

Sales/Use/Indirect:

California: February 7 Public Hearing Scheduled for Proposed Marketplace Sales Rule

Notice of Public Hearing: Proposed Amendments to Regulation 1684.5, Marketplace Sales, Cal. Dept. of Tax & Fee Admin. (1/17/23); *Proposed Cal. Code of Regs., Title 18, section 1684.5, Marketplace Sales*, Cal. Dept. of Tax & Fee Admin. (11/18/22). The California Department of Tax and Fee Administration (CDTFA) has scheduled a public hearing on February 7, 2023 to address the proposed adoption of an emergency regulation (“Regulation 1684.5”) implementing California’s marketplace facilitator legislation (MFA) enacted in 2019 [see A.B. 147 (2019) / S.B. 92 (2019) for more details on this 2019 legislation]. The proposed amendments are intended to further carry out the MFA and clarify that all sales of tangible personal property (*i.e.*, taxable and nontaxable) are counted for purposes of meeting California’s annual \$500,000 sales threshold. Also among the changes are those intended to provide procedures for a “delivery network company” to elect and retain an election to be deemed a marketplace facilitator, as well as define and clarify certain important terms and phrases such as facilitate, fulfillment or storage services, listing products for sale, order taking, payment processing services, providing customer service or accepting or assisting with returns or exchanges, setting prices, and virtual currency. Other proposed changes seek to help businesses understand when the “advertising exclusion” applies to a sale, as well as provide some examples of websites that both do and do not qualify as “marketplaces.” Please contact us with any questions.

URL: <https://www.cdtfa.ca.gov/taxes-and-fees/1684-5-PublicHearingNotice-02072023.pdf>

URL: <https://oal.ca.gov/wp-content/uploads/sites/166/2022/11/2022-Notice-Register-Number-46-Z-November-18-2022.pdf>

URL: http://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=201920200AB147

URL: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB92

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