

ADMINISTRATIVE DIRECTIVE REGARDING MARKETPLACE FACILITATORS

Directive:

In the City of Golden, any person, organization, or business which hosts vendors is considered a *Marketplace Facilitator* and the vendors are considered *Marketplace Sellers*. A *Marketplace Facilitator* is required to remit sales tax to the City of Golden on behalf of *Marketplace Sellers*. This applies to events held on either private or city property, or to permanent store locations.

Exception:

Marketplace Sellers who hold a permanent sales tax license with the City of Golden may remit the sales tax directly to the City on their regular tax return.

Examples:

Events, Fairs, and Shows

Prior to an event, the *Marketplace Facilitator* will ensure they are properly licensed with the City of Golden and provide a list of vendors, at least one week prior to the event, to the Finance Department. Within ten days after the event, the *Marketplace Sellers* will remit the sales tax they collected at the event to the *Marketplace Facilitator*, who is then responsible for remitting said sales taxes to the city.

Permanent Store Location

Marketplace Facilitators who rent or lease out space in a store or building to *Marketplace Sellers* are responsible for collecting sales tax on the items sold. They must then remit the sales tax to the City of Golden by the twentieth day of the month following the reporting period. The *Marketplace Facilitator* must be properly licensed with the City of Golden and must provide a list of Marketplace Sellers to the Finance Department and provide an updated list at least monthly as changes to the Marketplace Sellers occurs.

ADMINISTRATIVE DIRECTIVE (Continued)

Applicable Golden Municipal Code Sections as adopted by City Council on July 23, 2020:

3.02.010 - Words and phrases defined.

Marketplace facilitator means a person that contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale of the marketplace seller's tangible personal property, products, or services through the person's marketplace or a marketplace operated by the person, and engages;

- (1) Directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser or consumer and the marketplace seller or multichannel seller; and
- (2) Directly or indirectly, through agreements or arrangements with third parties, in collecting or accepting and processing payment from the purchaser or consumer on behalf of the marketplace seller or multichannel seller.

The term does not include a person that, with respect to the marketplace seller's or multichannel seller's products, exclusively provides internet advertising services or lists products for sale.

Marketplace seller means a person, regardless of whether or not the person has a physical presence in the State of Colorado, which has an agreement with a marketplace facilitator and offers for sale tangible personal property, products, or services through a marketplace owned, operated, or controlled by a marketplace facilitator.

3.04.070 - Marketplace sales.

(a) *Obligation to collect tax.*

- (1) A marketplace facilitator engaged in business in the city is required to collect and remit sales tax on all taxable sales made by the marketplace facilitator, or facilitated by it for marketplace sellers or multichannel sellers to customers in the city, whether or not the marketplace seller for whom sales are facilitated would have been required to collect sales tax had the sale not been facilitated by the marketplace facilitator.
- (2) A marketplace facilitator shall assume all the duties, responsibilities, and liabilities of a retailer under this title. Marketplace facilitators shall be liable for the taxes collected from marketplace sellers or multichannel sellers. The city may recover any unpaid taxes, penalties, and interest from the marketplace facilitator that is responsible for collecting on behalf of marketplace sellers or multichannel sellers.

ADMINISTRATIVE DIRECTIVE (Continued)

- (3) The liabilities, obligations, and rights set forth under this title are in addition to any duties and responsibilities of the marketplace facilitator imposed under this title, if it also offers for sale tangible personal property, products, or services through other means.
 - (4) A marketplace seller shall be subject to all of the same licensing, collection, remittance, filing and recordkeeping requirements as any other retailer under this article for retail sales made on its own behalf and not facilitated by or through a licensed marketplace facilitator in a marketplace.
 - (b) *Marketplace seller relief.* A marketplace seller, with respect to sales of tangible personal property, products, or services made in or through a marketplace facilitator's marketplace, does not have the liabilities, obligations, or rights of a retailer under this title, if the marketplace seller can show that such sale was facilitated by a marketplace facilitator:
 - (1) With whom the marketplace seller has a contract that explicitly provides that the marketplace facilitator will collect and remit sales tax on all sales subject to tax under this article; or
 - (2) From whom the marketplace seller requested and received in good faith a certification that the marketplace facilitator is registered to collect sales tax and will collect sales tax on all sales subject to tax under this article made in or through the marketplace facilitator's marketplace.
 - (c) *Auditing.* With respect to any sale, the city shall solely audit the marketplace facilitator for sales made by marketplace sellers or multichannel sellers but facilitated by the marketplace. The city will not audit or otherwise assess tax against marketplace sellers or multichannel sellers for sales facilitated by a marketplace facilitator.
 - (d) *No retroactive application.* The obligations to collect and remit the sales and use tax required by this title are applicable at the effective date of the ordinance from which this section was derived.
- ([Ord. No. 2139, § 2, 7-23-2020](#))


Jeffrey A. Hansen – Finance Director

Approved this 22 day of March 2022