

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**April 2, 2023**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on Finance

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: SB1053** by Hughes (Relating to the definition of marketplace seller for purposes of sales and use taxes.), **As Introduced**

<b>No fiscal implication to the State is anticipated.</b>
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The bill would amend Section 151.0242(a)(3) of the Tax Code, regarding the state sales and use tax and marketplace providers and marketplace sellers, to exclude an affiliate of the marketplace provider from the definition of “marketplace seller.” Affiliate would be defined as a person who controls, is controlled by, or is under common control with another person.

Under current law marketplace providers are required to collect sales and use tax on sales made by their affiliates through a marketplace. Under the provisions of the bill marketplace providers would no longer be responsible for collecting sales and use tax on sales made by their affiliates and those affiliates would instead be responsible for remitting sales and use taxes made through a marketplace. This analysis assumes there would be no impact to state revenue as affiliates are expected to comply with the law and remit all appropriate sales and use tax.

The bill would take effect September 1, 2023.

**Local Government Impact**

The bill could impact local taxing jurisdictions as under current law sales and use tax due on a marketplace transaction is based on destination. Should the bill become law, affiliate sales would instead be sourced to where the order is received, fulfilled, or to destination, depending on the business model. This could increase or decrease the amount of local sales and use tax received by a particular unit of local government. These impacts cannot be determined.

**Source Agencies:** 304 Comptroller of Public Accounts

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