and related items are exempt from a tax
4 imposed under this chapter:

5 (1) health care services provided by a person licensed or certified to
6 provide those services under AS 08 or by a health care facility as defined in
7 AS 08.68.700(g);

8 (2) drugs, durable medical equipment, mobility enhancing equipment,
9 and prosthetic devices prescribed by a person licensed to prescribe those goods under
10 AS 08 or obtained from a health care facility as defined in AS 08.68.700(g).

11 (q) Child care services are exempt from a tax imposed under this chapter.

12 (r) Feminine hygiene products are exempt from a tax imposed under this
13 chapter. In this subsection, "feminine hygiene products" means tampons, panty liners,
14 menstrual cups, sanitary napkins, and other similar tangible personal property
15 designed for feminine hygiene in connection with the human menstrual cycle.

16 (s) Heating oil is exempt from a tax imposed under this chapter.

17 **Article 3. Credits, Seller's Permit, Resale Exemption.**

18 **Sec. 43.44.110. Tax credit for sales or use tax paid to another state.** A
19 purchaser liable for sales or use tax on personal property or services is entitled to a full
20 credit for the amount of sales or use tax paid to another state on the personal property
21 or services.

22 **Sec. 43.44.120. Seller's permit.** (a) Before engaging in business in this state, a
23 person shall obtain a seller's permit.

24 (b) An application for a seller's permit must be on a form or in a format
25 prescribed by the department and must set out the name under which the applicant
26 intends to transact business, the location of the applicant's place or places of business,
27 and other information that the department may require. If the owner is

28 (1) a natural person, the owner shall file the application;

29 (2) an association or partnership, a member or partner shall file the
30 application;

31 (3) a corporation, a person authorized to sign the application shall file

1 the application.

2 (c) If the person has more than one place of business, an application may
3 include multiple locations. A vending machine operator who has more than one
4 vending machine location is considered to have only one place of business for
5 purposes of this section. An applicant who does not have a single place of business
6 and who moves from place to place is considered to have only one place of business
7 and shall attach the seller's permit to the applicant's cart, stand, truck, or other
8 merchandising device.

9 (d) The department shall issue to an eligible applicant a numbered seller's
10 permit that the person may use in paper or electronic form. A seller's permit is valid
11 until revoked or suspended and is not assignable. A seller's permit is valid only for the
12 person in whose name the permit is issued. A copy of the seller's permit must be
13 conspicuously displayed at all times at the place of business for which the permit is
14 issued.

15 **Sec. 43.44.130. Exempt resales.** A person making a sale for resale must have
16 an exemption certificate issued under AS 43.44.140 and must present the certificate at
17 the time of the sale for resale. In this section, "sale for resale" means the sale of
18 personal property to a purchaser whose principal business is the resale of property,
19 whether in the same or an altered form.

20 **Sec. 43.44.140. Resale exemption certificate.** (a) The department shall issue a
21 resale exemption certificate to a person that has obtained a seller's permit under
22 AS 43.44.120. The resale exemption certificate may be in paper or electronic form.

23 (b) The resale exemption certificate must include

24 (1) the number of the seller's permit issued to the person as provided in
25 AS 43.44.120;

26 (2) the general character of property or service sold by the person in
27 the regular course of business;

28 (3) the name and address of the person; and

29 (4) the signature or electronic signature of the person.

30 (c) The department may prescribe the format for a resale exemption
31 certificate.

1 **Sec. 43.44.150. Revocation or suspension of a seller's permit or resale**
 2 **exemption certificate.** (a) The department may revoke or suspend a seller's permit or
 3 resale exemption certificate, or both the seller's permit and resale exemption
 4 certificate, held by a person who fails to comply with the provisions of this chapter.

5 (b) A person aggrieved by a decision of the department to revoke or suspend a
 6 seller's permit or resale exemption certificate under (a) of this section may appeal the
 7 decision under AS 43.05.240 - 43.05.430.

8 (c) If a seller's permit or resale exemption certificate is revoked, the
 9 department may not issue a new seller's permit or resale exemption certificate except
 10 upon application accompanied by reasonable evidence of the intention of the applicant
 11 to comply with the provisions of this chapter. The department may, as a condition for
 12 the issuance of a new seller's permit to the applicant, require security in addition to
 13 that authorized by AS 43.44.330 in an amount reasonably necessary to ensure
 14 compliance with this chapter.

15 **Sec. 43.44.160. Improper use of purchase obtained with resale exemption**
 16 **certificate; penalty.** A person who intentionally uses a resale exemption certificate
 17 for property that is used for purposes other than the purpose claimed is subject to a
 18 penalty, payable to the department, of \$100 or 100 percent of the tax due, whichever is
 19 greater, for each transaction in which an improper use of the resale exemption
 20 certificate has occurred. The penalty under this subsection is in addition to tax,
 21 interest, or other penalties due.

22 **Sec. 43.44.170. Commingling resale exemption certificate property.** If a
 23 person uses a resale exemption certificate for the purchase of personal property and
 24 commingles that property with property that was not purchased with a resale
 25 exemption certificate but that is so similar that the identity of the property in the
 26 commingled mass cannot be determined, sales from the mass of commingled property
 27 are considered to be sales of the property purchased with the resale exemption
 28 certificate until the quantity of commingled property sold equals the quantity of
 29 property originally purchased under the resale exemption certificate.

30 **Article 4. Collection and Payment of Tax; Returns; Refunds.**

31 **Sec. 43.44.180. Liability for payment of tax.** (a) Liability for the payment of

1 a tax imposed under this chapter is not extinguished until the taxes have been paid to
2 the department.

3 (b) A seller is liable for the tax due under this chapter on all property sold and
4 services provided in this state in accordance with this chapter and may be required to
5 furnish adequate security as provided in AS 43.44.330 to ensure collection and
6 payment of the taxes.

7 **Sec. 43.44.190. Method of accounting.** A person who has a seller's permit
8 shall report and pay the tax due under this chapter using the same method of
9 accounting that the person uses for federal tax purposes.

10 **Sec. 43.44.200. Returns: form.** (a) A seller responsible for collecting the sales
11 tax due under AS 43.44.010(a) shall file a return on a form or in a format prescribed
12 by the department and pay the tax due, along with any related fees or penalties. The
13 return must include

14 (1) the gross sales of the seller for the return period, rounded to the
15 nearest dollar;

16 (2) the exempt sales of the seller for the return period, rounded to the
17 nearest dollar;

18 (3) a computation of taxes to be remitted; and

19 (4) other information required by the department.

20 (b) A seller filing a tax return under this section shall include on the return a
21 signature of an individual attesting to the completeness and accuracy of the
22 information contained in the tax return. The signature may be an electronic signature.

23 (c) The department may reject a filed return for failure to comply with the
24 requirements of this section for up to three months after the date of the filing of the
25 return. The department shall give written notice to a seller when a return has been
26 rejected, including the reason for the rejection.

27 **Sec. 43.44.210. Returns: timing.** (a) Except as otherwise provided in (b) of
28 this section, a seller shall file a return due under AS 43.44.200 each month. The seller
29 shall file the return and pay the tax on or before the last day of the month following
30 the month for which the tax is due.

31 (b) The commissioner may approve quarterly, or less frequent, return filings.

(c) A completed and executed return, together with the remittance in full for the tax due, must be received by the department on or before midnight on the due date. Monthly returns are due the last day of the immediate subsequent month. Quarterly returns, if approved under (b) of this section, are due as follows:

Quarter 1 (January - March)	April 30
Quarter 2 (April - June)	July 31
Quarter 3 (July - September)	October 31
Quarter 4 (October - December)	January 31

(d) If a return is due under this section on a Saturday, Sunday, federal holiday, or state holiday, the due date is extended until the next business day.

(e) A seller who has filed a return under this section will be presumed to be making sales in subsequent periods unless the seller files a return showing a termination or sale of the business.

(f) A seller shall file a return due under this section even if no tax is due. If a seller intends to continue doing business, the seller shall file a return under this section stating that the seller made no sales during the return period and confirm the intent of the seller to continue doing business in the state. If a seller ceases doing business, the seller shall submit a final return that includes a statement of business closure.

(g) A seller failing to comply with the provisions of this chapter shall, if required by the commission and if filing on a quarterly or less frequent basis, file and transmit collected sales taxes more frequently until the seller has filed six complete consecutive returns under this section on time and with full remittance of the taxes collected by the seller under this chapter.

Sec. 43.44.220. Returns: documentation. The preparer of a return filed under AS 43.44.200 shall keep and maintain all documentation supporting a claim of an exempted resale. Documentation for an exempted sale must include the number of the resale permit presented by the purchaser at the time of the purchase, the date of the purchase, the name of the person making the purchase, the total amount of the purchase, and the amount of sales tax exempted. At the request of the department, a return preparer shall make available the information described in this subsection. At the discretion of the department, the failure of a preparer to provide the information

described in this subsection to the department for an exempted sale may invalidate the tax exemption for that sale.

Sec. 43.44.230. Return extension. (a) The department may extend the date a return is due under AS 43.44.200 if

(1) a seller submits in writing a reason for needing an extension of time to file a return;

(2) the reason requested for the extension is out of the seller's control or complying with the return due date would cause the seller undue hardship; and

(3) the seller states a plan for curing the problem that caused the need for an extension.

(b) The department may not make an extension under this section retroactively.

Sec. 43.44.240. Return made by the department. (a) The department may make a return due under AS 43.44.210 on behalf of a seller. The department may make a return on behalf of a seller for a period of three years after the date a return was filed or due to be filed with the department.

(b) The department shall notify a seller in writing that the department has made a return for a seller under AS 43.05.210. The department shall notify the seller by delivering the notice to the place of business of the seller, or by mailing the notice by certified mail, return receipt requested, to the last known mailing address of the seller. A seller who refuses certified mail sent under this subsection will be considered to have accepted the certified mail for purposes of this subsection.

Sec. 43.44.250. Amended return. (a) A seller may file, and the department may accept, an amended return if

(1) the return is filed within one year from the date the original return is filed; and

(2) the seller provides written justification for amending the return.

(b) The department shall notify a seller in writing if the department accepts or rejects an amended return filed under this section. After accepting an amended return filed under this section, the department may adjust the amended return if the department determines that the amended return is incorrect.

1 (c) The department may amend a return for a seller if

2 (1) the department determines that the seller's original return was
3 incorrect; and

4 (2) the return is amended by the department within three years from
5 the date the original return is filed.

6 **Sec. 43.44.260. Refunds.** If a tax under this chapter is overpaid, the
7 department shall refund the overpaid amount. Notwithstanding AS 43.05.280, the
8 department may not pay interest on amounts refunded under this section.

9 **Article 5. Violations; Penalties; Repayment.**

10 **Sec. 43.44.270. Penalties.** (a) Notwithstanding AS 43.05.220, the department
11 shall apply a late filing fee of \$25 each month, or a prorated portion, to a return filed
12 late, except that total fines under this subsection may not exceed \$100. For purposes of
13 this section, the department shall consider an incomplete return as a late return until it
14 is complete.

15 (b) Notwithstanding AS 43.05.225, a delinquent tax under this chapter bears
16 interest at a rate of 15 percent each year until the tax is paid. In addition, the
17 delinquent tax shall be subject to an additional penalty of five percent each month
18 until a total of 20 percent of the delinquent tax has been reached. The interest and
19 penalty under this subsection does not bear interest.

20 (c) A seller that does not file a final return as required by AS 43.44.210(f)
21 shall pay a penalty of \$100, plus an additional \$25 for each additional 30-day period a
22 final return is not filed, except that penalties under this section may not exceed \$250.

23 (d) Notwithstanding AS 43.05.220(e), a penalty or interest imposed under this
24 section shall be collected at the same time, in the same manner, and as part of the
25 original tax. The department shall apply amounts collected first to penalties and
26 interest imposed under this section and second to the tax due under this chapter.

27 (e) The department may waive interest or a penalty applied under this section
28 if the seller, within 45 days of assessment of the penalty or interest under this section,

29 (1) requests in writing a waiver; and

30 (2) pays all delinquent taxes, penalties, and fees due under this chapter.

31 (f) The department may only grant a waiver of penalties and fees under (e) of

1 this section once a calendar year for each seller.

2 **Sec. 43.44.280. Repayment plan.** (a) Notwithstanding AS 43.05.060 and
3 43.05.070, the department may enter into a repayment plan with a delinquent seller.

4 (b) A repayment plan under this section must

5 (1) be agreed to in writing by the seller and the department;

6 (2) only be made with a seller that has not entered into another
7 repayment plan with the department in the last two calendar years;

8 (3) be secured with a promissory note;

9 (4) require a seller to pay a minimum down payment of ten percent of
10 the tax, interest, and penalties due to the department under this chapter; the department
11 shall apply the down payment under this paragraph to the following items in the
12 following order:

13 (A) penalties;

14 (B) interest;

15 (C) tax due;

16 (5) require a seller to agree to pay the total amount of the tax, interest,
17 and penalties due under this chapter in less than two years from the date the repayment
18 plan is entered into;

19 (6) apply an interest rate of 15 percent, accruing each year, on the
20 amount of tax due under this chapter; the department may not apply interest to
21 penalties or interest accrued on tax due under this chapter;

22 (7) if the seller is a corporation or limited liability company under
23 AS 10.50.010 - 10.50.995, require the seller to provide a personal guarantee of the
24 obligations of the repayment plan;

25 (8) require the seller to agree to pay all future taxes under this chapter;
26 and

27 (9) require the seller to provide a sales tax lien for the unpaid balance
28 of the tax due under this chapter; the department shall record the sales tax lien
29 provided under this paragraph at the time the repayment plan is entered into; the seller
30 shall agree to pay the costs of recording the lien under this paragraph.

31 (c) The department shall consider a seller that fails to pay two or more

1 payments under a repayment plan entered into under this section in default of the
 2 repayment plan. At the time of the default, the entire amount owed at the time of
 3 default becomes due. The department shall send a seller a notice of the default. On
 4 default, the department may immediately foreclose on the sales tax lien required under
 5 (a)(9) of this section and take any other remedy available under the law.

6 **Article 6. General Provisions.**

7 **Sec. 43.44.300. Methods.** (a) The department shall adopt regulations providing
 8 a rounding method for payment of a tax imposed under this chapter.

9 (b) The department may use sampling principles or methods instead of
 10 examining 100 percent of records in conducting an audit of a return filed under this
 11 chapter.

12 **Sec. 43.44.310. Deduction for bad debts.** (a) A person filing a return under
 13 this chapter may deduct sales found to be worthless. The bad debt may be deducted
 14 when the debt

15 (1) is written off as uncollectable in the person's books and records;
 16 and

17 (2) qualifies as a deduction for federal income tax purposes under 26
 18 U.S.C. (Internal Revenue Code).

19 (b) If the amount of bad debt exceeds the amount of taxable sales or leases
 20 during the period that the bad debt is written off, a person may file a refund claim with
 21 the department.

22 (c) If a bad debt deducted under (a) of this section is later collected, the person
 23 who claimed the deduction shall pay the tax levied under AS 43.44.010 on the amount
 24 collected. For purposes of this section, a payment made on a debt or account is applied
 25 first to the sales price of the property or service, then to interest, service charges, and
 26 any other charges.

27 **Sec. 43.44.320. Timely filing allowance.** (a) A person filing a return under
 28 this chapter may claim an allowance in the amount of one percent of the tax or \$75 a
 29 month, whichever is less, if the return is timely filed and the tax is timely paid.

30 (b) The allowance under (a) of this section may be deducted on the return.

31 **Sec. 43.44.330. Security: limitations; sale of security deposit at auction;**

bond. (a) The department may require a seller to deposit with the department security in a form and amount that the department determines is appropriate. The deposit may not be more than twice the estimated average tax liability under this chapter for the period for which the return is required under this chapter to be filed or \$10,000, whichever is less. The department may increase or decrease the amount of security, subject to the limitations provided in this section.

(b) The department may sell at public auction property deposited as security to recover a tax amount required to be collected under this chapter, including interest and penalties. Notice of the sale must be sent at least 30 days before the sale by certified mail to the last known address of the person who deposited the security. After the sale, any surplus above the amount due that is not required as security under this section must be returned to the person who deposited the security.

(c) Instead of security, the department may require a seller to file a bond to guarantee solvency and responsibility issued by a surety company authorized to transact business in this state.

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

Sec. 43.44.340. Quitting business; liability of successor. (a) If a predecessor that quits business; sells, exchanges, or otherwise transfers the business; or disposes of the complete stock of goods of the business, shall, within

(1) 10 days, notify the department of the quitting of business, sale, exchange, transfer, or disposal; if the business is sold, exchanged, or transferred, the predecessor must include the name, address, and telephone number of the successor;

(2) 30 days, file a return and pay the taxes due under this chapter.

(b) The department has 60 days from the day notice is received under (a)(1) of this section to audit and assess the sales tax of a predecessor.

(c) Except as provided in (e) of this section, a successor in a business or stock of goods is liable for the payment of the full amount of tax and shall withhold from the sales price payable to the predecessor a sum sufficient to pay any tax due until the

1 predecessor produces either a receipt from the department showing payment in full of
2 any tax due or a statement from the department that tax is not due.

3 (d) If a tax is due but has not been paid as provided in (a)(2) of this section,
4 the successor is liable for the payment of the full amount of tax. The payment of the
5 tax by the successor is considered to be a payment on the sales price and, if the
6 payment is greater in amount than the sales price, the amount of the difference
7 becomes a debt due to the successor from the taxpayer owing the tax under (a) of this
8 section.

9 (e) A successor is not liable for any tax due under this section if the successor
10 gives written notice to the department of the acquisition and the department does not
11 issue an assessment against the predecessor within six months after receipt of the
12 notice from the successor. If the department issues an assessment and a copy of the
13 assessment is not mailed to the successor, the successor is not liable for the tax due.

14 (f) In this section,

15 (1) "predecessor" means a person that quits business; sells, exchanges,
16 or otherwise transfers the business; or disposes of the complete stock of goods of the
17 business;

18 (2) "successor" means a person that purchases, or otherwise receives
19 the complete stock of goods of a business from a predecessor.

20 **Sec. 43.44.350. Tax as debt.** (a) The tax imposed by this chapter and related
21 interest and penalties become a personal debt of a person required to file a return
22 under this chapter or a person required by the department to personally guarantee the
23 payment of taxes under this chapter from the time the liability arises, regardless of
24 when the time for payment of the liability occurs.

25 (b) If the personal representative of an estate has voluntarily distributed the
26 assets held in that capacity without reserving sufficient assets to pay the taxes due
27 under this chapter and interest and penalties resulting from taxes due under this
28 chapter, the personal representative is personally liable for the taxes, interest, and
29 penalties, to the extent permitted under AS 13.16.

30 (c) An officer or employee of a corporation whose duty it is to collect,
31 truthfully account for, and pay to the state the taxes imposed by this chapter and who

1 fails to pay the taxes is liable to the state for the taxes imposed by this chapter and the
2 penalty and interest due on the taxes.

3 **Sec. 43.44.360. Authority to enter Streamlined Sales and Use Tax**
4 **Agreement; other agreements.** (a) The department may enter into the Streamlined
5 Sales and Use Tax Agreement. To further the collection of tax under this chapter, the
6 department may act jointly with other states that are members of the Streamlined Sales
7 and Use Tax Agreement to establish standards for certification of a certified service
8 provider and certified automated system and establish performance standards for
9 multistate sellers.

10 (b) The department may adopt regulations to implement this chapter consistent
11 with the Streamlined Sales and Use Tax Agreement.

12 (c) The department may take other actions reasonably required to implement
13 this section.

14 (d) The commissioner of revenue may represent this state before the other
15 states that are signatories to the Streamlined Sales and Use Tax Agreement.

16 (e) The department may enter into
17 (1) a cooperative agreement with local governments to coordinate sales
18 tax collection for remote sales delivered in the state; the department may serve as a
19 representative of the state on a governing body resulting from or overseeing an
20 agreement described under this paragraph;
21 (2) an agreement to collect and remit to a local government a local
22 sales tax;
23 (3) an agreement to allow a local government to collect and remit to
24 the state the tax under this chapter.

25 (f) The department may take other actions reasonably required to implement
26 this section.

27 **Sec. 43.44.370. Electronic registration, filing, and forms.** (a) The
28 department may participate in any electronic sales and use tax registration system
29 made available in cooperation with other states through the Streamlined Sales and Use
30 Tax Agreement.

31 (b) The department may use and accept a standard electronic exemption form

1 made available in cooperation with other states through the Streamlined Sales and Use
2 Tax Agreement.

3 (c) The department may prescribe and provide for the use of forms,
4 certificates, permits, and other documents required under this chapter in electronic
5 format, including the use of electronic signatures and authentications, and for
6 electronic filing.

7 **Sec. 43.44.380. General application.** To prevent evasion of the tax under this
8 chapter and to aid in the administration of the tax levied under this chapter, the
9 department shall

10 (1) presume that all sales and services by a person or entity engaging
11 in business in the state are subject to the tax levied under this chapter;

12 (2) construe the tax levied under this chapter broadly, favoring
13 inclusion rather than exclusion;

14 (3) construe the exemptions from the tax levied under this chapter
15 narrowly, allowing an exemption only when the exemption clearly applies; and

16 (4) apply the tax levied under this chapter to transactions

17 (A) made by sellers with a physical presence in the state; and

18 (B) for property or services delivered in the state.

19 **Sec. 43.44.390. Records.** A seller shall retain all books and records necessary
20 to determine the amount of tax to be collected or due under this chapter, including
21 records of all sales made by the seller. Books and records retained by the seller under
22 this section must be kept for at least three years from the date of return reporting.

23 **Sec. 43.44.400. Electronic database.** (a) A seller that collects and remits the
24 tax under this chapter may use an electronic database of state addresses certified by
25 the department under (c) of this section to determine the jurisdiction to which tax is
26 owed.

27 (b) The department shall waive interest or a penalty assessed under this
28 chapter for an error or omission of a seller if the department determines that

29 (1) the seller relied on an electronic database of state addresses
30 certified by the department under (c) of this section to determine the tax owed to the
31 state under this chapter; and

(2) the error or omission is solely because of an error or omission in the database.

(c) An electronic database provider may apply to the department to be certified for use by sellers. A certification is valid for three years. The department may certify an electronic database under this subsection if

(1) the database lists all known addresses in the state;

(2) the information in the database is regularly updated;

(3) the database provider provides a convenient method for the department to inform the provider of errors or omissions in the database;

(4) the provider promptly corrects errors or omissions in the database.

Sec. 43.44.500. Definitions. In this chapter,

(1) "electronic signature" has the meaning given in AS 09.80.190;

(2) "lease" or "leasing," regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, 26 U.S.C. (Internal Revenue Code), AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and AS 45.29 (Uniform Commercial Code), or other provisions of federal, state, or local law,

(A) means

(i) a transfer of possession or control of personal property for a fixed or indeterminate term for consideration; a lease may include future options to purchase;

(ii) an agreement covering motor vehicles and trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1);

(B) does not include

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of

1 required payments if payment of an option price does not exceed the
 2 greater of \$100 or one percent of the total required payments; or

3 (iii) the provision of personal property along with an
 4 operator for a fixed or indeterminate period if the operator is necessary
 5 for the equipment to perform as designed, and the operator must do
 6 more than maintain, inspect, or set up the personal property;

7 (3) "marketplace facilitator" means a person who contracts with a
 8 seller to facilitate for consideration the sale of the seller's property or services through
 9 a marketplace operated by the person and who

10 (A) transmits or otherwise communicates a sale offer or
 11 acceptance between the purchaser and seller;

12 (B) owns or operates infrastructure, electronic or physical, or
 13 technology that brings purchasers and sellers together;

14 (C) provides a virtual currency that purchasers are allowed or
 15 required to use to purchase property or services from the seller;

16 (D) provides payment processing services, fulfillment or
 17 storage services, lists property or services for sale; sets prices; takes orders; or
 18 advertises or promotes on behalf of a seller; or

19 (E) provides customer service to a seller;

20 (4) "sales price"

21 (A) means the total amount of cash, credit, property, services,
 22 and other consideration, for which personal property or services are purchased,
 23 sold, or leased, valued in money, whether received in money or otherwise,
 24 without any deduction for the following:

25 (i) the seller's cost of the property sold;

26 (ii) the cost of materials used, labor or service cost,
 27 interest, losses, all costs of transportation to the seller, all taxes
 28 imposed on the seller, and any other expense of the seller;

29 (iii) charges by the seller for any services necessary to
 30 complete the sale, other than delivery and installation charges;

31 (iv) delivery charges;

1 (v) installation charges;

2 (vi) the value of exempt personal property given to the
3 purchaser where taxable and exempt personal property have been
4 bundled together and sold by the seller as a single product or piece of
5 merchandise;

6 (B) does not include

7 (i) discounts, including cash, term, or coupons that are
8 not reimbursed by a third party that are allowed by a seller and taken by
9 a purchaser on a sale;

10 (ii) interest, financing, and carrying charges from credit
11 extended on the sale of personal property or services if the amount is
12 separately stated on the invoice, bill of sale, or similar document given
13 to the purchaser; and

14 (iii) taxes legally imposed directly on the consumer that
15 are separately stated on the invoice, bill of sale, or similar document
16 given to the purchaser;

17 (5) "seller" includes a marketplace facilitator;

18 (6) "service" means an activity that is engaged in for another person
19 for consideration but that is not the sale or lease of property;

20 (7) "tangible personal property" means personal property that can be
21 seen, weighed, measured, felt, or touched, or that is in another manner perceptible to
22 the senses;

23 (8) "use" or "using" includes, unless context requires otherwise,
24 consumption, or storage, but does not include storage for resale or for use solely
25 outside this state in the ordinary course of business.

26 * **Sec. 6.** AS 44.64.030(a) is amended by adding a new paragraph to read:

27 (52) AS 43.44 (sales and use tax).

28 * **Sec. 7.** AS 43.44.010, 43.44.020, 43.44.030, 43.44.040, 43.44.050, 43.44.060, 43.44.070,
29 43.44.100, 43.44.110, 43.44.120, 43.44.130, 43.44.140, 43.44.150, 43.44.160, 43.44.170,
30 43.44.180, 43.44.190, 43.44.200, 43.44.210, 43.44.220, 43.44.230, 43.44.240, 43.44.250,
31 43.44.260, 43.44.270, 43.44.280, 43.44.300, 43.44.310, 43.44.320, 43.44.330, 43.44.340,

1 43.44.350, 43.44.360, 43.44.370, 43.44.380, 43.44.390, 43.44.400, 43.44.500; and
2 AS 44.64.030(a)(52) are repealed.

3 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 TRANSITIONAL PROVISIONS. (a) The Department of Revenue may adopt
6 regulations necessary to implement this Act. The regulations take effect under AS 44.62
7 (Administrative Procedure Act), but not before the effective date of the provision being
8 implemented.

9 (b) Services under a contract executed and paid in full before the effective date of sec.
10 5 of this Act and performed within 12 months after the effective date of sec. 5 of this Act are
11 exempt from the sales tax and use tax.

12 (c) A person may apply for, and the Department of Revenue may issue, a seller's
13 permit under AS 43.44.120 or a resale exemption certificate under AS 43.44.140 before the
14 effective date of sec. 5 of this Act to be effective on or after the effective date of sec. 5 of this
15 Act.

16 * **Sec. 9.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).

17 * **Sec. 10.** Sections 2, 4, and 7 of this Act take effect July 1, 2029.

18 * **Sec. 11.** Except as provided in secs. 9 and 10 of this Act, this Act takes effect July 1,
19 2022.