

1 ENGROSSED SENATE
2 BILL NO. 1251

By: Ford of the Senate

3 and

4 Caldwell of the House

5
6 [sales and use tax - remote seller - property
7 brought into the state - requirements - repealer -
8 codification - effective date]
9

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

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

14 A. For purposes of this section:

15 1. "Remote sale" means a sale into this state in which the
16 seller is not required to pay, collect, or remit sales or use taxes
17 to this state under the interpretation, in effect on the effective
18 date of this act, of the Commerce Clause of the United States
19 Constitution by the United States Supreme Court, which prohibits
20 states from enforcing sales or use tax collection obligations on
21 out-of-state sellers unless the seller has a substantial nexus with
22 the state; and

23 2. "Remote seller" means a seller that makes remote sales in
24 this state.

1 B. The sales and use tax levies by this state shall include all
2 sales of tangible personal property and all storage, use or other
3 consumption of tangible personal property occurring within this
4 state through the continuous, regular or systematic solicitation in
5 the Oklahoma consumer market by remote sellers through the Internet,
6 mail order and catalog publications, as follows:

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

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

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

19 4. Remote sellers are required to collect, report and remit
20 sales and use taxes, as applicable, in accordance with this act and
21 the provisions of the Sales Tax Code and Use Tax Code of this state.
22 Provided, the requirement to collect, report and remit shall only
23 apply if the remote seller has gross annual receipts in total remote
24 sales in the United States in the preceding calendar year exceeding

1 One Million Dollars (\$1,000,000.00). For purposes of determining
2 whether the threshold in this section is met, the gross annual
3 receipts from remote sales of two or more persons shall be
4 aggregated if:

5 a. such persons are related to the remote seller within
6 the meaning of subsections (b) and (c) of section 267
7 or section 707(b)(1) of the Internal Revenue Code of
8 1986, or

9 b. such persons have one or more ownership relationships
10 and such relationships were designed with a principal
11 purpose of avoiding the application of this act.

12 C. This act shall not be construed to impose a tax in addition
13 to the taxes levied in Sections 1354 and 1402 of Title 68 of the
14 Oklahoma Statutes. Provided, it is the intent of the Oklahoma
15 Legislature that this act constitutes an amendment to the levies in
16 Sections 1354 and 1402 of Title 68 of the Oklahoma Statutes and a
17 reenactment for the purpose of clarification of the levy of sales
18 and use taxes.

19 SECTION 2. REPEALER 68 O.S. 2011, Sections 1354.1,
20 1354.2, 1354.3, 1354.4, 1354.5 and 1354.6, are hereby repealed.

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