

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1321

5 By: Representative Shepherd
6 By: Senator Rapert
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 26 OF
10 THE ARKANSAS CODE CONCERNING TAXATION; AND FOR OTHER
11 PURPOSES.
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Subtitle

14 TO MAKE TECHNICAL CORRECTIONS TO TITLE 26
15 OF THE ARKANSAS CODE CONCERNING TAXATION.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 26-52-110(a) and (b), concerning sellers
22 and affiliated persons for purposes of sales taxes, are amended to read as
23 follows to correct a reference and remove a defined term that is no longer
24 used in the section:

25 (a) As used in this section:

26 (1) "Affiliated person" means:

27 (A) A person that is a member of the same controlled group
28 of corporations as the seller; or

29 (B) Another entity that, notwithstanding its form of
30 organization, bears the same ownership relationship to the seller as a
31 corporation that is a member of the same controlled group of corporations;
32 and

33 (2) "Controlled group of corporations" means the same as in 26
34 U.S.C. § 1563(a), as it existed on January 1, 2011, ~~and~~

35 ~~(3) "Facilitator" means a person that directly aids or assists~~
36 ~~sellers in making remote sales, including without limitation a person that~~



~~operates a website marketplace through which the seller makes sales.~~

(b) A seller is presumed to be engaged in the business of selling tangible personal property or taxable services for use in the state if an affiliated person is subject to the sales and use tax jurisdiction of the state and the:

(1) Seller sells a similar line of products as the affiliated person and sells the products under the same business name or a similar business name;

(2) Affiliated person uses his, hers, or its in-state employees or in-state facilities to advertise, promote, or facilitate sales by the seller to consumers;

(3) Affiliated person maintains an office, distribution facility, warehouse or storage place, or similar place of business to facilitate the delivery of property or services sold by the seller to the seller's business;

(4) Affiliated person uses trademarks, service marks, or trade names in the state that are the same or substantially similar to those used by the seller; or

(5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state.

SECTION 2. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

It is the intent of the General Assembly that:

(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-First General Assembly;

(2) To the extent that a conflict exists between an act of the regular session of the Ninety-First General Assembly and this act:

(A) The act of the regular session of the Ninety-First General Assembly shall be treated as a subsequent act passed by the General Assembly for the purpose of:

(i) Giving the act of the regular session of the Ninety-First General Assembly its full force and effect; and

(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

(B) Section 1-2-107 shall not apply; and

1 (3) This act shall make only technical, not substantive, changes
2 to the Arkansas Code of 1987.

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