An Act

ENROLLED HOUSE
BILL NO. 2335

By: Archer and Boatman of the House

and

Thompson (Kristen) of the Senate

An Act relating to sales tax; amending 68 O.S. 2021, Section 1391, as amended by Section 1, Chapter 396, O.S.L. 2022 (68 O.S. Supp. 2022, Section 1391), which relates to definitions used in the Budget Amendments Act; modifying definition of product; and providing an effective date.

SUBJECT: Sales tax

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

Section 1391. As used in this act:

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

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

b. is related to the other person because a third person, or group of third persons who are affiliated with each other as defined in this subsection, holds a direct or indirect ownership interest of more than five percent (5%) in the related person;

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

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

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

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

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

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

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

6. "Product" means tangible personal property, services, or other transactions taxable under the Oklahoma Sales Tax Code, Section 1350 et seq. of this title. For purposes of this act, the term product shall not include any hotel or motel the as-built construction of which contains more than twelve (12) rooms for occupancy in the regular course of business conducted by the hotel or motel;

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

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

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

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

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

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

b. The term does not include a person that:

(1) provides Internet advertising services, and

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

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

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

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

Passed the House of Representatives the 11th day of May, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 19th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 15th

day of May, 20 23, at 2:12 o'clock p. M.

By: _____

Approved by the Governor of the State of Oklahoma this 19th

day of May, 20 23, at 10:20 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 19th

day of May, 20 23, at 1:18 o'clock P. M.

By: _____