



STATE OF SOUTH CAROLINA  
**DEPARTMENT OF REVENUE**

300A Outlet Pointe Blvd., Columbia, South Carolina 29210  
P.O. Box 12265, Columbia, South Carolina 29211

**SC INFORMATION LETTER #19-14**

**SUBJECT:** Marketplace Facilitator – New Law Effective April 26, 2019  
(Sales and Use Tax)

**DATE:** May 7, 2019

**REFERENCE:** Act No. 21 (Enacted April 26, 2019)

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (2014)  
SC Revenue Procedure #09-3

**SCOPE:** An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

**NOTICE TO PERSONS OPERATING AS A MARKETPLACE FACILITATOR**

Purpose:

The purpose of this notice is to inform persons operating as a marketplace facilitator who sell tangible personal property in or into South Carolina of the requirements of the South Carolina sales and use tax law in light of the enactment by the South Carolina General Assembly of Act No. 21 of 2019, effective April 26, 2019.

Overview and Requirements of the New Marketplace Facilitator Law:

Any person who has nexus<sup>1</sup> with South Carolina and is engaged in business as a retailer must remit the sales and use tax on all retail sales of tangible personal property, unless otherwise excluded or exempted from the tax. This requirement applies to all retail sales of tangible personal property by the retailer, whether the tangible personal property is owned by the retailer or another person. Retailers selling tangible personal property at retail on consignment, by auction, or in any other manner must remit the sales and use tax on such retail sales.

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<sup>1</sup> Economic nexus exists when a person's gross revenue from sales delivered into South Carolina exceeds \$100,000 in the previous calendar year or the current calendar year. See SC Revenue Ruling #18-14 for guidance on economic nexus, registration, and tax remittance.

Furthermore, all internet marketplaces where a person sells tangible personal property at retail by listing or advertising, or allowing the listing or advertising of, another person's products on an online marketplace and collects or processes the payment from the customer are retailers required to remit the sales and use tax on such retail sales under the provisions of South Carolina sales and use tax law.

In enacting the new law, the General Assembly found that retailers selling another person's tangible personal property on the Internet must clearly understand and be informed of their requirements to remit the sales and use tax in the same manner as retailers selling another person's tangible personal property in a brick and mortar store.

Effective April 26, 2019, this law reinforces that a person operating as a marketplace facilitator<sup>2</sup> is a “retailer” or “seller”<sup>3</sup> under the South Carolina sales and use tax law and is responsible for remitting sales and use tax on all retail sales made via its marketplace, unless otherwise excluded or exempted from the tax. A “marketplace facilitator” is any person engaged in the business of facilitating a retail sale of tangible personal property by: (a) listing or advertising, or allowing the listing or advertising of, the products of another person in any marketplace where sales at retail occur; and (b) collecting or processing payments from the purchaser, either directly or indirectly through an agreement or arrangement with a third party.<sup>4</sup> The person may or may not receive compensation or other consideration for his services.

As a retailer, a marketplace facilitator must have a South Carolina retail license and remit the South Carolina sales and use tax on all products sold through its marketplace, whether the product is owned by the marketplace facilitator or the product is owned by another person. A marketplace may be physical (e.g., a brick and mortar marketplace) or electronic (e.g., an online marketplace). It includes any space, store, booth, catalog, website, television or radio broadcast, or similar place, medium, or forum.

#### Additional Information:

A marketplace facilitator may obtain additional information concerning the South Carolina sales and use tax laws on the Department's website ([dor.sc.gov](http://dor.sc.gov)) and may obtain a retail license via the Department's online portal ([MyDORWAY.dor.sc.gov](http://MyDORWAY.dor.sc.gov)). A marketplace facilitator without a physical presence in South Carolina should review South Carolina's economic nexus standards outlined in SC Revenue Ruling #18-14, “Retailers Without a Physical Presence (‘Remote Sellers’) – Economic Nexus,” and the Department's remote seller webpage ([dor.sc.gov/remotesellers](http://dor.sc.gov/remotesellers)).

A complete copy of the marketplace facilitator law (Act No. 21 of 2019) may be obtained from the South Carolina Legislature's website ([scstatehouse.gov](http://scstatehouse.gov)).

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<sup>2</sup> See new Code Section 12-36-71 for the definition of “marketplace facilitator.”

<sup>3</sup> See Code Section 12-36-70 (as amended by Act No. 21 of 2019) for the definition of “retailer” and “seller.” Please note a person whose products are sold exclusively through a marketplace facilitator is not a South Carolina retailer, regardless of whether the person has nexus with South Carolina. This person is not required to obtain a retail license since the marketplace facilitator is the retailer required to remit South Carolina sales and use tax.

<sup>4</sup> A marketplace facilitator includes any related entities assisting the marketplace facilitator in sales, storage, distribution, payment collection, or in any other manner, with respect to the marketplace. When a marketplace facilitator is comprised of multiple entities, the entity that lists or advertises, or allows the listing or advertising of, the products sold at retail in the marketplace is the entity responsible for remitting the sales and use tax to the State.