

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1251

6 By: Ford

7 COMMITTEE SUBSTITUTE

8 An Act relating to sales and use tax; defining terms;
9 levying specified sales tax amount on certain sales
10 of property by remote seller; levying specified
11 excise tax amount on certain sales of property
12 brought into the state; providing for treatment of
13 tax in specified manner; establishing specified
14 requirements for remote sellers, with certain
15 exception; providing for construction of act;
16 repealing 68 O.S. 2011, Sections 1354.1, 1354.2,
17 1354.3, 1354.4, 1354.5 and 1354.6, which relate to
18 levy of tax on out-of-state vendors; providing for
19 codification; and providing an effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1354A of Title 68, unless there
23 is created a duplication in numbering, reads as follows:

24 A. For purposes of this section:

1. "Remote sale" means a sale into this state in which the
seller is not required to pay, collect, or remit sales or use taxes
to this state under the interpretation, in effect on the effective
date of this act, of the Commerce Clause of the United States

1 Constitution by the United States Supreme Court, which prohibits
2 states from enforcing sales or use tax collection obligations on
3 out-of-state sellers unless the seller has a substantial nexus with
4 the state; and

5 2. "Remote seller" means a seller that makes remote sales in
6 this state.

7 B. The sales and use tax levies by this state shall include all
8 sales of tangible personal property and all storage, use or other
9 consumption of tangible personal property occurring within this
10 state through the continuous, regular or systematic solicitation in
11 the Oklahoma consumer market by remote sellers through the Internet,
12 mail order and catalog publications, as follows:

13 1. There is hereby levied upon all sales, not otherwise exempt
14 in the Oklahoma Sales Code, an excise tax of four and one-half
15 percent (4.5%) of the gross receipts or gross proceeds of each sale
16 of tangible personal property in this state by a remote seller;

17 2. There is hereby levied an excise tax on the storage, use, or
18 other consumption, not otherwise exempt in the Oklahoma Use Tax
19 Code, of tangible personal property purchased or brought into this
20 state at the rate of four and one-half percent (4.5%) of the
21 purchase price of such property;

22 3. The tax shall be collected, reported, remitted and
23 apportioned in the same manner as any other sales or use tax levied
24 by this state; and

1 4. Remote sellers are required to collect, report and remit
2 sales and use taxes, as applicable, in accordance with this act and
3 the provisions of the Sales Tax Code and Use Tax Code of this state.
4 Provided, the requirement to collect, report and remit shall only
5 apply if the remote seller has gross annual receipts in total remote
6 sales in the United States in the preceding calendar year exceeding
7 One Million Dollars (\$1,000,000.00). For purposes of determining
8 whether the threshold in this section is met, the gross annual
9 receipts from remote sales of two or more persons shall be
10 aggregated if:

11 a. such persons are related to the remote seller within
12 the meaning of subsections (b) and (c) of section 267
13 or section 707(b)(1) of the Internal Revenue Code of
14 1986, or

15 b. such persons have one or more ownership relationships
16 and such relationships were designed with a principal
17 purpose of avoiding the application of this act.

18 C. This act shall not be construed to impose a tax in addition
19 to the taxes levied in Sections 1354 and 1402 of Title 68 of the
20 Oklahoma Statutes. Provided, it is the intent of the Oklahoma
21 Legislature that this act constitutes an amendment to the levies in
22 Sections 1354 and 1402 of Title 68 of the Oklahoma Statutes and a
23 reenactment for the purpose of clarification of the levy of sales
24 and use taxes.

1 SECTION 2. REPEALER 68 O.S. 2011, Sections 1354.1,
2 1354.2, 1354.3, 1354.4, 1354.5 and 1354.6, are hereby repealed.

3 SECTION 3. This act shall become effective November 1, 2016.
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