

State Tax

Online Marketplace Sellers Eligible for Significant State Tax Relief

Action Item: For two months beginning August 17, 2017, online sellers of merchandise through Fulfillment by Amazon or a similar marketplace provider are eligible for sales tax and income tax forgiveness in 19 states. Unlike most voluntary disclosure programs, this program provides not only interest and penalty relief, but forgiveness of sales and income taxes owed by the online sellers.

Between August 17 and October 17, 2017, online sellers of goods through Fulfillment by Amazon (“FBA”) or other marketplace provider may qualify for a sales tax and income tax voluntary disclosure program being offered by 19 states. In most of the 19 states, relief extends not only to penalties and interest, but to the tax itself.

The participating states are Alabama, Arkansas, Colorado, Connecticut, Florida, Idaho, Iowa, Kansas, Kentucky, Louisiana, Nebraska, New Jersey, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, and Wisconsin. Limitations apply in Colorado and Wisconsin.

Internet sellers (“Sellers”) that have contracted with FBA or another marketplace provider (“Provider”) to hold the Seller’s goods and complete their sale may have subjected themselves to sales tax and income tax requirements in the states in which the goods are held. A Seller may not even know it has become subject to these state taxes, which results from owning goods located at a Provider’s place of business in the state, or from having the Provider fulfill orders in the state on the Seller’s behalf.

A Seller may apply for voluntary disclosure relief under this program if it is not registered as a retailer, has not filed returns with, and does not otherwise have contacts with the state that would allow the state to impose these taxes. Except for Colorado and Wisconsin as noted below, the states are expected to agree to waive sales and use tax and income/franchise tax liability, as well as penalties and interest, for prior tax periods without a look-back period so long as Seller registers to collect and remit sales and use tax as of the effective date of its voluntary disclosure agreement (“VDA”), but not later than December 1, 2017. If the Seller is subject to income or franchise tax in the state, it also must begin filing returns and paying tax beginning with the tax year that includes the effective date of the VDA.

Colorado will agree to waive past sales and use tax liability but will require payment of past income tax liability and interest for a four-year look-back period. Wisconsin will require payment of past sales and use and income tax liability going back to January 1, 2015.

A Seller meeting these requirements can apply to a participating state by completing the online application available at www.mtc.gov, or the PDF application available at that site and e-mailing it to nexus@mtc.gov. The Multistate Tax Commission (“MTC”) is administering this program for the 19 participating states. Sellers should note in the application that it is being filed under the Online Marketplace initiative and should disregard the statement that applications for tax relief of less than \$500 will not be processed.

For more information, please contact:
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