

**BILL SUMMARY**  
2<sup>nd</sup> Extraordinary Session of the 56<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB 1019XX</b>
<b>Version:</b>	<b>FA1</b>
<b>Request Number:</b>	<b>NA</b>
<b>Author:</b>	<b>Rep. Wallace</b>
<b>Date:</b>	<b>4/4/2018</b>
<b>Impact:</b>	<b>Tax Commission:</b>
	<b>Annual Positive Revenue: \$20,500,000</b>
	<b>FY-19: \$19,600,000</b>

**Research Analysis**

Floor amendment 1 to HB1019XX requires any remote seller, marketplace facilitator or referrer with aggregate sales in the state of at least \$10,000 to do one of two things:

- file an election with the Oklahoma Tax Commission (OTC) to collect and remit sales and use tax due on tangible personal property sold in the state; or
- comply with notice and reporting requirements established in statute and any required by the OTC.

The measure also outlines the notice and reporting requirements and establishes penalties for noncompliance, which is the lesser of \$20,000 or 20 percent of total sales in Oklahoma during the previous 12 months.

Prepared By: Quyen Do

**Issue Summary and Fiscal Analysis**

The marketplace sales concept refers to **a marketplace where one party contracts with third party sellers to promote their sale of products through the marketplace**. As a result, a company, such as Amazon, is deemed to be a marketplace facilitator for third party sales facilitated through their website.

Marketplace sales legislation requires the facilitator to collect the sales or use tax due on a sale by a third party seller in the marketplace.

**The marketplace facilitator is responsible to calculate, collect and remit tax on sales sold by third party sellers for transactions within a state.** This is similar treatment that currently exists in Oklahoma for consigned property. By rule, sellers of property held on consignment are required to include the gross proceeds of sales of such property in its sales tax returns.

**Actions by other states:**

**Washington** and **Pennsylvania** have enacted laws which require a marketplace facilitator to report the sales of its third party sellers into their state or elect to begin collecting and remitting the sales and use tax for the third party sellers. In both states, Amazon has elected to begin collecting the tax and remitting it to the state.

**Minnesota** has enacted legislation that requires the marketplace facilitator to collect and remit the tax for its third party sellers. The Minnesota legislation does not require collection until sometime in 2019.

**Rhode Island** passed legislation that requires marketplace facilitators to annually provide a list of names/addresses of retailers for whom the facilitator did not collect the sales tax. Amazon announced they would provide the information to both states.

**Massachusetts** and **Connecticut** asked Amazon to identify all marketplace sellers with inventory in their states. Amazon is complying with the request from Massachusetts. It is unknown whether Amazon is complying with the request from Connecticut.

Prepared By: Mark Tygret

### **Revenue Estimates**

Should **Oklahoma** enact marketplace sales legislation similar to **Washington** and **Pennsylvania**, and assuming Amazon elects to collect and remit for all third party sales as it has in **Washington** and **Pennsylvania**), annual use tax collections would be expected to increase by approximately \$20.5 million on an annualized basis, with FY-19 increased collections estimated to reach \$19.6 million.