

1 "Remote seller" means an individual, trust, estate,
2 fiduciary, partnership, limited liability company, limited
3 liability partnership, corporation, or other similar legal
4 entity that sells tangible personal property or a service, but
5 does not have nexus in the State.

6 "Remote use tax" means amounts:

- 7 (1) Collected from an out-of-state vendor who, on the
8 effective date of this Act, was or would have been a
9 remote seller; and
10 (2) Remitted by a taxpayer on the taxpayer's individual
11 tax return for purchases made from a remote seller.

12 "Simplified sellers use tax" means the tax to be collected,
13 reported, and remitted by eligible sellers who are participating
14 in the program pursuant to requirements and procedures
15 established by this chapter.

16 "Simplified use tax remittance program" or "program" means
17 the program established by this chapter to provide a mechanism
18 for eligible sellers to collect, report, and remit the
19 simplified sellers use tax.

20 § -3 Simplified sellers use tax remittance program. (a)

21 There is hereby established the simplified sellers use tax



1 remittance program, designed to allow an eligible seller who
2 participates in the program to collect, report, and remit the
3 simplified sellers use tax authorized in this chapter in lieu of
4 the general excise or use taxes otherwise due by or on behalf of
5 Hawaii customers who have purchased items from the eligible
6 seller that were shipped or otherwise delivered into Hawaii by
7 the eligible seller. Participation in the program shall be by
8 election of the eligible seller and only those eligible sellers
9 accepted into the program as set out in this section shall
10 collect and remit the simplified sellers use tax. Participation
11 in the program shall not be construed as subjecting an eligible
12 seller to franchise, income, or any other type of taxes or
13 licensing requirements levied or imposed by the State.

14 (b) The program shall be administered by the department of
15 taxation, which shall develop and make available to the eligible
16 seller an easily accessible, online system by which to collect,
17 report, and remit the simplified sellers use tax. Participants
18 in the program shall be required to collect, report, and remit
19 the simplified sellers use tax for all sales delivered into the
20 State as long as they remain participants in the program.
21 Eligible sellers may continue in the program as long as they



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1 comply with all provisions of this chapter and rules adopted by
2 the department for participation in the program.

3 (c) In order to participate in the program, an eligible
4 seller shall submit an application to the department on a form
5 designed by the department for that purpose. The application
6 shall require, at a minimum, that the eligible seller:

7 (1) Certifies that the seller is an eligible seller as
8 defined in section -2;

9 (2) Agrees to collect, report, and remit the simplified
10 sellers use tax for all sales delivered into the State
11 as long as the seller remains a participant in the
12 program;

13 (3) Agrees to provide the department with information
14 related to sales to Hawaii customers, as required by
15 this chapter or requested by the department; and

16 (4) Agrees to comply with all program reporting
17 requirements established under this chapter or rules
18 adopted thereto.

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



1 (d) The department shall review all applications for
2 participation and, where an applicant is determined to satisfy
3 requirements to participate in the program, shall establish a
4 simplified sellers use tax account for the eligible seller that
5 will allow the eligible seller to report and remit all
6 simplified sellers use tax collected pursuant to this chapter.

7 (e) A participating eligible seller shall be removed from
8 the program:

9 (1) If the seller substantially fails to collect, report,
10 and remit simplified sellers use taxes;

11 (2) If the seller fails to submit required reports on a
12 timely basis;

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

15 (4) If there is any other finding by the department that
16 the seller is not in compliance with the terms
17 authorizing participation in the program.

18 Any participant who fails to report that the participant is no
19 longer eligible for participation in the program or falsely
20 certifies on any report that the participant is eligible shall
21 be subject to the penalties imposed under section 231-36.



1 Removal from the program or assessment of penalties under
2 section 231-36 shall be subject to appeal rights and procedures
3 established in this title.

4 § -4 Collection and remittance of simplified sellers use
5 tax; reporting; statement. (a) The simplified sellers use tax
6 due under the program is four per cent of the sales price on any
7 tangible personal property sold or delivered into Hawaii by an
8 eligible seller participating in the program. The collection
9 and remittance of simplified sellers use tax relieves the
10 eligible seller and the purchaser from any additional state
11 general excise and use taxes on the transaction.

12 (b) The simplified sellers use tax collected by the
13 eligible seller, at the rate of four per cent, shall be
14 electronically reported in the manner prescribed by the
15 department on or before the twentieth day of the month next
16 succeeding the month in which the tax accrues. The eligible
17 seller shall remit the tax at the required rate or the amount of
18 the tax collected, whichever is greater. The required monthly
19 reporting from the eligible seller shall only include statewide
20 totals of the simplified sellers use taxes collected and
21 remitted, and shall not require information related to the



1 location of purchasers or amount of sales into a specific
2 county. The department shall not require an eligible seller to
3 report and remit the simplified sellers use tax more frequently
4 than is required for other sellers.

5 (c) No eligible seller shall be required to collect the
6 tax at a rate greater than four per cent, regardless of the
7 combined actual tax rates that may otherwise be applicable.
8 Additionally, no sales for which the simplified sellers use tax
9 is collected shall be subject to any surcharges from any county
10 levying a surcharge on state general excise or use taxes with
11 respect to the purchase or use of the property, regardless of
12 the actual tax rate that might have otherwise been applicable.

13 (d) The participating eligible seller shall collect the
14 tax on all purchases delivered into Hawaii unless the purchaser
15 furnishes the eligible seller with a valid exemption certificate
16 and general excise tax license issued by the department. The
17 eligible seller shall retain all exemption certificates and
18 general excise tax licenses in its files, or in any other manner
19 as directed by the department.

20 (e) The eligible seller shall provide the purchaser with a
21 statement or invoice showing that the simplified sellers use tax



1 was collected and is to be remitted on the purchaser's behalf.
2 The statement shall be in a manner prescribed by the department
3 and shall include the eligible seller's program account number
4 issued by the department upon the eligible seller's approval as
5 a participant in the program.

6 § -5 **Discount.** Eligible sellers may deduct and retain a
7 discount equal to two per cent of the simplified sellers use tax
8 properly collected and then remitted to the department in a
9 timely manner. No discount shall be allowed for any taxes that
10 are not timely reported and remitted to the department pursuant
11 to program procedures.

12 § -6 **Rulemaking authority; recordkeeping.** (a) The
13 department may adopt rules pursuant to chapter 91 related to the
14 implementation, administration, and participation in the
15 program. The department shall have exclusive responsibility for
16 reviewing and accepting applications for participation and for
17 the administration, return processing, and review of the
18 eligibility of sellers participating in the program. Eligible
19 sellers participating in the program shall not be subject to
20 audit or review by any county.



1 (b) Eligible sellers shall maintain records of all sales
2 delivered into Hawaii, including copies of invoices showing the
3 purchaser, address, purchase amount, and simplified sellers use
4 tax collected. These records shall be made available for review
5 and inspection upon request by the department.

6 § -7 Refund of excess taxes paid. (a) Any taxpayer who
7 pays a simplified sellers use tax through this program that is
8 higher than the actual state general excise or use tax
9 applicable to the sale may file for a refund of the excess
10 amount paid to an eligible seller participating in the program.
11 All petitions for refund shall be filed on forms and in the
12 manner prescribed by the department. The petition for refund
13 may only be filed once per year. If the amount due to be
14 refunded in a year is less than \$25, payment of the refund may
15 be deferred by the department and combined with amounts due to
16 be paid pursuant to subsequent annual refund petitions for a
17 period of up to three years.

18 (b) Any taxpayer seeking a refund of excess taxes paid to
19 an eligible seller participating in the program shall maintain
20 records documenting the amount of simplified sellers use tax
21 paid. Refund requests shall require proper documentation of



1 amounts paid by the taxpayer and shall be submitted to the
2 department with the petition for refund.

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

8 § -8 Taxes state realizations. All taxes collected
9 under this chapter shall be state realizations.

10 § -9 Applicability. If federal legislation is enacted
11 that authorizes the states to require a seller to collect taxes
12 on sales of goods to in-state purchasers without regard to the
13 location of the seller:

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

18 (2) This chapter shall continue to apply to any eligible
19 seller who has been approved by the department as a
20 participant in the program at least six months prior
21 to the effective date of the federal legislation and



1 to any taxpayer who has paid or pays the simplified
2 sellers use tax authorized under this chapter;
3 provided that the eligible seller continues to
4 collect, report, and remit the simplified sellers use
5 tax and otherwise complies with all procedures and
6 requirements of the program.

7 Eligible sellers participating in the program pursuant to this
8 section may continue to receive a discount of two per cent on
9 all simplified sellers use taxes properly remitted under the
10 provisions of this chapter and shall continue to report sales
11 under the conditions set out in section -4.

12 § -10 **Amnesty for certain uncollected remote use tax.**

13 (a) Subject to the limitations in this section, an eligible
14 seller participating in the program shall be granted amnesty for
15 any uncollected remote use tax that may have been due on sales
16 made to purchasers in the State for the twelve-month period
17 preceding the effective date of the eligible seller's
18 participation in the program.

19 (b) The amnesty shall preclude assessment for uncollected
20 simplified use tax together with any penalty or interest for



1 sales made during the twelve-month period prior to the effective
2 date of the eligible seller's participation in the program.

3 (c) The amnesty provided pursuant to subsection (a) shall
4 be granted to any eligible seller who applies to participate in
5 the program, following acceptance into the program by the
6 department.

7 (d) Amnesty is not available:

8 (1) To an eligible seller with respect to any matter for
9 which the eligible seller has received notice of the
10 commencement of an audit and the audit is not yet
11 finally resolved, including any related administrative
12 and judicial processes; or

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

16 (e) Amnesty is fully effective, absent the eligible
17 seller's fraud or intentional misrepresentation of a material
18 fact, as long as the eligible seller continues the eligible
19 seller's participation in the program and continues to collect,
20 report, and remit applicable simplified sellers use tax for a
21 period of at least thirty-six months.



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1 (f) Amnesty is applicable only to simplified use tax due
2 from an eligible seller in the eligible seller's capacity as an
3 eligible seller and not to remote use taxes due from a seller in
4 that seller's capacity as a buyer."

5 SECTION 2. This Act shall take effect on July 1, 2017.

6

INTRODUCED BY:



A handwritten signature in black ink, appearing to be 'J. J. ...', is written over a horizontal line.

JAN 24 2017



H.B. NO. 14B

Report Title:

Simplified Seller Use Tax Remittance Act

Description:

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

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

