

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 59th Legislature (2023)

4   COMMITTEE SUBSTITUTE  
5   FOR  
6   HOUSE BILL NO. 2335

By: Archer and **Boatman** of the  
House

and

**Thompson (Kristen)** of the  
Senate

12                               COMMITTEE SUBSTITUTE

13           An Act relating to sales tax; amending 68 O.S. 2021,  
14           Section 1391, as amended by Section 1, Chapter 396,  
15           O.S.L. 2022 (68 O.S. Supp. 2022, Section 1391), which  
16           relates to definitions used in the Budget Amendments  
17           Act; modifying definition of product; and providing  
18           an effective date.

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

20           SECTION 1.           AMENDATORY           68 O.S. 2021, Section 1391, as  
21           amended by Section 1, Chapter 396, O.S.L. 2022 (68 O.S. Supp. 2022,  
22           Section 1391), is amended to read as follows:

23           Section 1391. As used in this act:  
24

1        1. "Affiliated person" means a person that, with respect to  
2 another person:

3            a. has a direct or indirect ownership interest of more  
4 than five percent (5%) in the other person, or

5            b. is related to the other person because a third person,  
6 or group of third persons who are affiliated with each  
7 other as defined in this subsection, holds a direct or  
8 indirect ownership interest of more than five percent  
9 (5%) in the related person;

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

13        3. "Marketplace facilitator" means a person that facilitates  
14 the sale at retail of a marketplace seller's product. For purposes  
15 of this section, a person facilitates a sale at retail if the person  
16 or an affiliated person:

17            a. lists or advertises products for sale at retail in any  
18 forum, and

19            b. either directly or indirectly through agreements or  
20 arrangements with third parties, collects the payment  
21 from the purchaser and transmits the payment to the  
22 person selling the property.

23        The term includes a person that may also be a vendor;  
24

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

4       5. "Notice and reporting requirements" means the notice  
5 requirements under Section 1393 of this title and the reporting  
6 requirements under Sections 1394 and 1395 of this title;

7       6. "Product" means tangible personal property, services, or  
8 other transactions taxable under the Oklahoma Sales Tax Code,  
9 Section 1350 et seq. of this title. For purposes of this act, the  
10 term "product" shall not include any hotel or motel the as-built  
11 construction of which contains more than twelve (12) rooms for  
12 occupancy in the regular course of business conducted by the hotel  
13 or motel;

14       7. "Referral" means the transfer by a referrer of a potential  
15 purchaser to a person that advertises or lists products for sale on  
16 the referrer's platform;

17       8.   a. "Referrer" means the person, other than a person  
18               engaging in the business of printing or publishing a  
19               newspaper, that, pursuant to an agreement or  
20               arrangement with a marketplace seller or remote  
21               seller, does the following:

22               (1) agrees to list or advertise for sale at retail  
23                       one or more products of the marketplace seller or  
24                       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, and
- (4) does not collect a receipt from the purchaser for the sale.

b. 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.

c. The term includes a person that may also be a vendor; and

9. "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 products at retail, the sale or use of which is subject to the tax imposed by Section 1354 or 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.

SECTION 2. This act shall become effective November 1, 2023.

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2023 - DO PASS,  
As Amended and Coauthored.