



Georgia Department of Revenue Policy Bulletin SUT-2020-01 Marketplace Facilitators

Purpose: This Policy Bulletin discusses the duty of marketplace facilitators to collect, remit, and report Georgia sales tax.

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Authority: Ga. House Bill 276, 2019-2020 Reg. Sess. (2020); O.C.G.A. §§ 48-8-2, 48-8-30, 48-8-59, 48-8-77, 48-7-28.3.

Scope: A Policy Bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers, superseding all conflicting documents and oral directives previously issued by the Department. A Policy Bulletin does not have the force or effect of law and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or subsequent Policy Bulletin.

Issues:

1. What is a marketplace facilitator?
2. What is a marketplace seller?
3. Are marketplace facilitators required to collect and remit Georgia sales tax?
4. What is the tax base for purposes of calculating sales tax on retail sales facilitated by marketplace facilitators?
5. Is a marketplace facilitator liable for sales tax that it fails to collect due to incorrect or insufficient information?
6. Are marketplace sellers required to collect and remit Georgia sales tax?
7. How must a marketplace facilitator report sales tax?
8. Do sales facilitated by a marketplace facilitator on behalf of a remote marketplace seller count toward that marketplace seller's sales for purposes of determining whether that seller must remit Georgia sales tax?

Discussion of Issues:

1. What is a marketplace facilitator?

Effective April 1, 2020, a marketplace facilitator is defined in O.C.G.A. § 48-8-2 as a person that contracts with a seller, in exchange for any form of consideration, to make available or facilitate a taxable retail sale by, directly or through any agreement or arrangement with another person,

- collecting, charging, processing, or otherwise similarly facilitating payment of such retail sale on behalf of the marketplace seller; *and*
- providing a service that makes available or facilitates such retail sale in any manner. Such service may include, but is not limited to, promoting, marketing, advertising, taking orders or reservations for such retail sale; providing the physical or electronic infrastructure that brings purchasers and marketplace sellers together for such retail sale; or otherwise similarly assisting the seller in making such retail sale; or transmitting or otherwise similarly communicating the offer and acceptance between the marketplace seller and the purchaser for, or otherwise similarly assisting the seller for such retail sale. Such service excludes merely processing the payments for such retail sale.

A franchisor is not a marketplace facilitator with respect to its franchisee if

- such franchisor and all of its franchisees combined made annual gross sales in the United States of at least \$500 million in aggregate in the prior calendar year;
- such franchisee maintains a valid Georgia sales and use tax certificate of registration; and
- such franchisor and franchisee maintain a valid contract providing that the franchisee will collect and remit all applicable taxes and fees that the franchisor would otherwise be required to collect and remit as a marketplace facilitator for such franchisee.

A person is not a marketplace facilitator with respect to any dealer that would otherwise be its marketplace seller (defined below) if

- in the prior calendar year, such dealer made annual gross sales in Georgia (i.e., sourced to Georgia) of at least \$500 million;
- such dealer maintains a valid Georgia sales and use tax certificate of registration; and
- such dealer and such person that would otherwise be a marketplace facilitator maintain a valid contract providing that the dealer will collect and remit all applicable taxes and fees and that such person would otherwise be required to collect and remit as a marketplace facilitator for such dealer.

Example 1: Company A facilitates sales by advertising local restaurants on its flyers and mailers. Customers order food from the restaurants by telephoning Company A. Company A processes customers' payments and delivers the restaurants' food to the customers. Company A is not a franchisor, and none of the restaurants that it advertises made annual gross sales in Georgia of \$500 million or more. Company A is a marketplace facilitator.

Example 2: Company B facilitates sales by advertising local restaurants on its website and mobile app. Customers place orders for the restaurants' food on Company B's website or mobile app. Company B processes customers' payments through its website or mobile app and delivers the food to customers. Company B is not a franchisor, and none of the restaurants

that it advertises made annual gross sales in Georgia of \$500 million or more. Company B is a marketplace facilitator.

Example 3: Company C maintains a website on which it sells products. Other sellers can sell products at retail on Company C’s website. Company C processes customer payments on behalf of the other sellers. Company C is not a franchisor, and none of the sellers whose products are displayed on Company C’s website made annual gross sales in Georgia of \$500 million or more. Company C is a marketplace facilitator.

2. What is a marketplace seller?

Effective April 1, 2020, a marketplace seller is defined in O.C.G.A. § 48-8-2 as a person that conducts a retail sale through or facilitated by any physical or electronic marketplace or platform operated directly or indirectly by a marketplace facilitator, regardless of whether such marketplace seller is required to be registered with the Department pursuant to O.C.G.A. § 48-8-59.

3. Are marketplace facilitators required to collect and remit Georgia sales tax?

Effective for sales made on or after April 1, 2020, a marketplace facilitator is a “dealer” under O.C.G.A. § 48-8-2(8)(M.3) when the facilitator facilitates taxable retail sales to be delivered, held for pickup, used, consumed, distributed, stored for use or consumption, or rendered as a service within this state, if the total value of the sales price of all such retail sales, combined across all its marketplace sellers and the marketplace facilitator itself, equals or exceeds \$100,000.00 in aggregate in the previous or current calendar year.

If a marketplace facilitator is a “dealer” under O.C.G.A. § 48-8-2(8)(M.3), purchasers must pay to the marketplace facilitator all applicable Georgia state and local sales taxes imposed on retail sales that are facilitated by the marketplace facilitator within or outside Georgia on behalf of a marketplace seller and that are sourced, as provided in O.C.G.A. § 48-8-77, to a location in Georgia. The marketplace facilitator is required to remit such taxes to the Department.

The marketplace facilitator is liable for the greater of

- the full amount of applicable Georgia state and local sales taxes imposed on all retail sales that it facilitates within or outside Georgia on behalf of a marketplace seller if such retail sale is sourced, as provided in O.C.G.A. § 48-8-77, to a location in Georgia; or
- the amount of tax collected by such marketplace facilitator from all purchasers on all such retail sales.

Example: Company C¹ maintains a website on which it sells products. Other sellers can sell products at retail on Company C’s website. Company C processes customer payments on behalf of the other sellers. In the previous calendar year, the total value of the sales price of Company C’s facilitated taxable retail sales sourced to Georgia, combined across all its marketplace sellers and itself, exceeded \$100,000.00 in aggregate. Company C is a marketplace facilitator and a dealer under O.C.G.A. § 48-8-2(8)(M.3) and, therefore, is

¹ Assume Company C is not a franchisor, and none of the sellers whose products are displayed on Company C’s website made annual gross sales in Georgia of \$500 million or more.

required to remit Georgia state and local sales taxes on all the taxable retail sales sourced to Georgia that it facilitates on behalf of other sellers.

4. What is the tax base for purposes of calculating sales tax on retail sales facilitated by marketplace facilitators?

The tax base is the total sales price of the retail sale. “Sales price” means the means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise without any deduction for the following:

- The seller's and marketplace facilitator’s cost of the property sold;
- The cost of materials used, labor, or service cost, interest, losses, all costs of transportation to the seller and marketplace facilitator, all taxes imposed on the seller and marketplace facilitator, and any other expense of the seller and marketplace facilitator;
- Charges by the seller and marketplace facilitator for any services necessary to complete the sale; and
- Delivery charges.

Example 1: Company B² facilitates sales by advertising local restaurants on its website and mobile app. Customers place orders for the restaurants’ food on Company B’s website or mobile app. Company B processes customers’ payments through its website or mobile app and delivers the food to customers. The total value of the sales price of all retail sales facilitated by Company B sourced to Georgia exceeded \$100,000.00 in the previous calendar year.

Company B must collect and remit sales tax on the total sales price of each facilitated retail sale. The total sales price includes, but is not limited to, delivery charges and mandatory gratuities, regardless of whether any charge is separately stated on the customer’s receipt. As shown on the sample receipt below, Customer places an order on Company B’s mobile app for food from Famous Deli, and Company B processes the payment and delivers the food to Customer. Company B must collect from Customer and remit to the Department \$1.48 in sales tax, calculated by multiplying the 8% sales tax rate by the sales price of \$18.50. Famous Deli is not liable for the sales tax collected by Company B from Customer.

Burger	\$8.00
Fries	\$2.00
Small drink	\$2.00
Delivery	\$4.00
Service Fee	\$2.50
Subtotal	\$18.50
<i>8% sales tax</i>	<i>\$1.48</i>
Total	\$19.98

² Assume Company B is not a franchisor, and none of the restaurants that it advertises made annual gross sales in Georgia of \$500 million or more.

Example 2: Company D³ facilitates sales of lodgings and accommodations (such as hotel rooms and homes for rent) by operating a booking website. Customers visit the website to research, reserve, and pay for lodgings and accommodations. Company D processes customer payments. Company D itself does not operate any lodgings or accommodations. In the previous calendar year, the total value of the sales price of Company D’s facilitated taxable retail sales sourced to Georgia exceeded \$100,000.00 in aggregate.

Company D is a marketplace facilitator and a dealer under O.C.G.A. § 48-8-2(8)(M.3). Company D must collect and remit sales tax on the total sales price of each facilitated retail sale. As shown on the sample invoice below, Customer books a condominium at Famous Resort on Company D’s website, and Company D processes the payment. Company D must collect from Customer and remit to the Department \$272.00 in sales tax, calculated by multiplying the 8% sales tax rate by the sales price of \$3,400.00. Famous Resort is not liable for the sales tax collected by Company D from Customer.

Rental charge	\$3000.00
Company D service charge.....	\$300.00
Famous Resort processing fee.....	\$100.00
Subtotal	\$3400.00
<i>8% sales tax</i>	<i>\$272.00</i>
Total	\$3672.00

For a discussion of charges included in the sales price of accommodations, please refer to [Policy Bulletin SUT-2018-02 Charges for Rooms, Lodgings, or Accommodations Furnished to Transients](#).

5. Is a marketplace facilitator liable for sales tax that it fails to collect due to incorrect or insufficient information?

A marketplace facilitator is not liable for sales tax that it fails to collect if

- the marketplace facilitator demonstrates to the satisfaction of the Department that the error was due to insufficient or incorrect information given to the marketplace facilitator by the marketplace seller;
- the marketplace facilitator made a reasonable effort to obtain correct and sufficient information from the marketplace seller; and
- the marketplace seller and the marketplace facilitator are not related members as defined in O.C.G.A. § 48-7-28.3.

When a marketplace facilitator is relieved of liability as described above, the marketplace seller is solely liable for the uncollected tax.

6. Are marketplace sellers required to collect and remit Georgia sales tax?

A marketplace seller is not required to collect or remit Georgia sales or use tax on any retail sale for which its marketplace facilitator is required to collect and remit. Additionally, a

³ Assume Company D is not a franchisor, and none of the sellers whose accommodations are displayed on Company D’s website made annual gross sales in Georgia of \$500 million or more.

marketplace seller is not liable for Georgia sales tax imposed on any retail sale for which its marketplace facilitator is liable.

7. How must a marketplace facilitator report sales tax?

A dealer that is a marketplace facilitator must report all facilitated sales on the Georgia Tax Center (GTC) sales and use tax return under a marketplace facilitator sales and use tax account number. For instructions on how to create a marketplace facilitator sales and use tax account, please visit the [Department's website](#). A dealer who wants to convert an existing sales and use tax account to a marketplace facilitator account must contact the Department at 1-877-423-6711.

A marketplace facilitator account is solely for the purpose of reporting retail sales facilitated on behalf of a marketplace seller. Sales made directly by a marketplace facilitator must be reported under a separate sales and use tax account number. A marketplace facilitator who chooses to report its own retail sales on the same return as facilitated sales must have a master sales and use tax account. The master sales tax return will allow a marketplace facilitator to report sales from multiple sales and use tax accounts on one return. To create a master sales and use tax account or to convert an existing sales and use tax account to a master account, please call the Department at 1-877-423-6711.

8. Do sales facilitated by a marketplace facilitator on behalf of a remote marketplace seller count toward that marketplace seller's sales for purposes of determining whether that seller must remit Georgia sales tax?

No. A remote seller may exclude sales that were facilitated by a marketplace facilitator when calculating whether the seller has a duty to remit Georgia sales tax. For more information about remote sellers, please see [Policy Bulletin SUT-2019-02](#).

Example: Online Store is a company with no physical presence in Georgia. Between April 1, 2020 and December 31, 2020, Online Store made a total of 300 online retail sales of tangible personal property to customers in Georgia. The gross revenue from the sales totaled \$120,000. A marketplace facilitator facilitated 280 of those online sales. The gross revenue from the facilitated sales totaled \$110,000. The seller directly made the remaining 20 sales, the gross revenue of which totaled \$10,000. The seller made no other sales in 2020. The seller must only include the 20 sales totaling \$10,000 in calculating whether the seller has a duty to remit Georgia sales tax. The seller is not required to remit Georgia sales tax in this case.

**For more information, please contact the Department at 1-877-423-6711
from 8:00 a.m. to 6:00 p.m. ET, Monday through Friday, excluding holidays.
For forms and other information, visit the Department's website at dor.georgia.gov.**