

RCW 82.32.762 Remote seller nexus—Streamlined sales and use tax agreement or federal law conflict with state law. (1) If the department determines that a change, taking effect after March 14, 2019, in the streamlined sales and use tax agreement or federal law creates a conflict with any provision of chapter 8, Laws of 2019, such conflicting provision or provisions of chapter 8, Laws of 2019, including any related provisions that would not function as originally intended, have no further force and effect as of the date the change in the streamlined sales and use tax agreement or federal law becomes effective.

(2) For purposes of this section:

(a) A change in federal law conflicts with chapter 8, Laws of 2019 if the change clearly prevents states from imposing sales and use tax collection obligations on remote sellers to the extent provided for under chapter 8, Laws of 2019.

(b) A change in the streamlined sales and use tax agreement conflicts with chapter 8, Laws of 2019 if one or more provisions of chapter 8, Laws of 2019 causes this state to be found out of compliance with the streamlined sales and use tax agreement by its governing board.

(3) (a) If the department makes a determination under this section that a change in federal law or the streamlined sales and use tax agreement conflicts with one or more provisions of chapter 8, Laws of 2019:

(i) For purposes of conflicts between the streamlined sales and use tax agreement and chapter 8, Laws of 2019, the department may adopt rules in accordance with chapter 34.05 RCW, including emergency rules, that are consistent with the streamlined sales and use tax agreement; and

(ii) For purposes of conflicts between federal law and chapter 8, Laws of 2019, the department must, by rule or rules adopted in accordance with chapter 34.05 RCW, including emergency rules:

(A) Impose sales and use tax collection obligations and business and occupation tax on remote sellers to the fullest extent allowed under state and federal law, which may include adopting provisions identical or substantially similar to those in sections 202 and 204(6)(c)(ii), chapter 5, Laws of 2015 3rd sp. sess.; and

(B) Implement election, notice, and reporting provisions substantially similar to those in sections 202 through 207, chapter 28, Laws of 2017 3rd sp. sess. The department must impose such election, notice, and reporting provisions only on remote sellers and marketplace facilitators against whom the department is unable to enforce a tax collection obligation as a result of a change in federal law. The department must not impose election, notice, and reporting provisions on referrers as defined in section 204, chapter 28, Laws of 2017 3rd sp. sess. The department must impose penalties for failure to comply with notice or reporting requirements consistent with those penalties imposed in section 206, chapter 28, Laws of 2017 3rd sp. sess.

(b) For purposes of (a)(i) and (ii) of this subsection (3), the department must include information on its website informing taxpayers and the public (i) of the provision or provisions of chapter 8, Laws of 2019 that will have no further force and effect, (ii) when such change will become effective, and (iii) about how to participate in any rule making conducted by the department in accordance with (a)(i) and (ii) of this subsection (3).

(4) For purposes of this section, "remote seller" and "marketplace facilitator" have the same meaning as in RCW 82.13.010 through June 30, 2019, and RCW 82.08.010 beginning July 1, 2019. [2019 c 8 s 404; 2015 3rd sp.s. c 5 s 205.]

Effective date—2019 c 8 ss 101, 104, 106, 201, 402-405, and 501: See note following RCW 82.02.250.

Existing rights and liability—Retroactive application—2019 c 8: See notes following RCW 82.02.250.

Construction—2017 c 323: See note following RCW 82.08.052.

Effective dates—Finding—Intent—2015 3rd sp.s. c 5: See notes following RCW 82.08.052.