

1 **SENATE FLOOR VERSION**

2 April 12, 2023

3 ENGROSSED HOUSE  
4 BILL NO. 2335

By: Archer and Boatman of the  
House

5 and

6 Thompson (Kristen) of the  
7 Senate

8  
9 [ sales tax - Budget Amendments Act - definition of  
10 product - effective date ]

11  
12 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

13 SECTION 1. AMENDATORY 68 O.S. 2021, Section 1391, as  
14 amended by Section 1, Chapter 396, O.S.L. 2022 (68 O.S. Supp. 2022,  
15 Section 1391), is amended to read as follows:

16 Section 1391. As used in this act:

17 1. "Affiliated person" means a person that, with respect to  
18 another person:

19 a. has a direct or indirect ownership interest of more  
20 than five percent (5%) in the other person, or

21 b. is related to the other person because a third person,  
22 or group of third persons who are affiliated with each  
23 other as defined in this subsection, holds a direct or  
24

1 indirect ownership interest of more than five percent  
2 (5%) in the related person;

3 2. "Forum" means a place where sales at retail occur, whether  
4 physical or electronic. The term includes a store, a booth, a  
5 publicly accessible Internet website, a catalog, or similar place;

6 3. "Marketplace facilitator" means a person that facilitates  
7 the sale at retail of a marketplace seller's product. For purposes  
8 of this section, a person facilitates a sale at retail if the person  
9 or an affiliated person:

10 a. lists or advertises products for sale at retail in any  
11 forum, and

12 b. either directly or indirectly through agreements or  
13 arrangements with third parties, collects the payment  
14 from the purchaser and transmits the payment to the  
15 person selling the property.

16 The term includes a person that may also be a vendor;

17 4. "Marketplace seller" means a person that has an agreement  
18 with a marketplace facilitator pursuant to which the marketplace  
19 facilitator facilitates sales for the person;

20 5. "Notice and reporting requirements" means the notice  
21 requirements under Section 1393 of this title and the reporting  
22 requirements under Sections 1394 and 1395 of this title;

23 6. "Product" means tangible personal property, services, or  
24 other transactions taxable under the Oklahoma Sales Tax Code,

1 Section 1350 et seq. of this title. For purposes of this act, the  
2 term "product" shall not include any hotel or motel the as-built  
3 construction of which contains more than twelve (12) rooms for  
4 occupancy in the regular course of business conducted by the hotel  
5 or motel;

6 7. "Referral" means the transfer by a referrer of a potential  
7 purchaser to a person that advertises or lists products for sale on  
8 the referrer's platform;

9 8. a. "Referrer" means the person, other than a person  
10 engaging in the business of printing or publishing a  
11 newspaper, that, pursuant to an agreement or  
12 arrangement with a marketplace seller or remote  
13 seller, does the following:

14 (1) agrees to list or advertise for sale at retail  
15 one or more products of the marketplace seller or  
16 remote seller in a physical or electronic medium,

17 (2) receives consideration from the marketplace  
18 seller or remote seller from the sale offered in  
19 the listing or advertisement,

20 (3) transfers by telecommunications, Internet link,  
21 or other means, a purchaser to a marketplace  
22 seller, remote seller, or affiliated person to  
23 complete a sale, and  
24

1 (4) does not collect a receipt from the purchaser for  
2 the sale.

3 b. The term does not include a person that:

4 (1) provides Internet advertising services, and

5 (2) does not provide the marketplace seller's or  
6 remote seller's shipping terms or advertise  
7 whether a marketplace seller or remote seller  
8 collects a sales or use tax.

9 c. The term includes a person that may also be a vendor;  
10 and

11 9. "Remote seller" means a person, other than a marketplace  
12 facilitator, a marketplace seller, or a referrer, that does not  
13 maintain a place of business in this state that, through a forum,  
14 sells products at retail, the sale or use of which is subject to the  
15 tax imposed by Section 1354 or 1402 of this title. The term does  
16 not include an employee who in the ordinary scope of employment  
17 renders services to his employer in exchange for wages and salaries.

18 SECTION 2. This act shall become effective November 1, 2023.

19 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
20 April 12, 2023 - DO PASS