

**Hall of the House of Representatives**  
92nd General Assembly - Regular Session, 2019  
**Amendment Form**

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Subtitle of House Bill No. 1002

TO REQUIRE CERTAIN OUT-OF-STATE SELLERS TO COLLECT AND REMIT ARKANSAS SALES AND  
USE TAX.

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**Amendment No. 1 to House Bill 1002**

Amend House Bill No. 1002 as originally introduced:

Immediately following SECTION 1, add an additional section to read as follows:

"SECTION 2. Arkansas Code § 26-52-103, concerning the definitions used under the Arkansas Gross Receipts Act of 1941, is amended to add additional subdivisions to read as follows:

(35)(A) "Forum" means a physical place or electronic location where sales occur.

(B) "Forum" includes without limitation a:

(i) Store;

(ii) Booth;

(iii) Publicly accessible internet website;

(iv) Catalog; and

(v) Place or location similar to the places and

locations listed in subdivisions (35)(B)(i)-(iv);

(36) "Marketplace facilitator" means a person that facilitates the sale of tangible personal property, taxable services, a digital code, or specified digital products by:

(A) Listing or advertising tangible personal property, taxable services, a digital code, or specified digital products for sale in a forum; or

(B) Either directly or indirectly through an agreement or arrangement with a third party, collecting payment from a purchaser and transmitting the payment to the person selling the tangible personal property, taxable services, a digital code, or specified digital products, regardless of whether the person receives compensation or other consideration in exchange for its services in collecting and transmitting the payment;

(37) "Marketplace seller" means a person that has an agreement with a marketplace facilitator under which the marketplace facilitator facilitates sales for the person;

(38) "Referral" means the transfer by a referrer of a potential purchaser to a person that advertises or lists tangible personal property,



taxable services, a digital code, or specified digital products for sale on the referrer's platform;

(39)(A) "Referrer" means a person, other than a person engaging in the business of printing or publishing a newspaper, that, under an agreement or arrangement with a marketplace seller or remote seller, does the following:

(i) Agrees to list or advertise for sale tangible personal property, taxable services, a digital code, or specified digital products of the marketplace seller or remote seller via a physical or electronic medium;

(ii) Receives consideration from the marketplace seller or remote seller from the sale offered in the listing or advertisement;

(iii) Transfers by telecommunications, internet link, or other means, a purchaser to a marketplace seller or remote seller to complete a sale; and

(iv) Does not collect a receipt from the purchaser for the sale.

(B) "Referrer" does not include a person that:

(i) Provides internet advertising services; and

(ii) Does not:

(a) Provide the marketplace seller's or the remote seller's shipping terms; or

(b) Advertise whether a marketplace seller or remote seller collects sales or use tax; and

(40) "Remote seller" means a person, other than a marketplace facilitator, that does not maintain a place of business in this state and that through a forum sells tangible personal property, taxable services, a digital code, or specified digital products, the sale or use of which is subject to the tax imposed by this chapter or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq."

AND

Delete SECTION 3 in its entirety, and substitute the following:

"SECTION 4. Arkansas Code Title 26, Chapter 52, Subchapter 1, is amended to add an additional section to read as follows:

26-52-111. Remote sellers and marketplace facilitators.

(a) A remote seller or a marketplace facilitator that sells or facilitates the sale of tangible personal property, taxable services, digital codes, or specified digital products for delivery into Arkansas shall collect and remit the applicable sales tax levied under this chapter or the applicable compensating use tax levied under the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., if in the previous calendar year or in the current calendar year, the remote seller or the marketplace facilitator had aggregate sales of tangible personal property, taxable services, digital codes, or specified digital products subject to Arkansas sales or use tax within this state or delivered to locations within this state exceeding:

(1) One hundred thousand dollars (\$100,000); or

(2) Two hundred (200) transactions.

(b) A sale made through a marketplace facilitator:

(1) Is a sale of the marketplace facilitator for purposes of determining whether a person satisfies the criteria stated in subsection (a) of this section; and

(2) Is not a sale of the marketplace seller for purposes of determining whether a person satisfies the criteria stated in subsection (a) of this section.

(c) The requirement to collect and remit sales or use tax under this section shall not be applied retroactively.

(d) This section does not affect or impair the:

(1) Obligation of a purchaser in this state to remit use tax on any applicable transaction in which the seller does not collect and remit sales or use tax;

(2) Obligation of a seller, when the seller is transacting business in the state and a point-of-sale tax is collected on the transaction, to remit all state and local taxes on any applicable transaction in which the seller provides goods or furnishes services within the state; or

(3) Ability of a state entity to immediately collect the taxes described in subdivision (d)(2) of this section."

AND

Page 5, line 16, delete "1 through 3" and substitute "1-4"

AND

Appropriately renumber the sections of the bill

The Amendment was read \_\_\_\_\_

By: Representative D. Douglas  
JLL/JLL - 01-24-2019 14:20:07  
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Chief Clerk