

BILL SUMMARY
2nd Session of the 55th Legislature

Bill No.:	SB 1301
Version:	ENGR
Request Number:	NA
Author:	Rep. Caldwell
Date:	3/28/2016
Impact:	Tax Commission:
	Unknown Revenue Impact

Research Analysis

Engrossed SB1301 expands the definition of *maintaining a place of business in this state* to presumably include:

- the presence of any person that has substantial nexus in the state and who performs specific actions that are significantly associated with the vendor's ability to establish and maintain a market in the state for the vendor's sales; and
- utilizing an office, distribution house, sales house, warehouse or other physical place of business in the state whether or not the property is owned by the vendor.

These two stated presumptions may be rebutted by demonstrating that the person's activities in the state are not significantly associated with the vendor's ability to establish and maintain a market in the state for the vendor's sales.

The measure invalidates any ruling, agreement or contract stating that a person or vendor is not maintaining a place of business in this state or any agreement that exempts a person or vendor from collecting state sales and use tax unless the agreement is approved by a majority vote of each house of the Oklahoma Legislature.

The measure requires vendors and *affiliated persons* selling goods or services to a state entity to register as a vendor and comply with all legal requirement imposed on a dealer, including the requirement to collect and remit sales or use tax on taxable sales in the state, as a prerequisite for the contracted sales or lease to take place. *Affiliated person* is defined as any person that is a member of the same controlling group of corporations as defined by the Internal Revenue Code.

The measure defines marketplace provider and marketplace seller and requires these entities to collect state sale tax.

To encourage the remittance of unpaid use tax, the measure requires a retailer or vendor making sales of tangible personal property from a place or business outside of the state and is not required to collect use tax to deliver an annual statement of total sales made to a customer from this state for sales that occurred during the preceding calendar year.

Lastly, the measure repeals statements of legislative intent to levy sales and use tax on goods sold by out-of-state vendors.

Prepared By: Quyen Do

Fiscal Analysis

From the Tax Commission:

The potential impact to state sales and use tax revenues occurring as a result of this measure is unknown.

Prepared By: Mark Tygret

Other Considerations

None.

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