

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Collection of sales tax by marketplace facilitators.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to sales tax; requiring marketplace  
2 facilitators to collect and remit sales taxes as specified;  
3 specifying relief for failure to collect and remit the tax;  
4 providing immunity for facilitators collecting the tax;  
5 specifying applicability; and providing for an effective  
6 date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 39-15-502 is created to read:

11

12 **39-15-502. Marketplace facilitators.**

13

1           (a) Notwithstanding any other provision of law, a  
2 marketplace facilitator shall remit sales tax and follow all  
3 applicable procedures and requirements of this chapter for  
4 sales of tangible personal property, admissions or services  
5 which are subject to taxation under chapter 15 or 16 of this  
6 title that the marketplace facilitator makes or facilitates  
7 if the marketplace facilitator:

8

9                   (i) Is a seller subject to W.S. 39-15-501;

10

11                   (ii) Facilitates sales of at least one (1)  
12 marketplace seller that is subject to W.S. 39-15-501; or

13

14                   (iii) Facilitates the sales of two (2) or more  
15 marketplace sellers that, if the sales of the marketplace  
16 sellers are combined, would be subject to W.S. 39-15-501 even  
17 if no marketplace seller would be separately subject to W.S.  
18 39-15-501.

19

20           (b) A marketplace seller that makes a sale through a  
21 marketplace facilitator that is required to collect and remit  
22 sales tax under subsection (a) of this section shall consider  
23 the sale a wholesale sale.

1

2 (c) If a marketplace facilitator fails to collect or  
3 remit sales tax under subsection (a) of this section due to  
4 incorrect or insufficient information provided by the  
5 marketplace seller, the marketplace facilitator shall be  
6 relieved of liability for that failure to collect or remit  
7 the tax provided that the relief under this subsection shall  
8 not exceed five percent (5%) of the total sales tax due from  
9 sales made or facilitated in this state by the marketplace  
10 facilitator. If a marketplace facilitator is relieved of  
11 liability under this subsection, the marketplace seller or  
12 the purchaser shall be liable for any amount of uncollected,  
13 unpaid or unremitted tax due.

14

15 (d) No relief under subsection (c) of this section  
16 shall be authorized for sales made by a marketplace seller  
17 who is affiliated with the marketplace facilitator. Entities  
18 are affiliated under this subsection if:

19

20 (i) One entity owns more than five percent (5%) of  
21 the other entity; or

22

1           (ii) Both entities are subject to the control of  
2 a common entity that owns more than five percent (5%) of each  
3 of the entities.

4

5           (e) The department shall solely audit the marketplace  
6 facilitator for sales made by marketplace sellers but  
7 facilitated by the marketplace facilitator. The department  
8 shall not audit marketplace sellers except to the extent the  
9 marketplace facilitator seeks relief under subsection (c) of  
10 this section.

11

12           (f) A class action shall not be maintained against a  
13 marketplace facilitator by or on behalf of purchasers arising  
14 from or in any way related to an overpayment of sales or use  
15 tax collected by the marketplace facilitator under this  
16 section, regardless of whether the action is characterized as  
17 a tax refund claim.

18

19           (g) As used in this section:

20

21           (i) "Marketplace" means any method through which  
22 a marketplace seller may sell or offer for sale tangible  
23 personal property, admissions or services which are subject

1 to taxation under chapter 15 or 16 of this title for delivery  
2 into this state regardless of whether the marketplace seller  
3 has a physical presence in this state;

4

5 (ii) "Marketplace facilitator" means any person  
6 that facilitates a sale for a marketplace seller through a  
7 marketplace by:

8

9 (A) Offering for sale by a marketplace  
10 seller, by any means, tangible personal property, admissions  
11 or services which are subject to taxation under chapter 15 or  
12 16 of this title for delivery into this state; and

13

14 (B) Directly, or indirectly through any  
15 agreement or arrangement with one (1) or more third parties,  
16 collecting payment from a purchaser and transmitting the  
17 payment to the marketplace seller, regardless of whether the  
18 person receives compensation or other consideration in  
19 exchange for facilitating the sale or providing any other  
20 service.

21

22 (iii) "Marketplace seller" means a vendor who  
23 sells or offers for sale tangible personal property,

1 admissions or services which are subject to taxation under  
2 chapter 15 or 16 of this title for delivery into this state  
3 through a marketplace that is owned, operated or controlled  
4 by a marketplace facilitator.

5

6 **Section 2.** W.S. 39-15-101(a)(xv) is amended to read:

7

8 **39-15-101. Definitions.**

9

10 (a) As used in this article:

11

12 (xv) "Vendor" means any person engaged in the  
13 business of selling at retail or wholesale tangible personal  
14 property, admissions or services which are subject to  
15 taxation under this article. "Vendor" includes a vehicle  
16 dealer as defined by W.S. 31-16-101(a)(xviii), ~~and~~ a remote  
17 seller to the extent provided by W.S. 39-15-501 and a  
18 marketplace facilitator to the extent provided by W.S.  
19 39-15-502;

20

21 **Section 3.** No marketplace facilitator shall be required  
22 to collect or remit sales tax as provided in W.S. 39-15-502  
23 on any sale made prior to the effective date of this act.

1 Nothing in this section shall be deemed to apply to any taxes  
2 that are required to be collected or remitted under W.S.  
3 39-15-501 prior to the effective date of this act.

4

5 **Section 4.** This act is effective July 1, 2019.

6

7

(END)