

Committee on Senate Finance
H536 Sales and Use Tax, Marketplace Facilitators
May 1, 2019

Verizon appreciates the opportunity to provide comments on H536 pertaining to remote sellers. Verizon has concerns with H536 as currently written due to the overly broad definition of marketplace facilitator and the inability of a marketplace seller to remit taxes on its own behalf. Verizon requests the Committee's support in including these amendments in the final law.

It is important to acknowledge that Verizon has always supported the fair and effective collection of the sales tax. Verizon was a founding member of the Business Advisory Council at the Streamlined Sales Tax Project and, as a company with a physical presence in all 50 states that collects and remits sales taxes everywhere, we agree sales tax laws should apply to all sellers. However, H536 incorporates serious technical issues that must be addressed.

Marketplace Facilitator Definition

The definition of Marketplace Facilitator is so broad that it will capture companies like Verizon who provide internet access or telecommunications that connect sellers and purchasers. In (56) (ii) "Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and sellers together; would capture internet providers who merely advertise or provide a network for facilitators, sellers or buyers to use.

Further, the bill classifies mere advertisers who have no financial transaction responsibility—*meaning they do not collect the money from the consumer*—as marketplace facilitators. As such, we request that the bill be amended to insure that simply selling internet advertising does not qualify a broadband provider from being a marketplace facilitator if they do not collect payment or handle the processing of order or sale.

(1) "Marketplace Facilitator" means a person that:

(i) Facilitates a retail sale by a marketplace seller by listing or advertising for sale in a marketplace tangible personal property; and

(ii) Regardless of whether the person receives compensation or other consideration in exchange for the person's services, directly or indirectly through agreements with third parties, collects payment from a buyer and transmits the payment to the marketplace seller.

(2) "Marketplace Facilitator" does not include:

(i) A platform or forum that exclusively provides internet advertising services, including listing products for sale, if the platform or forum does not also engage, directly or indirectly, in collecting payment from a buyer and transmitting that payment to the vendor; or

(ii) A payment processor business appointed by a vendor to handle payment transactions from various clients, such as credit cards and debit cards, whose sole activity with respect to marketplace sales is to handle transactions between two parties.

Marketplace Seller Should Be Allowed to Remit Taxes When Applicable

Verizon urges that the Committee include language that would allow a Marketplace Seller to continue to remit the sales tax. This language would be applicable when the Marketplace Seller is registered with the State, proactively agrees to remit the tax, and would otherwise be subject to audit in Vermont for sales other than those facilitated through the Marketplace Facilitator. In those circumstances, the Marketplace Facilitator would continue to collect tax, transmit that tax to the Marketplace Seller, and have the Marketplace Seller remit the tax to the state. If passed without the amendment, the legislation would have the unintended consequence of requiring both Marketplace Facilitators and local Marketplace Sellers to change their business practices without any additional revenue generated to Vermont.

Verizon has long remitted sales taxes in Vermont and as a sometimes Marketplace Seller, would prefer to remain remitting sales taxes on sales made in the marketplace. Verizon requests that the following language be included:

Amendment # 2 Seller Page 5 line 5

(57) "Marketplace seller" means a person, **other than a qualified seller**, who has an agreement with a marketplace facilitator and makes retail sales of tangible personal property, taxable services, or digital goods through a marketplace owned, operated, or controlled by a marketplace facilitator, even if the person would not be required to collect and remit the sales tax had the sale not been made through the facilitated marketplace.

"Qualified seller", a person that is certified by the commissioner as (i) satisfying the requirements of section 9701 of this chapter to do business in this state as a vendor, (ii) selling, or being under common control with a qualified seller that sells, communications services, and (iii) either being a person whose ownership interests are publicly traded or being controlled, directly or indirectly, by a person whose ownership interests are publicly traded.

This amendment is important in Vermont because communications service is also subject to a state Universal Service Fund tax which will not be collected by the Marketplace Facilitator as neither Amazon or E-bay are building their taxability systems to handle these additional taxes and fees. Thus, it only makes sense for Verizon and other communications companies to continue remitting the sales tax for sales made over the marketplace in addition to its normal sales tax remittance. There will be no increased audit workload for the Department of Taxes since these companies are already registered and remitting taxes.

Thank you for the opportunity to suggest changes to improve this important legislation. As a company that has long remitted sales taxes in Vermont, we do support the concept with these much needed modifications.

