



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 542

PRINTERS NO. 1563

PRIME SPONSOR: Thomas

### REVENUE INCREASE / (DECREASE)

FUND	FY 2016/17	FY 2017/18
General Fund	\$0	See Fiscal Impact

**SUMMARY:** House Bill 542, Printer's Number 1563, amends the Tax Reform Code of 1971 further providing in sales and use tax for definitions and providing for notice requirements for remote sellers.

**ANALYSIS:** This legislation requires a remote seller making a sale in PA to notify the purchaser that sales or use tax is due on the nonexempt purchase and that PA requires the purchaser to pay the tax due on the purchaser's tax return. Failure to provide this notice shall subject the remote seller to a penalty of \$5 for each failure, unless the remote seller shows reasonable cause for the failure. A "remote seller" is defined as a vendor located outside of PA that sells tangible personal property or services that are not exempt from the sales and use tax to a purchaser in PA but does not collect the tax.

On or before January 31 of each year, a remote seller shall send notice to each purchaser in PA who made \$500 or more of purchases in the previous calendar year which shall include: (1) the total amount paid by the purchaser for purchases in the previous calendar year; (2) a statement that PA requires a sales or use tax return to be filed and sales or use tax to be paid on nonexempt purchases; and (3) any information required by the Department of Revenue (DOR) by rule. The notice shall be sent separately by first-class mail or electronic mail, may not be included with any other shipments, shall include the name of the remote seller and shall include the words "Important Tax Document Enclosed" on the exterior of the mailing. Failure to send such notice shall subject the remote seller to a penalty of \$10 for each failure, unless the remote seller shows reasonable cause for the failure.

The act shall take effect in 60 days.

**FISCAL IMPACT:** In *Quill Corporation v. North Dakota*, the U.S. Supreme Court held that states cannot require retailers that do not have a physical presence within the state to collect a sales or use tax. In 2011, DOR issued a Sales and Use Tax Bulletin clarifying the collection of sales and use tax for online sales by remote sellers with nexus or a physical presence in PA. However, PA as well as other states have been unable to require remote sellers that do not meet physical presence requirements to collect sales or use taxes.

In PA, if a vendor does not collect tax on a taxable sale of property or services, the purchaser is required to pay use tax directly to DOR. Enactment of this legislation would require the remote seller, not collecting the sales and use tax, to provide notice to the purchaser that sales or use tax is due to PA and that PA requires the sales or use tax to be paid on the purchaser's tax return. It is anticipated that this notice requirement to the purchaser of taxes due to PA will generate additional sales and use tax collections for the Commonwealth. The exact amount of additional revenues to the Commonwealth is unknown.

**PREPARED BY:** Ritchie LaFaver  
House Appropriations Committee (R)

**DATE:** May 9, 2017

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*