

Sales/Use/Indirect:

Tennessee DOR Letter Ruling Holds that Marketplace Facilitator Fees are Not Subject to Tax

Letter Ruling No. 22-02, Tenn. Dept. of Rev. (4/11/22). The Tennessee Department of Revenue (Department) issued a letter ruling concluding that certain charges to third parties made by a delivery network company electing to be a marketplace facilitator are *not* subject to Tennessee sales and use tax under the facts. Specifically, the Department reasoned that under the provided facts neither the “seller fee” nor the “service fee” are subject to Tennessee sales and use tax because the marketplace facilitator’s nontaxable lead generation and payment processing services are the true object of the transactions covered by these fees, and the taxable web-based interface and application (“App”) are merely incidental. In doing so, the Department explained that only if the true object of a transaction is not independently subject to Tennessee sales tax and the items that would be subject to Tennessee sales tax are “merely incidental” to the true object of the transaction will the transaction *not* be subject to Tennessee sales tax. Please contact us with any questions.

URL: <https://www.tn.gov/content/dam/tn/revenue/documents/rulings/sales/22-02.pdf>

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