

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2020-13

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 4
“REVENUE AND FINANCE” OF THE SITKA GENERAL CODE BY ADDING CHAPTER
4.10 “ALASKA REMOTE SELLER SALES TAX”

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. **PURPOSE.**

WHEREAS, the inability to effectively collect sales tax on sales of property, products, or services transferred or delivered into Alaska is seriously eroding the sales tax base of communities, causing revenue losses and imminent harm to residents through the loss of critical funding for local public services and infrastructure; and

WHEREAS, the harm from the loss of revenue is especially serious in Alaska because the State has no broad-based sales tax or income tax, and sales tax revenues are one of the primary sources of funding for services provided by local governments; and

WHEREAS, the failure to collect sales tax on remote sales creates market distortions by creating an unfair tax advantage for businesses that limit their physical presence in the taxing jurisdictions but still sell goods and services to consumers, which becomes easier and more prevalent as technology advances; and

WHEREAS, the failure to tax remote sales results in the creation of incentives for businesses to avoid a physical presence in the state and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the state and its cities; and

WHEREAS, the structural advantages for remote sellers, including the absence of point-of-sale tax collection, along with the general growth of online retail, make clear that erosion of the sales tax base is and has been occurring; and

WHEREAS, remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from the Alaska market, affecting the economy as well as burdening local infrastructure and services; and

WHEREAS, delivery of goods and services into local municipalities rely on and burden local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and,

51 **WHEREAS**, given modern computing and software options, it is neither unusually difficult nor
52 burdensome for remote sellers to collect and remit sales taxes associated with sales into Alaska
53 taxing jurisdictions; and
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55 **WHEREAS**, due to the recent decision by the United States Supreme Court and the lack of a
56 state sales tax it is appropriate for the municipalities to collectively amend their sales tax codes
57 to account for remote sellers who do not have a physical presences either in the State of Alaska
58 or in a specific taxing jurisdiction, but do have a taxable connection with the State of Alaska or
59 taxing jurisdiction; and
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61 **WHEREAS**, this ordinance is not retroactive in its application; and
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63 **WHEREAS**, this ordinance provides a safe harbor to those who transact limited sales in Alaska;
64 and
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66 **WHEREAS**, amending local sales tax codes reflects the 2018 Supreme Courts "*Wayfair*"
67 decision to allow for the application of the taxing jurisdiction's sales tax code requirements to
68 sellers without a physical presence in the State of Alaska or taxing jurisdiction; and
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70 **WHEREAS**, the intents is to levy municipal sales tax to the maximum limit of federal and state
71 constitutional doctrines; and
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73 **WHEREAS**, the City and Borough of Sitka, Alaska ("CBS") has entered into a cooperative
74 agreement with other local governments called the Alaska Intergovernmental Remote Sellers
75 Sales Tax Agreement ("the Agreement"); and
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77 **WHEREAS**, the terms of the Agreement require adoption of certain uniform provisions for
78 collection and remittance of municipal sales tax applicable to sales made by remote sellers
79 similar to the Streamlined Sales and Use Tax Agreement; and
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81 **WHEREAS**, the function and powers of the Commission are set froth in the Agreement, a
82 cooperative agreement between members approved by the CBS under Resolutions No. 2019-
83 27.
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85 **4. ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City
86 and Borough of Sitka that the Sitka General Code Title 4, entitled "Revenue and Finance",
87 be amended by adding Chapter 4.10, entitled "Alaska Remote Seller Sales Tax", to read as
88 follows (deleted language stricken, new language underlined):
89

90 **Title 4**
91 **REVENUE AND FINANCE**

92 **Chapters:**

- 93
94 **4.04 Budgetary Organization**
95 **4.05 Marine Passenger Fee Fund**
96 **4.06 Proceeds from Raw Water Sale contracts**
97 **4.09 Sales Tax**
98 **4.10 Alaska Remote Seller Sales Tax**

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Chapter 4.10
ALASKA REMOTE SELLER SALES TAX

Sections:

- 4.10.010 Interpretation.
- 4.10.020 Title to collected sales tax.
- 4.10.030 Imposition – Rate.
- 4.10.040 Obligation to collect tax - Threshold criteria.
- 4.10.050 No retroactive application.
- 4.10.060 Payment and collection.
- 4.10.070 Remote seller and marketplace facilitator registration requirement.
- 4.10.080 Tax filing schedule.
- 4.10.090 Estimated tax.
- 4.10.100 Returns – Filing contents.
- 4.10.110 Refunds.
- 4.10.120 Amended returns.
- 4.10.130 Extension for time to file tax return.
- 4.10.140 Audits.
- 4.10.150 Audit protest.
- 4.10.160 Penalties and interest for late filing.
- 4.10.170 Repayment plans.
- 4.10.180 Remote seller or marketplace facilitator record retention.
- 4.10.190 Cessation or transfer of business.
- 4.10.200 Use of information on tax return.
- 4.10.210 Violations.
- 4.10.220 Penalties for violations.
- 4.10.230 Remote Sellers with a physical presence in the taxing jurisdiction.
- 4.10.240 Remittance of tax—Remote seller held harmless.
- 4.10.250 Definitions
- 4.10.260 Supplemental definitions.

* * *

4.10.010 Interpretation.

- A. In order to prevent evasion of the sales taxes and to aid in its administration, it is presumed that all sales and services by a person or entity engaging in business are subject to the sales tax.
- B. The application of the tax levied under this Chapter shall be broadly construed and shall favor inclusion rather than exclusion.
- C. Exemptions from the tax levied under this Chapter or from the taxing jurisdiction shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Chapter or the taxing jurisdiction’s Code.

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D. The scope of this Chapter shall apply to remote sellers or marketplace facilitators, delivering products or services to Member municipalities adopting this Chapter, within the State of Alaska.

4.10.020 Title to collected sales tax.

Upon collection by the remote seller or marketplace facilitator, title to collected sales tax vests in the Commission for remittance to the taxing jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the taxing jurisdiction, from whom that power is delegated, in trust for the taxing jurisdiction and is accountable to the Commission and taxing jurisdiction.

4.10.030 Imposition - Rate.

A. To the fullest extent permitted by law, a sales tax is levied and assessed on all remote sales where delivery is made within the local taxing jurisdiction(s) that is a Member, within the state of Alaska.

B. The applicable tax shall be added to the sales price.

C. The tax rate added to the sale price shall be the tax rate for the taxing jurisdiction(s) where the property or product is sold or service that was rendered is received, and based on the date the property or product was sold or the date the service rendered was received.

D. An Address and Tax Rate Database will be made available to remote sellers and marketplace facilitators, indicating the appropriate tax rate to be applied.

E. The tax assessed shall be consistent with relevant jurisdictional tax caps, single unit sales, and exemptions.

F. When a sale is made on an installment basis, the applicable sales tax shall be collected at each payment, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered, based on the local jurisdictions' Code(s).

G. When a sales transaction involves placement of a single order with multiple deliveries made at different points in time that are separately invoiced, the applicable sales tax shall be collected on each separately invoiced delivery, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered.

4.10.040 Obligation to collect tax - Threshold criteria.

A. Any remote seller or marketplace facilitator must collect and remit sales tax in compliance with all applicable procedures and requirements of law, provided the remote seller or marketplace facilitator has met one of the following Threshold Criteria ("Threshold Criteria") in the previous calendar year:

1. The remote seller's statewide gross sales, including the seller's marketplace facilitator's statewide gross sales, from the sale(s) of property, products or services delivered into the state meets or exceeds one hundred thousand dollars (\$100,000); or

193 2. The remote seller, including the seller's marketplace facilitator, sold property, products,
194 or services delivered into the state in two hundred (200) or more separate transactions.

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196 B. For purposes of determining whether the Threshold Criteria are met, remote sellers or
197 marketplace facilitators shall include all gross sales, from all sales of goods, property, products,
198 or services rendered within the state of Alaska.

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200 **4.10.050 No retroactive application.**

201 The obligations to collect and remit sales tax required by this Chapter are applicable at the
202 effective date of the ordinance adopting the Alaska Remote Seller Sales Tax Code.

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204 **4.10.060 Payment and collection.**

205 Pursuant to this Chapter, taxes imposed shall be due and paid by the buyer to the remote seller
206 or marketplace facilitator at the time of the sale of property or product or date service is
207 rendered, or with respect to credit transactions, at the time of collection. It shall be the duty of
208 each remote seller or marketplace facilitator to collect the taxes from the buyer and to hold
209 those taxes in trust for the taxing authority of the taxing jurisdiction. Failure by the remote seller
210 or marketplace facilitator to collect the tax shall not affect the remote seller's, or marketplace
211 facilitator's, responsibility for payment to the Commission.

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213 **4.10.070 Remote seller and marketplace facilitator registration requirement.**

214 A. If a remote seller's gross statewide sales within the last calendar year meets or exceeds
215 the Threshold Criteria, the remote seller shall register with the Commission. If a marketplace
216 facilitator's gross statewide sales within the last calendar year meets or exceeds the Threshold
217 Criteria, the marketplace facilitator shall register with the Commission.

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219 B. A remote seller or marketplace facilitator meeting the Threshold Criteria shall apply for a
220 certificate of sales tax registration within thirty (30) calendar days of the effective date of this
221 Chapter or within thirty (30) calendar days of meeting the Threshold Criteria, whichever occurs
222 second. Registration shall be to the Commission on forms prescribed by the Commission.

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224 C. An extension may be applied for and granted based on criteria established by the
225 Commission, based on evidence produced to describe time necessary to update software or
226 other technical needs, not to exceed ninety (90) days.

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228 D. Upon receipt of a properly executed application, the Commission shall confirm registration,
229 stating the legal name of the remote seller or marketplace facilitator, the primary address, and
230 the primary sales tax contact name and corresponding title. The failure of the Commission to
231 confirm registration does not relieve the remote seller or marketplace facilitator of its duty to
232 collect and remit sales tax.

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234 E. Each business entity shall have a sales tax registration under the advertised name.

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236 F. The sales tax certificate is non-assignable and non-transferable.

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238 **4.10.080 Tax filing schedule.**

239 A. All remote sellers or marketplace facilitators subject to this Chapter shall file a return on a
240 form or in a format prescribed by the Commission and shall pay the tax due.

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B. Filing of sales tax returns are due monthly; quarterly filing is optional upon application and approval by the Commission, consistent with the code of the local jurisdiction.

C. A remote seller or marketplace facilitator who has filed a sales tax return will be presumed to be making sales in successive periods unless the remote seller or marketplace facilitator files a return showing a termination or sale of the business in accordance with this Chapter.

D. The completed and executed return, together with the remittance in full for the tax due, shall be transmitted to and must be received by the Commission on or before midnight Alaska Standard Time on the due date. Monthly returns are due the last day of the immediate subsequent month. Quarterly returns are due as follows:

<u>Quarter 1 (January – March)</u>	<u>April 30</u>
<u>Quarter 2 (April – June)</u>	<u>July 31</u>
<u>Quarter 3 (July – September)</u>	<u>October 31</u>
<u>Quarter 4 (October – December)</u>	<u>January 31</u>

E. If the last day of the month following the end of the filing period falls on a Saturday, Sunday, federal holiday, or Alaska state holiday, the due date will be extended until the next business day immediately following.

F. Any remote seller or marketplace facilitator holding a remote seller registration shall file a sales tax return even though no tax may be due. This return shall show why no tax is due. If the remote seller or marketplace facilitator intends to continue doing business a return shall be filed reflecting no sales and a confirmation of the intent to continue doing business and shall continue to do so each filing period until the entity ceases doing business or sells the business. If the remote seller or marketplace facilitator intends to cease doing business, a final return shall be filed along with a statement of business closure.

G. The remote seller or marketplace facilitator shall prepare the return and remit sales tax to the Commission on the same basis, cash or accrual, which the remote seller or marketplace facilitator uses in preparing its federal income tax return. The remote seller or marketplace facilitator shall sign the return, and transmit the return, with the amount of sales tax and any applicable penalty, interest, or fees that it shows to be due, to the Commission.

H. Remote sellers and marketplace facilitators failing to comply with the provisions of this Chapter shall, if required by the Commission and if quarterly filing has been chosen, file and transmit collected sales taxes more frequently until such time as they have demonstrated to the Commission that they are or will be able to comply with the provisions of this Chapter. Six (6) consecutive on-time sales tax filings, with full remittance of the sales taxes collected, shall establish the presumption of compliance and return to quarterly filing.

I. The preparer of the sales tax return shall keep and maintain all documentation supporting any and all claims of exempted sales and purchases. Documentation for exempted sales should include the number of the exemption authorization card presented by the buyer at the time of the purchase, the date of the purchase, the name of the person making the purchase, the organization making the purchase, the total amount of the purchase, and the amount of sales

289 tax exempted. This documentation shall be made available to the Commission upon request.
290 Failure to provide such documentation may invalidate that portion of the claim of exemption for
291 which no documentation is provided.
292

293 **4.10.090 Estimated tax.**

294 A. In the event the Commission is unable to ascertain the tax due from a remote seller or
295 marketplace facilitator by reason of the failure of the remote seller or marketplace facilitator to
296 keep accurate books, allow inspection, or file a return, or by reason of the remote seller or
297 marketplace facilitator filing a false or inaccurate return, the Commission may make an estimate
298 of the tax due based on any evidence in their possession.
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300 B. Sales taxes may also be estimated, based on any information available, whenever the
301 Commission has reasonable cause to believe that any information on a sales tax return is not
302 accurate.
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304 C. A remote seller's or marketplace facilitator's tax liability under this Chapter may be
305 determined and assessed for a period of six (6) years after the date the return was filed or due
306 to be filed with the Commission. No civil action for the collection of such tax may be commenced
307 after the expiration of the six-year period except an action for taxes, penalties, and interest due
308 from those filing periods that are the subject of a written demand or assessment made within the
309 six-year period, unless the remote seller or marketplace facilitator waives the protection of this
310 section.
311

312 D. The Commission shall notify the remote seller or marketplace facilitator, in writing, that the
313 Commission has estimated the amount of sales tax that is due from the remote seller or
314 marketplace facilitator. The Commission shall serve the notice on the remote seller or
315 marketplace facilitator by delivering the notice to the remote seller's or marketplace facilitator's
316 place of business, or by mailing the notice by certified mail, return receipt requested, to the
317 remote seller's or marketplace facilitator's last known mailing address. A remote seller or
318 marketplace facilitator who refuses the certified mail will be considered to have accepted the
319 certified mail for purposes of service.
320

321 E. The Commission's estimate of the amount of sales tax that is due from a remote seller or
322 marketplace facilitator shall become a final determination of the amount that is due unless the
323 remote seller or marketplace facilitator, within thirty (30) calendar days after service of notice of
324 the estimated tax:
325

326 1. Files a complete and accurate sales tax return for the delinquent periods supported by
327 satisfactory records and accompanied by a full remittance of all taxes, interest, penalties,
328 costs, and other charges due; or
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330 2. Files a written notice with the Commission appealing the estimated tax amount in
331 accordance with the appeal procedures.
332

333 3. Arguments or reasons for failure to timely file a return and remit taxes collected shall
334 not be considered a valid basis or grounds for granting an appeal. The basis and grounds
335 for granting an appeal of an assessment are:
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- 337 a. The identity of the remote seller or marketplace facilitator is in error;
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339 b. The amount of the debt is erroneous due to a clerical error (and the nature and
340 extent of the error is specified in the request for appeal); or
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342 c. The remote seller or marketplace facilitator disputes the denial of exemption(s)
343 for certain sales.
344
345 F. The amount of sales tax finally determined to be due under this section shall bear interest
346 and penalty from the date that the sales tax originally was due, plus an additional civil penalty of
347 fifty dollars (\$50) for each calendar month or partial month for which the amount of sales tax that
348 is due has been determined.
349

350 **4.10.100 Returns - Filing contents.**

- 351 A. Every remote seller or marketplace facilitator required by this Chapter to collect sales tax
352 shall file with the Commission upon forms furnished by the Commission a return setting forth the
353 following information with totals rounded to the nearest dollar:
354
355 1. Gross sales;
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357 2. The nontaxable portions separately stating the amount of sales revenue attributable to
358 each class of exemption;
359
360 3. Computation of taxes to be remitted;
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362 4. Calculated discount (if applicable) based on taxing jurisdiction's code; and
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364 5. Such other information as may be required by the Commission.
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366 B. Each tax return remitted by a remote seller or marketplace facilitator shall be signed
367 (digital or otherwise) by a responsible individual who shall attest to the completeness and
368 accuracy of the information on the tax return.
369

- 370 C. The Commission reserves the right to reject a filed return for failure to comply with the
371 requirements of this Code for up to three (3) months from the date of filing. The Commission
372 shall give written notice to a remote seller or marketplace facilitator that a return has been
373 rejected, including the reason for the rejection.
374

375 **4.10.110 Refunds.**

- 376 A. Upon request from a buyer or remote seller or marketplace facilitator, the Commission
377 shall provide a determination of correct tax rate and amount applicable to the transaction. In the
378 case of an overpayment of taxes, the remote seller or marketplace facilitator shall process the
379 refund and amend any returns accordingly.
380
381 B. If the claimant is a remote seller or marketplace facilitator, and the tax refund is owed to
382 any buyer, the remote seller or marketplace facilitator submits, and the Commission approves, a
383 refund plan to all affected buyers.
384

385 C. The Taxing Jurisdictions may allow a buyer to request a refund directly from the Taxing
386 Jurisdiction.

387

388 **4.10.120 Amended returns.**

389 A. A remote seller or marketplace facilitator may file an amended sales tax return, with
390 supporting documentation, and the Commission may accept the amended return, but only in the
391 following circumstances:

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393 1. The amended return is filed within one (1) year of the original due date for the return;
394 and

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396 2. The remote seller or marketplace facilitator provides a written justification for
397 requesting approval of the amended return; and

398

399 3. The remote seller or marketplace facilitator agrees to submit to an audit upon request
400 of the Commission.

401

402 B. The Commission shall notify the remote seller or marketplace facilitator in writing (by email
403 or otherwise) whether the Commission accepts or rejects an amended return, including the
404 reasons for any rejection.

405

406 C. The Commission may adjust a return for a remote seller or marketplace facilitator if, after
407 investigation, the Commission determines the figure included in the original returns are
408 incorrect; and the Commission adjusts the return within two (2) years of the original due date for
409 the return.

410

411 D. A remote seller or marketplace facilitator may file a supplemental sales tax return, with
412 supporting documentation, and the Commission may accept the supplemental return, but only in
413 the following circumstances:

414

415 1. The remote seller or marketplace facilitator provides a written justification for
416 requesting approval of the supplemental return; and

417

418 2. The remote seller or marketplace facilitator agrees to submit to an audit upon request
419 of the Commission.

420

421 **4.10.130 Extension of time to file tax return.**

422 Upon written application of a remote seller or marketplace facilitator, stating the reasons
423 therefor, the Commission may extend the time to file a sales tax return but only if the
424 Commission finds each of the following:

425

426 1. For reasons beyond the remote seller's or marketplace facilitator's control, the
427 remote seller or marketplace facilitator has been unable to maintain in a current
428 condition the books and records that contain the information required to complete the
429 return;

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431 2. Such extension is a dire necessity for bookkeeping reasons and would avert undue
432 hardship upon the remote seller or marketplace facilitator;

- 433
- 434 3. The remote seller or marketplace facilitator has a plan to cure the problem that
435 caused the remote seller or marketplace facilitator to apply for an extension and the
436 remote seller or marketplace facilitator agrees to proceed with diligence to cure the
437 problem;
- 438
- 439 4. At the time of the application, the remote seller or marketplace facilitator is not
440 delinquent in filing any other sales tax return, in remitting sales tax to the Commission or
441 otherwise in violation of this chapter;
- 442
- 443 5. No such extension shall be made retroactively to cover existing delinquencies.
444

445 **4.10.140 Audits.**

- 446 A. Any remote seller or marketplace facilitator who has registered with the Commission, who
447 is required to collect and remit sales tax, or who is required to submit a sales tax return is
448 subject to a discretionary sales tax audit at any time. The purpose of such an audit is to
449 examine the business records of the remote seller or marketplace facilitator in order to
450 determine whether appropriate amounts of sales tax revenue have been collected by the remote
451 seller or marketplace facilitator and remitted to the Commission.
- 452
- 453 B. The Commission is not bound to accept a sales tax return as correct. The Commission
454 may make an independent investigation of all retail sales or transactions conducted within the
455 State or taxing jurisdiction.
- 456
- 457 C. The records that a remote seller or marketplace facilitator is required to maintain under
458 this chapter shall be subject to inspection and copying by authorized employees or agents of the
459 Commission for the purpose of auditing any return filed under this Chapter, or to determine the
460 remote seller's or marketplace facilitator's liability for sales tax where no return has been filed.
- 461
- 462 D. In addition to the information required on returns, the Commission may request, and the
463 remote seller or marketplace facilitator must furnish, any reasonable information deemed
464 necessary for a correct computation of the tax.
- 465
- 466 E. The Commission may adjust a return for a remote seller or marketplace facilitator if, after
467 investigation or audit, the Commission determines that the figures included in the original return
468 are incorrect, and that additional sales taxes are due; and the Commission adjusts the return
469 within two (2) years of the original due date for the return.
- 470
- 471 F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed
472 when a return has not been filed, the Commission may conduct investigations, hearings, and
473 audits, and may examine any relevant books, papers, statements, memoranda, records,
474 accounts, or other writings of any remote seller or marketplace facilitator at any reasonable hour
475 on the premises of the remote seller or marketplace facilitator, and may require the attendance
476 of any officer or employee of the remote seller or marketplace facilitator. Upon written demand
477 by the Commission, the remote seller or marketplace facilitator shall present for examination, in
478 the office of the Commission, such books, papers, statements, memoranda, records, accounts,
479 and other written material as may be set out in the demand unless the Commission and the
480 person upon whom the demand is made agree to presentation of such materials at a different

481 place.

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483 G. The Commission may issue subpoenas to compel attendance or to require production of
484 relevant books, papers, records, or memoranda. If any remote seller or marketplace facilitator
485 refuses to obey any such subpoena, the Commissioner may refer the matter to the
486 Commission's attorney for an application to the superior court for an order requiring the remote
487 seller or marketplace facilitator to comply therewith.

488

489 H. Any remote seller, marketplace facilitator, or person engaged in business who is unable or
490 unwilling to submit their records to the Commission shall be required to pay the Commission for
491 all necessary expenses incurred for the examination and inspection of their records maintained
492 outside the Commission.

493

494 I. After the completion of a sales tax audit, the results of the audit will be sent to the
495 business owner's address of record.

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497 J. In the event the Commission, upon completion of an audit, discovers more than five
498 hundred dollars (\$500) in additional sales tax due from a remote seller or marketplace facilitator
499 resulting from a remote seller's or marketplace facilitator's failure to accurately report sales and
500 taxes due thereupon, the remote seller or marketplace facilitator shall bear responsibility for the
501 full cost of the audit. The audit fee assessment will be in addition to interest and penalties
502 applicable to amounts deemed to be delinquent by the Commission at the time of the conclusion
503 of the audit.

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505 **4.10.150 Audit protest.**

506 A. If the remote seller or marketplace facilitator wishes to dispute the amount of the estimate,
507 or the results of an examination or audit, the remote seller or marketplace facilitator must file a
508 written protest with the Commission, within thirty (30) calendar days of the date of the notice of
509 estimated tax or results of an audit or examination. The protest must set forth:

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511 1. The remote seller's or marketplace facilitator's justification for reducing or increasing
512 the estimated tax amount, including any missing sales tax returns for the periods
513 estimated; or

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515 2. The remote seller's or marketplace facilitator's reasons for challenging the
516 examination or audit results.

517

518 B. In processing the protest, the Commission may hold an informal meeting or hearing with
519 the remote seller or marketplace facilitator, either on its own or upon request of the remote
520 seller or marketplace facilitator, and may also require that the remote seller or marketplace
521 facilitator submit to an audit, if one was not previously conducted or a more formal audit, if an
522 estimation audit was previously performed.

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524 C. The Commission shall make a final written determination on the remote seller's or
525 marketplace facilitator's protest and mail a copy of the determination to the remote seller or
526 marketplace facilitator.

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528 D. If a written protest is not filed within thirty (30) days of the date of the notice of estimated

529 tax or the result of a review, audit, or examination, then the estimated tax, review, audit, or
530 examination result shall be final, due and payable to the Commission.

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532 **4.10.160 Penalties and interest for late filing.**

533 A. A late filing fee of twenty-five dollars (\$25) per month (or quarter) shall be added to all late-
534 filed sales tax reports in addition to interest and penalties.

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536 B. Delinquent sales tax bear interest at the rate of fifteen percent (15%) per annum until paid.

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538 C. In addition, delinquent sales tax shall be subject to an additional penalty of five percent
539 (5%) per month, or fraction thereof, until a total of twenty percent (20%) of delinquent tax has
540 been reached. The penalty does not bear interest.

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542 D. Penalties and interest shall be assessed and collected in the same manner as the tax is
543 assessed and collected, and applied first to penalties and interest, second to past due sales tax.

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545 E. The filing of an incomplete return, or the failure to remit all tax, shall be treated as the filing
546 of no return.

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548 F. A penalty assessed under this section for the delinquent remittance of sales tax or failure
549 to file a sales tax return may be waived by the Commission, upon written application of the
550 remote seller or marketplace facilitator accompanied by a payment of all delinquent sales tax,
551 interest, and penalty otherwise owed by the remote seller or marketplace facilitator, within forty-
552 five (45) calendar days after the date of delinquency. A remote seller or marketplace facilitator
553 may not be granted more than one (1) waiver of penalty under this subsection in any one
554 calendar year. The Commission shall report such waivers of penalty to the taxing jurisdiction, in
555 writing.

556

557 **4.10.170 Repayment plans.**

558 A. The Commission may agree to enter into a repayment plan with a delinquent remote seller
559 or marketplace facilitator. No repayment plan shall be valid unless agreed to by both parties in
560 writing.

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562 B. A remote seller or marketplace facilitator shall not be eligible to enter into a repayment
563 plan with the Commission if the remote seller or marketplace facilitator has defaulted on a
564 repayment plan in the previous two (2) calendar years.

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566 C. The repayment plan shall include a secured promissory note that substantially complies
567 with the following terms:

568

569 1. The remote seller or marketplace facilitator agrees to pay a minimum of ten percent
570 (10%) down payment on the tax, interest, and penalty amount due. The down payment
571 shall be applied first to penalty, then to accumulated interest, and then to the tax owed.

572

573 2. The remote seller or marketplace facilitator agrees to pay the balance of the tax,
574 penalty and interest owed in monthly installments over a period not to exceed two (2)
575 years.

576

577 3. Interest at a rate of fifteen percent (15%) per annum shall accrue on the principal sum
578 due. Interest shall not apply to penalties owed or to interest accrued at the time the
579 repayment plan is executed or accruing during the term of the repayment plan.

580
581 4. If the remote seller or marketplace facilitator is a corporation or a limited liability entity
582 the remote seller or marketplace facilitator agrees to provide a personal guarantee of the
583 obligations under the repayment plan.

584
585 5. The remote seller or marketplace facilitator agrees to pay all future tax bills in
586 accordance with the provisions of this Chapter.

587
588 6. The remote seller or marketplace facilitator agrees to provide a security interest in the
589 form of a sales tax lien for the entire unpaid balance of the promissory note to be
590 recorded by the Commission at the time the repayment plan is signed. The remote seller
591 or marketplace facilitator shall be responsible for the cost of recording the tax lien.

592
593 D. If a remote seller or marketplace facilitator fails to pay two (2) or more payments as
594 required by the repayment plan agreement, the remote seller or marketplace facilitator shall be
595 in default and the entire amount owed at the time of default shall become immediately due. The
596 Commission will send the remote seller or marketplace facilitator a notice of default. The
597 Commission may immediately foreclose on the sales tax lien or take any other remedy available
598 under the law.

599
600
601
602 **4.10.180 Remote seller or marketplace facilitator record retention.**
603 Remote sellers or marketplace facilitators shall keep and preserve suitable records of all sales
604 made and such other books or accounts as may be necessary to determine the amount of tax
605 that the remote seller or marketplace facilitator is obliged to collect. Remote sellers or
606 marketplace facilitators shall preserve suitable records of sales for a period of six (6) years from
607 the date of the return reporting such sales, and shall preserve for a period of six (6) years all
608 invoices of goods and merchandise purchased for resale, and all such other books, invoices,
609 and records as may be necessary to accurately determine the amount of taxes which the
610 remote seller or marketplace facilitator was obliged to collect under this Chapter.

611
612 **4.10.190 Cessation or transfer of business.**

613 A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, transfers, or
614 assigns the majority of their business interest, including a creditor or secured party, shall make
615 a final sales tax return within thirty (30) days after the date of such conveyance.

616
617 B. At least ten (10) business days before any such sale is completed, the remote seller or
618 marketplace facilitator shall send to the Commission, by approved communication (email
619 confirmation, certified first-class mail, postage prepaid) a notice that the remote seller's or
620 marketplace facilitator's interest is to be conveyed and shall include the name, address, and
621 telephone number of the person or entity to whom the interest is to be conveyed.

622
623 C. Upon notice of sale and disclosure of buyer, the Commission shall be authorized to
624 disclose the status of the remote seller's or marketplace facilitator's sales tax account to the

625 named buyer or assignee.

626
627 D. Upon receipt of notice of a sale or transfer, the Commission shall send the transferee a
628 copy of the Alaska Remote Seller Sales Tax Code with this section highlighted.

629
630 E. Neither the Commission's failure to give the notice nor the transferee's failure to receive
631 the notice shall relieve the transferee of any obligations under this section.

632
633 F. Following receipt of the notice, the Commission shall have sixty (60) days in which to
634 perform a final sales tax audit and assess sales tax liability against the seller of the business. If
635 the notice is not mailed at least ten (10) business days before the sale is completed, the
636 Commission shall have twelve (12) months from the date of the completion of the sale or the
637 Commission's knowledge of the completion of the sale within which to begin a final sales tax
638 audit and assess sales tax liability against the seller of the business. The Commission may also
639 initiate an estimated assessment if the requirements for such an assessment exist.

640
641 G. A person acquiring any interest of a remote seller or marketplace facilitator in a business
642 required to collect the tax under this Chapter assumes the liability of the remote seller or
643 marketplace facilitator for all taxes due the Commission, whether current or delinquent, whether
644 known to the Commission or discovered later, and for all interest, penalties, costs, and charges
645 on such taxes.

646
647 H. Before the effective date of the transfer, the transferee of a business shall obtain from the
648 Commission an estimate of the delinquent sales tax, penalty, and interest, if any, owed by the
649 remote seller or marketplace facilitator as of the date of the transfer, and shall withhold that
650 amount from the consideration payable for the transfer, until the remote seller or marketplace
651 facilitator has produced a receipt from the Commission showing that all tax obligations imposed
652 by this Chapter have been paid. A transferee that fails to withhold the amount required under
653 this subsection shall be liable to the Commission and taxing jurisdiction for the lesser of the
654 amount of delinquent sales tax, penalty, and interest due from the remote seller or marketplace
655 facilitator as of the date of transfer, and the amount that the transferee was required to withhold.

656
657 I. In this section, the term "transfer" includes the following:

658
659 1. A change in voting control, or in more than fifty percent (50%) of the ownership
660 interest in a remote seller or marketplace facilitator that is a corporation, limited liability
661 company, or partnership; or

662
663 2. A sale of all or substantially all the assets used in the business of the remote seller or
664 marketplace facilitator; or

665
666 3. The initiation of a lease, management agreement, or other arrangement under which
667 another person becomes entitled to the remote seller's or marketplace facilitator's gross
668 receipts from sales, rentals, or services.

669
670 J. Subsection H of this section shall not apply to any person who acquires their ownership
671 interest in the ongoing business as a result of the foreclosure of a lien that has priority over the
672 Commission's sales tax lien.

673
674 K. Upon termination, dissolution, or abandonment of a corporate business, any officer having
675 control or supervision of sales tax funds collected, or who is charged with responsibility for the
676 filing of returns or the payment of sales tax funds collected, shall be personally liable for any
677 unpaid taxes, interest, administrative costs, and penalties on those taxes if such officer willfully
678 fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of
679 willfulness, each director of the corporation shall be jointly and severally liable for unpaid
680 amounts. The officer shall be liable only for taxes collected which became due during the period
681 he or she had the control, supervision, responsibility, or duty to act for the corporation. This
682 section does not relieve the corporation of other tax liabilities or otherwise impair other tax
683 collection remedies afforded by law.

684
685 L. A remote seller or marketplace facilitator who terminates the business without the benefit
686 of a purchaser, successor, or assign shall make a final tax return and settlement of tax
687 obligations within thirty (30) days after such termination. If a final return and settlement are not
688 received within thirty (30) days of the termination, the remote seller or marketplace facilitator
689 shall pay a penalty of one hundred dollars (\$100), plus an additional penalty of twenty-five
690 dollars (\$25) for each additional thirty-day period, or part of such a period, during which the final
691 return and settlement have not been made, for a maximum of six (6) additional periods.

692
693 **4.10.200 Use of information on tax returns.**

694 A. Except as otherwise provided in this Chapter, all returns, reports, and information required
695 to be filed with the Commission under this Chapter, and all information contained therein, shall
696 be kept confidential and shall be subject to inspection only by:

697
698 1. Employees and agents of the Commission and taxing jurisdiction whose job
699 responsibilities are directly related to such returns, reports, and information;

700
701 2. The person supplying such returns, reports, and information; and

702
703 3. Persons authorized in writing by the person supplying such returns, reports, and
704 information.

705
706 B. The Commission will release information described in subsection (a) of this section
707 pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and
708 where otherwise required by law to do so.

709
710 C. Notwithstanding subsection A of this section, the following information is available for
711 public inspection:

712
713 1. The name and address of sellers;

714
715 2. Whether a business is registered to collect taxes under this Chapter;

716
717 3. The name and address of businesses that are sixty (60) days or more delinquent in
718 filing returns or in remitting sales tax, or both filing returns and remitting sales tax, and if so
719 delinquent, the amount of estimated sales tax due and the number of returns not filed.

720

721 D. The Commission may provide the public statistical information related to sales tax
722 collections, provided that no information identifiable to a particular remote seller or marketplace
723 facilitator is disclosed.

724
725 E. Nothing contained in this section shall be construed to prohibit the delivery to a person, or
726 their duly authorized representative, of a copy of any return or report filed by them, nor to
727 prohibit the publication of statistics so classified as to prevent the identification of particular
728 buyers, remote sellers, or marketplace facilitators, nor to prohibit the furnishing of information on
729 a reciprocal basis to other agencies or political subdivisions of the state or the United States
730 concerned with the enforcement of tax laws.

731
732 F. Nothing contained in this section shall be construed to prohibit the disclosure through
733 enforcement action proceedings or by public inspection or publication of the name, estimated
734 balance due, and current status of payments, and filings of any remote seller or marketplace
735 facilitator or agent of any remote seller or marketplace facilitator required to collect sales taxes
736 or file returns under this Chapter, who fails to file any return and/or remit in full all sales taxes
737 due within thirty (30) days after the required date for that business. Entry into any agreement
738 whether pursuant to the provisions of this Chapter or otherwise shall not act as any prohibition
739 to disclosure of the records of that remote seller or marketplace facilitator as otherwise provided
740 in this chapter.

741
742 G. A prospective lessee or purchaser of any business or business interest may inquire as to
743 the obligation or tax status of any business upon presenting to the Commission a release of tax
744 information request signed by the authorized agent of the business.

745
746 H. All returns referred to in this Chapter, and all data taken therefrom, shall be kept secure
747 from public inspection, and from all private inspection.

748
749 **4.10.210 Violations.**

750 A. A remote seller or marketplace facilitator that fails to file a sales tax return or remit sales
751 tax when due, in addition to any other liability imposed by this Chapter, shall pay to the
752 Commission all costs incurred by the Commission to determine the amount of the remote
753 seller's or marketplace facilitator's liability or to collect the sales tax, including, without limitation,
754 reviewing and auditing the remote seller's or marketplace facilitator's business records,
755 collection agency fees, and actual reasonable attorney's fees.

756
757 B. A person who causes or permits a corporation of which the person is an officer or director,
758 a limited liability company of which the person is a member or manager, or a partnership of
759 which the person is a partner, to fail to collect sales tax or to remit sales tax to the Commission
760 as required by this Chapter shall be liable to the Commission for the amount that should have
761 been collected or remitted, plus any applicable interest and penalty.

762
763 C. Notwithstanding any other provision of law, and whether or not the Commission initiates
764 an audit or other tax collection procedure, the Commission may bring a declaratory judgment
765 action against a remote seller or marketplace facilitator believed to meet the criteria to establish
766 that the obligation to remit sales tax is applicable and valid under local, state, and federal law.
767 The action shall be brought in the judicial district of the taxing jurisdiction.

768

769 D. The Commission may cause a sales tax lien to be filed and recorded against all real and
770 personal property of a remote seller or marketplace facilitator where the remote seller or
771 marketplace facilitator has:

772
773 1. Failed to file sales tax returns for two (2) consecutive filing periods as required by the
774 Chapter; or

775
776 2. Failed within sixty (60) days of the end of the filing period from which taxes were due
777 to either (a) remit all amounts due or (b) to enter into a secured payment agreement as
778 provided in this Chapter.

779
780 3. Prior to filing a sales tax lien, the Commission shall cause a written notice of intent to
781 file to be mailed to the last known address of the delinquent remote seller or marketplace
782 facilitator.

783
784 E. In addition to other remedies discussed in this Chapter, the Commission may bring a civil
785 action to:

786
787 1. Enjoin a violation of this Chapter. On application for injunctive relief and a finding of a
788 violation or threatened violation, the superior court shall enjoin the violation.

789
790 2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or
791 after estimating the amount of sales tax due.

792
793 3. Foreclose a recorded sales tax lien as provided by law.

794
795 F. All remedies hereunder are cumulative and are in addition to those existing at law or
796 equity.

797
798 **4.10.220 Penalties for violations.**

799 A. A buyer, remote seller, or marketplace facilitator who knowingly or negligently submits
800 false information in a document filed with the Commission pursuant to this Chapter is subject to
801 a penalty of five hundred dollars (\$500).

802
803 B. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals
804 information related to its business activities with the Commission or taxing jurisdiction is subject
805 to a penalty of five hundred dollars (\$500).

806
807 C. A person who knowingly or negligently provides false information when applying for a
808 certificate of exemption is subject to a penalty of five hundred dollars (\$500).

809
810 D. Any remote seller or marketplace facilitator who fails to file a return required under this
811 Chapter by the due date, regardless of whether any taxes were due for the reporting period for
812 which the return was required, shall be subject to a penalty of twenty-five dollars (\$25) for the
813 first sales tax return not timely filed. The filing of an incomplete return shall be treated as the
814 filing of no return.

815
816 E. A remote seller or marketplace facilitator who fails or refuses to produce requested

817 records or to allow inspection of their books and records shall pay to the Commission a penalty
818 equal to three (3) times any deficiency found or estimated by the Commission with a minimum
819 penalty of five hundred dollars (\$500).

820
821 F. A remote seller or marketplace facilitator who falsifies or misrepresents any record filed
822 with the Commission is guilty of an infraction and subject to a penalty of five hundred dollars
823 (\$500) per record.

824
825 G. Misuse of an exemption card is a violation and subject to a penalty of fifty dollars (\$50) per
826 incident of misuse.

827
828 H. Nothing in this Chapter shall be construed as preventing the Commission from filing and
829 maintaining an action at law to recover any taxes, penalties, interest and/or fees due from a
830 remote seller or marketplace facilitator. The Commission may also recover attorney's fees in
831 any action against a delinquent remote seller or marketplace facilitator.

832
833 **4.10.230 Remote sellers with a physical presence in the taxing jurisdiction.**

834 A. Sellers with a physical presence in a Taxing Jurisdiction and no remote or internet-based
835 sales shall report, remit, and comply with standards, including audit authority, of the Taxing
836 Jurisdiction.

837
838 B. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-
839 based sales where the Point of Delivery is in a different Taxing Jurisdictions shall (i) report and
840 remit the remote or internet sales to the Commission; and ii) report and remit the in-store sales
841 to the Taxing Jurisdiction.

842
843 C. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-
844 based sales where the Point of Delivery is in the same Taxing Jurisdictions shall report and
845 remit those remote sales to the Taxing Jurisdiction.

846
847 D. Remote sellers and marketplace facilitators that do not have a physical presence in a
848 Taxing Jurisdiction must report and remit all remote sales to the Commission.

849
850 E. For all purchases the tax rate added to the sale price shall be as provided in the Taxing
851 Jurisdiction's sales tax code, based on the point of delivery.

852
853 F. A marketplace facilitator is considered the remote seller for each sale facilitated through its
854 marketplace and shall collect, report, and remit sales tax to the Commission. A marketplace
855 facilitator is not considered to be the remote seller for each sale or rental of lodging facilitated
856 through its marketplace, wherein the seller is considered to have a physical presence in the
857 Taxing Jurisdiction.

858
859 **4.10.240 Remittance of tax - remote seller held harmless.**

860 A. Any remote seller or marketplace facilitator that collects and remits sales tax to the
861 Commission as provided by law may use an electronic database of state addresses that is
862 certified by the Commission pursuant to subsection C of this section to determine the
863 jurisdictions to which tax is owed.

864

865 B. Any remote seller or marketplace facilitator that uses the data contained in an electronic
866 database certified by the Commission pursuant to subsection C of this section to determine the
867 jurisdictions to which tax is owed shall be held harmless for any tax, charge, or fee liability to
868 any taxing jurisdiction that otherwise would be due solely as a result of an error or omission in
869 the database.

870
871 C. Any electronic database provider may apply to the Commission to be certified for use by
872 remote sellers or marketplace facilitators pursuant to this section. Such certification shall be
873 valid for three years. In order to be certified, an electronic database provider shall have a
874 database that satisfies the following criteria:

875
876 1. The database shall designate each address in the state, including, to the extent
877 practicable, any multiple postal address applicable to one location and the taxing
878 jurisdictions that have the authority to impose a tax on purchases made by purchasers at
879 each address in the state.

880
881 2. The information contained in the electronic database shall be updated as necessary
882 and maintained in an accurate condition. In order to keep the database accurate, the
883 database provider shall provide a convenient method for taxing jurisdictions that may be
884 affected by the use of the database to inform the provider of apparent errors in the
885 database. The provider shall have a process in place to promptly correct any errors
886 brought to the provider's attention.

887
888 **4.10.250 Definitions.**
889 Adoption of definitions does not compel an individual municipality to exempt certain defined
890 items. Each municipality should specifically adopt definitions necessary for consistency to
891 implement both brick-and-mortar sales tax code and provisions related to remote sellers or
892 marketplace facilitators. For definitions that have no applicability to brick-and-mortar sales tax
893 code, municipality may choose to either include definitions in the definitional section of general
894 sales tax ordinance or adopt the common definitions by reference.

895
896 A. "Buyer or purchaser" means a person to whom a sale of property or product is made or to
897 whom a service is furnished.

898
899 B. "Commission" means the Alaska Intergovernmental Remote Sales Tax Commission
900 established by Agreement between local government taxing jurisdictions within Alaska, and the
901 delegated tax collection authority.

902
903 C. "Delivered electronically" means delivered to the purchaser by means other than tangible
904 storage media.

905
906 D. "Entity-based exemption" means an exemption based on who purchases the product or
907 who sells the product. An exemption that is available to all individuals shall not be considered
908 an entity-based exemption.

909
910 E. "Goods for resale" means:
911

912 1. The sale of goods by a manufacturer, wholesaler, or distributor to a retail vendor, and
913 sales to a wholesale or retail dealer who deals in the property sold for the purpose of
914 resale by the dealer.

915
916 2. The sale of personal property as raw material to a person engaged in manufacturing
917 components for sale, where the property sold is consumed in the manufacturing process
918 of, or becomes an ingredient or component part of, a product manufactured for sale by
919 the manufacturer.

920
921 3. The sale of personal property as construction material to a licensed building contractor
922 where the property sold becomes part of the permanent structure.

923
924 F. "Marketplace facilitator" means a person that contracts with remote sellers to facilitate for
925 consideration, regardless of whether deducted as fees from the transaction, the sale of the
926 remote seller's property or services through a physical or electronic marketplace operated by
927 the person, and engages:

928
929 1. Directly or indirectly, through one or more affiliated persons, in any of the following:

930
931 a. Transmitting or otherwise communicating the offer or acceptance between the
932 buyer and remote seller;

933
934 b. Owning or operating the infrastructure, electronic or physical, or technology that
935 brings buyers and remote sellers together;

936
937 c. Providing a virtual currency that buyers are allowed or required to use to purchase
938 products from the remote seller; or

939
940 d. Software development or research and development activities related to any of the
941 activities described in 2 of this subsection c, if such activities are directly related to a
942 physical or electronic marketplace operated by the person or an affiliated person; and

943
944 2. In any of the following activities with respect to the seller's products:

945
946 a. Payment processing services;

947
948 b. Fulfillment or storage services;

949
950 c. Listing products for sale;

951
952 d. Setting prices;

953
954 e. Branding sales as those of the marketplace facilitator;

955
956 f. Order taking;

957
958 g. Advertising or promotion; or

959

960 h. Providing customer service or accepting or assisting with returns or exchanges.

961
962 G. "Member" means a taxing jurisdiction that is a signatory of the Alaska Remote Sales Tax
963 Intergovernmental Agreement, thereby members of the Commission, and who have adopted the
964 Alaska Remote Seller Sales Tax Code.

965
966 H. "Monthly" means occurring once per calendar month.

967
968 I. "Nonprofit organization" means a business that has been granted tax-exempt status by the
969 Internal Revenue Service (IRS). An association, corporation, or other organization where no
970 part of the net earnings of the organization inures to the benefit of any member, shareholder, or
971 other individual, as certified by registration with the IRS.

972
973 J. "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company,
974 limited liability partnership, corporation, or any other legal entity.

975
976 K. "Physical presence" means a seller who establishes any one or more of the following
977 within a local taxing jurisdiction:

978 1. Has any office, distribution or sales house, warehouse, storefront, or any other place of
979 business within the boundaries of the local taxing jurisdiction;

980
981
982 2. Solicits business or receiving orders through any employee, agent, salesman, or other
983 representative within the boundaries of the local taxing jurisdiction or engages in
984 activities in this state that are significantly associated with the seller's ability to establish
985 or maintain a market for its products in this state;

986
987 3. Provides services or holds inventory within the boundaries of the local taxing
988 jurisdiction;

989
990 4. Rents or Leases property located within the boundaries of the local taxing jurisdiction.

991
992 A seller that establishes a physical presence within the local taxing jurisdiction in any calendar
993 year will be deemed to have a physical presence within the local taxing jurisdiction for the
994 following calendar year.

995
996 L. "Point of delivery" means the location at which property or a product is delivered or service
997 rendered.

998
999 1. When the product is not received or paid for by the purchaser at a business location of
1000 a remote seller in a Taxing Jurisdiction, the sale is considered delivered to the location
1001 where receipt by the purchaser (or the purchaser's recipient, designated as such by the
1002 purchaser) occurs, including the location indicated by instructions for delivery as supplied
1003 by the purchaser (or recipient) and as known to the seller;

1004
1005 2. When the product is received or paid for by a purchaser who is physically present at a
1006 business location of a Remote Seller in a Taxing Jurisdiction the sale is considered to
1007 have been made in the Taxing Jurisdiction where the purchaser is present even if delivery

1008 of the product takes place in another Taxing Jurisdiction. Such sales are reported and tax
1009 remitted directly to the Taxing Jurisdiction and not to the Commission;
1010

1011 3. For products transferred electronically, or other sales where the remote seller or
1012 marketplace facilitator lacks a delivery address for the purchaser, the remote seller or
1013 marketplace facilitator shall consider the point of delivery the sale to the billing address of
1014 the buyer.
1015

1016 M. "Product-based exemptions" means an exemption based on the description of the product
1017 and not based on who purchases the product or how the purchaser intends to use the product.
1018

1019 N. "Property" and "product" means both tangible property, an item that can be seen, weighed,
1020 measured, felt, or touched, or that is in any other manner perceptible to the senses; and
1021 intangible property, anything that is not physical in nature (i.e.; intellectual property, brand
1022 recognition, goodwill, trade, copyright and patents).
1023

1024 O. "Quarter" means trimonthly periods of a calendar year; January-March, April-June, July-
1025 September, and October-December.
1026

1027 P. "Receive" or "receipt" means
1028

1029 1. Taking possession of property;

1030
1031 2. Making first use of services;

1032
1033 3. Taking possession or making first use of digital goods, whichever comes first.
1034

1035 The terms "receive" and "receipt" do not include temporary possession by a shipping company
1036 on behalf of the purchaser.
1037

1038 Q. "Remote sales" means sales of goods or services by a remote seller or marketplace
1039 facilitator.
1040

1041 R. "Remote seller" means a seller or marketplace facilitator making sales of goods or
1042 services delivered within the State of Alaska, without having a physical presence in a taxing
1043 jurisdiction, or conducting business between taxing jurisdictions, when sales are made by
1044 internet, mail order, phone or other remote means. A marketplace facilitator shall be considered
1045 the remote seller for each sale facilitated through its marketplace.
1046

1047 S. "Resale of services" means sales of intermediate services to a business the charge for
1048 which will be passed directly by that business to a specific buyer.
1049

1050 T. "Sale" or "retail sale" means any transfer of property for consideration for any purpose
1051 other than for resale.
1052

1053 U. "Sales or purchase price" means the total amount of consideration, including cash, credit,
1054 property, products, and services, for which property, products, or services are sold, leased, or

1055 rented, valued in money, whether received in money or otherwise, without any deduction for the
1056 following:

- 1057
- 1058 1. The seller's cost of the property or product sold;
 - 1059
 - 1060 2. The cost of materials used, labor or service cost, interest, losses, all costs of
1061 transportation to the seller, all taxes imposed on the seller, and any other expense of the
1062 seller;
 - 1063
 - 1064 3. Charges by the seller for any services necessary to complete the sale, other than
1065 delivery and installation charges;
 - 1066
 - 1067 4. Delivery charges;
 - 1068
 - 1069 5. Installation charges; and
 - 1070
 - 1071 6. Credit for any trade-in, as determined by state law.

1072

1073 V. "Seller" means a person making sales of property, products, or services, or a marketplace
1074 facilitator facilitating sales on behalf of a seller.

1075

1076 W. "Services" means all services of every manner and description, which are performed or
1077 furnished for compensation, and delivered electronically or otherwise outside the taxing
1078 jurisdiction (but excluding any that are rendered physically within the taxing jurisdiction,
1079 including but not limited to:

- 1080
- 1081 1. Professional services;
 - 1082
 - 1083 2. Services in which a sale of property or product may be involved, including property or
1084 products made to order;
 - 1085
 - 1086 3. Utilities and utility services not constituting a sale of property or products, including but
1087 not limited to sewer, water, solid waste collection or disposal, electrical, telephone services
1088 and repair, natural gas, cable or satellite television, and Internet services;
 - 1089
 - 1090 4. The sale of transportation services;
 - 1091
 - 1092 5. Services rendered for compensation by any person who furnishes any such services in
1093 the course of his trade, business, or occupation, including all services rendered for
1094 commission;
 - 1095
 - 1096 6. Advertising, maintenance, recreation, amusement, and craftsman services.

1097

1098 X. "Tax cap" means a maximum taxable transaction.

1099

1100 Y. "Taxing jurisdiction" means a local government in Alaska that has a sales tax and is a
1101 member of the Alaska Remote Sellers Sales Tax Commission.

1102

1103 Z. “Transferred electronically” means obtained by the purchaser by means other than
1104 tangible storage media.

1105
1106 **4.10.270 Supplemental definitions.**

1107 The Commission shall promulgate Supplemental Definitions that are incorporated into this
1108 Remote Seller Sales Tax Code. Supplemental Definitions are available at www.arsstc.org/code.
1109 Provisions of the Supplemental Definitions that are amended, deleted, or added prior to or after
1110 the effective date of the latest amendment to this Chapter shall be applicable for purposes of
1111 this Chapter on the effective date provided for such amendments, deletions, or additions,
1112 including retroactive provisions.

1113 * * *

1114
1115
1116 **5. EFFECTIVE DATE.** This ordinance shall become effective the day after the date
1117 of its passage.

1118
1119 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of
1120 Sitka, Alaska, this 28th day of April, 2020.

1121
1122
1123 _____
1124 Gary L. Paxton, Mayor

1125 ATTEST:

1126
1127 _____
1128 Sara Peterson, MMC
1129 Municipal Clerk

1130
1131 1st reading 4/14/2020

1132 2nd and final reading 4/28/2020

1133
1134 Sponsor: Administrator