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Marketplace Bulletin

February 2019

The purpose of this bulletin is to provide general guidelines on how tax applies to the sale of products and services through a marketplace. It is not intended to answer all questions that may arise. The information contained in this fact sheet is current as of the date of publication.

Marketplace Providers

Beginning March 1, 2019, a marketplace provider must collect and pay sales tax on **all** sales it facilitates into South Dakota if the marketplace provider:

- Is a remote seller that exceeds \$100,000 in gross sales or 200 or more separate transactions into South Dakota in the previous or current calendar year; **or**
- Facilitates the sales of at least one marketplace seller that exceeds \$100,000 in gross sales or 200 or more separate transactions into South Dakota in the previous or current calendar year; **or**
- Facilitates the sales of two or more marketplace sellers that, when the sales are combined, exceeds \$100,000 in gross sales or 200 or more separate transactions into South Dakota in the previous or current calendar year.

A marketplace provider must obtain a sales tax license from the South Dakota Department of Revenue.

Apply for a sales tax license online at www.sd.gov/taxapp or through the Streamlined system at www.streamlinedsalestax.org.

Gross sales or transactions including selling, renting, or leasing products or services (including products delivered electronically) into South Dakota. ([SDCL ch. 10-64](#))

The Department understands it is important to partner with the business community to ensure a successful transition. We understand there are preparatory steps marketplace providers need to take before collections begin. If there are concerns about complying with this timeframe, please contact the Department of Revenue directly for further assistance.

Definitions

Marketplace - any means where a marketplace seller sells or offers for sale products or services (including products delivered electronically) in South Dakota.

Marketplace Provider - any person or business that facilitates a sale for a marketplace seller through a marketplace and is directly, or indirectly through any agreement or arrangement with third parties, collecting payment from a purchaser and transmitting the payment to the marketplace provider. It does not matter if the marketplace provider receives compensation in exchange for facilitating the sale or providing the service.

Marketplace Seller - an individual or business that sells or offers for sale products or services (including products delivered electronically) in South Dakota, through a marketplace that is owned, operated, or controlled by a marketplace provider.

South Dakota Business

As a retailer located in South Dakota, your tax collection obligations for South Dakota do not change. All sellers with a physical presence in South Dakota continue to be required to hold a sales tax license and remit sales tax regardless of the amount of sales or number of transactions.

If you are a South Dakota business selling through a marketplace, the marketplace will remit sales tax if any of the thresholds are met. If a marketplace is not licensed, the South Dakota business is required to remit sales tax on all sales it makes in South Dakota.

- If a marketplace is licensed and remitting the sales tax, the South Dakota business will not be responsible for sales tax remittance on sales through that marketplace. The business would be responsible for remittance on all other sales.

If a South Dakota business is not sure if a marketplace provider is licensed, contact the Department of Revenue to verify.

Marketplace Provider FAQs

Who is required to obtain a sales tax license?

- If the marketplace provider meets the thresholds, they are required to become licensed. Marketplace sellers that meet South Dakota's remote seller law may also be required to get licensed. To learn more about South Dakota's remote seller law ([SDCL 10-64](#)), review the [Remote Seller Bulletin](#).

Is a marketplace provider required to give a resale certificate to a marketplace seller?

- No, marketplace providers are not required to provide a resale certificate to marketplace sellers.
- Marketplace providers must provide notice to marketplace sellers that South Dakota sales tax is being reported and remitted on all marketplace sales. The notice must include the date the marketplace began complying with South Dakota law. The notice should be conspicuously posted on the marketplace website and provided directly to each marketplace seller. This notice is in place of providing a resale certificate to marketplace sellers.

What is South Dakota's marketplace provider hold harmless provision?

- The hold harmless provision limits the penalty on a marketplace provider if they receive inaccurate information about goods and services from a marketplace seller. ([SDCL 10-65-7](#))

Will the South Dakota go back and try to recover taxes that weren't collected and paid on purchases made prior to March 1, 2019?

- No, the state cannot go back and retroactively collect sales tax from a marketplace provider. The state is legally precluded from enforcing retroactive tax collection on a marketplace provider for any sale made prior to March 1, 2019. ([SDCL 10-65-8](#))

Does South Dakota require a marketplace provider to file separate returns for state and municipal sales taxes?

- No, South Dakota state and municipal taxes are reported and paid on the same sales tax return.

Contact Us

If you have any questions, please contact the **South Dakota Department of Revenue**.

Call toll-free: 1-800-829-9188

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