SB130

189468-1

By Senator Pittman

RFD: Finance and Taxation General Fund

First Read: 09-JAN-18
SYNOPSIS: Under current law, the Simplified Sellers Use Tax Program allows an eligible seller to voluntarily participate in the program and collect and remit simplified sellers use tax. However, an eligible seller who subsequently acquires an affiliate with a sales and use tax filing obligation is no longer allowed to participate in the program.

This bill would eliminate the affiliate restriction and allow eligible sellers with such an affiliate to participate in the program. The bill also clarifies certain sales of tangible personal property cannot be reported under the program and are subject to sales tax.
To amend Section 40-23-191 and 40-23-193, Code of Alabama 1975, relating to simplified sellers use tax; to eliminate the affiliate restriction on eligible sellers; to clarify certain sales of tangible personal property cannot be reported under the program and are subject to sales tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-23-191 and 40-23-193, Code of Alabama 1975, are amended to read as follows:

"§40-23-191.

(a) This part shall be titled The Simplified Seller Use Tax Remittance Act.

(b) For the purpose of this part, the following terms shall have the respective meanings ascribed to them in this section:

(1) DEPARTMENT. The Alabama Department of Revenue.

(2) ELIGIBLE SELLER. A seller making sales of any tangible personal property that is not removed from a retail location in this state nor is delivered from or at a retail location in this state. An individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or other legal entity that sells tangible personal property or a service, but does not have a physical presence in this state or is not otherwise required to collect and remit state and local sales or use tax for sales delivered into the state. The seller shall remain eligible for participation in the Simplified Use Tax Remittance Program unless the seller establishes a presence
through a physical business address for the purpose of making
instate retail sales within the State of Alabama or becomes
otherwise required to collect and remit sales or use tax
pursuant to Section 40-23-190 through an affiliate making
retail sales at a physical business address in Alabama.

"(3) LOCALITY. A county, municipality, or other
local governmental taxing authority which levies a local sales
and/or use tax.

"(4) SELLER. An individual, trust, estate,

fiduciary, partnership, limited liability company, limited
liability partnership, corporation, or other legal entity.

"+(4) (5) SIMPLIFIED SELLERS USE TAX. The eight
percent tax to be collected, reported, and remitted by
eligible sellers who are participating in the program pursuant
to requirements and procedures established pursuant to this
part.

"+(5) (6) SIMPLIFIED USE TAX REMITTANCE PROGRAM or
PROGRAM. The program established in this part to provide a
mechanism for eligible sellers to collect, report, and remit
the simplified sellers use tax established pursuant to this
part. The program may not be used to report sales tax
obligations subject to the sales tax imposed by Chapter 23 of
Title 40, Code of Alabama 1975, or any local law or municipal
ordinance or any county ordinance enacted pursuant to Section
40-12-4 imposing a sales tax, for those sales which are sold
or removed from or at a retail location in this state or
delivered at a retail location in this state.
"(6) (7) STATE. The State of Alabama."

"§40-23-193.

"(a) The simplified sellers use tax due under the program is eight percent of the sales price on any tangible personal property sold or delivered into Alabama by an eligible seller participating in the program. The collection and remittance of simplified sellers use tax relieves the eligible seller and the purchaser from any additional state or local sales and use taxes on the transaction. State and local sales and use taxes shall be due on the sale of tangible personal property sold or removed from a retail location in this state or is delivered from or at a retail location in this state and shall not be collected and remitted under the program.

"(b) The simplified sellers use tax collected by the eligible seller, at the rate of eight percent, shall be electronically reported in the manner prescribed by the department on or before the 20th day of the month next succeeding the month in which the tax accrues. The eligible seller shall remit the tax at the required rate or the amount of the tax collected, whichever is greater. The required monthly reporting from the eligible seller shall only include statewide totals of the simplified sellers use taxes collected and remitted, and shall not require information related to the location of purchasers or amount of sales into a specific locality. The department may not require an eligible seller to
report and remit the simplified sellers use tax more
frequently than is required for other sellers.

"(c) No eligible seller shall be required to collect
the tax at a rate greater than eight percent, regardless of
the combined actual tax rates that may otherwise be
applicable. Additionally, no sales for which the simplified
sellers use tax is collected shall be subject to any
additional sales or use tax from any locality levying a sales
or use tax with respect to the purchase or use of the
property, regardless of the actual tax rate that might have
otherwise been applicable.

"(d) The participating eligible seller shall collect
the tax on all purchases delivered into Alabama unless the
purchaser furnishes the eligible seller with a valid exemption
certificate, sales tax license, or direct pay permit issued by
the department. The eligible seller shall retain all exemption
certificates, sales tax licenses, or direct pay permits in its
files, or in such other manner as directed by the department.

"(e) The eligible seller shall provide the purchaser
with a statement or invoice showing that the simplified
sellers use tax was collected and is to be remitted on the
purchaser’s behalf. The statement shall be in a manner
prescribed by the department."

Section 2. This act shall become effective
immediately following its passage and approval by the
Governor, or upon its otherwise becoming law.