

Sales/Use/Indirect:

Missouri DOR Proposes Amended and New Rules on Drop Shipments and Marketplace Facilitators

Proposed Amended 12 CSR 10-113.200; Proposed New 12 CSR 10-113.400, Mo. Dept. of Rev. (2/15/23). The Missouri Department of Revenue is proposing to amend its rule on determining whether a transaction is subject to Missouri sales tax or use tax by revising the definition of “nexus” and incorporating an example involving an out-of-state vendor that markets tangible personal property to Missouri residents via online and televised advertisements. In the example, the out-of-state vendor is required to collect vendor’s use tax when it instructs a third-party supplier to ship an item directly to a Missouri customer via common carrier, title transfers to the vendor in Missouri, and title transfers (again) to the customer in Missouri (note: the example does not address whether this activity by itself imparts nexus).

URL: <https://www.sos.mo.gov/CMSImages/AdRules/moreg/2023/v48n4Feb15/v48n4.pdf>

Another proposed new rule attempts to explain who qualifies as a “marketplace facilitator,” providing that, in general, “a marketplace facilitator must collect and remit use tax on behalf of sellers that utilize the marketplace facilitator’s service or services to list tangible personal property or services for sale regardless of the forum.” Under the proposed new rule, a marketplace facilitator that also has its own tangible personal property or services for retail sale must remit tax for those sales separately. Marketplace sellers generally must not report sales through a marketplace facilitator on their own return, but they must maintain records of sales made through marketplace facilitators.

Comments on these proposed rule changes must be received within 30 days after their February 15, 2023 publication in the Missouri Register. Please contact us with any questions.

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