

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1904

By: Representatives Milligan, Jett, Wooten

By: Senators Irvin, Hickey

For An Act To Be Entitled

AN ACT TO PROVIDE FOR THE TAX TREATMENT OF PEER-TO-PEER CAR-SHARING PROGRAMS; TO AMEND THE DEFINITION OF A "MARKETPLACE FACILITATOR"; TO REQUIRE PEER-TO-PEER CAR-SHARING PROGRAMS TO COLLECT AND REMIT SALES AND USE TAX AND THE RENTAL-VEHICLE TAX UNDER CERTAIN CONDITIONS; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE PEER-TO-PEER CAR-SHARING PROGRAMS TO COLLECT AND REMIT SALES AND USE TAX AND THE RENTAL-VEHICLE TAX UNDER CERTAIN CONDITIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Before the passage of Acts 2019, No. 822, the inability to effectively collect Arkansas sales and use taxes from the growing number of remote sellers caused revenue losses and harmed the state through the loss of critical funding for state and local services;

(2) This harm created the need for Acts 2019, No. 822, which:

(A) Restored lost revenue;

(B) Provided fairness for in-state sellers that were delivering the same goods and services as those being provided by remote sellers;



(C) Ensured efficiency for the state and for individual taxpayers by requiring marketplace facilitators to collect and remit applicable taxes when the marketplace facilitator has sales of at least one hundred thousand dollars (\$100,000) or at least two hundred (200) transactions; and

(D) Established that, in addition to sales tax, a marketplace facilitator must collect and remit other applicable taxes that would otherwise apply to an in-state seller; and

(3) A marketplace facilitator's obligation to remit and collect the appropriate taxes is not overly burdensome because advanced computing and software options can be employed to collect and remit the appropriate taxes associated with the sale of goods and services to residents of this state.

SECTION 2. Arkansas Code § 26-52-103(21), as amended by Acts 2021, No. 144, § 1, concerning the definitions used under the state sales tax laws, is amended to read as follows:

(21)(A) "Marketplace facilitator" means a person that facilitates the sale of tangible personal property, taxable services, a digital code, or specified digital products by:

~~(A)(i)~~ Listing or advertising tangible personal property, taxable services, a digital code, or specified digital products for sale in a forum; and

~~(B)(ii)~~ Either directly or indirectly through an agreement or arrangement with a third party, collecting payment from a purchaser and transmitting the payment to the person selling the tangible personal property, taxable services, a digital code, or specified digital products, regardless of whether the person receives compensation or other consideration in exchange for the person's services in collecting and transmitting the payment.

(B)(i) "Marketplace facilitator" includes without limitation a peer-to-peer car-sharing program.

(ii) As used in this subdivision (21)(B), "peer-to-peer car-sharing program" means a business platform that connects motor-vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration;

SECTION 3. Arkansas Code § 26-63-302(a)(1)(B), concerning the rental-vehicle tax levied on the rental of a motor vehicle for period of less than thirty (30) days, is amended to read as follows:

(B)(i) The rental vehicle tax is levied on the gross receipts or gross proceeds derived from the rental of a motor vehicle required to be licensed that is leased for a period of less than thirty (30) days.

(ii) The gross receipts or gross proceeds under this subdivision (a)(1)(B) include the gross receipts or gross proceeds of a peer-to-peer car-sharing program as defined in § 26-52-103(21)(B).

(iii) A peer-to-peer car sharing program that is required under § 26-52-111 to collect and remit sales or use tax shall also collect and remit the tax levied by this section.

SECTION 4. EFFECTIVE DATE. Sections 2-3 of this act are effective on the first day of the second calendar month following the effective date of this act and are retroactive.