

# House Bill 2769

Sponsored by COMMITTEE ON REVENUE

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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

1  
2 Relating to taxation of sales of certain high-value property; prescribing an effective date; and pro-  
3 viding for revenue raising that requires approval by a three-fifths majority.

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

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

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

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

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

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

13 **SECTION 3. (1) A use tax is imposed on the storage, use or other consumption in this**  
14 **state of taxable property purchased from any seller.**

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

17 **(3) The use tax is a liability of the purchaser of the taxable property.**

18 **(4) The use tax shall be reduced, but not below zero, by the amount of sales or use tax**  
19 **imposed by any jurisdiction on the sale, or the storage, use or other consumption, of the**  
20 **taxable property. The reduction under this subsection shall be made only upon a showing by**  
21 **the purchaser that the sales or use tax has been paid.**

22 **(5) A purchaser's liability for the use tax is satisfied by a valid receipt given to the pur-**  
23 **chaser pursuant to section 5 of this 2017 Act by the seller of the taxable property.**

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

28 **SECTION 5. (1) A seller shall collect the use tax from a purchaser of taxable property**  
29 **and give the purchaser a receipt for the tax in the manner and form prescribed by the De-**  
30 **partment of Revenue if:**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (a) The seller is:

2 (A) Engaged in business in this state;

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

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

7 (b) The seller makes sales of taxable property for storage, use or other consumption in  
8 this state that are subject to the use tax imposed by section 3 of this 2017 Act.

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

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

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

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

15 (a) Taxable property is stored, used or otherwise consumed in this state if it is present  
16 in this state for private or public display or storage.

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

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

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

26 (B) The contrary may be proved by:

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

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

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

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

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

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

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

44 (3) At any time a seller required to collect the sales or use tax under section 2 or 5 of  
45 this 2017 Act fails to remit any amount of sales or use tax deemed to be held in trust for the

1 State of Oregon, the department may enforce collection by issuing a distraint warrant for  
 2 the collection of the delinquent amount and all penalties, interest and collection charges ac-  
 3 crued on the delinquent amount. The warrant shall be issued, docketed and proceeded upon  
 4 in the same manner and shall have the same force and effect as warrants for the collection  
 5 of delinquent income taxes.

6 **SECTION 7.** If the amount of the sales or use tax imposed under section 2 or 3 of this  
 7 2017 Act that is paid by a seller or purchaser exceeds the amount of tax due, the Department  
 8 of Revenue shall refund the amount of the excess with interest at the rate established under  
 9 ORS 305.220 for each month or fraction of a month from the date of payment of the excess  
 10 until the date of the refund. A refund may not be made to a seller or purchaser that fails  
 11 to claim the refund within two years after the due date for filing the return to which the  
 12 claim for refund relates.

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

16 (2) After payment of refunds under section 7 of this 2017 Act, moneys shall be transferred  
 17 from the suspense account described in subsection (1) of this section to the General Fund.

18 **SECTION 9.** The Department of Revenue shall adopt rules governing the computation and  
 19 timely reporting, collecting and refunding of the sales and use taxes imposed under sections  
 20 2 and 3 of this 2017 Act.

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

24 **SECTION 11.** Sections 1 to 10 of this 2017 Act apply to sales of taxable property as defined  
 25 in section 1 of this 2017 Act that become final, and the storage, use or other consumption  
 26 in this state of taxable property that becomes taxable, on or after the effective date of this  
 27 2017 Act.

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

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