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HOUSE BILL 2608

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Sullivan, Gombosky, Conway, Cairnes, Roach, McIntire, Ogden and Kenney; by request of Department of Revenue

Read first time 01/22/2002. Referred to Committee on Finance.

1 AN ACT Relating to authorizing the simplified sales and use tax  
2 administration act; adding a new chapter to Title 82 RCW; providing an  
3 effective date; and providing a contingent effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** This chapter shall be known and cited as the  
6 "simplified sales and use tax administration act."

7 NEW SECTION. **Sec. 2.** The definitions in this section apply  
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Agreement" means the streamlined sales and use tax agreement  
10 as adopted.

11 (2) "Certified automated system" means software certified jointly  
12 by the states that are signatories to the agreement to calculate the  
13 tax imposed by each jurisdiction on a transaction, determine the amount  
14 of tax to remit to the appropriate state, and maintain a record of the  
15 transaction.

16 (3) "Certified service provider" means an agent certified jointly  
17 by the states that are signatories to the agreement to perform all of  
18 the seller's sales tax functions.

1 (4) "Person" means an individual, trust, estate, fiduciary,  
2 partnership, limited liability company, limited liability partnership,  
3 corporation, or any other legal entity.

4 (5) "Sales tax" means the tax levied under chapter 82.08 RCW.

5 (6) "Seller" means any person making sales, leases, or rentals of  
6 personal property or services.

7 (7) "State" means any state of the United States and the District  
8 of Columbia.

9 (8) "Use tax" means the tax levied under chapter 82.12 RCW.

10 NEW SECTION. **Sec. 3.** The legislature finds that a simplified  
11 sales and use tax system will reduce and over time eliminate the burden  
12 and cost for all vendors to collect this state's sales and use tax.  
13 The legislature further finds that this state should participate in  
14 multistate discussions to review or amend the terms of the agreement to  
15 simplify and modernize sales and use tax administration in order to  
16 substantially reduce the burden of tax compliance for all sellers and  
17 for all types of commerce.

18 NEW SECTION. **Sec. 4.** For the purposes of reviewing or amending  
19 the agreement embodying the simplification requirements in section 7 of  
20 this act, the state shall enter into multistate discussions. For  
21 purposes of these discussions, the state shall be represented by the  
22 department. The department shall regularly consult with an advisory  
23 group composed of one member from the house of representatives  
24 appointed by the speaker of the house of representatives; one member of  
25 the senate appointed by the president of the senate; representatives of  
26 retailers, including those selling via mail, telephone, and the  
27 internet; representatives of large and small businesses; and  
28 representatives of counties and cities.

29 NEW SECTION. **Sec. 5.** The department shall enter into the  
30 streamlined sales and use tax agreement with one or more states to  
31 simplify and modernize sales and use tax administration in order to  
32 substantially reduce the burden of tax compliance for all sellers and  
33 for all types of commerce. In furtherance of the agreement, the  
34 department may act jointly with other states that are members of the  
35 agreement to establish standards for certification of a certified  
36 service provider and certified automated system and establish

1 performance standards for multistate sellers. The department is  
2 further authorized to take other actions reasonably required to  
3 implement this chapter. Other actions authorized by this section  
4 include, but are not limited to, the adoption of rules and the joint  
5 procurement, with other member states, of goods and services in  
6 furtherance of the cooperative agreement. The department, or the  
7 department's designee, may represent this state before the other states  
8 that are signatories to the agreement.

9 NEW SECTION. **Sec. 6.** No provision of the agreement authorized by  
10 this chapter in whole or part invalidates or amends any provision of  
11 the law of this state. Adoption of the agreement by this state does  
12 not amend or modify any law of this state. Implementation of any  
13 condition of the agreement in this state, whether adopted before, at,  
14 or after membership of this state in the agreement, must be by the  
15 action of this state.

16 NEW SECTION. **Sec. 7.** The department shall not enter into the  
17 streamlined sales and use tax agreement unless the agreement requires  
18 each state to abide by the requirements in this section.

19 (1) The agreement must set restrictions to limit over time the  
20 number of state rates.

21 (2) The agreement must establish uniform standards for:

22 (a) The sourcing of transactions to taxing jurisdictions;

23 (b) The administration of exempt sales; and

24 (c) Sales and use tax returns and remittances.

25 (3) The agreement must provide a central, electronic registration  
26 system that allows a seller to register to collect and remit sales and  
27 use taxes for all signatory states.

28 (4) The agreement must provide that registration with the central  
29 registration system and the collection of sales and use taxes in the  
30 signatory states will not be used as a factor in determining whether  
31 the seller has nexus with a state for any tax.

32 (5) The agreement must provide for reduction of the burdens of  
33 complying with local sales and use taxes by:

34 (a) Restricting variances between the state and local tax bases;

35 (b) Requiring states to administer any sales and use taxes levied  
36 by local jurisdictions within the state so that sellers collecting and  
37 remitting these taxes will not have to register or file returns with,

1 remit funds to, or be subject to independent audits from local taxing  
2 jurisdictions;

3 (c) Restricting the frequency of changes in the local sales and use  
4 tax rates and setting effective dates for the application of local  
5 jurisdictional boundary changes to local sales and use taxes; and

6 (d) Providing notice of changes in local sales and use tax rates  
7 and of changes in the boundaries of local taxing jurisdictions.

8 (6) The agreement must outline any monetary allowances that are to  
9 be provided by the states to sellers or certified service providers.  
10 The agreement must allow for a joint public and private sector study of  
11 the compliance cost on sellers and certified service providers to  
12 collect sales and use taxes for state and local governments under  
13 various levels of complexity to be completed by July 1, 2002.

14 (7) The agreement must require each state to certify compliance  
15 with the terms of the agreement before joining and to maintain  
16 compliance, under the laws of the member state, with all provisions of  
17 the agreement while a member.

18 (8) The agreement must require each state to adopt a uniform policy  
19 for certified service providers that protects the privacy of consumers  
20 and maintains the confidentiality of tax information.

21 (9) The agreement must provide for the appointment of an advisory  
22 council of private sector representatives and an advisory council of  
23 nonmember state representatives to consult with in the administration  
24 of the agreement.

25 NEW SECTION. **Sec. 8.** The agreement authorized by this chapter is  
26 an accord among individual cooperating sovereigns in furtherance of  
27 their governmental functions. The agreement provides a mechanism among  
28 the member states to establish and maintain a cooperative, simplified  
29 system for the application and administration of sales and use taxes  
30 under the duly adopted law of each member state.

31 NEW SECTION. **Sec. 9.** (1) The agreement authorized by this chapter  
32 binds and inures only to the benefit of this state and the other member  
33 states. No person, other than a member state, is an intended  
34 beneficiary of the agreement. Any benefit to a person other than a  
35 state is established by the law of this state and the other member  
36 states and not by the terms of the agreement.

1 (2) Consistent with subsection (1) of this section, no person has  
2 any cause of action or defense under the agreement or by virtue of this  
3 state's approval of the agreement. No person may challenge, in any  
4 action brought under any provision of law, any action or inaction by  
5 any department, agency, other instrumentality of this state, or any  
6 political subdivision of this state on the ground that the action or  
7 inaction is inconsistent with the agreement.

8 (3) No law of this state, or the application thereof, may be  
9 declared invalid as to any person or circumstance on the ground that  
10 the provision or application is inconsistent with the agreement.

11 NEW SECTION. **Sec. 10.** (1) A certified service provider is the  
12 agent of a seller, with whom the certified service provider has  
13 contracted, for the collection and remittance of sales and use taxes.  
14 As the seller's agent, the certified service provider is liable for  
15 sales and use tax due each member state on all sales transactions it  
16 processes for the seller except as set out in this section. A seller  
17 that contracts with a certified service provider is not liable to the  
18 state for sales or use tax due on transactions processed by the  
19 certified service provider unless the seller misrepresented the type of  
20 items it sells or committed fraud. In the absence of probable cause to  
21 believe that the seller has committed fraud or made a material  
22 misrepresentation, the seller is not subject to audit on the  
23 transactions processed by the certified service provider. A seller is  
24 subject to audit for transactions not processed by the certified  
25 service provider. The member states acting jointly may perform a  
26 system check of the seller and review the seller's procedures to  
27 determine if the certified service provider's system is functioning  
28 properly and the extent to which the seller's transactions are being  
29 processed by the certified service provider.

30 (2) A person that provides a certified automated system is  
31 responsible for the proper functioning of that system and is liable to  
32 the state for underpayments of tax attributable to errors in the  
33 functioning of the certified automated system. A seller that uses a  
34 certified automated system remains responsible and is liable to the  
35 state for reporting and remitting tax.

36 (3) A seller that has a proprietary system for determining the  
37 amount of tax due on transactions and has signed an agreement

1 establishing a performance standard for that system is liable for the  
2 failure of the system to meet the performance standard.

3 NEW SECTION. **Sec. 11.** Upon becoming a member of the streamlined  
4 sales and use tax agreement, the department shall prepare legislation  
5 conforming state law as necessary and shall provide such legislation to  
6 the fiscal committees of the legislature.

7 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act take  
8 effect July 1, 2002.

9 NEW SECTION. **Sec. 13.** Sections 10 and 11 of this act become  
10 effective when the state becomes a member of the streamlined sales and  
11 use tax agreement.

12 NEW SECTION. **Sec. 14.** Sections 1 through 12 of this act  
13 constitute a new chapter in Title 82 RCW.

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