

AMENDMENTS TO LB44

Introduced by Watermeier, 1.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 6 of this act shall be known and may be
4 cited as the Remote Seller Sales Tax Collection Act.

5 Sec. 2. The Legislature finds that:

6 (1) The inability to effectively collect the sales or use tax from
7 remote sellers who deliver tangible personal property, products delivered
8 electronically, or services directly into Nebraska is seriously eroding
9 Nebraska's sales tax base, causing revenue losses and imminent harm to
10 the state through the loss of critical funding for state and local
11 services;

12 (2) The structural advantages of remote sellers, including the
13 absence of point-of-sale tax collection, along with the general growth of
14 online retail, make clear that further erosion of Nebraska's sales tax
15 base is likely in the near future;

16 (3) In contrast with the expanding harms caused to Nebraska from the
17 lack of sales tax collection by remote sellers, the costs of that
18 collection have fallen. Given modern computing and software options, it
19 is neither unusually difficult nor burdensome for remote sellers to
20 collect and remit sales taxes associated with sales into Nebraska; and

21 (4) It is necessary for Nebraska to pass the Remote Seller Sales Tax
22 Collection Act to clarify the obligations of remote sellers with respect
23 to sales made into Nebraska.

24 Sec. 3. For purposes of the Remote Seller Sales Tax Collection Act:

25 (1) Delivered electronically has the same meaning as in section
26 77-2701.49;

27 (2) Department means the Department of Revenue;

1 (3) Remote seller means any person who does not have a physical
2 presence in this state and who meets either of the following criteria in
3 the previous or current calendar year:

4 (a) The person's gross revenue from the sale of tangible personal
5 property, products delivered electronically, and services delivered into
6 Nebraska exceeds one hundred thousand dollars; or

7 (b) The person sold tangible personal property, products delivered
8 electronically, or services for delivery into Nebraska in two hundred or
9 more separate transactions;

10 (4) Service means a service described in subsection (4) of section
11 77-2701.16; and

12 (5) Tangible personal property has the same meaning as in section
13 77-2701.39.

14 Sec. 4. (1) Notwithstanding any other provision of law, a remote
15 seller may voluntarily choose to (a) be subject to the Nebraska Revenue
16 Act of 1967, the Local Option Revenue Act, and sections 13-319 and
17 13-2813, (b) remit the sales tax due under such acts and sections, and
18 (c) follow all applicable procedures and requirements of law as if the
19 remote seller had a physical presence in this state.

20 (2) No remote seller who remits sales tax under this section shall
21 be liable to a purchaser who claims that the sales tax has been
22 overcollected because this section is later deemed unlawful.

23 (3) Nothing in this section affects the obligation of any purchaser
24 from this state to remit use tax as to any applicable transaction in
25 which the remote seller does not collect and remit an offsetting sales
26 tax.

27 Sec. 5. If a remote seller does not voluntarily choose to comply
28 with subdivisions (1)(a), (b), and (c) of section 4 of this act, such
29 remote seller shall:

30 (1) Notify Nebraska purchasers that sales or use tax is due on
31 certain purchases made from the remote seller and that the State of

1 Nebraska requires the purchaser to file a sales or use tax return.
2 Failure to provide the notice required in this subdivision shall subject
3 the remote seller to a penalty of five dollars for each such failure
4 unless the remote seller shows reasonable cause for such failure;

5 (2) Send notification to all Nebraska purchasers by January 31 of
6 each year showing the total amount paid by the purchaser for Nebraska
7 purchases made from the remote seller in the previous calendar year and
8 such other information as the department shall require by rule and
9 regulation. Such notification shall include, if available, the dates of
10 purchases, the amounts of each purchase, and the category of the
11 purchase, including, if known by the remote seller, whether the purchase
12 is exempt or not exempt from taxation. The notification shall state that
13 the State of Nebraska requires a sales or use tax return to be filed and
14 sales or use tax to be paid on certain Nebraska purchases made by the
15 purchaser from the remote seller. The notification shall be sent
16 separately to all Nebraska purchasers by first-class mail and shall not
17 be included with any other shipments. The notification shall include the
18 words "Important Tax Document Enclosed" on the exterior of the mailing.
19 The notification shall include the name of the remote seller. Failure to
20 send the notification required in this subdivision shall subject the
21 remote seller to a penalty of ten dollars for each such failure unless
22 the remote seller shows reasonable cause for such failure; and

23 (3) File an annual statement for each purchaser with the department
24 on such forms as are provided or approved by the department showing the
25 total amount paid for Nebraska purchases by such purchasers during the
26 preceding calendar year or any portion thereof, and such annual statement
27 shall be filed on or before March 1 of each year. The department may
28 require any remote seller that makes total Nebraska sales of more than
29 one hundred thousand dollars in a year to file the annual statement
30 described in this subdivision electronically for that year. Failure to
31 file the annual statement required in this subdivision shall subject the

1 remote seller to a penalty of ten dollars for each purchaser that should
2 have been included in such annual statement unless the remote seller
3 shows reasonable cause for such failure.

4 Sec. 6. The department may adopt and promulgate rules and
5 regulations to carry out the Remote Seller Sales Tax Collection Act.

6 Sec. 7. If any section in this act or any part of any section is
7 declared invalid or unconstitutional, the declaration shall not affect
8 the validity or constitutionality of the remaining portions.

9 Sec. 8. Since an emergency exists, this act takes effect when
10 passed and approved according to law.