OKLAHOMA TAX COMMISSION

FISCAL IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
SECOND REGULAR SESSION, FIFTY-FIFTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 21, 2016

BILL NUMBER: SB1251 **STATUS AND DATE OF BILL:** Engrossed 03/02/2016

AUTHORS: House Caldwell Senate Ford

TAX TYPE (S): Sales Tax **SUBJECT:** Administrative

PROPOSAL: New Law & Repealer

This measure proposes to include within the sales and use levy, remote sales[1] occurring within this state through the continuous, regular or systematic solicitation in the Oklahoma consumer market by remote sellers[2] through the Internet, mail order and catalog publications; provided the remote seller's gross annual receipts in total U.S. remote sales in the preceding calendar year exceed $1 million. The bill also repeals redundant language related to the levy of tax on out-of-state vendors.

EFFECTIVE DATE: November 1, 2016

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 17: Unknown
FY 18: Unknown

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 17: None

Mar. 21, 2016 — DATE
Rick Miller — DIVISION DIRECTOR

msm

3-21-16 — DATE
Reece Womack — REECE WOMACK, ECONOMIST

3/28/16 — DATE
Dan Carr — FOR THE COMMISSION

1 "Remote sale" is defined as a sale into this state in which the seller is not required to pay, collect, or remit sales or use taxes to this state under the interpretation, in effect on the effective date of this date of this act, of the Commerce Clause of the United States Constitution by the United States Supreme Court, which prohibits states from enforcing sales or use tax collection obligations on out-of-state sellers unless the seller has a substantial nexus with the state.
2 "Remote seller" is defined as a seller that makes remote sales in this state.

ATTACHMENT TO FISCAL IMPACT SB 1251–Engrossed–Prepared March 21, 2016

This measure proposes to include within the sales and use levy, remote sales[3] occurring within this state through the continuous, regular or systematic solicitation in the Oklahoma consumer market by remote sellers[4] through the Internet, mail order and catalog publications; provided the remote seller's gross annual receipts in total U.S. remote sales in the preceding calendar year exceed $1 million. The bill also repeals redundant language related to the levy of tax on out-of-state vendors.

Analysis:

A study conducted by the University of Tennessee estimated $296,400,000 in uncollected state and local sales and use taxes from remotes sales sourced to Oklahoma in 2012. Of this amount 55% or $163,000,000 is attributable to state sales and use taxes. Recent versions of the Marketplace Fairness Act contain a small seller exception which exempts remote sellers from collecting sales and use taxes under the Act if the remote seller in the preceding calendar year had gross annual remote sales receipts of $1,000,000 or less. Previously, it has been estimated that the $1,000,000 small seller exception would reduce collections by 50% yielding $81,500,000 and $66,700,000 in uncollected state and local sales and use taxes, respectively from remotes sales for Oklahoma.

Due to the uncertainty regarding Congressional passage of a measure authorizing states to require tax collection from remote sellers and the exact parameters of such an authorization, the potential increase in state sales and use tax revenues occurring as a result of changes in federal law is unknown.

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3 "Remote sale" is defined as a sale into this state in which the seller is not required to pay, collect, or remit sales or use taxes to this state under the interpretation, in effect on the effective date of this date of this act, of the Commerce Clause of the United States Constitution by the United States Supreme Court, which prohibits states from enforcing sales or use tax collection obligations on out-of-state sellers unless the seller has a substantial nexus with the state.
4 "Remote seller" is defined as a seller that makes remote sales in this state.