

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

A Bill

HOUSE BILL 1388

5 By: Representative D. Douglas
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For An Act To Be Entitled

8 AN ACT TO REQUIRE OUT-OF-STATE SELLERS AND
9 FACILITATORS TO PROVIDE NOTICE TO ARKANSAS PURCHASERS
10 REGARDING TAX DUE ON CERTAIN PURCHASES; TO REQUIRE
11 OUT-OF-STATE SELLERS AND FACILITATORS TO REPORT SALES
12 MADE TO ARKANSAS PURCHASERS; AND FOR OTHER PURPOSES.
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Subtitle

15 TO REQUIRE OUT-OF-STATE SELLERS AND
16 FACILITATORS TO PROVIDE NOTICE TO
17 ARKANSAS PURCHASERS REGARDING TAX DUE ON
18 CERTAIN PURCHASES AND TO REPORT SALES
19 MADE TO ARKANSAS PURCHASERS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 26-52-110(f), concerning referral
26 agreements between sellers and affiliated persons and the notice required, is
27 amended to read as follows:

28 (f) A seller that does not have a physical presence in this state and
29 does not collect Arkansas sales or use tax on sales made to Arkansas
30 purchasers shall:

31 (1)(A) Notify Arkansas purchasers at the time of purchase that
32 sales or use tax is due on certain purchases made from the seller and that
33 the State of Arkansas requires the purchaser to file a sales or use tax
34 return.

35 (B) A seller that fails to provide the notice required
36 under this subdivision (f)(1) is subject to a penalty of five dollars (\$5.00)



1 for each failure to provide notice, unless the seller shows reasonable cause
2 for the failure to provide notice;

3 (2)(A) If a seller does not collect Arkansas sales or use tax,
4 send notice to all Arkansas purchasers by January 31 of each year showing the
5 total amount paid by the purchaser for Arkansas purchases made from the
6 seller in the previous calendar year.

7 (B) The notice required under this subdivision (f)(2)
8 shall:

9 (i) Include, if available, the date of each
10 purchase, the amount of each purchase, and the category of each purchase,
11 including without limitation whether the purchase is exempt from taxation;

12 (ii) State that the State of Arkansas requires a
13 sales or use tax return to be filed and sales or use tax paid on certain
14 Arkansas purchases made by the purchaser from the seller;

15 (iii) Be sent separately to each Arkansas purchaser
16 by first-class mail;

17 (iv) Not be included with any other shipment; and

18 (v) Include the words "important tax document
19 enclosed" and the name of the seller on the exterior of the mailing.

20 (C) A seller that fails to provide the notice required
21 under this subdivision (f)(2) is subject to a penalty of ten dollars (\$10.00)
22 for each failure to provide notice, unless the seller shows reasonable cause
23 for the failure to provide notice; and

24 (3)(A) By March 1 of each year, file an annual report of sales
25 to each purchaser with the Director of the Department of Finance and
26 Administration showing the total amount paid by each Arkansas purchaser to
27 the seller during the preceding calendar year.

28 (B) A seller that fails to provide the annual report
29 required under this subdivision (f)(3) is subject to a penalty of ten dollars
30 (\$10.00) for each purchaser that should have been included in the annual
31 report, unless the seller shows reasonable cause for the failure to provide
32 the report.

33 (g) A seller is presumed to be engaged in the business of selling
34 tangible personal property or taxable services for use in this state if the
35 seller enters into an agreement with a facilitator to directly aid or assist
36 the seller in making remote sales.

1 (h) A facilitator shall:

2 (1)(A) Notify:

3 (i) Arkansas purchasers at the time of purchase that
4 sales or use tax is due on certain purchases made from sellers and that the
5 State of Arkansas requires the purchaser to file a sales or use tax return;
6 and

7 (ii) Sellers to Arkansas purchasers that sales or
8 use tax is imposed on sales made to Arkansas purchasers.

9 (B) A facilitator that fails to provide the notices
10 required under this subdivision (h)(1) is subject to a penalty of five
11 dollars (\$5.00) for each failure to provide notice, unless the facilitator
12 shows reasonable cause for the failure to provide notice.

13 (2)(A) By March 1 each year, file an annual report of each
14 seller to the director showing the total amount paid by Arkansas purchasers
15 to the seller during the preceding calendar year.

16 (B) A facilitator that fails to provide the annual report
17 required under this subdivision (h)(2) is subject to a penalty of ten dollars
18 (\$10.00) for each seller that should have been included in the annual report,
19 unless the facilitator shows reasonable cause for the failure to provide the
20 report.

21 (k) The Director of the Department of Finance and Administration shall
22 promulgate rules to implement this section.

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24 SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective on and
25 after January 1, 2018.