

Sales and Use Tax Remittance Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

LONG TITLE**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 4 absent

General Description:

This bill amends the requirements governing when a seller has to pay or collect and remit sales and use tax.

Highlighted Provisions:

This bill:

- repeals the requirement that a seller has to pay or collect and remit the sales and use tax if the seller sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in more than a certain number of separate transactions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-107, as last amended by Laws of Utah 2022, Chapter 273

59-12-107.6, as last amended by Laws of Utah 2023, Chapter 361

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-12-107** is amended to read:

59-12-107 . Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

- 32 (1) As used in this section:
- 33 (a) "Ownership" means direct ownership or indirect ownership through a parent,
34 subsidiary, or affiliate.
- 35 (b) "Related seller" means a seller that:
- 36 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and
37 (ii) delivers tangible personal property, a service, or a product transferred
38 electronically that is sold:
- 39 (A) by a seller that does not meet one or more of the criteria described in
40 Subsection (2)(a)(i); and
41 (B) to a purchaser in the state.
- 42 (c) "Substantial ownership interest" means an ownership interest in a business entity if
43 that ownership interest is greater than the degree of ownership of equity interest
44 specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an
45 officer.
- 46 (2)(a) Except as provided in Subsection (2)(f), Section 59-12-107.1, or Section
47 59-12-123, and subject to Subsection (2)(g), each seller shall pay or collect and remit
48 the sales and use taxes imposed by this chapter if within this state the seller:
- 49 (i) has or utilizes:
- 50 (A) an office;
51 (B) a distribution house;
52 (C) a sales house;
53 (D) a warehouse;
54 (E) a service enterprise; or
55 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);
- 56 (ii) maintains a stock of goods;
- 57 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in
58 the state, unless the seller's only activity in the state is:
- 59 (A) advertising; or
60 (B) solicitation by:
- 61 (I) direct mail;
62 (II) electronic mail;
63 (III) the Internet;
64 (IV) telecommunications service; or
65 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);

- 66 (iv) regularly engages in the delivery of property in the state other than by:
 67 (A) common carrier; or
 68 (B) United States mail; or
 69 (v) regularly engages in an activity directly related to the leasing or servicing of
 70 property located within the state.
- 71 (b) A seller is considered to be engaged in the business of selling tangible personal
 72 property, a product transferred electronically, or a service for use in the state, and
 73 shall pay or collect and remit the sales and use taxes imposed by this chapter if:
 74 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
 75 substantial part by, a related seller; and
 76 (ii)(A) the seller sells the same or a substantially similar line of products as the
 77 related seller and does so under the same or a substantially similar business
 78 name; or
 79 (B) the place of business described in Subsection (2)(a)(i) of the related seller or
 80 an in state employee of the related seller is used to advertise, promote, or
 81 facilitate sales by the seller to a purchaser.
- 82 (c) Subject to Section 59-12-107.6, each seller that does not meet one or more of the
 83 criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect
 84 and remit the sales and use taxes imposed by this chapter under Subsection (2)(b)
 85 shall pay or collect and remit the sales and use tax imposed by this chapter if the
 86 seller:
 87 (i) sells tangible personal property, products transferred electronically, or services for
 88 storage, use, or consumption in the state; and
 89 (ii) in either the previous calendar year or the current calendar year[:]
 90 [~~(A)~~] ~~receives gross revenue from the sale of tangible personal property, products~~
 91 ~~transferred electronically, or services for storage, use, or consumption in the~~
 92 ~~state of more than \$100,000[:or] .~~
 93 [~~(B)~~] ~~sells tangible personal property, products transferred electronically, or~~
 94 ~~services for storage, use, or consumption in the state in 200 or more separate~~
 95 ~~transactions.]~~
- 96 (d) A seller that does not meet one or more of the criteria provided for in Subsection
 97 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under
 98 Subsection (2)(b), Subsection (2)(c), or Section 59-12-107.6 may voluntarily:
 99 (i) collect a tax on a transaction described in Subsection 59-12-103(1); and

- 100 (ii) remit the tax to the commission as provided in this part.
- 101 (e) The collection and remittance of a tax under this chapter by a seller that is registered
- 102 under the agreement may not be used as a factor in determining whether that seller is
- 103 required by this Subsection (2) to:
- 104 (i) pay a tax, fee, or charge under:
- 105 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 106 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 107 (C) Section 19-6-714;
- 108 (D) Section 19-6-805;
- 109 (E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service
- 110 Charges; or
- 111 (F) this title; or
- 112 (ii) collect and remit a tax, fee, or charge under:
- 113 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 114 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 115 (C) Section 19-6-714;
- 116 (D) Section 19-6-805;
- 117 (E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service
- 118 Charges; or
- 119 (F) this title.
- 120 (f) A person shall pay a use tax imposed by this chapter on a transaction described in
- 121 Subsection 59-12-103(1) if:
- 122 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
- 123 (ii) the person:
- 124 (A) stores the tangible personal property or product transferred electronically in
- 125 the state;
- 126 (B) uses the tangible personal property or product transferred electronically in the
- 127 state; or
- 128 (C) consumes the tangible personal property or product transferred electronically
- 129 in the state.
- 130 (g) The ownership of property that is located at the premises of a printer's facility with
- 131 which the retailer has contracted for printing and that consists of the final printed
- 132 product, property that becomes a part of the final printed product, or copy from
- 133 which the printed product is produced, shall not result in the retailer being considered

- 134 to have or maintain an office, distribution house, sales house, warehouse, service
135 enterprise, or other place of business, or to maintain a stock of goods, within this
136 state.
- 137 (3)(a) Except as provided in Section 59-12-107.1, a seller shall collect a tax under this
138 chapter from a purchaser.
- 139 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
140 cent, in excess of the tax computed at the rates prescribed by this chapter.
- 141 (c)(i) Each seller shall:
- 142 (A) give the purchaser a receipt for the tax collected; or
143 (B) bill the tax as a separate item and declare the name of this state and the seller's
144 sales and use tax license number on the invoice for the sale.
- 145 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
146 and relieves the purchaser of the liability for reporting the tax to the commission
147 as a consumer.
- 148 (d) A seller is not required to maintain a separate account for the tax collected, but is
149 considered to be a person charged with receipt, safekeeping, and transfer of public
150 money.
- 151 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
152 benefit of the state and for payment to the commission in the manner and at the time
153 provided for in this chapter.
- 154 (f) If any seller, during any reporting period, collects as a tax an amount in excess of the
155 lawful state and local percentage of total taxable sales allowed under this chapter, the
156 seller shall remit to the commission the full amount of the tax imposed under this
157 chapter, plus any excess.
- 158 (g) If the accounting methods regularly employed by the seller in the transaction of the
159 seller's business are such that reports of sales made during a calendar month or
160 quarterly period will impose unnecessary hardships, the commission may accept
161 reports at intervals that, in the commission's opinion, will better suit the convenience
162 of the taxpayer or seller and will not jeopardize collection of the tax.
- 163 (h)(i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1,
164 and until such time as the commission accepts specie legal tender for the payment
165 of a tax under this chapter, if the commission requires a seller to remit a tax under
166 this chapter in legal tender other than specie legal tender, the seller shall state on
167 the seller's books and records and on an invoice, bill of sale, or similar document

168 provided to the purchaser:

169 (A) the purchase price in specie legal tender and in the legal tender the seller is
170 required to remit to the commission;

171 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in
172 specie legal tender and in the legal tender the seller is required to remit to the
173 commission;

174 (C) the tax rate under this chapter applicable to the purchase; and

175 (D) the date of the purchase.

176 (ii)(A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the
177 amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent
178 London fixing price for the specie legal tender the purchaser paid.

179 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
180 Act, the commission may make rules for determining the amount of tax due
181 under Subsection (3)(h)(i) if the London fixing price is not available for a
182 particular day.

183 (4)(a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the
184 sales or use tax imposed by this chapter is due and payable to the commission
185 quarterly on or before the last day of the month next succeeding each quarterly
186 calendar period.

187 (b)(i) Each seller shall, on or before the last day of the month next succeeding each
188 quarterly calendar period, file with the commission a return for the preceding
189 quarterly period.

190 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
191 tax required under this chapter to be collected or paid for the period covered by
192 the return.

193 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
194 a form the commission prescribes by rule.

195 (d)(i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
196 based on the total nonexempt sales made during the period for which the return is
197 filed, including both cash and charge sales.

198 (ii) For a sale that includes the delivery or installation of tangible personal property at
199 a location other than a seller's place of business described in Subsection (2)(a)(i),
200 if the delivery or installation is separately stated on an invoice or receipt, a seller
201 may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on

202 the amount the seller receives for that sale during each period for which the seller
203 receives payment for the sale.

204 (e)(i) The use tax as computed in the return shall be based on the total amount of
205 purchases for storage, use, or other consumption in this state made during the
206 period for which the return is filed, including both cash and charge purchases.

207 (ii)(A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a
208 purchaser that is required to remit taxes under this chapter, but is not required
209 to remit taxes monthly in accordance with Section 59-12-108, and that converts
210 tangible personal property into real property.

211 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit
212 the taxes due under this chapter on tangible personal property for which the
213 qualifying purchaser claims an exemption as allowed under Subsection
214 59-12-104(23) or (25) based on the period in which the qualifying purchaser
215 receives payment, in accordance with Subsection (4)(e)(ii)(C), for the
216 conversion of the tangible personal property into real property.

217 (C) A qualifying purchaser remitting taxes due under this chapter in accordance
218 with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of
219 tax due on the qualifying purchaser's purchase of the tangible personal property
220 that was converted into real property multiplied by a fraction, the numerator of
221 which is the payment received in the period for the qualifying purchaser's sale
222 of the tangible personal property that was converted into real property and the
223 denominator of which is the entire sales price for the qualifying purchaser's
224 sale of the tangible personal property that was converted into real property.

225 (D) A qualifying purchaser may remit taxes due under this chapter in accordance
226 with this Subsection (4)(e)(ii) only if the books and records that the qualifying
227 purchaser keeps in the qualifying purchaser's regular course of business
228 identify by reasonable and verifiable standards that the tangible personal
229 property was converted into real property.

230 (f)(i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
231 Utah Administrative Rulemaking Act, the commission may by rule extend the
232 time for making returns and paying the taxes.

233 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

234 (g) The commission may require returns and payment of the tax to be made for other
235 than quarterly periods if the commission considers it necessary in order to ensure the

- 236 payment of the tax imposed by this chapter.
- 237 (h)(i) The commission may require a seller that files a simplified electronic return
238 with the commission to file an additional electronic report with the commission.
- 239 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
240 the commission may make rules providing:
- 241 (A) the information required to be included in the additional electronic report
242 described in Subsection (4)(h)(i); and
- 243 (B) one or more due dates for filing the additional electronic report described in
244 Subsection (4)(h)(i).
- 245 (5)(a) As used in this Subsection (5) and Subsection (6)(b), ["-"] "voluntary seller" means
246 a seller that is:
- 247 (i) registered under the agreement;
- 248 (ii) described in Subsection (2)(d); and
- 249 (iii) not a:
- 250 (A) model 1 seller;
- 251 (B) model 2 seller; or
- 252 (C) model 3 seller.
- 253 (b)(i) Except as provided in Subsection (5)(b)(ii), a tax a voluntary seller collects in
254 accordance with Subsection (2)(d) is due and payable:
- 255 (A) to the commission;
- 256 (B) annually; and
- 257 (C) on or before the last day of the month immediately following the last day of
258 each calendar year.
- 259 (ii) The commission may require that a tax a voluntary seller collects in accordance
260 with Subsection (2)(d) be due and payable:
- 261 (A) to the commission; and
- 262 (B) on the last day of the month immediately following any month in which the
263 seller accumulates a total of at least \$1,000 in agreement sales and use tax.
- 264 (c)(i) If a voluntary seller remits a tax to the commission in accordance with
265 Subsection (5)(b), the voluntary seller shall file a return:
- 266 (A) with the commission;
- 267 (B) with respect to the tax;
- 268 (C) containing information prescribed by the commission; and
- 269 (D) on a form prescribed by the commission.

- 270 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
271 the commission shall make rules prescribing:
- 272 (A) the information required to be contained in a return described in Subsection
273 (5)(c)(i); and
274 (B) the form described in Subsection (5)(c)(i)(D).
- 275 (d) A tax a voluntary seller collects in accordance with this Subsection (5) shall be
276 calculated on the basis of the total amount of taxable transactions under Subsection
277 59-12-103(1) the voluntary seller completes, including:
- 278 (i) a cash transaction; and
279 (ii) a charge transaction.
- 280 (6)(a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified
281 electronic return collects in accordance with this chapter is due and payable:
- 282 (i) monthly on or before the last day of the month immediately following the month
283 for which the seller collects a tax under this chapter; and
284 (ii) for the month for which the seller collects a tax under this chapter.
- 285 (b) A tax a voluntary seller that files a simplified electronic return collects in accordance
286 with this chapter is due and payable as provided in Subsection (5).
- 287 (7)(a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
288 purchaser shall pay the sales or use tax directly to the commission if the vehicle is
289 subject to titling or registration under the laws of this state.
- 290 (b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle
291 is titled or registered.
- 292 (8) If any sale of tangible personal property or any other taxable transaction under
293 Subsection 59-12-103(1), is made by a wholesaler to a retailer:
- 294 (a) the wholesaler is not responsible for the collection or payment of the tax imposed on
295 the sale; and
296 (b) the retailer is responsible for the collection or payment of the tax imposed on the sale
297 if:
- 298 (i) the retailer represents that the tangible personal property, product transferred
299 electronically, or service is purchased by the retailer for resale; and
300 (ii) the tangible personal property, product transferred electronically, or service is not
301 subsequently resold.
- 302 (9) If any sale of property or service subject to the tax is made to a person prepaying sales
303 or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a

304 contractor or subcontractor of that person:

305 (a) the person to whom such payment or consideration is payable is not responsible for
306 the collection or payment of the sales or use tax; and

307 (b) the person prepaying the sales or use tax is responsible for the collection or payment
308 of the sales or use tax if the person prepaying the sales or use tax represents that the
309 amount prepaid as sales or use tax has not been fully credited against sales or use tax
310 due and payable under the rules promulgated by the commission.

311 (10)(a) For purposes of this Subsection (10):

312 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" means the same as that
313 term is defined in Section 166, Internal Revenue Code.

314 (ii) "Bad debt" does not include:

315 (A) an amount included in the purchase price of tangible personal property, a
316 product transferred electronically, or a service that is:

317 (I) not a transaction described in Subsection 59-12-103(1); or

318 (II) exempt under Section 59-12-104;

319 (B) a financing charge;

320 (C) interest;

321 (D) a tax imposed under this chapter on the purchase price of tangible personal
322 property, a product transferred electronically, or a service;

323 (E) an uncollectible amount on tangible personal property or a product transferred
324 electronically that:

325 (I) is subject to a tax under this chapter; and

326 (II) remains in the possession of a seller until the full purchase price is paid;

327 (F) an expense incurred in attempting to collect any debt; or

328 (G) an amount that a seller does not collect on repossessed property.

329 (b)(i) To the extent an amount remitted in accordance with Subsection (4)(d) later
330 becomes bad debt, a seller may deduct the bad debt from the total amount from
331 which a tax under this chapter is calculated on a return.

332 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from
333 the total amount of taxes due under this chapter the amount of tax the qualifying
334 purchaser paid on the qualifying purchaser's purchase of tangible personal
335 property converted into real property to the extent that:

336 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible
337 personal property converted into real property;

- 338 (B) the qualifying purchaser's sale of that tangible personal property converted
339 into real property later becomes bad debt; and
- 340 (C) the books and records that the qualifying purchaser keeps in the qualifying
341 purchaser's regular course of business identify by reasonable and verifiable
342 standards that the tangible personal property was converted into real property.
- 343 (c) A seller may file a refund claim with the commission if:
- 344 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
345 the amount of the seller's sales that are subject to a tax under this chapter for that
346 same time period; and
- 347 (ii) as provided in Section 59-1-1410.
- 348 (d) A bad debt deduction under this section may not include interest.
- 349 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
350 period during which the bad debt:
- 351 (i) is written off as uncollectible in the seller's books and records; and
352 (ii) would be eligible for a bad debt deduction:
- 353 (A) for federal income tax purposes; and
354 (B) if the seller were required to file a federal income tax return.
- 355 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
356 claims a refund under this Subsection (10), the seller shall report and remit a tax
357 under this chapter:
- 358 (i) on the portion of the bad debt the seller recovers; and
359 (ii) on a return filed for the time period for which the portion of the bad debt is
360 recovered.
- 361 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
362 (10)(f), a seller shall apply amounts received on the bad debt in the following order:
- 363 (i) in a proportional amount:
- 364 (A) to the purchase price of the tangible personal property, product transferred
365 electronically, or service; and
366 (B) to the tax due under this chapter on the tangible personal property, product
367 transferred electronically, or service; and
- 368 (ii) to:
- 369 (A) interest charges;
370 (B) service charges; and
371 (C) other charges.

- 372 (h) A seller's certified service provider may make a deduction or claim a refund for bad
 373 debt on behalf of the seller:
- 374 (i) in accordance with this Subsection (10); and
- 375 (ii) if the certified service provider credits or refunds the entire amount of the bad
 376 debt deduction or refund to the seller.
- 377 (i) A seller may allocate bad debt among the states that are members of the agreement if
 378 the seller's books and records support that allocation.
- 379 (11)(a) A seller may not, with intent to evade any tax, fail to timely remit the full
 380 amount of tax required by this chapter.
- 381 (b) A violation of this section is punishable as provided in Section 59-1-401.
- 382 (c) Each person that fails to pay any tax to the state or any amount of tax required to be
 383 paid to the state, except amounts determined to be due by the commission under
 384 Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111,
 385 within the time required by this chapter, or that fails to file any return as required by
 386 this chapter, shall pay, in addition to the tax, penalties and interest as provided in
 387 Sections 59-1-401 and 59-1-402.
- 388 (d) For purposes of prosecution under this section, each quarterly tax period in which a
 389 seller, with intent to evade any tax, collects a tax and fails to timely remit the full
 390 amount of the tax required to be remitted constitutes a separate offense.

391 Section 2. Section **59-12-107.6** is amended to read:

392 **59-12-107.6 . Marketplace facilitator collection, remittance, and payment of sales**
 393 **tax obligation -- Marketplace seller collection, remittance, and payment of sales tax**
 394 **obligation -- Liability for collection.**

- 395 (1) A marketplace facilitator shall pay or collect and remit taxes imposed by this chapter in
 396 accordance with Section 59-12-107:
- 397 (a) if the marketplace facilitator meets one or more of the criteria provided for in
 398 Subsection 59-12-107(2)(a) or (b); and
- 399 (b) on the sales the marketplace facilitator made on the marketplace facilitator's own
 400 behalf.
- 401 (2)(a) A marketplace facilitator shall pay or collect and remit taxes imposed by this
 402 chapter in accordance with Subsection (3) if the marketplace facilitator, in the
 403 previous calendar year or the current calendar year, makes sales of tangible personal
 404 property, products transferred electronically, or services on the marketplace
 405 facilitator's own behalf or facilitates sales on behalf of one or more marketplace

- 406 sellers[;]
- 407 [(i)] that exceed \$100,000[; or] .
- 408 [(ii) in 200 or more separate transactions.]
- 409 (b) For purposes of determining if a marketplace facilitator [~~meets or exceeds one or~~
410 ~~both thresholds~~] exceeds the threshold described in this Subsection (2), a marketplace
411 facilitator shall separately total:
- 412 (i) the marketplace facilitator's sales; and
- 413 (ii) any sales the marketplace facilitator makes or facilitates for a marketplace seller.
- 414 (c) A marketplace facilitator without a physical presence in this state shall begin
415 collecting and remitting the taxes imposed by this chapter no later than the first day
416 of the calendar quarter that is at least 60 days after the day on which the marketplace
417 facilitator [~~meets or exceeds either~~] exceeds the threshold described in Subsection
418 (2)(a).
- 419 (3) A marketplace facilitator described in Subsection (2) shall pay or collect and remit taxes
420 imposed by this chapter for each sale that the marketplace facilitator:
- 421 (a) makes on the marketplace facilitator's own behalf; or
- 422 (b) makes or facilitates on behalf of a marketplace seller, regardless of:
- 423 (i) whether the marketplace seller has an obligation to pay or collect and remit taxes
424 under Section 59-12-107;
- 425 (ii) whether the marketplace seller would have been required to pay or collect and
426 remit taxes under Section 59-12-107 if the marketplace facilitator had not
427 facilitated the sale; or
- 428 (iii) the amount of the sales price or the purchase price that accrues to or benefits the
429 marketplace facilitator, the marketplace seller, or any other person.
- 430 (4) A marketplace facilitator shall comply with the procedures and requirements in this
431 chapter and Chapter 1, General Taxation Policies, for sellers required to pay or collect
432 and remit taxes except that the marketplace facilitator shall segregate, in the marketplace
433 facilitator's books and records:
- 434 (a) the sales that the marketplace facilitator makes on the marketplace facilitator's own
435 behalf; and
- 436 (b) the sales that the marketplace facilitator makes or facilitates on behalf of one or more
437 marketplace sellers.
- 438 (5)(a) The commission may audit the marketplace facilitator for sales made or
439 facilitated through the marketplace facilitator's marketplace on behalf of one or more

440 marketplace sellers.

441 (b) The commission may not audit the marketplace seller for sales made or facilitated
442 through the marketplace facilitator's marketplace on the marketplace seller's behalf.

443 (6) Nothing in this section prohibits a marketplace facilitator from providing in a
444 marketplace facilitator's agreement with a marketplace seller for the recovery of taxes,
445 and any related interest or penalties to the extent that a tax, interest, or penalty is
446 assessed by the state in an audit of the marketplace facilitator on a retail sale:

447 (a) that a marketplace facilitator makes or facilitates on behalf of a marketplace seller;
448 and

449 (b) for which the marketplace facilitator relied on incorrect or incomplete information
450 provided by the marketplace seller.

451 ~~[(7)(a) Subject to Subsections (7)(b) and (c), a marketplace facilitator is not liable for~~
452 ~~failing to collect the taxes under this chapter for a sale on which the marketplace~~
453 ~~facilitator failed to collect taxes if the marketplace facilitator demonstrates, to the~~
454 ~~satisfaction of the commission, that:]~~

455 ~~[(i) the marketplace facilitator made or facilitated the sale through the marketplace~~
456 ~~facilitator's marketplace on or before December 31, 2022;]~~

457 ~~[(ii) the marketplace facilitator made or facilitated the sale on behalf of a~~
457a ~~marketplace~~
458 ~~seller and not on behalf of the marketplace facilitator;]~~

459 ~~[(iii) the marketplace facilitator and the marketplace seller are not affiliates; and]~~

460 ~~[(iv) the failure to collect taxes was due to a good faith error other than an error in~~
460a ~~sourcing.]]~~

461 ~~[(b) For purposes of Subsection (7)(a):]~~

462 ~~[(i) for sales made or facilitated during the 2019 or 2020 calendar year, the~~
462a ~~marketplace~~
463 ~~facilitator is not liable for the amount the marketplace facilitator fails to collect~~
463a ~~due to~~
464 ~~error that is equal to the error rate, but not to exceed a 7% error rate;]~~

465 ~~[(ii) for sales made or facilitated during the 2021 calendar year, the marketplace~~
465a ~~facilitator~~
466 ~~is not liable for the amount the marketplace facilitator fails to collect due to error~~
466a ~~that is~~
467 ~~equal to the error rate, but not to exceed a 5% error rate; and]~~

468 ~~[(iii) for sales made or facilitated during the 2022 calendar year, the marketplace~~
468a ~~facilitator~~
469 ~~is not liable for the amount the marketplace facilitator fails to collect due to error~~
469a ~~that is~~
470 ~~equal to the error rate, but not to exceed a 3% error rate.]~~
471 ~~[(e) The commission shall calculate the percentages described in Subsection (7)(b):]~~
472 ~~[(i) using the total taxes due on sales that:]~~
473 ~~[(A) a marketplace facilitator made or facilitated in this state on behalf of one or~~
473a ~~more~~
474 ~~marketplace sellers during the calendar year that the sale for which the~~
474a ~~marketplace~~
475 ~~facilitator seeks relief was made or facilitated; and]~~
476 ~~[(B) are sourced to the state; and]~~
477 ~~[(ii) not including sales that the marketplace facilitator or the marketplace~~
477a ~~facilitator's~~
478 ~~affiliates directly made during the same calendar year.]~~
479 ~~[(8)] (7) A marketplace seller shall pay or collect and remit taxes imposed by this chapter~~
480 ~~for a sale of tangible personal property, a product transferred electronically, or a service~~
481 ~~that the marketplace seller makes other than through a marketplace facilitator if:~~
482 ~~(a) the sale is sourced to this state; and~~
483 ~~(b) the marketplace seller's sales in this state, other than through a marketplace~~
484 ~~facilitator, in the previous calendar year or the current calendar year[;]~~
485 ~~[(i) _exceed \$100,000[; or] .~~
486 ~~[(ii) occur in 200 or more separate transactions.]~~
487 ~~[(9)] (8)(a) A marketplace seller may not pay or collect and remit taxes imposed by this~~
488 ~~chapter for any sale for which a marketplace facilitator is required to pay or collect~~
489 ~~and remit.~~
490 ~~(b) A marketplace seller is not liable for a marketplace facilitator's failure to pay or~~
491 ~~collect and remit, or the marketplace facilitator's underpayment of, taxes imposed by~~
492 ~~this chapter for any sale for which a marketplace facilitator is required to pay or~~
493 ~~collect and remit the taxes imposed by this chapter.~~
494 ~~[(10)] (9)(a) A purchaser of tangible personal property, a product transferred~~
495 ~~electronically, or a service may file a claim for a refund with the marketplace~~
496 ~~facilitator if the purchaser overpaid taxes imposed under this chapter.~~

497 (b) No person may bring a class action against a marketplace facilitator in any court of
498 the state on behalf of purchasers arising from or in any way related to an
499 overpayment of taxes collected and remitted on sales made or facilitated by the
500 marketplace facilitator on behalf of a marketplace seller, regardless of whether such
501 claim is characterized as a tax refund claim.

502 [~~(H)~~] (10) Nothing in this section affects the obligation of a purchaser to remit the use tax
503 described in Subsection 59-12-107(2)(f) on any sale for which a marketplace facilitator
504 or marketplace seller failed to collect and remit a tax imposed by this chapter.

505 Section 3. **Effective date.**

506 This bill takes effect on July 1, 2025.