



1 tion to collect such a tax imposed on a purchaser, with  
2 respect to a remote sale of a product or service only if—

3 (1) the State is the origin State for the remote  
4 sale;

5 (2) the tax is applied using the origin State's  
6 tax base applicable to non-remote sales; and

7 (3) the State participates in the State tax clear-  
8 inghouse.

9 (b) **RATE OF TAX.**—The tax imposed by a State pur-  
10 suant to subsection (a) on a remote sale shall be applied  
11 at the destination rate, unless the destination State does  
12 not participate in the clearinghouse, in which case the sell-  
13 er shall apply the tax at the origin rate. øPlaceholder for  
14 language from separate clothing exemption document po-  
15 tentially to be added for final agreement only. ç

16 (c) **PRIVACY PROTECTION.**—Except as provided in  
17 section 4, a seller who makes a remote sale shall not be  
18 required to report information pertaining to that sale to  
19 a State other than the origin State. The information re-  
20 ported by the origin State to any entity other than a des-  
21 tination State and related to a compliance certificate in  
22 the course of an audit of a remote seller shall be limited  
23 to the amount of the sales, use or similar tax paid and  
24 the destination State.

1           (d) **PRESERVATION OF STATE SOVEREIGNTY IN EN-**  
2 **FORCEMENT.**—A State may conduct an audit of a seller  
3 with respect to sales, use or similar tax on remote sales  
4 only if the State is the origin State with regard to that  
5 remote sale.

6           (e) **PREVENTION OF DOUBLE TAXATION.**—A State  
7 that participates in the clearinghouse may not impose any  
8 sales, use, or similar tax on a purchaser with respect to  
9 a purchase from a remote seller, unless that State allows  
10 such purchaser a credit for any sales, use, or similar tax  
11 that was paid by the remote seller with respect to the pur-  
12 chase.

13 **SEC. 3. DISTRIBUTION OF TAX REVENUE AMONG THE**  
14 **STATES.**

15           (a) **IN GENERAL.**—The State tax clearinghouse, to  
16 be established by the participating States, shall conform  
17 to the following:

18               (1) Each State participating in the clearing-  
19 house shall establish a single state-wide destination  
20 rate to apply to sales by a remote seller to pur-  
21 chasers in such State. The clearinghouse shall pub-  
22 lish the destination rates on July 1 of each year.

23               (2) Each State participating in the clearing-  
24 house shall determine the amount of sales, use or  
25 similar tax paid or collected by remote sellers in that

1 State for remote sales to each other participating  
2 State.

3 (3) Each State participating in the clearing-  
4 house shall distribute the tax received from remote  
5 sellers with respect to remote sales for which that  
6 State was the origin State to each State that was a  
7 destination State for such sales using a method simi-  
8 lar to the clearinghouse operated pursuant to the  
9 Intermodal Surface Transportation Efficiency Act of  
10 1991 (relating to Fuel Tax) (P.L. 102-240).

11 (4) Each State not participating in the clear-  
12 inghouse may not receive any distribution from the  
13 clearinghouse.

14 (5) The clearinghouse shall establish a method  
15 for—

16 (A) submission of sales information reports  
17 by remote sellers in States that do not impose  
18 a sales, use or similar tax;

19 (B) making such sales information reports  
20 available to the destination State of each sale;  
21 and

22 (C) providing, whenever a purchaser re-  
23 quests, access within a reasonable period of  
24 time to such sales information pertaining to  
25 such purchaser's transactions.

1           (6) The clearinghouse shall adopt a uniform  
2 compliant purchaser certificate, in accordance with  
3 the following:

4           (A) Features that—

5                 (i) allow recognition by remote sellers  
6 of sales for resale;

7                 (ii) permits a business purchaser to  
8 directly pay applicable tax, if any, to the  
9 destination State; and

10                (iii) provide for entity-and use-based  
11 exemptions of the destination State, where  
12 applicable.

13           (B) Each destination State may establish  
14 its own rules governing purchaser qualification  
15 criteria, application process, and reporting and  
16 tax remittance requirements for the grant and  
17 use of uniform compliant purchaser certificates  
18 by purchasers in such State.

19           (C) Receipt by a remote seller of such a  
20 certificate with respect to a remote sale shall be  
21 prima facie evidence that the seller had no obli-  
22 gation to pay tax with respect to that sale.

23           (D) Delivery of a compliant taxpayer cer-  
24 tificate to a remote seller requires that the pur-  
25 chaser remit any sales, use or similar tax that

1           may be due directly to the destination State  
2           based on that destination State’s tax rate and  
3           tax base and subject to the conditions and ex-  
4           ceptions of that destination State.

5           (7) A method shall be established for a single  
6           audit of remote sellers whose origin State does not  
7           impose any sales, use or similar tax, for compliance  
8           with the Federal reporting and collection require-  
9           ments of sections 4 and 5. This authority shall ex-  
10          tend only to remote sellers whose origin State—

11                   (A) does not—

12                           (i) impose a sales, use or similar tax;

13                           or

14                           (ii) participate in the clearinghouse;

15                           and

16                           (B) formally declines a reasonable request  
17                           for audit by a State that is participating in the  
18                           clearinghouse, provided that the request in-  
19                           cluded an offer to compensate the origin State  
20                           for reasonable administrative costs.

21          (8) The clearinghouse shall—

22                   (A) implement reasonable security safe-  
23                   guards and internal access controls to protect  
24                   the integrity of the personal information that it  
25                   collects and maintains;

1           **(B) implement a data privacy and security**  
2           **program designed to ensure the privacy, secu-**  
3           **rity, and confidentiality of personal information;**

4           **(C) protect against vulnerability to the pri-**  
5           **vacy, security, or integrity of personal informa-**  
6           **tion;**

7           **(D) protect against unauthorized, illegit-**  
8           **imate, or unnecessary access to or use of per-**  
9           **sonal information;**

10          **(E) designate a specific employee or em-**  
11          **ployees to coordinate the implementation of**  
12          **these safeguards;**

13          **(F) maintain a written security plan and**  
14          **process for the implementation of these safe-**  
15          **guards; and**

16          **(G) not disclose personal information ex-**  
17          **cept—**

18                 **(i) upon a request by the purchaser**  
19                 **regarding the purchaser's transactions;**

20                 **(ii) as required pursuant to the meth-**  
21                 **od described in section (3)(a)(5)(B);**

22                 **(iii) as required by law; or**

23                 **(iv) as necessary for a service provider**  
24                 **operating at the direction and on behalf of**  
25                 **the clearinghouse.**

1           **(b) SALES TO PURCHASERS IN STATES THAT DO**  
2 **NOT PARTICIPATE IN THE CLEARINGHOUSE.—The taxes**  
3 **imposed on remote sellers with respect to remote sales to**  
4 **purchasers in destination States that do not participate**  
5 **in the clearinghouse shall be determined by the rate and**  
6 **base of the origin locality.**

7           **(c) RESPONSIBILITIES OF PARTICIPATING STATES.—**  
8 **A State participating in the clearinghouse shall conform**  
9 **its laws to be consistent with this Act, applicable Constitu-**  
10 **tional standards, require remote sellers whose origin State**  
11 **is such State to pay sales, use or similar tax at the des-**  
12 **tination rate for applicable sales, and permit or require**  
13 **sellers to seek reimbursement of such tax from purchasers.**

14 **SEC. 4. TREATMENT OF SELLERS IN STATES THAT DO NOT**  
15 **IMPOSE A SALES, USE OR SIMILAR TAX, OR**  
16 **THAT LACK A PHYSICAL PRESENCE IN ANY**  
17 **STATE.**

18           **(a) IN GENERAL.—In the case of a remote seller in**  
19 **a State that does not impose a general sales, use or similar**  
20 **tax, and does not participate in the clearinghouse, or a**  
21 **remote seller without a physical presence in any State,**  
22 **such a remote seller shall—**

23                   **(1) except in the case of a remote seller without**  
24 **a physical presence in any State, report the buyer's**



1 name, address and the amount of the sale for each  
2 such remote sale, to the clearinghouse—

3 (A) not later than [90] days after a remote  
4 sale for which that State was the origin State;  
5 or

6 (B) not later than 90 days after the close  
7 of the calendar quarter in which the remote sale  
8 was made; and

9 (2) determine the applicable tax on each remote  
10 sale using the alternate base and destination rate for  
11 each State that participates in the clearinghouse,  
12 and remit such tax to the clearinghouse with suffi-  
13 cient information to identify the destination State.

14 (b) STATES THAT PARTICIPATE IN THE CLEARING-  
15 HOUSE.—A State that participates in the clearinghouse  
16 may not require a remote seller to pay or collect a sales,  
17 use or similar tax with respect to a sale made to a cus-  
18 tomer in a State that does not impose such a tax and is  
19 also a participant in the clearinghouse.

20 (c) RECIPROCAL TREATMENT FOR SELLERS WITH-  
21 OUT A PHYSICAL PRESENCE IN ANY STATE.—This sec-  
22 tion applies to a remote seller without a physical presence  
23 in any State only if such remote seller resides in any coun-  
24 try that imposes an obligation on remote sellers located  
25 in the United State for accounting for such country's value

1 added, goods and services or other consumption tax with  
2 respect to sales to consumers in such country.

3 (d) EFFECTIVE DATE.—This section shall take effect  
4 for sales made during the first full calendar quarter fol-  
5 lowing the effective date of the distribution agreement.

6 SEC. 5. TREATMENT OF REMOTE SELLERS IN STATES THAT  
7 DO IMPOSE A SALES, USE OR SIMILAR TAX  
8 BUT DO NOT PARTICIPATE IN THE CLEARING-  
9 HOUSE.

10 (a) IN GENERAL.—In the case of a State that im-  
11 poses a general sales, use, or similar tax, but does not  
12 participate in the clearinghouse, remote sellers in such a  
13 State shall report the buyer's name, address and the  
14 amount of the sale for each such remote sale, to the clear-  
15 inghouse not later than 90 days after the close of the cal-  
16 endar quarter in which the remote sale was made.

17 (b) EFFECTIVE DATE.—This section shall take effect  
18 for sales made during the first full calendar quarter fol-  
19 lowing the effective date of the distribution agreement.

20 SEC. 6. DEFINITIONS.

21 In this Act:

22 (1) The term “alternate base” means with re-  
23 gard to a remote sale during any calendar year, the  
24 sales, use or similar tax base determined under the  
25 laws of the State in which the remote seller had the

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1 most gross receipts the preceding calendar year, de-  
2 termined excluding any State described in section 4.  
3 For purposes of this paragraph in the case of a re-  
4 mote seller which was not in existence throughout  
5 such preceding calendar year, the determination  
6 under the preceding sentence shall be based on the  
7 average gross receipts that it is reasonably expected  
8 such remote seller will receive on business days in  
9 the current calendar year.

10 (2) Placeholder for language from separate  
11 clothing exemption document potentially to be added  
12 for final agreement only.;

13 (3) The term “destination State” means with  
14 regard to a remote sale—

15 (A) the State in which the product or serv-  
16 ice sold is received by the buyer, based on the  
17 location indicated by instructions for delivery  
18 that the buyer furnishes to the seller;

19 (B) if no delivery location is specified, the  
20 State of any address the seller obtains from the  
21 buyer during the sale; or

22 (C) if the seller has no address for the  
23 buyer, the origin State for the remote sale.

24 (4) The term “destination rate” means the sin-  
25 gle statewide rate established by the destination

1 State applicable to sales by remote sellers to pur-  
2 chasers in such State. øSuch rate may not be higher  
3 than such State’s sales, use or similar tax rate plus  
4 the weighted average of any sales, use or similar tax  
5 rate imposed with respect to a unit of local govern-  
6 ment in that State. ç

7 (5) The term “origin locality” means, with re-  
8 gard to a remote sale during any calendar year, the  
9 location in the origin State in which the remote sell-  
10 er has employed the greatest average number of em-  
11 ployees on business days during the preceding cal-  
12 endar year.

13 (6) The term “origin rate” means the tax rate  
14 (including any tax imposed by the tax jurisdiction  
15 for the origin locality), subject to the same condi-  
16 tions and exceptions, that would apply were the pur-  
17 chase made in person in the remote seller’s origin  
18 State and origin locality.

19 (7) The term “origin State” means, with regard  
20 to a remote sale during any calendar year, the State  
21 in which the remote seller has physical presence and  
22 has employed the greatest average number of em-  
23 ployees in the United States on business days during  
24 the preceding calendar year. For purposes of this  
25 paragraph and paragraphs (1) and (5), in the case

1 of a remote seller which was not in existence  
2 throughout such preceding calendar year, the deter-  
3 mination under the preceding sentence (and under  
4 paragraph (5)) shall be based on the average num-  
5 ber of employees that it is reasonably expected such  
6 remote seller will employ on business days in the  
7 current calendar year. For purposes of this para-  
8 graph and paragraph (5), all persons treated as a  
9 single employer under subsection (b), (c), (m), (n),  
10 or (o) of section 414 of the Internal Revenue Code  
11 of 1986 shall be treated as a single person, except  
12 that “controlled group” or “common control” is de-  
13 fined as ownership or control of more than 50 per-  
14 cent. Any reference in this paragraph or paragraph  
15 (5) to any person shall include a reference to any  
16 predecessor of such person. ¶ In determining the in-  
17 dividuals that are employees of the single person,  
18 section 414(n) of the Code applies, without regard  
19 to section 414(n)(2)(B). § If there are two States  
20 that are both origin States for a remote seller that  
21 seller may elect either State. If a remote seller does  
22 not have an origin State under this paragraph, the  
23 origin State shall be the State in which the remote  
24 seller has its alternate base.

25 (8) The term “physical presence”—

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1 (A) means that a seller, in a State—

2 (i) owns, holds a leasehold interest in  
3 or maintains real property such as a retail  
4 store, kiosk, warehouse, distribution cen-  
5 ter, manufacturing operation, or assembly  
6 facility in the State;

7 (ii) leases or owns tangible personal  
8 property (other than computer software),  
9 excluding inventory (other than inventory  
10 with a cost value more than \$100,000 held  
11 for more than 30 consecutive days in a cal-  
12 endary year), in the state;

13 (iii) has one or more employees,  
14 agents or independent contractors present  
15 in the State who engage in specific solicita-  
16 tions toward obtaining product or service  
17 orders from customers in that State, or  
18 prospective customers in that State, on be-  
19 half of the seller, excluding general solici-  
20 tation campaigns or participation at na-  
21 tional or regional trade shows and conven-  
22 tions conducted in the State; or

23 (iv) has one or more employees  
24 present in the State who provide on-site

1 design, installation, or repair services on  
2 behalf of the remote seller;

3 (B) does not include entering into an  
4 agreement under which a person, for a commis-  
5 sion or other consideration, directly or indi-  
6 rectly refers potential purchasers to a seller  
7 outside the State, whether by an Internet-based  
8 link or platform, Internet Web site or other-  
9 wise;

10 (C) does not include a presence in a State  
11 for less than 15 days in a taxable year (or a  
12 greater number of days if provided by State  
13 law); and

14 (D) does not include delivery and product  
15 placement services offered by an in-State com-  
16 mon carrier and Internet advertising services  
17 provided by in-State residents which are not ex-  
18 clusively directed towards, or do not solicit ex-  
19 clusively, in-State customers.

20 (9) The term “personal information” means in-  
21 formation provided by a remote seller or State to the  
22 clearinghouse described in section (3)(a)(5).

23 (10) The term “remote sale” means a sale  
24 made to a purchaser in a State in which the seller  
25 has no physical presence.

1           (11) The term “remote seller” means a person  
2 that makes a remote sale.

3           (12) The term “similar tax” means a tax,  
4 whether measured by gross receipts or selling price,  
5 imposed with respect to the sale or use of a product  
6 or service, regardless whether the tax is imposed on  
7 the seller or the purchaser, with the right or obliga-  
8 tion of the seller to obtain reimbursement for the  
9 amount of the tax from the purchaser at the time  
10 of the transaction.

11           (13) The term “State” means the several  
12 States, the District of Columbia, the Commonwealth  
13 of Puerto Rico, Guam, American Samoa, the United  
14 States Virgin Islands, the Commonwealth of the  
15 Northern Mariana Islands, and any other territory  
16 or possession of the United States.

17 SEC. 7. DISPUTE RESOLUTION.

18           With the exception of assessment, levy, or collection  
19 of any tax by an origin State in regard to a remote seller  
20 in that State, section 1341 of title 28, United States Code,  
21 (known as the “Tax Injunction Act”) shall not be con-  
22 strued to prohibit actions in Federal courts arising under  
23 this Act pursuant to section 1331 of such title.