

OKLAHOMA TAX COMMISSION

FISCAL IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT SECOND EXTRAORDINARY SESSION, FIFTY-SIXTH OKLAHOMA LEGISLATURE (2018)

DATE OF IMPACT STATEMENT: April 5, 2018

BILL NUMBER: HB1019xx **STATUS AND DATE OF BILL:** Engrossed 4/04/2018

AUTHORS: House Wallace & Casey Senate David & Fields

TAX TYPE (S): Use Tax **SUBJECT:** Administration, Other

PROPOSAL: Amendatory

HB 1019xx proposes creation of the Marketplace Sales Act to require persons designated by the Act who conduct sales through a website and are currently not collecting and remitting sales or use tax to either collect and remit Oklahoma sales and use tax or provide tax responsibility notices to purchasers and reports detailing sales to the Oklahoma Tax Commission.

EFFECTIVE DATE: Effective Upon Passage and Approval

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 19: An increase of \$19,600,000 in state use tax revenues

FY 20: An increase of \$20,500,000 in state use tax revenues

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 18: None

Apr. 5, 2018

DATE

Puck Miller

DIVISION DIRECTOR

msm

4-5-18

DATE

Reece Womack

REECE WOMACK, ECONOMIST

4-5-18

DATE

Jim McInt

FOR THE COMMISSION

HB 1019xx proposes creation of the Marketplace Sales Act to require persons designated by the Act as marketplace facilitators¹, marketplace sellers², referrers³ and remote sellers⁴ (which are not currently collecting and remitting sales or use tax) and who conduct, through a website or other forum⁵, certain activities such as the facilitation of third party sales or sales' referrals to elect either to collect and remit Oklahoma sales and use tax related to third party and other marketplace sales or provide tax responsibility notices to purchasers and reports detailing sales and purchaser information to the Tax Commission. The measure also amends Section 1403 of Title 68 by altering the apportionment for use tax by depositing the first \$19,600,000 in use tax collections to the Education Reform Revolving Fund of the State Department of Education for FY 19 and the first \$20,500,000 in use tax collections to the Education Reform Revolving Fund of the State Department of Education for FY 20 and every year thereafter.

FY 19: \$19,600,000 [11½ collection months]

FY 20: \$20,500,000

¹ "Marketplace facilitator" means a person that facilitates the sale at retail of tangible personal property. For purposes of this section, a person facilitates a sale at retail if the person or an affiliated person:

- (1) lists or advertises tangible personal property for sale at retail in any forum; and
- (2) either directly or indirectly through agreements or arrangements with third parties, collects the payment from the purchaser and transmits the payment to the person selling the property.

The term includes a person that may also be a vendor.

² "Marketplace seller" means a person that has an agreement with a marketplace facilitator pursuant to which the marketplace facilitator facilitates sales for the person.

³ "Referrer" means the person, other than a person engaging in the business of printing or publishing a newspaper, that, pursuant to an agreement or arrangement with a marketplace seller or remote seller, does the following:

- (1) Agrees to list or advertise for sale at retail one or more products of the marketplace seller or remote seller in a physical or electronic medium.
- (2) Receives consideration from the marketplace seller or remote seller from the sale offered in the listing or advertisement.
- (3) Transfers by telecommunications, Internet link or other means, a purchaser to a marketplace seller, remote seller or affiliated person to complete a sale.
- (4) Does not collect a receipt from the purchaser for the sale.

The term does not include a person that:

- (1) provides Internet advertising services; and
- (2) does not provide the marketplace seller's or remote seller's shipping terms or advertise whether a marketplace seller or remote seller collects a sales or use tax.

The term includes a person that may also be a vendor.

⁴ "Remote seller" means a person, other than a marketplace facilitator, a marketplace seller or a referrer, that does not maintain a place of business in this State that, through a forum, sells tangible personal property at retail, the sale or use of which is subject to the tax imposed by section 1354 or section 1402 of this title. The term does not include an employee who in the ordinary scope of employment renders services to his employer in exchange for wages and salaries.

⁵ "Forum" means a place where sales at retail occur, whether physical or electronic. The term includes a store, a booth, a publicly accessible Internet website, a catalog or similar place.