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NEXUS/NOTICE LANGUAGE

Sec. 1. 32 V.S.A. § 9701(53) is added to read:

(53) “Non-collecting vendor” means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

Sec. 2. 32 V.S.A. § 9712 is added to read:

§ 9712. NOTICE REQUIREMENTS FOR NON-COLLECTING VENDORS

(a) Each non-collecting vendor making sales into Vermont shall notify Vermont purchasers that sales or use tax is due on non-exempt purchases made from the non-collecting vendor and that the State of Vermont requires the purchaser to file a sales or use tax return. Failure to provide the notice required by this subsection shall subject the non-collecting vendor to a penalty of five dollars for each such failure, unless the non-collecting vendor shows reasonable cause for such failure.

(b) Each non-collecting vendor shall send notification to all Vermont purchasers by January 31 of each year showing the total amount paid by the purchaser for Vermont purchases made from the non-collecting vendor in the previous calendar year. The notice requirement in the preceding sentence only applies to Vermont purchasers who have made \$500.00 or more of purchases from the non-collecting vendor in the previous calendar year. The notice shall

1 include any information required by the Commissioner by rule, and shall
2 include, if available, the dates of purchases, the amounts of each purchase, and
3 the category of the purchase, including, if known by the non-collecting vendor,
4 whether the purchase is exempt or not exempt from taxation. The notification
5 shall state that the State of Vermont requires a sales or use tax return to be filed
6 and sales or use tax paid on non-exempt purchases made by the purchaser from
7 the non-collecting vendor. The notification required by this subdivision shall
8 be sent separately to all Vermont purchasers by first-class mail and shall not be
9 included with any other shipments. The notification shall include the words
10 “Important Tax Document Enclosed” on the exterior of the mailing. The
11 notification shall include the name of the non-collecting vendor. Failure to
12 send the notification required by this subsection shall subject the non-
13 collecting vendor to a penalty of ten dollars for each such failure, unless the
14 non-collecting vendor shows reasonable cause for such failure.

15 (c) Each non-collecting vendor shall file an annual statement for each
16 purchaser with the Department of Tax, on forms required by the
17 Commissioner, showing the total amount paid for Vermont purchases by that
18 purchaser during the preceding calendar year or any portion thereof, and this
19 annual statement shall be filed on or before March 1 of each year. The notice
20 requirements of this subsection only apply to non-collecting vendors who
21 make \$100,000.00 or more of sales into Vermont in the previous calendar year.

1 Failure to file the annual statement required by this subsection shall subject the
2 non-collecting vendor to a penalty of ten dollars for each purchaser that should
3 have been included in the annual statement, unless the non-collecting vendor
4 shows reasonable cause for such failure.

5 (d) The Commissioner is authorized to adopt rules or procedures, or to
6 create forms, necessary to implement this section. Penalties imposed under
7 this section shall be subject to the same administrative and appeal provisions of
8 this chapter as if imposed under 32 V.S.A. § 3202.

9 Sec. 3. 32 V.S.A. § 9701(9)(F) is amended to read:

10 ~~(F) A person making sales of tangible personal property from outside~~
11 ~~this State to a destination within this State and not maintaining a place of~~
12 ~~business in this State who engages in regular, systematic, or seasonal~~
13 ~~solicitation of sales of tangible personal property in this State:~~

14 ~~(i) by the display of advertisements in this State;~~

15 ~~(ii) by the distribution of catalogs, periodicals, advertising flyers,~~
16 ~~or other advertising by means of print, radio, or television media; or~~

17 ~~(iii) by mail, telegraphy, telephone, computer database, cable,~~
18 ~~optic, microwave, or other communication systems, for the purpose of~~
19 ~~effecting sales of tangible personal property; provided such person has made~~
20 ~~sales from outside this State to destinations within this State of at least~~
21 ~~\$50,000.00 during any 12 month period preceding the monthly or quarterly~~

1 ~~period with respect to which such person's liability for tax under this chapter is~~
2 ~~determined.~~

3 A person making sales of tangible personal property from outside this
4 State to a destination within this State and not maintaining a place of business
5 or other physical presence in this State who:

6 (i) engages in regular, systematic, or seasonal solicitation of sales
7 of tangible personal property in this State:

8 (I) by the display of advertisements in this State;

9 (II) by the distribution of catalogs, periodicals, advertising
10 flyers, or other advertising by means of print, radio, or television media; or

11 (III) by mail, internet, telephone, computer database, cable,
12 optic, cellular, or other communication systems, for the purpose of effecting
13 sales of tangible personal property; and

14 (ii) has either made sales from outside this State to destinations
15 within this State of at least \$250,000.00, or totaling at least 200 individual
16 sales transactions, during any 12-month period preceding the monthly period
17 with respect to which that person's liability for tax under this chapter is
18 determined.

19 Sec. 4. EFFECTIVE DATES

20 (a) This section and Secs. 1-2 (notice requirements for non-collecting
21 vendors) shall take effect July 1, 2016.

1 (b) Sec. 3 (definition of vendor) shall take effect on the earlier of July 1,
2 2017, or beginning on the first day of the first quarter after a controlling court
3 decision or federal legislation abrogates the physical presence requirement of
4 Quill v. North Dakota, 504 U.S. 298 (1992).