

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 542 Session of 2017

INTRODUCED BY THOMAS AND D. COSTA, FEBRUARY 17, 2017

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 25, 2017

AN ACT

1 ~~Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An~~ <--
2 ~~act relating to tax reform and State taxation by codifying~~
3 ~~and enumerating certain subjects of taxation and imposing~~
4 ~~taxes thereon; providing procedures for the payment,~~
5 ~~collection, administration and enforcement thereof; providing~~
6 ~~for tax credits in certain cases; conferring powers and~~
7 ~~imposing duties upon the Department of Revenue, certain~~
8 ~~employers, fiduciaries, individuals, persons, corporations~~
9 ~~and other entities; prescribing crimes, offenses and~~
10 ~~penalties," in sales and use tax, providing for remote sales~~
11 ~~tax notice.~~

12 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <--
13 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING
14 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING
15 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,
16 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING
17 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND
18 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
19 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS
20 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND
21 PENALTIES," IN TAX FOR EDUCATION, FURTHER PROVIDING FOR
22 DEFINITIONS AND PROVIDING FOR NOTICE REQUIREMENTS FOR REMOTE
23 SELLERS.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 ~~Section 1. The act of March 4, 1971 (P.L.6, No.2), known as~~ <--
27 ~~the Tax Reform Code of 1971, is amended by adding a section to~~
28 ~~read:~~

~~1 Section 279. Remote Sales Tax Notice. (a) A seller in this
2 Commonwealth or remote seller shall conspicuously provide the
3 following notice to a purchaser in this Commonwealth upon each
4 separate sale at retail of tangible personal property or
5 services via an Internet website operated by the seller or
6 remote seller:~~

~~7 "Unless you paid Pennsylvania sales tax on this purchase,
8 you may owe a Pennsylvania use tax on this purchase based
9 on the total sales price of the purchase in accordance
10 with the act of March 4, 1971 (P.L.6, No.2), known as the
11 Tax Reform Code of 1971. Visit www.revenue.state.pa.us
12 for more information. If you owe a Pennsylvania use tax
13 on this purchase, you must report and remit the tax on
14 your Pennsylvania income tax form."~~

~~15 (b) The department shall impose a fine of not less than five
16 dollars (\$5) on a seller or remote seller for each sale in which
17 the seller or remote seller is in violation of this section.~~

~~18 (c) This section shall apply to sales made on or after the
19 effective date of this section.~~

20 SECTION 1. SECTION 201 OF THE ACT OF MARCH 4, 1971 (P.L.6, <--
21 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS AMENDED BY
22 ADDING A CLAUSE TO READ:

23 SECTION 201. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
24 PHRASES WHEN USED IN THIS ARTICLE II SHALL HAVE THE MEANING
25 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
26 CLEARLY INDICATES A DIFFERENT MEANING:

27 * * *

28 (EEE) "REMOTE SELLER." A VENDOR LOCATED OUTSIDE THIS
29 COMMONWEALTH THAT SELLS TANGIBLE PERSONAL PROPERTY OR SERVICES
30 THAT ARE NOT EXEMPT FROM THE TAX IMPOSED UNDER THIS ARTICLE TO A

1 PURCHASER IN THIS COMMONWEALTH BUT DOES NOT COLLECT THE TAX.

2 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

3 SECTION 248.7. NOTICE REQUIREMENTS FOR REMOTE SELLERS.-- (A)

4 A REMOTE SELLER MAKING A SALE IN THIS COMMONWEALTH SHALL NOTIFY

5 THE PURCHASER THAT SALES OR USE TAX IS DUE ON THE NONEXEMPT

6 PURCHASE AND THAT THE COMMONWEALTH REQUIRES THE PURCHASER TO PAY

7 THE TAX DUE ON THE PURCHASER'S TAX RETURN. FAILURE TO PROVIDE

8 THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL SUBJECT THE

9 REMOTE SELLER TO A PENALTY OF FIVE DOLLARS (\$5.00) FOR EACH

10 FAILURE, UNLESS THE REMOTE SELLER SHOWS REASONABLE CAUSE FOR THE

11 FAILURE.

12 (B) ON OR BEFORE JANUARY 31 OF EACH YEAR, A REMOTE SELLER

13 SHALL SEND NOTICE TO EACH PURCHASER IN THIS COMMONWEALTH WHO

14 MADE FIVE HUNDRED DOLLARS (\$500.00) OR MORE OF PURCHASES FROM

15 THE REMOTE SELLER IN THE PREVIOUS CALENDAR YEAR. THE NOTICE

16 SHALL INCLUDE ALL OF THE FOLLOWING:

17 (1) THE TOTAL AMOUNT PAID BY THE PURCHASER FOR PURCHASES

18 MADE FROM THE REMOTE SELLER IN THE PREVIOUS CALENDAR YEAR.

19 (2) A STATEMENT THAT THE COMMONWEALTH REQUIRES A SALES OR

20 USE TAX RETURN TO BE FILED AND SALES OR USE TAX TO BE PAID ON

21 NONEXEMPT PURCHASES MADE BY THE PURCHASER FROM THE REMOTE

22 SELLER.

23 (3) ANY INFORMATION REQUIRED BY THE DEPARTMENT BY RULE.

24 THE NOTICE SHALL BE SENT SEPARATELY BY FIRST-CLASS MAIL OR

25 ELECTRONIC MAIL AND MAY NOT BE INCLUDED WITH ANY OTHER

26 SHIPMENTS. THE NOTICE SHALL INCLUDE THE NAME OF THE REMOTE

27 SELLER AND THE WORDS "IMPORTANT TAX DOCUMENT ENCLOSED" ON THE

28 EXTERIOR OF THE MAILING. FAILURE TO SEND THE NOTICE REQUIRED

29 UNDER THIS SUBSECTION SHALL SUBJECT THE REMOTE SELLER TO A

30 PENALTY OF TEN DOLLARS (\$10.00) FOR EACH FAILURE, UNLESS THE

1 REMOTE SELLER SHOWS REASONABLE CAUSE FOR THE FAILURE.

2 (C) THE DEPARTMENT IS AUTHORIZED TO ADOPT RULES AND

3 PROCEDURES AND CREATE FORMS NECESSARY TO IMPLEMENT THIS SECTION.

4 Section 2 3. This act shall take effect in 60 days.

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