

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1388**

**Amendment Number: S1**

**Bill Subtitle: TO REQUIRE OUT-OF-STATE SELLERS AND FACILITATORS TO PROVIDE NOTICE TO ARKANSAS PURCHASERS REGARDING TAX DUE ON CERTAIN PURCHASES AND TO REPORT SALES MADE TO ARKANSAS PURCHASERS.**

---

### **Basic Change :**

**Sponsor: Representative D. Douglas**

Engrossment 02/23/17 --- Senate Amendment 1 --- Amends the bill to clarify that sellers and facilitators that do not have a physical presence in Arkansas but collect and remit Arkansas sales and use taxes are not required to provide to purchasers the invoice notification statement and the annual report of sales transactions to the purchaser and to DFA.

Engrossment 02/03/17 --- House Amendment 2 --- Amends the bill to allow out-of-state sellers to send the annual notice to Arkansas purchasers through electronic means. The amendment also provides that the annual report to DFA must include the name of the purchaser, the total amount paid in the preceding year by each purchaser to the seller, and the delivery or shipping address of the purchases.

Engrossment 01/31/17 --- House Amendment 1 --- Adds Senator Files as cosponsor of the bill. Original Bill --- HB1388 would require that, beginning January 1, 2018, out-of-state retailers that do not have a physical presence in Arkansas and who do not collect Arkansas sales and use taxes from their customers notify their Arkansas customers at the time of purchase that sales or use tax is due on their purchases and that Arkansas requires the purchaser to file a sales or use tax return.

Sellers would also be required to send notice to all Arkansas purchasers by January 31 of each year showing the total amount paid by the purchaser for Arkansas purchases made from the seller. The notice would reflect the dates of purchases, the amounts, and type of purchase with information stating its taxable or exempt status. In addition, the notice would provide information stating the requirement for the Arkansas purchaser to file a tax return with Arkansas. The notice would be sent to each Arkansas purchaser by first class mail with the required labeling on the envelope of "important tax document enclosed".

By March 1 of each year, the seller would be required to file with DFA an annual report of sales to each purchaser showing the total amount paid by each Arkansas purchaser to the seller during the preceding calendar year. Facilitators who directly or assist a seller in making remote sales to Arkansas customers are also subject to the reporting requirements of notification to purchasers and the filing of annual reports. The proposal includes penalties for remote sellers and facilitators who fail to comply with the provisions of the bill.

### **Revenue Impact :**

Increased compliance with Arkansas sales and use tax laws by Arkansas purchasers is anticipated. The amount of revenue collected is unknown.

### **Taxpayer Impact :**

Out-of-state sellers with no physical presence in Arkansas would be required to notify Arkansas purchasers of Arkansas taxes due on their sales transactions and file annual reports.

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1388**

**Amendment Number: S1**

**Bill Subtitle: TO REQUIRE OUT-OF-STATE SELLERS AND FACILITATORS TO PROVIDE NOTICE TO ARKANSAS PURCHASERS REGARDING TAX DUE ON CERTAIN PURCHASES AND TO REPORT SALES MADE TO ARKANSAS PURCHASERS.**

---

### **Resources Required :**

None.

### **Time Required :**

Adequate time is provided for implementation.

### **Procedural Changes :**

DFA will prepare guidelines for out-of-state sellers referencing the text for the invoice statement and the format for the annual report.

### **Other Comments :**

None.

### **Legal Analysis :**

Senate Amendment. No. 1 to HB1388 exempts sellers and facilitators that do not have a physical presence in Arkansas but that do collect and remit sales and use tax to the state from the notice requirements proposed by the original bill. This change provides clarity to ensure that a collecting seller or facilitator is not subject to both collection and fulfilling the notice requirement.