

Motor Vehicle Purchase and Use Tax; Marketplace Facilitators

Sec. ____ . 219 V.S.A. § 8902 is amended to read:

§ 8902. Definitions

(10) "Rental company" means any person offering pleasure cars for rent on a short-term basis. This term also includes:

(A) A marketplace facilitator who has facilitated rentals of pleasure cars on a short-term basis by marketplace sellers to customers within this State of at least \$100,000.00, or totaling at least 200 individual rentals of pleasure cars on a short-term basis , during any 12-month period preceding the monthly period with respect to which that person's liability for tax under this chapter is determined; and

(B) A marketplace seller who has combined rentals of pleasure cars on a short-term basis to a customer within this State and rentals of pleasure cars on a short-term basis through a marketplace to a customer within this State of at least \$100,000.00, or totaling at least 200 individual rentals of pleasure cars on a short-term basis, during any 12-month period preceding the monthly period with respect to which that person's liability for tax under this chapter is determined.

(12) "Marketplace facilitator" means a person who contracts with marketplace sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the rental of the marketplace sellers pleasure car or cars through a physical or electronic marketplace operated by the person and engages:

(A) directly or indirectly through one or more affiliated persons, in any of the following:

(i) transmitting or otherwise communicating the offer or acceptance between customers and marketplace sellers;

(ii) owning or operating the infrastructure, electronic or physical, or technology that brings customers and marketplace sellers together;

(iii) providing a virtual currency that customers are allowed or required to use to rent pleasure cars from marketplace sellers; or

(iv) software development or research and development activities related to any of the activities described in subdivision (B) of this subdivision (12), if such activities are

directly related to a physical or electronic marketplace operated by the person or an affiliated person; and

(B) in any of the following activities with respect to the marketplace sellers pleasure car or cars:

(i) payment processing services;

(ii) providing insurance to customers;

(iii) arranging for delivery of pleasure cars

(iv) setting prices;

(v) branding sales as those of the marketplace facilitator;

(vi) order taking;

(vii) advertising or promotion; or

(viii) providing customer service

(ix) providing claims handling for damages to vehicles

(x) providing ancillary products such as collision damage waiver

(xi) providing roadside assistance.

(12) "Marketplace seller" means a person who has an agreement with a marketplace facilitator and makes rentals of pleasure cars on a short-term basis through a marketplace owned, operated, or controlled by a marketplace facilitator, even if the person would not be required to collect and remit the use tax on the rental charge under 219 V.S.A. § 8903(d) had the sale not been made through the facilitated marketplace.

(13) "Marketplace" means the physical or electronic processes, systems, places, and infrastructure, including a website, through which a marketplace facilitator engages in any of the activities described in subdivision (12) of this section.

(14) "Affiliated person" means a person who, with respect to another person:

(A) has an ownership interest of more than five percent, whether direct or indirect, in the other person; or

(B) is related to the other person because a third person, or group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than five percent, whether direct or indirect, in the related persons.

Sec. ____ . 219 V.S.A. § 8903 is amended to read:

(d) (1) There is hereby imposed a use tax on the rental charge of each transaction, in which the renter takes possession of the vehicle in this State, during the life of a pleasure car purchased for use in short-term rentals, which tax is to be collected by the rental company from the renter and remitted to the Commissioner. The amount of the tax shall be nine percent of the rental charge. Rental charge means the total rental charge for the use of the pleasure car, but does not include a separately stated charge for insurance, or recovery of refueling cost, or other separately stated charges which are not for the use of the pleasure car. In the event of resale of the vehicle in this State for use other than short-term rental, such transaction shall be subject to the tax imposed by subsection (a) of this section

(2) Marketplace facilitators shall collect and remit these tax on rentals imposed by subsection (d)(1) of this section by marketplace sellers through a marketplace.

Marketplace sellers shall collect and remit the sales tax on use tax on rentals imposed by subsection (d)(1) of this section within this State that are not made through a marketplace.

(a) A marketplace facilitator shall certify to its marketplace sellers that it will collect and remit the use tax on rentals imposed by subsection (d)(1) of this section made through its marketplace. A marketplace seller that accepts a certification from a marketplace facilitator in good faith shall exclude rentals made through the marketplace from its obligation to collect and remit tax under this chapter.

(b) A marketplace facilitator is relieved from liability under this chapter if it can demonstrate to the Commissioner that its failure to collect the correct amount of tax was due to incorrect information given to the marketplace facilitator by the marketplace seller.