CPA Practice Advisor

2027, or nearly 35% of all U.S. ecommerce.

Gail Cole • Apr. 19, 2024

By Gail Cole.

Online marketplace sales are expected to exceed $603 billion in the United States in 2027, or nearly 35% of all U.S. ecommerce. By 2027, marketplaces may account for 59% of ecommerce globally. Who wouldn't want a piece of that pie?

The success of online marketplaces is inspiring many retailers to operate marketplaces of their own. Good for them: Opening a marketplace can be financially rewarding. But running a marketplace also brings unique tax and compliance

respond to changing state requirements. Additionally, online marketplaces may need to:

- Adhere to new consumer protection mandates (the INFORM Consumers Act)
- Comply with new 1099 reporting requirements
- Manage exempt sales (and exemption certificates)

It's a lot to deal with.

Our 2024 Avalara Tax Changes report explores new and changing requirements for marketplace facilitators and sellers across a variety of industries. Read the report now.

Of course, online marketplaces mustn't overlook existing tax compliance responsibilities while navigating new obligations. These five guiding principles can help marketplace facilitators get sales tax compliance right no matter what states throw their way.

1. Keep economic nexus and marketplace facilitator laws top of mind
2. Register for sales tax where required, when required
3. Assign the right sales tax rate to each transaction
4. Remit sales tax to the proper tax authority
5. Comply with a world of tax requirements

1. Keep economic nexus and marketplace facilitator laws top of mind

Online marketplaces have grown since their inception. Once limited to physical goods, there are now marketplaces specializing in digital goods and on-demand services. They all face different tax compliance obligations and challenges.

So long as what's sold through the marketplace is subject to sales tax, marketplace

As the retailer liable for sales tax, marketplace facilitators are typically responsible for validating exempt transactions too. And increasingly, marketplaces are also being held responsible for other taxes and fees, such as occupancy taxes or 911 fees.

Getting tax wrong can be costly for any business, but particularly for marketplace facilitators with a high volume of sales. Unless a marketplace facilitator can demonstrate that a failure to collect and remit applicable taxes was due to receiving incorrect information from marketplace seller(s), facilitators will generally be held liable for uncollected or under-collected tax, plus penalty and interest charges. Washington state law offers a cautionary example.

Economic nexus thresholds vary by state

One of the challenges of economic nexus is that each state provides an exception for businesses with sales activity in the state beneath a certain threshold, and each state counts different transactions toward that threshold.

For example, neither California nor New York include taxable or exempt services in their economic nexus threshold, while all transactions count toward Pennsylvania's threshold. Some states count specified digital products, or services, or exempt transactions, but some do not.

Here's another challenge for marketplace facilitators and sellers:

Marketplace sales may or may not count toward economic nexus thresholds

States generally require marketplace facilitators to count all applicable sales made through their platform, but some allow marketplace sellers to exclude sales made through a registered marketplace.

For example, businesses should exclude sales made through a registered marketplace

As per usual where sales tax is concerned, thresholds and other aspects of both economic nexus and marketplace facilitator laws are subject to change. Indiana eliminated its 200- transactions threshold (while keeping the sales threshold) effective January 1, 2024. Wyoming is dropping its transaction threshold as of July 1, 2024. Utah will likely do the same in 2025.

Change can surface in other ways too. While the first iteration of Nevada's marketplace facilitator law didn't specify how it applies to delivery network companies, the Nevada Department of Taxation now says food delivery services are marketplace facilitators.

2. Register for sales tax where required, when required

Marketplace facilitators that have physical presence or economic nexus with a state must register for a sales tax permit (also known as a seller's permit, etc.). Once registered, they may need to certify to marketplace sellers that they'll collect and remit sales tax on their behalf; this is required in Texas.

Some states, like Idaho, require marketplace facilitators to obtain separate permits for third-party sales and direct sales. In other states, only one permit is needed. Connecticut allows marketplace facilitators to report their sales together with third-party sales, or to obtain a separate tax registration sub-number for marketplace sales. See our state registration requirements for marketplace sellers for more details.

Understanding how soon you need to register after establishing economic nexus with a state is critical. In some cases, the state mandates registration as soon as the economic nexus threshold has been crossed, as in, by the next transaction. Other states give businesses a bit more time to register, such as 30 or 60 days. Most want sales tax collection to begin as soon as possible.

3. Assign the right sales tax rate to each transaction

- Rates are subject to change

Examples of product taxability complexity: Certain sweetened beverages are subject to a higher rate of tax than non-sweetened beverages in the city of Seattle — and throughout the entire state of Vermont — and what does and doesn't qualify as a sweetened beverage may surprise you. Clothing priced less than $110 is exempt from state sales tax in New York but may be subject to local sales tax. In Texas, taxable information services are taxed at 80% of the billing amount, rather than 100%. And so on.

Another complicating factor is that many states typically hold one or more sales tax holidays each year; there are tax-free periods in more than 20 states in 2024.

Numerous normally taxable items are temporarily exempt during these tax-free periods, which usually last from one day to one week but can run much longer. Florida offered a slew of overlapping sales tax holidays in 2023, some of which exempted only a portion of the sales price of a variety of items, not the full cost. No wonder getting tax compliance right during sales tax holidays can be extremely challenging without the use of sales tax software.

Marketplace facilitators need to track and comply with all such sales tax regulations and requirements. In addition, they may need to validate any exempt sales made through the platform by collecting and maintaining a valid exemption certificate from the purchaser, then keep all documents straight.

4. Remit sales tax to the proper tax authority

Once sales tax has been collected as required, it must be remitted on time with a sales tax return to the proper tax authority. Filing requirements vary by state, and in some states, by locality.

Some states require marketplace facilitators to identify their own sales separately

for remote sellers or marketplace facilitators with a high volume of sales nationwide.

For example, marketplace facilitators are responsible for collecting West Virginia's hotel occupancy tax, which must be remitted to the county or municipality because the state doesn't administer hotel occupancy tax. In Louisiana, sellers and marketplace facilitators that have a physical presence in the state may need to register and remit to numerous local tax authorities in addition to the state taxing authority.

Home rule states are working to streamline compliance for remote sellers. To that end, Alabama created a Simplified Sellers Use Tax (SSUT), Colorado developed a Sales and Use Tax System (SUTS), and local governments in Alaska built a remote sales tax information portal.

But change takes time. While Louisiana's Sales and Use Tax Commission for Remote Sellers does ease the burden of compliance for some businesses, Louisiana will likely need to amend its state constitution to further simplify state and local sales tax compliance.

5. Comply with a world of tax requirements

In addition to navigating tax requirements throughout the United States, global marketplace facilitators must understand and comply with growing tax requirements in other countries.

The United Kingdom made marketplace facilitators the deemed supplier liable for collecting, remitting, and reporting VAT on certain sales effective January 1, 2021. The European Union followed suit starting July 1, 2021. In the EU, the deemed supplier rule affects two types of cross-border transactions:

- Goods valued below €150 imported by EU or non-EU sellers and sold to EU

Any company that sells internationally also needs to assign the proper Harmonized System (HS) code to every product sold. The more than 180 countries using the HS each add their own identifying numbers to the first six digits, which are the global standard. Assigning an incorrect HS code to a shipment can cause delays at the border.

The above just scratches the surface of what marketplaces are dealing with today. They’re also facing ongoing supply chain issues and growing demands to do more to prevent people from selling stolen goods through the marketplaces.

To learn more about these and other issues affecting sales tax compliance for marketplace facilitators, check out our annual report, Avalara Tax Changes 2024.

Small Business