

House Bill 61

By: Representatives Powell of the 171st, England of the 116th, Meadows of the 5th, Abrams of the 89th, and Kelley of the 16th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-8-30 of the Official Code of Georgia Annotated, relating to
2 imposition of tax, rates, and collection, so as to require certain retailers to either collect and
3 remit sales and use taxes or provide certain notifications to each purchaser and the state; to
4 define a term; to provide for penalties; to provide for related matters; to provide for an
5 effective date and applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-8-30, relating to imposition of tax, rates, and collection, is amended by
9 adding a new subsection (c.2) to read as follows:

10 "(c.2)(1) For the purposes of this subsection, the term 'delivery retailer' means a retailer
11 that does not collect and remit the tax imposed by this Code section and that in the
12 previous or current calendar year:

13 (A) Obtains gross revenue, in an amount exceeding \$250,000.00 from retail sales of
14 tangible personal property to be delivered electronically or physically in this state or
15 distributed, used, consumed, or stored for use or consumption in this state; or

16 (B) Conducts 200 or more retail sales of tangible personal property to be delivered
17 electronically or physically in this state or distributed, used, consumed, or stored for use
18 or consumption in this state.

19 (2) A delivery retailer shall collect and remit the tax imposed by this Code section or
20 shall:

21 (A) Notify the purchaser prior to the completion of the retail sale transaction with the
22 following statement: 'Sales or use tax may be due to the State of Georgia on this
23 purchase. Georgia law requires certain consumers to file a sales and use tax return
24 remitting any unpaid taxes due to the State of Georgia.';

25 (B) On or before January 31 of each year, send a sales and use tax statement for the
26 transactions that occurred during the prior calendar year in an envelope containing the

27 words 'IMPORTANT TAX DOCUMENT ENCLOSED' on the exterior of the mailing
28 by first class mail and separate from any other shipment; and

29 (C) On or before January 31 of each year, file a copy of each sales and use tax
30 statement required under this paragraph with the department in a manner to be
31 prescribed by the department.

32 (3) For the purposes of this subsection, a sales and use tax statement shall:

33 (A) Be on a form to be prescribed by the department;

34 (B) Contain the total amount paid by the purchaser for retail sales from the delivery
35 retailer during the previous calendar year, as well as, if available, the dates of
36 purchases, the amounts of each purchase, and the category of each purchase, including,
37 if known by the retailer, whether the purchase is exempt from taxation under this
38 article; and

39 (C) Include the following statement: 'Sales or use taxes may be due to the State of
40 Georgia on the purchase(s) identified in this statement as Georgia taxes were not
41 collected at the time of purchase. Georgia law requires certain consumers to file a sales
42 and use tax return remitting any unpaid taxes due to the State of Georgia.'

43 (4) Unless determined by the commissioner upon a showing of reasonable cause:

44 (A) Failure to provide the notice required by subparagraph (A) of paragraph (2) of
45 this subsection shall subject a delivery retailer to a penalty of \$5.00 for each failure;

46 (B) Failure to send a sales and use statement as required by subparagraph (B) of
47 paragraph (2) of this subsection shall subject a delivery retailer to a penalty of \$10.00
48 for each failure; and

49 (C) Failure to file a copy of a sales and use tax statement with the department as
50 required by subparagraph (C) of paragraph (2) of this subsection shall subject a
51 delivery retailer to a penalty of \$10.00 for each failure."

52 **SECTION 2.**

53 This Act shall become effective on January 1, 2018, and shall apply to all sales made on or
54 after January 1, 2018.

55 **SECTION 3.**

56 All laws and parts of laws in conflict with this Act are repealed.