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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3261

04/18/2023 Authored by Freiberg
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; imposing a gross receipts tax on certain digital products;
1.3 appropriating money for payments to local governments; proposing coding for
1.4 new law in Minnesota Statutes, chapter 295.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 295.85 LOCAL DIGITAL MEDIA GROSS RECEIPTS TAX.

1.7 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.8 the meanings given.

1.9 (b) "Commissioner" means the commissioner of revenue.

1.10 (c) "Gross receipts" means the total amount received, in money or by barter or exchange,
1.11 for all sales of digital products at retail as measured by the sales price, but does not include
1.12 any taxes imposed directly on the consumer that are separately stated on the invoice, bill
1.13 of sale, or similar document given to the purchaser.

1.14 (d) "Digital products" means digital products and services, as defined in section 297A.61,
1.15 subdivisions 50 to 56.

1.16 (e) "Digital products provider" means a retailer that sells digital products.

1.17 (f) "Retail sale" has the meaning given in section 297A.61, subdivision 4.

1.18 Subd. 2. Gross receipts tax imposed. A tax is imposed on each digital products provider
1.19 equal to one percent of gross receipts from retail sales of digital products in Minnesota. The
1.20 digital products provider may, but is not required to, collect the tax from the purchaser. If
1.21 separately stated on the invoice, bill of sale, or similar document given to the purchaser,
1.22 the tax is excluded from the sales price for purposes of the tax imposed under chapter 297A.

2.1 Subd. 3. **Use tax imposed; credit for taxes paid.** (a) A person that receives digital
2.2 products for use in Minnesota, other than from a digital products provider that paid the tax
2.3 under subdivision 2, is subject to tax at the rate imposed under subdivision 2. Liability for
2.4 the tax is incurred when the person is given access to the digital products.

2.5 (b) A person that has paid taxes to another jurisdiction on the same transaction and is
2.6 subject to tax under this section is entitled to a credit for the tax legally due and paid to
2.7 another jurisdiction to the extent of the lesser of (1) the tax actually paid to the other
2.8 jurisdiction, or (2) the amount of tax imposed by Minnesota on the transaction subject to
2.9 tax in the other jurisdiction.

2.10 Subd. 4. **Tax collection required.** A digital products provider with nexus in Minnesota,
2.11 who is not subject to tax under subdivision 2, is required to collect the tax imposed under
2.12 subdivision 3 from the purchaser of the digital products and give the purchaser a receipt for
2.13 the tax paid.

2.14 Subd. 5. **Exemptions.** All of the exemptions applicable to the taxes imposed under
2.15 chapter 297A are applicable to the taxes imposed under this section.

2.16 Subd. 6. **Sourcing of sales; determining location of sale.** (a) All of the provisions of
2.17 section 297A.668 apply to the taxes imposed by this section.

2.18 (b) For every sale taxable under this section, the digital products provider must record
2.19 the nine-digit zip code of the purchaser. If a nine-digit zip code designation is not available
2.20 for a street address or if a seller is unable to determine the nine-digit zip code designation
2.21 of a purchaser after exercising due diligence to determine the designation, the seller may
2.22 use the five-digit zip code area. The digital products provider must provide the total amount
2.23 of sales in each zip code on the return required under this section.

2.24 Subd. 7. **Payment; reporting.** A person subject to tax under this section must report
2.25 the tax on a return prescribed by the commissioner of revenue, and must remit the tax with
2.26 the return. The return and the tax must be filed and paid using the filing cycle and due dates
2.27 provided for taxes imposed under chapter 297A.

2.28 Subd. 8. **Administration.** Unless specifically provided otherwise by this section, the
2.29 audit, assessment, refund, penalty, interest, enforcement, collection remedies, appeal, and
2.30 administrative provisions of chapters 270C and 289A that are applicable to taxes imposed
2.31 under chapter 297A apply to taxes imposed under this section.

2.32 Subd. 9. **Interest on overpayments.** Interest must be paid on an overpayment refunded
2.33 or credited to the taxpayer from the date of payment of the tax until the date the refund is

3.1 paid or credited. For purposes of this subdivision, the date of payment is the due date of the
3.2 return or the date of actual payment of the tax, whichever is later.

3.3 **Subd. 11. Deposit of revenues; appropriation; payment to local governments. (a)**
3.4 The commissioner shall deposit all revenues, including penalties and interest, derived from
3.5 the tax imposed by this section in the general fund.

3.6 (b) Each year, an amount equal to the deposit of revenues under this section for the
3.7 previous calendar year is appropriated from the general fund to the commissioner of revenue
3.8 for payments to county auditors. The commissioner of revenue must pay to each county
3.9 auditor an amount equal to the tax remitted under this section attributable to the sales of
3.10 digital products in that county as determined under subdivision 6 and reported on returns
3.11 required under this section. The commissioner must also provide the county auditor the
3.12 total amount of sales in each zip code as provided on returns required under this section.
3.13 The county auditor must issue payment to the municipality in which the sales occurred.
3.14 Money appropriated under this section may only be spent on the support of local digital
3.15 media by the operator of the municipality's local access channels.

3.16 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
3.17 30, 2023.