

DRAFT

SUMMARY

Imposes sales and use taxes on sales of works of art, collectible objects and furniture having sales prices of \$100,000 or more. Provides that sales and use taxes are liability of purchaser, though seller may be required to collect taxes. Directs Department of Revenue to adopt rules for computing, reporting, collecting and refunding taxes.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to taxation of sales of certain high-value property; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 10 of this 2017 Act, “taxable property” means any work of art, collectible object or furniture having an individual sales price of \$100,000 or more.

SECTION 2. (1) A sales tax is imposed on the sale in this state of taxable property.

(2) The sales tax shall be computed at the rate of 2.5 percent of the sales price of the taxable property, exclusive of the amount of the sales tax.

(3) The sales tax is a liability of the purchaser of the taxable property.

(4) A seller shall collect the amount of the sales tax at the time of the taxable sale.

SECTION 3. (1) A use tax is imposed on the storage, use or other

1 consumption in this state of taxable property purchased from any
2 seller.

3 (2) The use tax shall be computed at the rate of 2.5 percent of the
4 sales price of the taxable property, exclusive of the amount of the use
5 tax.

6 (3) The use tax is a liability of the purchaser of the taxable prop-
7 erty.

8 (4) The use tax shall be reduced, but not below zero, by the amount
9 of sales or use tax imposed by any jurisdiction on the sale, or the
10 storage, use or other consumption, of the taxable property. The re-
11 duction under this subsection shall be made only upon a showing by
12 the purchaser that the sales or use tax has been paid.

13 (5) A purchaser's liability for the use tax is satisfied by a valid re-
14 ceipt given to the purchaser pursuant to section 5 of this 2017 Act by
15 the seller of the taxable property.

16 SECTION 4. Notwithstanding section 5 of this 2017 Act, a resale
17 certificate taken from a purchaser ordinarily engaged in the business
18 of selling taxable property relieves the seller from the obligation to
19 collect and remit the sales or use tax. A resale certificate must be
20 substantially in the form prescribed by the Department of Revenue by
21 rule.

22 SECTION 5. (1) A seller shall collect the use tax from a purchaser
23 of taxable property and give the purchaser a receipt for the tax in the
24 manner and form prescribed by the Department of Revenue if:

25 (a) The seller is:

26 (A) Engaged in business in this state;

27 (B) Required to collect the use tax; or

28 (C) Authorized by the department, pursuant to such rules as the
29 department adopts, to collect the tax and that, for purposes of the use
30 tax, is regarded as a seller engaged in business in this state; and

31 (b) The seller makes sales of taxable property for storage, use or

1 other consumption in this state that are subject to the use tax imposed
2 by section 3 of this 2017 Act.

3 (2) A seller required to collect the use tax under this section shall
4 collect the tax:

5 (a) At the time of the taxable sale; or

6 (b) If the storage, use or other consumption of the taxable property
7 is not taxable at the time of sale, at the time the storage, use or other
8 consumption becomes taxable.

9 (3) To ensure the proper administration of section 3 of this 2017 Act,
10 and to prevent evasion of the use tax, the following presumptions are
11 established:

12 (a) Taxable property is stored, used or otherwise consumed in this
13 state if it is present in this state for private or public display or stor-
14 age.

15 (b)(A) Taxable property sold by any seller for delivery in this state
16 was sold for storage, use or other consumption in this state unless the
17 contrary is proved.

18 (B) The burden of proving the contrary is on the seller unless the
19 seller takes from the purchaser a resale certificate to the effect that
20 the taxable property was purchased for resale in the ordinary course
21 of the purchaser's business.

22 (c)(A) Taxable property delivered outside this state to a purchaser
23 known by the seller to be a resident of this state was purchased from
24 the seller for storage, use or other consumption in this state and
25 stored, used or otherwise consumed in this state unless the contrary
26 is proved.

27 (B) The contrary may be proved by:

28 (i) A statement in writing, signed by the purchaser or an authorized
29 agent of the purchaser and retained by the seller, that the taxable
30 property was purchased for storage, use or other consumption exclu-
31 sively at a designated point or points outside this state; or

(ii) Other evidence satisfactory to the Department of Revenue that the taxable property was not purchased for storage, use or other consumption in this state.

SECTION 6. (1) Notwithstanding the fact that the sales and use taxes imposed under sections 2 and 3 of this 2017 Act are liabilities of the purchaser of taxable property, the sales and use taxes required to be collected under sections 2 and 5 of this 2017 Act, respectively, constitute a debt owed by the seller to this state.

(2) Each seller that collects sales or use taxes:

(a) May withhold a collection reimbursement charge of five percent of the amount of tax collected under sections 2 and 5 of this 2017 Act.

(b) Shall keep records, render statements and comply with rules adopted by the Department of Revenue governing the computation and collection of the sales and use taxes.

(c) Is deemed to hold the amount of taxes collected in trust for the State of Oregon and for payment to the department in the manner and at the time provided by the department by rule.

(3) At any time a seller required to collect the sales or use tax under section 2 or 5 of this 2017 Act fails to remit any amount of sales or use tax deemed to be held in trust for the State of Oregon, the department may enforce collection by issuing a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued on the delinquent amount. The warrant shall be issued, docketed and proceeded upon in the same manner and shall have the same force and effect as warrants for the collection of delinquent income taxes.

SECTION 7. If the amount of the sales or use tax imposed under section 2 or 3 of this 2017 Act that is paid by a seller or purchaser exceeds the amount of tax due, the Department of Revenue shall refund the amount of the excess with interest at the rate established under ORS 305.220 for each month or fraction of a month from the date of

1 payment of the excess until the date of the refund. A refund may not
2 be made to a seller or purchaser that fails to claim the refund within
3 two years after the due date for filing the return to which the claim
4 for refund relates.

5 SECTION 8. (1) The Department of Revenue shall deposit all sales
6 and use tax revenue collected pursuant to sections 2 and 5 of this 2017
7 Act in a suspense account established pursuant to ORS 293.445 for the
8 purposes of receiving sales and use tax revenue.

9 (2) After payment of refunds under section 7 of this 2017 Act, mon-
10 eys shall be transferred from the suspense account described in sub-
11 section (1) of this section to the General Fund.

12 SECTION 9. The Department of Revenue shall adopt rules govern-
13 ing the computation and timely reporting, collecting and refunding of
14 the sales and use taxes imposed under sections 2 and 3 of this 2017 Act.

15 SECTION 10. A unit of local government may not impose a sales
16 or use tax on sales of taxable property that is not approved by the
17 governing body of the local government on or before the effective date
18 of this 2017 Act.

19 SECTION 11. Sections 1 to 10 of this 2017 Act apply to sales of tax-
20 able property as defined in section 1 of this 2017 Act that become final,
21 and the storage, use or other consumption in this state of taxable
22 property that becomes taxable, on or after the effective date of this
23 2017 Act.

24 SECTION 12. This 2017 Act takes effect on the 91st day after the
25 date on which the 2017 regular session of the Seventy-ninth Legislative
26 Assembly adjourns sine die.