



DEPARTMENT OF AUDITS AND ACCOUNTS

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March 21, 2017

Honorable Chuck Hufstetler
Chairman, Senate Finance
121-C Capitol
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill 225 (LC 34 5166S)

Dear Chairman Hufstetler:

The bill modifies the definition of 'dealer' and adds a defined term, 'facilitates', under O.C.G.A. §48-8-2 in order to require that any person who facilitates or brokers the sale of, and accepts payment for, taxable property or services, and who has "substantial nexus" in the state, collect and remit sales and use tax. A facilitating or brokering dealer is deemed under the proposed law to have substantial nexus in the state if such dealer facilitates or brokers the sale and accepts payment for more than \$250,000 of taxable property or services in the previous or current calendar year. The law would apply to sales occurring on or after July 1, 2017.

Thus, in addition to extending the duty of dealers to collect and remit sales tax to certain facilitators and brokers with physical nexus in the state, the bill effectively proposes to expand the concept of nexus for such facilitators and brokers from a physical presence standard to one of substantial economic presence or "economic nexus." Thus any revenue gains from such expansion would depend on the law surviving potential constitutional challenges under the precedent of the U.S. Supreme Court ruling in *Quill Corp. v. North Dakota* (1992).

Georgia State University's Fiscal Research Center (FRC) estimated that the bill could result in \$56.5 million in state revenue in FY 2018, increasing to \$63.7 million in FY 2022 (Table 1). Local revenue gains were estimated at \$41.8 million in FY 2018, growing to \$47.1 million in FY 2022. These revenue amounts assume that the dealers do not successfully challenge the law in court and that these dealers are not already collecting and paying taxes to the state and local governments. Details of FRC's analysis are provided in the attached appendix.

Table 1. Estimated State and Local Revenue Effects from HB 225 Sub LC 5166S

<i>(\$ millions)</i>	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
State Revenue	\$56.5	\$58.6	\$60.5	\$62.0	\$63.7
Local Revenue	\$41.8	\$43.4	\$44.8	\$45.9	\$47.1

Sincerely,



Greg S. Griffin
State Auditor



Teresa A. MacCartney, Director
Office of Planning and Budget

GSG/TAM/mt

Analysis by the Fiscal Research Center

Three significant categories of businesses have been identified as ones affected by the proposed bill, including ride-sharing networks like Uber and Lyft, lodging network services like Airbnb or HomeAway/VRBO that facilitate short-term rentals of private homes, and tangible personal property auction sites like Ebay. In addition, online “marketplace” sites like Amazon Marketplace that facilitate sales of goods by third-party sellers would be required to collect and remit sales tax, assuming substantial nexus. However, due to lack of data on the amounts of such sales that are not already being taxed, potential revenue gains from marketplace site sales are not estimated.

The estimates assume that sales taxes are not currently being collected on ride-sharing network or lodging network sales, or on most auction site sales. To the extent that any of these providers or sites are already collecting and remitting sales tax, or their customers are paying use tax on their purchases, the bill will have a smaller revenue effect.

Ride Sharing

The following summarizes the facts and assumptions used in the ride sharing revenue estimates:

- State and local sales tax is applied to the gross payment for service.
- Because data on gross payment for services provided only in the Georgia was not available, we estimate the tax base as follows:
 - According to financial data from Uber, drivers received \$657 million in earnings for the fourth quarter of 2014.¹
 - This figure is multiplied by 4 to represent a full year of earnings and is also grossed up to account for the 25 percent share distributed to Uber before payments were made to the drivers.²
 - This figure is then adjusted further to account for the operations of other ridesharing services, such as Lyft. Uber is estimated to have about an 81 percent market share as of 2016.³
 - These adjustments produce a U.S. tax base of \$4.2 billion for 2014.
 - To determine the amount that is associated with Georgia services, we multiply the figure of \$4.2 billion by 1.70 percent, which represents Georgia’s share of the national employment in the taxi and limousine service industry based on data from the Quarterly Census of Employment and Wages for 2015. This results in an estimated sales tax base of \$70.8 million for Georgia in 2014.
- Based on news reports, Uber revenues grew at an annual average of 137 percent worldwide between 2014 and 2016. However, this represents global expansion rather than U.S. user

¹ “An Analysis of the Labor Market for Uber’s Driver-Partners in the United States”, by Jonathan V. Hall and Alan B. Krueger, January 22, 2015

² Several sources state that the company’s share of the gross charge is 25 percent including a Bloomberg news article from April 4, 2016 and the Uber Statistics Report for 2016 produced by Business Of Apps at www.businessofapps.com.

³ See SurveyMonkey data on Uber vs Lyft: Share of Car Transport App Market for July 2016. Available at <https://www.surveymonkey.com/business/intelligence/uber-statistics/>. Because no data was found for the market share in 2014, we assume this market share existed in 2014.

growth. According to market research firm eMarketer, U.S. adult users of “sharing economy” transportation services grew by 82.4 percent cumulatively from 2014 to 2016. This growth rate is applied to the 2014 tax base to estimate a 2016 sales tax base for ride sharing services of \$129.1 million for Georgia. The estimates assume, based on eMarketer’s forecast, annual growth rates of 13.3 percent for 2017, trending down to 5 percent for years 2020 through 2022.⁴ Although there is some argument for expecting higher growth rates in the next several years due to the infancy of this industry, the eMarketer’s forecast points to increased competition from taxi services and heavier regulations as reasons to expect more limited growth. If higher growth rates are experienced, state and local revenues will be higher than as shown in Table 1.

- For all estimates, the state and average local (2.96 percent) sales tax rate is applied to the forecasted sales tax base, and the estimated revenue is adjusted to reflect the timing of receipts based on the state fiscal calendar.

Table 2. Estimated State and Local Sales Tax Revenue from Ride-Sharing Services

(\$ millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
State Revenue Gain	\$6.1	\$6.5	\$6.9	\$7.2	\$7.6
Local Revenue Gain	\$4.5	\$4.8	\$5.1	\$5.3	\$5.6

Lodging Network Services:

The following summarizes the facts and assumptions used in the lodging network revenue estimates:

- Based on listing information from AlltheRooms.com, an aggregator of listings from Airbnb.com and similar services, available room, apartment, and house rentals in Georgia’s major cities are estimated to amount to about 10,700 units and 3.9 million available room-nights annually as of 2015.
- Based on data from Airdna.com, an Airbnb data analytics service, the occupancy rates for the rooms is estimated to be forty percent and the average price paid for these rooms is \$126 per night. The FY 2015 base year estimate for nights rented through a home sharing or home rental service is thus 1.6 million room night rentals, generating about \$197 million in sales. The average price of a night is expected to grow with inflation, two percent annually.
- Multiple news reports have noted the high rates of growth in this market, particularly for rentals through Airbnb. eMarketer estimates growth from 2015 to 2016 of about 22.3 percent in the U.S., with year-over-year growth rates slowing somewhat to 7.8 percent between 2019 and 2020. As in the case of ride-sharing, the eMarketer forecasted growth rates were used to estimate room-night rental sales through FY 2022.⁵

⁴ <https://www.emarketer.com/Article/How-Much-More-Ride-Sharing-Services-Grow-US/1013963>.

⁵ eMarketer forecast for lodging sharing <https://www.emarketer.com/Chart/US-Adult-Lodging-Sharing-Economy-Users-Penetration-2014-2020/191031>

Table 3. Estimated State and Local Sale Tax Revenue from Lodging Network Services

<i>(millions except per night prices)</i>	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Room Night Rentals	2.45	2.71	2.92	3.07	3.22
Per Night Price	\$134	\$136	\$139	\$142	\$145
Rental Spending	\$328.1	\$369.8	\$406.7	\$435.6	\$466.5
State Revenue	\$13.1	\$14.8	\$16.3	\$17.4	\$18.7
Local Revenue	\$9.7	\$10.9	\$12.0	\$12.9	\$13.8

Auction Sites for Tangible Personal Property

The following summarizes the facts and assumptions used in the auction site revenue estimates:

- Ebay is assumed to dominate the market for merchandise sold through an auction site that would be defined as a facilitator under the proposed legislation, and thus to account for substantially all the potential revenue gains from this market. To the extent there are similar sites that would reach the substantial nexus threshold of \$250,000 of sales in Georgia, revenue effects could be larger.
- Ebay reports worldwide marketplace sales of \$79.4 billion in gross merchandise value for 2016, with 61.75 percent of net transaction revenue from international transactions. Thus, gross merchandise value of about \$30.4 billion is assumed sold in the U.S. in 2016.
- This amount is shared down to Georgia based on Georgia’s share of U.S. population with internet access (about 3.15% as of 2012, according to Census data), resulting in an estimated \$948 million gross merchandise value sold to Georgia purchasers in 2016.
- According to instructions given to sellers by Ebay, sellers are responsible for any state or local sales tax that may be due on their sales. However, insufficient data are available from which to estimate Ebay marketplace sales on which Georgia taxes are already collected, thus it is assumed that 2.9 percent (Georgia’s share of U.S. retail trade as of 2015) of sales to Georgia are made by Georgia sellers and are currently being taxed. This results in an estimate \$921 million in 2016 of potentially taxable merchandise sales on Ebay that are not currently being taxed.
- Forrester Research (cited by trade news website internetretailer.com, Jan. 29, 2016) forecasts online sales growth through 2020 to average 9.3 percent annually. Thus, the projections assume a growth rate of 9.3 percent for FY 2016 through FY 2022.

Table 4. Estimated State and Local Sales Tax Revenue from Auction Sites

<i>(\$ millions)</i>	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Ebay Purchases ¹	\$922.2	\$923.3	\$924.4	\$925.5	\$926.6
State Revenue	\$36.9	\$36.9	\$37.0	\$37.0	\$37.1
Local Revenue	\$27.3	\$27.3	\$27.4	\$27.4	\$27.4

¹ Georgia purchases from Ebay sellers outside of Georgia.

The estimated state and local revenue effects from Tables 2 through 4 are summed in Table 1.