

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1038

Bill Subtitle: TO CLARIFY THAT SALES TAX IS REQUIRED TO BE COLLECTED AND REMITTED ON DELIVERY CHARGES FOR SALES BY A MARKETPLACE FACILITATOR.

Basic Change :

Sponsor: Rep. Jett

Current Arkansas law provides that delivery charges are subject to sales tax unless the items sold are tax-exempt. If the shipment includes both taxable and tax-exempt property, then the tax is based on the percentage of the delivery charges or fees allocated to the taxable property. HB1038 amends § 26-52-103(7) and (19)(A) to clarify that delivery charges charged by both sellers and marketplace facilitators are included in the total sales price subject to sales tax by including marketplace facilitators in the definitions of "delivery charge" and "gross receipts" for Arkansas sales tax purposes.

Revenue Impact :

None.

Taxpayer Impact :

HB1038 would clarify that delivery fees charged by a marketplace facilitator are subject to sales tax.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

None.

Other Comments :

None.

Legal Analysis :

HB1038 clarifies that delivery charges are included in the total sales price of goods or services subject to sales tax regardless of whether the seller or a marketplace facilitator charges the delivery charge. Delivery charges are listed as part of the total sales price subject to tax but the definition of "delivery charge" is outdated and does not include marketplace facilitators.

Marketplace facilitators were added to Arkansas law by Act 822 of 2019 to address companies that provide platforms to facilitate sales by other vendors. To prevent confusion about whether a "delivery charge" by a marketplace facilitator is included in the taxable sales price, HB1038 includes a "marketplace facilitator" in the definition alongside "seller" as an entity whose delivery charges are included in the total sales price subject to sales tax.