

SENATE BILL NO. 5004

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIFTH SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 7/11/16

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

7 * **Sec. 2.** AS 29.10.200(54) is amended to read:

8 (54) **AS 29.45.650** [AS 29.45.650(c), (d), (e), (f), (i), (j), AND (k)]
 9 (sales and use tax);

10 * **Sec. 3.** AS 29.10.200(55) is amended to read:

11 (55) **AS 29.45.700** [AS 29.45.700(d), (e), AND (g)] (sales and use
 12 tax);

13 * **Sec. 4.** AS 29.10.200 is amended by adding a new paragraph to read:

14 (66) AS 29.45.655 (specific taxes on property and services).

15 * **Sec. 5.** AS 29.35.110(a) is amended to read:

16 (a) Borough revenues received through taxes **levied** [COLLECTED] on an
 17 areawide basis by the borough may be expended on general administrative costs and
 18 on areawide functions only. Borough revenues received through taxes **levied**
 19 [COLLECTED] on a nonareawide basis may be expended on general administrative
 20 costs and functions that render service only to the area outside all cities in the
 21 borough.

22 * **Sec. 6.** AS 29.35.170 is amended to read:

23 **Sec. 29.35.170. Assessment and collection of taxes.** (a) A borough shall
 24 assess [AND COLLECT] property [, SALES, AND USE] taxes **and collect taxes,**
 25 **other than a general sales and use tax under AS 29.45.650,** that are levied in its
 26 boundaries, subject to AS 29.45.

27 (b) Taxes, **other than a general sales and use tax under AS 29.45.700,**
 28 levied by a city shall be collected by a borough and returned in full to the levying city.

29 This subsection applies to home rule and general law municipalities.

30 * **Sec. 7.** AS 29.35.170 is amended by adding a new subsection to read:

31 (c) Notwithstanding (a) and (b) of this section, AS 29.45.650(c), and

1 AS 43.44.015, a municipality that levies a general sales and use tax may collect the
 2 municipality's general sales and use tax through December 31, 2021. The state shall
 3 assume responsibility for administering a municipal general sales and use tax on
 4 January 1, 2022, unless requested to do so earlier by a municipality that has
 5 conformed its tax base, including exemptions, definitions, and sourcing rules, to
 6 AS 43.44.

7 * **Sec. 8.** AS 29.45.650 is repealed and reenacted to read:

8 **Sec. 29.45.650. General sales and use tax.** (a) Except as provided in
 9 AS 04.21.010(c) and AS 29.45.750, a borough may levy a general sales tax on the sale
 10 and rental of tangible or intangible property and on services provided in the borough.

11 (b) A borough levying a general sales tax also may levy a use tax on the
 12 storage, use, or consumption of tangible personal property and on the use of services
 13 in the borough. The use tax rate must equal the sales tax rate.

14 (c) A tax levied under (a) or (b) of this section shall be levied only on a
 15 purchaser.

16 (d) A tax authorized under this section shall be administered and collected by
 17 the state under AS 43.44. The tax base, including exemptions, definitions, and
 18 sourcing rules for a tax authorized under this section shall be identical to those
 19 provided in AS 43.44.

20 * **Sec. 9.** AS 29.45 is amended by adding a new section to read:

21 **Sec. 29.45.655. Specific taxes on property and services.** Unless otherwise
 22 prohibited by law, a municipality may levy and collect specific sales or excise taxes on
 23 single categories of tangible or intangible property or services, such as bed taxes, car
 24 rental taxes, liquor taxes, cigarette taxes, motor fuel taxes, and fish taxes.

25 * **Sec. 10.** AS 29.45.660(a) is amended to read:

26 (a) If the borough levies [AND COLLECTS] only a **general** sales tax and use
 27 tax, the assembly shall provide a notice substantially in the form set out in
 28 AS 29.45.020. In providing notice under this subsection, the assembly shall substitute
 29 for the millage equivalency its estimate of the equivalent sales tax rate for each of the
 30 categories of financial assistance set out in AS 29.45.020. Notice shall be provided

31 (1) by publishing in a newspaper of general circulation in the borough

1 a copy of the notice once each week for a period of three successive weeks, with
 2 publication to occur not later than 45 days after the final adoption of the borough's
 3 budget; or

4 (2) if there is no newspaper of general circulation in the borough, by
 5 posting a copy of the notice for at least 20 days in at least two public places in the
 6 borough, with posting to occur not later than 45 days after the final adoption of the
 7 borough's budget.

8 * **Sec. 11.** AS 29.45.700 is repealed and reenacted to read:

9 **Sec. 29.45.700. Power of levy.** A city may levy a general sales and use tax in
 10 the manner and subject to the same limitations provided for boroughs under
 11 AS 29.45.650 and 29.45.660.

12 * **Sec. 12.** AS 29.45.810(a) is amended to read:

13 (a) A party to a contract approved by the legislature as a result of submission
 14 of a proposed contract developed under AS 43.82 or as a result of acts by the
 15 legislature in implementing the purposes of AS 43.82, and the property, gas, products,
 16 and activities associated with the approved qualified project that is subject to the
 17 contract, are exempt, as specified in the contract, from all taxes identified in the
 18 contract that would be levied [AND COLLECTED] by a municipality under state law
 19 as a consequence of the participation by the party in the approved qualified project.

20 * **Sec. 13.** AS 43.05.241 is amended to read:

21 **Sec. 43.05.241. Administrative appeal.** For a matter within the jurisdiction of
 22 the office of administrative hearings (AS 44.64) under AS 43.05.405, the taxpayer
 23 aggrieved by an informal conference decision entered under AS 43.05.240 **or**
 24 **AS 43.44.280** may file with the office of administrative hearings a notice of appeal for
 25 formal hearing, as provided in AS 43.05.430, **not** [NO] later than 30 days after service
 26 of the decision resulting from an informal conference.

27 * **Sec. 14.** AS 43.05.499(11) is amended to read:

28 (11) "taxpayer" means a person required to pay **or collect** a tax,
 29 including a person required to pay a seafood marketing assessment under AS 16.51.

30 * **Sec. 15.** AS 43 is amended by adding a new chapter to read:

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

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

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

4 (b) For the privilege of using tangible personal property in this state, there is
5 levied a use tax on the person using tangible personal property acquired on or after
6 January 1, 2018, that was

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

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

10 (3) acquired by a purchaser for use in an exempt manner but later
11 converted to a use that would have been subject to sales tax.

12 (c) For the privilege of using services in this state that would be subject to a
13 sales tax if purchased in this state, there is levied a use tax on the person using
14 services.

15 (d) The rate of levy of the sales tax levied under (a) of this section and of the
16 use taxes levied under (b) and (c) of this section is three percent of the sales price or
17 purchase price of the tangible personal property or service.

18 **Sec. 43.44.015. Collection of sales and use tax.** The department shall collect
19 municipal sales and use taxes levied under AS 29.45.650 or 29.45.700 and remit the
20 proceeds to the municipality. Under AS 43.05 and AS 43.10, the department shall
21 administer, collect, and enforce a sales tax and use tax levied under AS 29.45.650 or
22 29.45.700.

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

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

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

31 **Sec. 43.44.030. Presumption of taxability; sales price and purchase price.**

1 (a) In order to prevent evasion of the sales tax and to aid in its administration, it is
2 presumed that

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

5 (2) all property purchased or sold by any person for delivery into this
6 state is purchased or sold for a taxable use in this state.

7 (b) In a sale in which the amount of money paid does not represent the value
8 of the property or service purchased, the use tax must be imposed on the value of the
9 property or service purchased.

10 (c) For purposes of this section, the sales price or purchase price of property
11 must be determined as of the time of acquisition, introduction into this state, or
12 conversion to use, whichever is latest.

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

16 (b) The sales tax must be stated separately for all sales, except for sales from
17 vending machines, sales of drinks in a bar, sales from street vending carts, games of
18 chance, admission fees, taxi fares, and other sales as determined by regulation by the
19 department.

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

22 **Sec. 43.44.050. Liability of user for payment of use tax.** (a) A person in
23 this state who uses property is liable to the state for payment of the use tax if the tax is
24 payable on the purchase price of the property but has not been paid.

25 (b) The liability imposed by this section is discharged if the purchaser has paid
26 the sales or use tax to the seller for payment to the department.

27 **Sec. 43.44.060. Nexus.** To the fullest extent permitted under the Constitution
28 of the United States, a person who has nexus with the State of Alaska and whose sales
29 are not subject to the sales tax shall collect the use tax from the purchaser and pay the
30 tax collected to the department.

31 **Article 2. Exemptions.**

1 **Sec. 43.44.090. Exemption: government agencies; licenses; permits.** (a)
2 Sales by, sales to, or uses by the United States are exempt from the sales tax and use
3 tax.

4 (b) Sales to or uses by the state or an instrumentality of the state, as that term
5 is defined in AS 39.52.960, other than a municipality; an unincorporated community;
6 an Indian tribe included on the list published under 25 U.S.C. 479a-1; or a foreign
7 government are exempt from the sales tax and use tax.

8 (c) Sales by, sales to, or uses by a municipality, other than sales of utilities, are
9 exempt from the sales tax and use tax.

10 (d) Sales of state licenses or permits are exempt from the sales tax and use tax.

11 **Sec. 43.44.095. Exemption for corporations exempt from taxation under**
12 **26 U.S.C. 501(c)(3).** (a) Sales by a corporation that is exempt from taxation under 26
13 U.S.C. 501(c)(3) (Internal Revenue Code) are exempt from the sales tax and use tax,
14 unless the income from the sales is unrelated business taxable income as defined in 26
15 U.S.C. 512.

16 (b) Sales of property or services to, or use by, a corporation that is exempt
17 from taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code), unless the property
18 or service is used in the generation of unrelated business taxable income as defined in
19 26 U.S.C. 512.

20 **Sec. 43.44.097. Exemption for dues paid to an organization exempt from**
21 **taxation under 26 U.S.C. 501(c)(5).** Union dues paid to an organization that is
22 exempt under 26 U.S.C. 501(c)(5) are exempt from the sales tax and use tax.

23 **Sec. 43.44.100. Exemption for food.** (a) Sales of food for human consumption
24 off the premises where sold are exempt from the sales tax and use tax.

25 (b) This exemption does not apply to prepared foods sold by a business if the
26 majority of food sold by the business is consumed on premises.

27 (c) In this section, "food" means substances, whether in liquid, concentrated,
28 solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by
29 humans and are consumed for their taste or nutritional value; "food" does not include
30 alcoholic beverages, tobacco, marijuana, or products containing marijuana.

31 **Sec. 43.44.110. Exemption for intangibles.** The following are exempt from

1 the sales tax and use tax, even if they are construed to be tangible personal property or
2 a service:

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

7 (2) interest on money loaned or deposited;

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

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

10 (5) other intangibles as defined by regulation.

11 **Sec. 43.44.120. Financial services.** The following are exempt from the sales
12 tax and use tax:

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

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

16 (3) loan transaction pass-through charges that include sales tax;

17 (4) loan fees;

18 (5) services related to the sale or purchase of financial instruments
19 including stocks, bonds, and securities; and

20 (6) other financial services as defined by regulation.

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

29 **Sec. 43.44.150. Exemption for personal effects.** The use by an individual of
30 personal or household effects brought into the state for the establishment by the
31 individual of an initial residence in this state and the use of property brought into the

1 state by a nonresident for the nonresident's own nonbusiness use while temporarily
2 within this state is exempt from the use tax.

3 **Sec. 43.44.160. Sales for resale.** A sale for resale and associated transportation
4 is exempt from the sales tax and use tax if the subsequent sale is made

5 (1) in the ordinary course of business and subject to tax under
6 AS 43.44.010(a); or

7 (2) to a purchaser who delivers to the reseller an exemption certificate
8 for that sale.

9 **Sec. 43.44.165. Transactions between certain persons.** (a) Services among
10 affiliated persons that report their income under 26 U.S.C. on a single consolidated
11 return are exempt from the sales tax and use tax.

12 (b) A transaction that relates to a joint interest or partnership and that occurs
13 between the holders of the interests, or between the partners, is exempt from the sales
14 tax and use tax.

15 **Sec. 43.44.170. Exemption for real property.** The sale, lease, rental, and
16 construction of real property are exempt from the sales tax and use tax. For purposes
17 of this section, the sale and transportation of tangible personal property that is
18 subsequently converted to real property is taxable unless the conversion is part of the
19 construction of real property or construction of an addition to real property.

20 **Sec. 43.44.175. Exemption for certain fuel sold for use in jet propulsion**
21 **aircraft.** Fuel sold for use in jet propulsion aircraft operating in flights to or from
22 foreign countries is exempt from the sales tax and use tax.

23 **Sec. 43.44.190. Exemption for property held for lease.** The sale, use, lease,
24 or rental of property held for lease is exempt from the sales tax and use tax if the
25 person holding the property for lease, or purchasing, leasing, or renting the property
26 for the purpose of holding the property for lease

27 (1) is engaged in the business of leasing or selling property of the type
28 held;

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

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

3 (4) the subsequent lease or rental is subject to the tax imposed by
4 AS 43.44.010(a).

5 **Sec. 43.44.200. Exemption for insurance premiums subject to other taxes.**
6 Insurance premiums subject to tax under AS 21.09.210 are exempt from the sales tax
7 and use tax.

8 **Sec. 43.44.210. Exemption for certain intrastate transportation and**
9 **services in interstate commerce.** (a) The transport of property from one point within
10 this state to another point within this state is exempt from the sales tax and use tax if
11 the property, including any reasonably necessary services, is being transported in
12 interstate or foreign commerce.

13 (b) Handling, storage, drayage, or packing of property or another accessorial
14 service on property is exempt from the sales tax and use tax if the

15 (1) property has been or will be moved in interstate or foreign
16 commerce;

17 (2) services are performed by a local agent for a carrier or by a carrier.

18 **Sec. 43.44.220. Exemption for health care.** The following are exempt from
19 the sales tax and use tax:

20 (1) health care services provided by a person licensed or certified to
21 provide those services or a "health care facility" as that term is defined in
22 AS 08.68.395(g);

23 (2) drugs, durable medical equipment, mobility enhancing equipment,
24 and prosthetic devices obtained on prescription from a person licensed to prescribe
25 those goods or from a "health care facility" as that term is defined in AS 08.68.395(g).

26 **Sec. 43.44.230. Exemption for child care services.** Child care services are
27 exempt from the sales tax and use tax.

28 **Article 3. Collection and Payment Provisions.**

29 **Sec. 43.44.240. Tax credit for sales or use tax paid to another state.** A
30 buyer liable for use tax on tangible personal property or services is entitled to a full
31 credit for the amount of sales or use tax paid on the same tangible personal property or

1 same services to another state.

2 **Sec. 43.44.250. Exempt sales.** All exempt sales under AS 43.44.090 -
3 43.44.230 must be documented with an exemption certificate.

4 **Sec. 43.44.252. Exemption certificate: form.** (a) The department shall
5 provide for a uniform exemption certificate in a format that a person may use in hard
6 copy or electronic format. A purchaser shall use the certificate when purchasing goods
7 or services for resale or for other exempt transactions.

8 (b) The certificate must include the

9 (1) number of the seller's permit issued to the purchaser as provided in
10 AS 43.44.260 or the number of the direct pay permit issued to the purchaser as
11 provided in AS 43.44.255, as applicable;

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

14 (3) name and address of the purchaser; and

15 (4) signature or electronic signature of the purchaser.

16 **Sec. 43.44.254. Exemption certificate: requirements.** (a) An exemption
17 certificate executed by a purchaser or lessee must be in the possession of the seller or
18 lessor at the time that an exempt transaction occurs.

19 (b) An exemption certificate must contain the information and be in a format
20 prescribed by the department.

21 (c) If the seller or lessor accepts an exemption certificate and believes in good
22 faith that the purchaser or lessee will employ the property or service transferred in an
23 exempt manner, the properly executed exemption certificate is considered conclusive
24 evidence, as to the seller and lessor, that the sale is exempt.

25 **Sec. 43.44.255. Direct pay permit.** A direct pay permit authorizes its holder to
26 purchase tangible personal property and services without paying tax to the seller and
27 authorizes the seller to not collect any tax on a sale to the permit holder. A person who
28 purchases tangible personal property or services under a direct pay permit issued
29 under this section is liable for any sales and use tax due. The tax due must be paid by
30 the permit holder on a quarterly basis on a schedule established by the department. To
31 obtain a direct pay permit, a person must apply to the department and satisfy criteria

1 for direct pay permit holders established by the department by regulation.

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

4 (b) Upon an applicant's compliance with this chapter, the department shall
5 issue to the applicant a numbered seller's permit in a format that a person may use in
6 hard copy or electronic format. A permit is valid until revoked or suspended but is not
7 assignable. A permit is valid only for the person in whose name it is issued. A copy of
8 the permit must be conspicuously displayed at all times at the place for which it is
9 issued.

10 **Sec. 43.44.270. Permit application: requirements; place of business; form.**

11 (a) A person wishing to engage in business in this state shall file with the department
12 an application for a seller's permit. If the person has more than one location in which
13 the person maintains an office or other place of business, an application may include
14 multiple locations. A vending machine operator who has more than one vending
15 machine location is considered to have only one place of business for purposes of this
16 section. An applicant who does not maintain an office or other place of business and
17 who moves from place to place is considered to have only one place of business and
18 shall attach the permit to the applicant's cart, stand, truck, or other merchandising
19 device.

20 (b) Each application for a permit must be in a format prescribed by the
21 department and must set out the name under which the applicant intends to transact
22 business, the location of the applicant's place or places of business, and other
23 information that the department may require. The application must be filed by the
24 owner if the owner is a natural person, by a member or partner if the owner is an
25 association or partnership, or by a person authorized to sign the application if the
26 owner is a corporation.

27 **Sec. 43.44.280. Revocation or suspension of permit: hearing; notice;
28 appeal.** (a) Subject to the provisions of (b) of this section, the department may revoke
29 or suspend a permit held by a person who fails to comply with the provisions of this
30 chapter.

31 (b) A person aggrieved by the revocation or suspension of a permit under (a)

1 of this section may, not later than 60 days after department revokes or suspends a
2 permit, request an informal conference with an appeals officer. The aggrieved person
3 shall be given access to the person's file in the department in the matter for preparation
4 for the informal conference. At the informal conference, the person may present to the
5 appeals officer arguments and evidence relevant to the department's decision to revoke
6 or suspend the person's permit. The department shall give written notice of its
7 decision; this shall be the final administrative decision of the department. In its
8 decision, the department may uphold the revocation or suspension, or, subject to (c) of
9 this section, issue a new permit or reinstate a suspended permit.

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

16 (d) A person aggrieved by the department's final decision to revoke a permit
17 as provided in (a) of this section may appeal the decision to the office of
18 administrative hearings.

19 **Sec. 43.44.290. Improper use of subject of purchase obtained with**
20 **exemption certificate; penalty.** (a) If a purchaser who uses an exemption certificate
21 uses the subject of the purchase for a purpose other than one allowed as exempt under
22 this chapter, the sale is considered a taxable sale as of the time of first use by the
23 purchaser, and the sales price is the price that the purchaser paid. If the sole
24 nonexempt use is rental while holding for sale, the purchaser shall include in the sales
25 price the amount of the rental charged. Upon subsequent sale of the property, the seller
26 shall include the entire amount of the sales price, without deduction of amounts
27 previously received as rentals.

28 (b) A person who uses an exemption certificate for property that will be used
29 for purposes other than the purpose claimed is subject to a penalty, payable to the
30 department, of \$100 or 100 percent of the tax due, whichever is greater, for each
31 transaction in which an improper use of a certificate has occurred. The penalty is in

1 addition to tax, interest, or other penalties due.

2 **Sec. 43.44.300. Commingling exemption certificate property.** If a purchaser
3 uses an exemption certificate with respect to the purchase of fungible tangible
4 personal property and commingles the property with fungible property that was not
5 purchased with an exemption certificate but that is so similar that the identity of the
6 property in the commingled mass cannot be determined, sales from the mass of
7 commingled property are considered to be sales of the property purchased with the
8 certificate until the quantity of commingled property sold equals the quantity of
9 property originally purchased under the certificate.

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

13 (b) A retailer who does not maintain an office or other place of business in this
14 state is liable for the sales tax or use tax on all property sold or leased and services
15 provided in this state in accordance with this chapter and may be required to furnish
16 adequate security as provided in AS 43.44.370 to ensure collection and payment of the
17 taxes. When authorized and except as otherwise provided in this chapter, the retailer is
18 liable for the taxes on all property sold and services provided in this state in the same
19 manner as a retailer who maintains an office or other place of business in this state.
20 After notice and hearing, a seller's permit provided for in AS 43.44.260 may be
21 canceled at any time if the department considers the security inadequate.

22 (c) An agent, canvasser, or employee of a retailer doing business in this state
23 who does not possess a seller's permit issued by the department may not sell, solicit
24 orders for, or deliver property or services in Alaska. If an agent, canvasser, or
25 employee violates the provisions of this chapter, the person is subject to a penalty of
26 not more than \$100, or 100 percent of the tax due, whichever is greater, for each
27 separate transaction or event.

28 **Sec. 43.44.330. Method of accounting.** A person who has a seller's permit or
29 direct pay permit shall report and pay the sales and use tax using the same method of
30 accounting that the person uses for federal tax purposes.

31 **Sec. 43.44.340. Returns: payment; authority of department.** (a) A person

1 who has a tax liability under AS 43.44.010 shall file a return and pay the tax due
 2 monthly. The return shall be filed and the tax paid on or before the last day following
 3 the end of the month for which the tax is due. Each person engaged in business in this
 4 state or using property in this state that is subject to taxation under AS 43.44.010 shall
 5 file a return.

6 (b) For the purposes of the sales tax or use tax, a return must be filed by

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

8 (2) a person who

9 (A) purchases an item the storage, use, or other consumption of
 10 which is subject to the sales tax or use tax; and

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

12 **Sec. 43.44.345. Methods.** (a) The department shall adopt regulations providing
 13 for payment of the sales and use tax based on a rounding method.

14 (b) The department may use sampling principles or methods in lieu of 100
 15 percent examination of records in conducting a sales tax or use tax audit.

16 **Sec. 43.44.350. Deduction for bad debts.** (a) A person filing a return under
 17 AS 43.44.340 may deduct sales found to be worthless. The bad debt may be deducted
 18 when it

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

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

23 (b) If the amount of bad debt exceeds the amount of taxable sales during the
 24 period that the bad debt is written off, a person may file a refund claim with the
 25 department.

26 (c) If a bad debt deducted under (a) of this section is subsequently collected,
 27 the person who claimed the deduction shall pay the tax levied under AS 43.44.010 on
 28 the amount collected. For purposes of this subsection, any payments made on a debt or
 29 account are applied

30 (1) first to the taxable price of the property or service and the tax
 31 levied under AS 43.44.010 on the property or service, then

1 (2) to interest, service charges, and any other charges.

2 **Sec. 43.44.360. Timely filing allowance.** (a) A person filing a return under
3 AS 43.44.340 may claim an allowance in the amount of one percent of the tax
4 determined to be payable to the state or \$75 a month, whichever is less, if the return is
5 timely filed and the tax is timely paid.

6 (b) The allowance may be deducted on the return. The allowance may not be
7 greater than the tax determined to be payable to the state.

8 **Sec. 43.44.370. Security: limitations; sale of security deposit at auction;
9 bond.** (a) The department may require a retailer to deposit with the department
10 security in a form and amount that the department determines is appropriate. The
11 deposit may not be more than twice the estimated average liability for the period for
12 which the return is required to be filed or \$10,000, whichever is less. The amount of
13 security may be increased or decreased by the department, subject to the limitations
14 provided in this section.

15 (b) In addition to remedies under AS 43.10, the department may sell at public
16 auction property deposited as security to recover a sales tax or use tax amount required
17 to be collected, including interest and penalties. Notice of the sale must be given not
18 later than 30 days before a sale and must be served personally on or sent by certified
19 mail to the last known address of the person who deposited the security. After the sale,
20 any surplus above the amount due that is not required as security under this section
21 must be returned to the person who deposited the security.

22 (c) In lieu of security, the department may require a retailer to file a bond
23 issued by a surety company authorized to transact business in this state to guarantee
24 solvency and responsibility.

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

29 **Sec. 43.44.380. Taxpayer quitting business; liability of successor.** (a) All
30 taxes payable under this chapter are due and payable immediately whenever a
31 taxpayer quits business, sells, exchanges, or otherwise disposes of the business or

1 disposes of the stock of goods. The taxpayer shall make a return and pay the taxes due
2 within 10 days after the taxpayer quits business, sells, exchanges, or otherwise
3 disposes of the business or disposes of the stock of goods.

4 (b) Except as provided in (d) of this section, a person who becomes a
5 successor in the taxpayer's business or stock of goods is liable for the full amount of
6 the tax and shall withhold from the sales price payable to the taxpayer a sum sufficient
7 to pay any tax due until the taxpayer produces either a receipt from the department
8 showing payment in full of any tax due or a statement from the department that tax is
9 not due.

10 (c) If a tax is due but has not been paid as provided in (a) of this section, the
11 successor is liable for the payment of the full amount of tax. The payment of the tax
12 by the successor is considered to be a payment on the sales price and, if the payment is
13 greater in amount than the sales price, the amount of the difference becomes a debt
14 due to the successor from the taxpayer owing the tax under (a) of this section.

15 (d) A successor is not liable for any tax due from the person from whom the
16 successor acquired a business or stock of goods if (1) the successor gives written
17 notice to the department of the acquisition; and (2) an assessment is not issued by the
18 department against the former operator of the business within six months after receipt
19 of the notice from the successor. If an assessment is issued by the department and a
20 copy of the assessment is not mailed to the successor, the successor is not liable for the
21 tax due.

22 **Sec. 43.44.390. Tax as debt.** (a) The tax imposed by this chapter and related
23 interest and penalties become a personal debt of the person required to file a return
24 from the time the liability arises, regardless of when the time for payment of the
25 liability occurs.

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

30 (c) This section applies to corporate officers, directors, or shareholders
31 required by the department to personally guarantee the payment of the taxes for their

1 corporation. The officer or employee of a corporation whose duty it is to collect,
 2 truthfully account for, and pay to the state the taxes imposed by this chapter and who
 3 fails to pay the taxes is liable to the state for the taxes imposed by this chapter and the
 4 penalty and interest due on the taxes.

5 **Sec. 43.44.400. Refunds and credits.** The department may credit or refund
 6 overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties
 7 collected without authority, and taxes that are found unjustly assessed or excessive in
 8 amount, or otherwise wrongfully collected. The department shall set limitations,
 9 specify the manner in which claims for credits or refunds are made, and give notice of
 10 allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid out
 11 of the general fund on a warrant issued under a voucher approved by the department.

12 **Article 4. General Provisions.**

13 **Sec. 43.44.450. Electronic registration, filing, and forms.** (a) The
 14 department may participate in any electronic sales and use tax registration system
 15 made available in cooperation with other states through the Streamlined Sales and Use
 16 Tax Agreement.

17 (b) The department may use and accept a standard electronic exemption form
 18 made available in cooperation with other states through the Streamlined Sales and Use
 19 Tax Agreement.

20 (c) The department may prescribe and provide for use of forms, certificates,
 21 permits, and other documents required under this chapter in electronic format,
 22 including the use of electronic signatures and authentications.

23 **Sec. 43.44.460. Field offices.** The department may contract with a
 24 municipality that, on the effective date of this section, levies a sales and use tax to
 25 provide a field office for that municipality's geographical area of the state.

26 **Sec. 43.44.500. Definitions.** In this chapter,

27 (1) "consideration" means a valuable inducement and includes, without
 28 limitation, money, property, and services;

29 (2) "electronic signature" has the meaning given in AS 09.25.520(a);

30 (3) "engaging in business" means carrying on or causing to be carried
 31 on any activity with the purpose of direct or indirect benefit;

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

6 (A) means a transfer of possession or control of tangible
7 personal property for a fixed or indeterminate term for consideration; a lease or
8 rental may include future options to purchase or extend;

9 (B) does not include

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

13 (ii) a transfer of possession or control of property under
14 an agreement that requires the transfer of title upon completion of
15 required payments if payment of an option price does not exceed the
16 greater of one hundred dollars or one percent of the total required
17 payments; or

18 (iii) providing tangible personal property along with an
19 operator for a fixed or indeterminate period of time; a condition of this
20 exclusion is that the operator is necessary for the equipment to perform
21 as designed; for the purpose of this sub-subparagraph, an operator must
22 do more than maintain, inspect, or set up the tangible personal property;

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

27 (5) "maintain an office or other place of business" means

28 (A) a person's having or maintaining in this state, directly or by
29 an affiliate, an office, distribution house, sales house, warehouse, or place of
30 business; or

31 (B) an agent's operating within this state under the authority of

1 the person or its affiliate, whether the place of business or agent is located in
2 the state permanently or temporarily or whether the person or affiliate is
3 authorized to do business in the state;

4 (6) "manufacturing" means combining or processing components or
5 materials, including the processing of ores in a mill, smelter, refinery, or reduction
6 facility, to increase the value of the components or materials for sale in the ordinary
7 course of business; "manufacturing" does not include construction;

8 (7) "permit" or "seller's permit" means a seller's permit as described in
9 AS 43.44.260;

10 (8) "person" means an individual, estate, trust, receiver, cooperative
11 association, club, corporation, company, firm, partnership, joint venture, syndicate, or
12 other entity, including a gas, water, or electric utility owned or operated by a borough,
13 municipality, or other political subdivision of the state;

14 (9) "purchase price" means "sales price" and applies to the measure
15 subject to use tax;

16 (10) "sale," "selling," or "purchasing" means the transfer of title or
17 possession, or both, of property, or a leasehold in property for consideration or the
18 performance of a service for consideration;

19 (11) "sales price"

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

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

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

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

30 (iv) delivery charges;

31 (v) installation charges;

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

5 (B) does not include

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

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

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

16 (12) "sales tax" and "use tax" means the applicable tax imposed by
17 AS 43.44.010;

18 (13) "service" means an activity that is engaged in for another person
19 for consideration and that is distinguished from the sale or lease of property; in
20 determining what a service is, the intended use, principal objective, or ultimate
21 objective of the contracting parties is irrelevant; "service" includes

22 (A) activities performed by a person for its members or
23 shareholders;

24 (B) construction activities and all tangible personal property
25 that will become an ingredient or component part of a construction project; and

26 (C) labor; professional services; transportation; telephone or
27 other communications service; entertainment, including cable, subscription, or
28 pay television or other telecommunications service; the supplying of food,
29 lodging, or other accommodations in hotels, restaurants, or elsewhere;
30 admission to exhibitions; the use of a computer, computer time, a computer
31 system, a computer program, a computer network, or any part of a computer

1 system or network; and the supplying of equipment for use;

2 (D) admission to places of entertainment;

3 (14) "tangible personal property" means personal property that can be
4 seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to
5 the senses; "tangible personal property" includes electricity, water, gas, steam, and
6 prewritten computer software;

7 (15) "tax" means the tax levied by AS 43.44.010;

8 (16) "unincorporated community" means a place that is not
9 incorporated as a city and in which 25 or more persons reside as a social unit;

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

12 * **Sec. 16.** AS 44.64.030(a) is amended by adding a new paragraph to read:

13 (51) AS 43.44 (sales and use tax).

14 * **Sec. 17.** Section 4, ch. 100, SLA 2002, as amended by sec. 9, ch. 117, SLA 2003, and sec.
15 2, ch. 30, SLA 2005, is repealed and reenacted to read:

16 Sec. 4. AS 29.45.650(a) is amended to read:

17 (a) Except as provided in AS 04.21.010(c) [AND AS 29.45.750], a borough
18 may levy a general sales tax on the sale and rental of tangible or intangible property
19 and on services provided in the borough.

20 * **Sec. 18.** AS 29.05.210(b)(1) is repealed December 31, 2021.

21 * **Sec. 19.** AS 29.35.170(c) is repealed January 1, 2022.

22 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **AUTHORITY TO ENTER STREAMLINED SALES AND USE TAX**
25 **AGREEMENT.** (a) The Department of Revenue is authorized to enter into the Streamlined
26 Sales and Use Tax Agreement, approved by the Streamlined Sales Tax Governing Board, Inc.,
27 with one or more states to simplify and modernize sales and use tax administration in order to
28 substantially reduce the burden of tax compliance for all sellers and for all types of
29 commerce. In furtherance of the Streamlined Sales and Use Tax Agreement, the department is
30 authorized to act jointly with other states that are members of the Streamlined Sales and Use
31 Tax Agreement to establish standards for certification of a certified service provider and

1 certified automated system and establish performance standards for multistate sellers.

2 (b) The department shall adopt regulations implementing sec. 15 of this Act
3 consistent with the Streamlined Sales and Use Tax Agreement.

4 (c) The department is authorized to take other actions reasonably required to
5 implement the provisions set out in this section. Other actions authorized by this section
6 include the joint procurement, with other member states, of goods and services in furtherance
7 of the cooperative agreement.

8 (d) The department or the department's designee is authorized to represent this state
9 before the other states that are signatories to the Streamlined Sales and Use Tax Agreement.

10 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 **TRANSITIONAL PROVISIONS.** (a) The Department of Revenue may proceed to
13 adopt regulations necessary to implement this Act. The regulations take effect under AS 44.62
14 (Administrative Procedure Act), but not before the effective date of the provision being
15 implemented.

16 (b) Notwithstanding AS 29.45.650(c), as amended by sec. 8 of this Act, a
17 municipality that imposes a general sales and use tax is not required to conform its tax base,
18 including exemptions, definitions, and sourcing rules, to AS 43.44 until January 1, 2020.

19 (c) Notwithstanding any other provision of state law, actions taken by the Department
20 of Revenue and any other department, division, or office in the executive branch of state
21 government before July 1, 2018, to implement the provisions of this Act are exempt from the
22 requirements of AS 36.30 (State Procurement Code).

23 (d) Before the first day of the Second Session of the Thirtieth Alaska State
24 Legislature, the department shall provide a written report to the legislature and the office of
25 management and budget describing

26 (1) regulations adopted by the department to implement the sales tax and use
27 tax;

28 (2) issues that need to be addressed through legislation in order for the sales
29 tax and use tax to be effective; and

30 (3) an estimate of the amount of revenue attributable to the sales tax and use
31 tax.

1 (e) Services under a contract executed and paid in full before the effective date of sec.
2 15 of this Act and performed within 12 months after the effective date of sec. 15 of this Act
3 are exempt from the sales tax and use tax.

4 (f) A person may apply for, and the Department of Revenue may issue, a sellers
5 permit under AS 43.44.260 before the effective date of sec. 15 of this Act to be effective on or
6 after the effective date of sec. 15 of this Act.

7 * **Sec. 22.** Section 21 of this Act takes effect immediately under AS 01.10.070(c).

8 * **Sec. 23.** Except as provided in sec. 22 of this Act, this Act takes effect January 1, 2018.