



SALES THROUGH A MARKETPLACE

TB-83 - Issued October 25, 2018

Tax: Sales Tax

Beginning November 1, 2018, P.L. 2018, c. 132 imposes Sales Tax registration, collection, and remittance requirements on marketplace facilitators. A marketplace facilitator is required to collect Sales Tax on sales of tangible personal property, specified digital products, and services delivered into New Jersey, which are made by a marketplace seller through any physical or electronic marketplace owned, operated, or controlled by the marketplace facilitator.

Marketplace Sellers

A marketplace seller is a seller that makes retail sales through any physical or electronic marketplace owned, operated, or controlled by a marketplace facilitator. A marketplace seller may be a remote seller, or a seller with physical presence in New Jersey. See the [Remote Sellers notice](#) for more information.

Marketplace sellers are not required to collect and remit Sales Tax on the sale of tangible personal property, specified digital products, or services delivered into New Jersey when a marketplace facilitator is required to collect and remit Sales Tax on the transaction.

Marketplace Facilitators

A marketplace facilitator is required to collect and remit Sales Tax on sales made through any physical or electronic marketplace owned, operated, or controlled by a marketplace facilitator, even if the marketplace seller is registered with New Jersey for the collection and remittance of Sales Tax. However, a marketplace facilitator and marketplace seller are permitted to enter into an agreement with each other regarding the collection and remittance of Sales Tax.

A marketplace facilitates retail sales by satisfying at least one of the criteria in both paragraph 1. and paragraph 2., below:

1. Directly or indirectly does any of the following:
 - i. Lists, makes available, or advertises tangible personal property, specified digital products, or services for sale by a marketplace seller in a forum owned, operated, or controlled by the marketplace facilitator; or
 - ii. Facilitates the sales of a marketplace seller's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property, specified digital products, or taxable services between a marketplace seller and a purchaser in a forum including a shop, store, booth, catalog, internet site, or similar forum; or

- iii. Owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects marketplace sellers to purchasers for the purpose of making retail sales of tangible personal property, specified digital products, or taxable services; or
 - iv. Provides a marketplace for making retail sales of tangible personal property, specified digital products, or taxable services or otherwise facilitates retail sales of tangible personal property, specified digital products, or taxable services regardless of ownership or control of the tangible personal property, specified digital products, or taxable services that are the subject of the retail sale; or
 - v. Provides software development or research and development activities related to any activity described in this paragraph, if such software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace facilitator; or
 - vi. Provides or offers fulfillment or storage services for a marketplace seller; or
 - vii. Sets prices for a marketplace seller's sale of tangible personal property, specified digital products, or taxable services; or
 - viii. Provides or offers customer service to a marketplace seller or a marketplace seller's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, specified digital products, or taxable services sold by a marketplace seller; or
 - ix. Brands or otherwise identifies sales as those of the marketplace facilitator, **and**
2. Directly or indirectly does any of the following:
- i. Collects the sales price of a retail sale of tangible personal property, specified digital products, or taxable services; or
 - ii. Provides payment processing services for a retail sale of tangible personal property, specified digital products, or taxable services; or
 - iii. Charges, collects, or otherwise receives selling fees, listing fees, referral fees, closing fees, fees for inserting or making available tangible personal property, specified digital products, or taxable services on a marketplace, or other consideration from the facilitation of a retail sale of tangible personal property, specified digital products, or taxable services, regardless of ownership or control of the tangible personal property, specified digital products, or taxable services that are the subject of the retail sale; or
 - iv. Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, specified digital products, or taxable services from a purchaser and transmits that payment to the marketplace seller, whether or not receiving compensation or other consideration in exchange for the service; or

- v. Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, specified digital products, or taxable services.

Request for Delay of Collection and Reporting Requirements

Upon written application and for good cause shown, the Division may temporarily suspend or delay the registration, collection, and remittance obligations of a marketplace facilitator for a period not to exceed 180 days. Requests for a delay must include the following information:

1. Name and address of the Taxpayer;
2. The Taxpayer's New Jersey Taxpayer Identification Number (if registered with New Jersey) or Taxpayer's Federal Employer Identification Number (FEIN) (if not registered with New Jersey);
3. The date that the Taxpayer expects to be able to comply with the new law's collection and reporting requirements; and
4. An explanation as to why the Taxpayer requires additional time in order to meet the new law's collection and reporting requirements.

Requests for a delay must include **Marketplace Facilitator – Request for Delay** in the subject line and should be sent to:

taxation.director@treas.nj.gov; or

NJ Division of Taxation
Director's Office
PO Box 240
Trenton, NJ 08695-0240

Registration Information

Marketplace facilitators must be registered with New Jersey for the collection and remittance of Sales Tax. Beginning November 1, 2018, new business registrants should go to the Division of Revenue and Enterprise Services (DORES) [website](#) and choose the option, "Register as a Remote Seller Only." Once registered, a marketplace facilitator will receive a letter containing Sales Tax filing and payment information.

Marketplace facilitators that are already registered to collect Sales Tax in New Jersey will need to establish a sub-account to report and remit the tax collected for marketplace sellers. To set up a sub-account, please contact Ro Desilva, Data Systems, at Ro.Desilva@treas.nj.gov.

Audit Issues

A marketplace facilitator must provide to the purchaser a sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable following each retail sale made through the marketplace. The amount of tax due must be separately stated from the sales price of the item(s) purchased.

A marketplace facilitator is subject to audit by the Division with respect to all retail sales for which it is required to collect and remit Sales Tax. When the Division audits the marketplace facilitator, the Division is prohibited from auditing the marketplace seller for the same retail sales unless the marketplace facilitator seeks relief from liability for Sales Tax imposed on the sale. Marketplace sellers should contact the marketplace facilitator to ensure that detailed information on their New Jersey marketplace sales is provided to them on a regular basis. The marketplace seller will be required to provide this information to the Division in an audit situation.

Relief from Liability

If the marketplace facilitator demonstrates to the satisfaction of the Division that the marketplace facilitator has made a reasonable effort to obtain accurate information from the marketplace seller about a retail sale, and the failure to collect and pay the correct amount of tax was due to incorrect information provided to the marketplace facilitator by the marketplace seller, then the marketplace facilitator will be relieved of liability for the tax for that retail sale. When the marketplace facilitator is relieved from tax liability for this reason, the marketplace seller is liable for the tax.

Note: A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the tax law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning