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6. Agency’s justification and reason why rules should be made, amended, repealed, or renumbered, including an explanation about the rulemaking:

This rulemaking amends existing rules and introduces new rules to accommodate the needs of remote sellers and marketplace facilitators who, beginning October 1, 2019, are required to become licensed with the Department and report and remit Arizona transaction privilege taxes if they meet the dollar thresholds in retail sales to Arizona consumers that are established by Laws 2019, 1st Reg. Sess., Ch. 273 (hereafter referred to in its entirety as “HB 2757”). Additionally, it repeals or updates outmoded, redundant, or potentially confusing language that diminishes the utility of rules that are applicable to remote sellers, marketplace facilitators, and other taxpayers.

Before the enactment of HB 2757, liability for state and local privilege taxes (collectively referred to as “TPT” in this Notice) was based on a taxpayer’s physical presence in Arizona, rather than the level of gross sales with Arizona consumers. Consequently, in addition to introducing new provisions addressing the criteria for transaction privilege tax liability, liability relief provisions for remote sellers and marketplace facilitators and filing methodology, the Department reviewed its existing rules on retail sales and reporting and filing requirements and amended or repealed language to accurately reflect its current position vis-à-vis all taxpayers, including remote sellers and marketplace facilitators.

The Department received approval to engage in this rulemaking action as an exception to Executive Order 2019-01, 25 A.A.R. 131 (Jan. 9, 2019) on September 16, 2019. Aside from stylistic, grammatical, or technical corrections intended to be nonsubstantive in nature, the following summary provides a rule-by-rule description of changes from the rules as they had existed before this rulemaking action:

R15-10-301 (Definitions). The rule is amended to add cross-references to the statutory definitions of “marketplace facilitator” and “remote seller.”

R15-10-302 (General Requirements). The rule is amended to require marketplace facilitators and remote sellers who meet or reasonably can expect to meet the threshold requirements in A.R.S. § 42-5044 on or after October 1, 2019 to make TPT payments through electronic funds transfer unless the Department grants them a waiver based on one of the conditions listed in A.R.S. § 42-1129.

R15-10-501 (Definitions). The rule is amended to add cross-references to the statutory definitions of “marketplace facilitator” and “remote seller.” Definitions have been conformed to rulemaking guidelines, eliminating potentially confusing inconsistencies in capitalization usage and internal cross-references.

R15-10-505 (Electronic Signatures for Transaction Privilege and Use Tax). The rule is amended to require marketplace facilitators and remote sellers who meet or reasonably can expect to meet the threshold requirements in A.R.S. § 42-5044 on or after October 1, 2019 to file returns electronically unless, pursuant to A.R.S. § 42-5014, the Department either grants them a waiver or instructs them to file by paper. Additionally, the rule is amended to conform to rulemaking guidelines, eliminating potentially confusing inconsistencies in capitalization usage and internal cross-references.

7. Reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. Showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. Summary of the economic, small business, and consumer impact, if applicable:

Laws 2019, 1st Reg. Sess., Ch. 273, § 32 authorizes an exemption from the rulemaking requirements of A.R.S. Tit. 41, Ch. 6 for one year after August 27, 2019 effective date. Consequently, this rulemaking is exempt from the requirements of the Arizona Administrative Procedure Act and no economic, small business, and consumer impact statement is required.

10. Description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking, if applicable:

Not applicable.

11. Agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

Despite the exemption granted to HB 2757's rulemaking, the Department posted a draft version of the rules included in this rulemaking for public review and feedback. The Department received no substantive comments for these rules during this period.

12. Any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules:

None

a. Whether the rules require a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

No

b. Whether a federal law is applicable to the subject of the rules, whether the rules are more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

No

c. Whether a person submitted an analysis to the agency that compares the rules' impact of the competitiveness of business in this state to the impact on business in other states:

No

13. List of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

14. Whether the rules were previously made, amended, or repealed as emergency rules (if so, state where the text changed between the emergency and final rulemaking packages):

No

15. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 10. DEPARTMENT OF REVENUE - GENERAL ADMINISTRATION

ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS

Section

R15-10-301. Definitions

R15-10-302. General Requirements

ARTICLE 5. ELECTRONIC FILING PROGRAM

Section

R15-10-501. Definitions

R15-10-505. Electronic Signatures for Transaction Privilege and Use Tax

ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS

R15-10-301. Definitions

~~The following definitions apply for purposes of~~ In this Article:

1. "ACH" means an automated clearing house that is a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions.
2. "ACH credit" means an electronic funds transfer generated by a payor, cleared through an ACH for deposit to the Department account.
3. "ACH debit" means an electronic transfer of funds from a payor's account, as indicated on a signed authorization agreement, that is generated at a payor's instruction on AZTaxes.gov and cleared through an ACH for deposit to the Department account.
4. "Addenda record" means the information required by the Department in an ACH credit transfer or wire transfer, in the approved electronic format prescribed in R15-10-306(B).
5. "ALTO" is the Arizona Luxury Tax Online web site, luxury.aztaxes.gov or such other web site as the Department may determine from time to time, and means the Department's luxury taxpayer service center web site that provides luxury taxpayers with the ability to conduct transactions, make electronic funds transfer payments and review tax account information over the internet.
6. "Authorized means of transmission" means the deposit of funds into the Department account by electronic funds transfer.

7. "AZTaxes.gov" means the Department's taxpayer service center web site, or such other web site as the Department may determine from time to time, that provides taxpayers with the ability to conduct transactions, make electronic funds transfer payments and review tax account information over the internet.
8. "Cash Concentration or Disbursement plus" or "CCD plus" means the standardized data format approved by the National Automated Clearing House Association for remitting tax payments electronically.
9. "Department" means the Arizona Department of Revenue.
10. "EFT Program" means the payment of taxes by electronic funds transfer as specified by this Article.
11. "Electronic Funds Transfer" or "EFT" means the electronic transfer of funds from one bank account to another via computer based systems, where the person initiating the transfer orders, instructs, or authorizes a financial institution to debit or credit an account using the methods specified in these rules.
12. "Financial institution" means a state or national bank, a trust company, a state or federal savings and loan association, a mutual savings bank, or a state or federal credit union.
13. "Marketplace facilitator" has the same meaning as prescribed in A.R.S. § 42-5001.
- ~~13.~~ 14. "Payment information" means the data that the Department requires of a payor making an electronic funds transfer payment.
- ~~14.~~ 15. "Payor" means a taxpayer or payroll service.
- ~~15.~~ 16. "Payroll service" means a third party, under contract with a taxpayer to provide tax payment services on behalf of the taxpayer.
17. "Remote seller" has the same meaning as prescribed in A.R.S. § 42-5001.
- ~~16.~~ 18. "State Servicing Bank" means a bank designated under A.R.S. Title 35, Chapter 2, Article 2.
- ~~17.~~ 19. "Tax type" means a tax that is subject to electronic funds transfer, each of which shall be considered a separate category of payment.
- ~~18.~~ 20. "Wire transfer" or "Fedwire" means an instantaneous electronic funds transfer initiated by a payor.

R15-10-302. General Requirements

- A.** For tax periods beginning on or after January 1, 1997, corporations ~~which~~ that had an Arizona income tax liability during the prior tax year of \$20,000 or more shall remit Arizona estimated income tax payments by an authorized means of transmission.
- B.** For tax periods beginning on or after July 1, 2017, taxpayers who, under A.R.S. Title 43, Chapter 4, had an average Arizona quarterly withholding tax liability during the prior tax year of \$5,000 or more shall remit Arizona withholding tax payments by an authorized means of transmission.
- C.** The average Arizona quarterly withholding tax liability is determined by dividing the taxpayer's total Arizona withholding tax liability for the calendar year by 4.
- D.** For tax periods beginning on and after July 1, 2017, any taxpayer who under A.R.S. Title 42 Chapter 5 and Chapter 6, Articles 1 and 3, had an annual tax liability during the prior calendar year of \$20,000 or more shall remit these tax payments by an authorized means of transmission.
- E.** For tax periods after July 1, 2015, tobacco tax taxpayers are required to remit tobacco tax payments by an authorized means of transmission.
- F.** Unless otherwise waived pursuant to A.R.S. § 42-1129, for tax periods beginning on or after the following tax years, any taxpayer, other than an individual income taxpayer, that had a tax liability equal to or more than the following amounts during the prior tax year or that can reasonably anticipate tax liability in the current tax year exceeding the following amounts, shall remit tax payments to the Department by an authorized means of transmission. For periods on or after:

 - 1. January 1, 2018, prior tax year or expected current year tax liability of \$20,000;
 - 2. January 1, 2019, prior tax year or expected current year tax liability of \$10,000;
 - 3. January 1, 2020, prior tax year or expected current year tax liability of \$5,000;
 - 4. January 1, 2021, prior tax year or expected current year tax liability of \$500.
- G.** For tax periods beginning on and after October 1, 2019, marketplace facilitators and remote sellers who, at the time of registering for a transaction privilege tax license, can reasonably anticipate their tax liability will exceed the thresholds detailed in subsection F

above are required to remit any applicable taxes to the Department by an authorized means of transmission, unless granted a waiver pursuant to A.R.S. § 42-1129.

ARTICLE 5. ELECTRONIC FILING PROGRAM

R15-10-501. Definitions

In addition to the definitions provided in A.R.S. §§ 42-1101.01, 42-1103.01, 42-1103.02, 42-1103.03, and 42-1105.02, unless the context provides otherwise, the following definitions apply to this Article and to A.R.S. Title 42, Chapter 2:

1. “AZTaxes.gov” means the Department’s taxpayer service center web site that provides taxpayers with the ability to conduct transactions and review tax account information over the internet.
2. “Authorized user” means an individual, primary user, or delegate user, including a return preparer or electronic return preparer ~~as defined in A.R.S. § 42-1101.01,~~ who has been granted authority by the taxpayer, an owner of the taxpayer or an authorized officer of the taxpayer to access taxpayer information available on the AZTaxes.gov web site.
3. “Bulk Transmitter” is an ~~Electronic Return Transmitter~~ electronic return transmitter that submits multiple electronic returns, statements or other documents to the Department for filing or processing at one time.
4. “~~Delegate User~~ user” means ~~any a~~ any a registered customer of ~~the AZTaxes.gov web site,~~ other than a primary user, who is authorized by a taxpayer, an owner of the taxpayer or an authorized officer of the taxpayer to access the taxpayer’s account information on AZTaxes.gov. A Delegate ~~User that~~ user who uses a PIN to sign and file transaction privilege or use tax returns on behalf of a taxpayer shall be presumed to be authorized by that taxpayer to take such action on behalf of the taxpayer.
5. “Department” means the Arizona Department of Revenue.
6. “Electronic return preparer” has the same meaning as prescribed in A.R.S. § 42-1101.01.
7. “Electronic return, statement or other document” means all data entered into a return, statement, or other document that is prepared using computer software and transmitted electronically to the Department.

8. “Electronic return transmitter” includes a person who is part of the chain of transmission of an electronic return, statement, or other document from the taxpayer or from an electronic return preparer to the Department even though the person did not receive the transmitted return, statement, or other document directly from the taxpayer or electronic return preparer.
9. “Electronic signature” ~~means the electronic method or process as defined in A.R.S. § 41-132~~ has the same meaning as prescribed in A.R.S. § 18-106.
10. “License” means one or more transaction privilege, use, or withholding tax licenses or registrations obtained from the Department by completing and submitting a mail-in ~~Arizona Joint Tax Application~~ paper application or by completing the ~~online~~ AZTaxes.gov ~~business~~ registration process and, where applicable, submitting an executed AZTaxes.gov Registration Signature Card.
11. “Marketplace facilitator” has the same meaning as prescribed in A.R.S. § 42-5001.
12. “PIN” means a ~~Self-Select Personal Identification Number~~ user-created personal identification number made up of a prescribed number of characters and used as an electronic signature to sign returns, statements or other documents submitted to the Department through AZTaxes.gov, or by any other electronic means.
13. “Primary ~~User~~ user” means the taxpayer, an owner of the taxpayer or any authorized officer of the taxpayer who registers to use AZTaxes.gov. A ~~Primary User~~ primary user has the unlimited ability to access the taxpayer’s online accounts, conduct online transactions for the taxpayer, designate ~~Delegate Users~~ delegate users, specify the level of access granted to a ~~Delegate User~~ delegate user and modify or terminate the access of any ~~Delegate User~~ delegate user.
14. “Registered customer” means any individual ~~that~~ who has, by means of providing specific information requested by the Department through ~~its~~ the AZTaxes.gov ~~web site~~ registration process, ~~obtained~~ selected a username and password entitling that ~~taxpayer~~ individual to conduct transactions and access information through ~~the~~ AZTaxes.gov ~~web site~~.
15. “Remote seller” has the same meaning as prescribed in A.R.S. § 42-5001.

16. “Return preparer” has the same meaning as prescribed in A.R.S. § 42-1101.01.

R15-10-505. Electronic Signatures for Transaction Privilege and Use Tax

A. A As a registrant for AZTaxes.gov, a taxpayer, primary user or delegate user shall do the following to become a registered customer of ~~the AZTaxes.gov web site~~ for transaction privilege and use tax purposes:

1. Provide ~~his~~ the registrant’s legal name and e-mail address,
- ~~a. 2.~~ Create a unique username and password ~~which shall be used to gain~~ entitling the registrant access to AZTaxes.gov ~~web site~~,
- ~~b. 3.~~ Select a prescribed number of security questions and submit their answers,
- ~~c. 4.~~ Create a PIN, and
- ~~d. 5.~~ Agree to the Department’s Terms of Service.

~~2. B.~~ By ~~registering as~~ becoming a registered customer of ~~the AZTaxes.gov website or by~~ and continuing to use ~~the AZTaxes.gov website~~, the ~~taxpayer, primary user or delegate user~~ registrant declares that:

- ~~a. 1.~~ The information provided during the AZTaxes.gov registration process is accurate and complete, and
- ~~b. 2.~~ If a mail-in paper application was previously submitted, the information contained in the ~~Arizona Joint Tax Application~~ application is accurate and complete.

~~B. C.~~ A taxpayer that has not obtained a transaction privilege or use tax license from the Department shall obtain a license by completing either the mail-in ~~Arizona Joint Tax Application~~ paper application or the AZTaxes.gov online application. From and after January 9, 2016, a taxpayer, primary user or delegate user may use ~~his~~ the PIN created pursuant to subsection (A)(4) to electronically sign the taxpayer’s online ~~Arizona Joint Tax~~ application.

~~C. D.~~ A ~~Delegate User~~ delegate user shall do the following to become associated with a taxpayer on the AZTaxes.gov web site:

1. Provide answers to prescribed questions about the taxpayer if the taxpayer has a license, or
 2. Complete the online or mail-in ~~Joint Tax Application~~ paper application and provide answers to prescribed questions about the taxpayer.
- ~~D.~~ E.** If filing a taxpayer's transaction privilege or use tax return by electronic means, an ~~Authorized User~~ authorized user of the AZTaxes.gov web site shall, from and after July 5, 2016, use ~~his~~ the authorized user's PIN to electronically sign a taxpayer's electronic transaction privilege, tax or use tax returns. By using ~~his~~ the PIN, the ~~Authorized User is making a declaration,~~ authorized user declares under penalties of perjury that the electronic return is, to the best of ~~his~~ the authorized user's knowledge and belief, true, correct, and complete.
- ~~E.~~ F.** To file an electronic transaction privilege or use tax return under subsection ~~(D)~~ (E) above, a taxpayer, primary user, or delegate user preparing the electronic return may access ~~the AZTaxes.gov website or other website~~ and electronically file the return after signing the return with ~~his~~ the PIN created under subsection (A)(4).
- ~~F.~~ G.** From and after July 5, 2016, unless otherwise required by Article 3 of this Title and Chapter, an ~~Authorized User of the AZTaxes.gov website~~ authorized user may pay its transaction privilege and use tax liability by electronic check.
- ~~G.~~ H.** For tax periods beginning on or after the following years, any taxpayer ~~who~~ that, under A.R.S. Title 42 Chapters 5 and 6, had total annual tax liability of at least the following amounts during the prior tax year or can reasonably anticipate that its current year tax liability will exceed the following amounts, shall, unless otherwise waived pursuant to A.R.S. § 42-5014, file the required return using an electronic filing program established by the Department. For periods on or after:
1. January 1, 2018, prior tax year or expected current year total tax liability of \$20,000;
 2. January 1, 2019, prior tax year or expected current year total tax liability of \$10,000;
 3. January 1, 2020, prior tax year or expected current year total tax liability of \$5,000;

4. January 1, 2021, prior tax year or expected current year total tax liability of \$500.

I. For tax periods beginning on and after October 1, 2019, marketplace facilitators and remote sellers who, at the time of registering for a transaction privilege tax license, can reasonably anticipate their tax liability will exceed the thresholds detailed in subsection (G) above shall, unless granted a waiver or if instructed to file by paper by the Department pursuant to A.R.S. § 42-5014, file the required return using an electronic program established by the Department.

H. J. Any taxpayer ~~who~~ that, under A.R.S. Title 42 Chapters 5 and 6, was required to file a return using an electronic filing program pursuant to subsection ~~(G)~~ (H) or (I) of this rule and that fails to do so after notice and demand by the Department shall, unless reasonable cause exists, be subject to the penalty imposed under A.R.S. § 42-1125(X) and (Y).