



This Week in State Tax (TWIST)

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Nevada: Proposed Regulation Addresses Marketplace Facilitators

The Nevada Tax Commission has proposed a new regulation addressing the requirements for remote sellers and marketplace facilitators to collect sales and use tax that have been in place since October 1, 2019. The proposed new section of the Nevada Administrative Code first defines several key terms that are not defined in the law, such as “marketplace,” “listing of products for sale,” and “facilitate.” The proposed regulation also adopts a definition of a “delivery network company” and provides that a delivery network company will be deemed a marketplace facilitator if it otherwise meets the definition set forth in the statute. There are numerous examples of how to compute the thresholds year over year and what sales marketplace facilitators and marketplace sellers must report on their returns. Certain issues not addressed in the marketplace facilitator statutes are the acceptance of coupons, discounts, and exemption certificates. Under the proposed regulation, coupons and other discounts offered by remote sellers, marketplace sellers and marketplace facilitators are retailer discounts, which reduce the sales price and thus the taxable amount of the sale. The proposed regulation also addresses customer returns and which party, the marketplace facilitator, or the marketplace seller, refunds the sales tax to the customer. With respect to exemption certificates, the marketplace facilitator is responsible for obtaining and maintaining exemption certificates when the marketplace facilitator makes or facilitates an exempt Nevada retail sale on behalf of a marketplace seller. There may be instances where an item is being sold that is subject to a tax other than or in addition to Nevada sales tax; the proposed regulation does not address this situation, but it does recommend that such sellers reach out to the Department of Taxation for guidance. Please contact [Sarah McGahan](#) with questions.

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