

Sales/Use/Indirect:

North Carolina: Private Letter Ruling Addresses if Online Platform is a Marketplace Facilitator

Sales and Use Tax Private Letter Ruling SUPLR 2022-0008, N.C. Dept. of Rev. (12/9/22). The North Carolina Department of Revenue (Department) issued a redacted private letter ruling to an in-state taxpayer affiliated with certain companies that manufacture and distribute parts (known as original equipment manufacturers or “OEMs”) and which owns and administers the electronic infrastructure of a members-only online platform for selling parts, including providing necessary support to enable qualifying users to connect to the platform. In it, the Department concluded that based on the provided facts, the taxpayer is *not* a marketplace facilitator under state law, which provides a two-part definition of a marketplace facilitator:

URL: <https://www.ncdor.gov/media/14138/open>

1. The person lists or otherwise makes available for sale a marketplace seller’s items through a marketplace owned or operated by the marketplace facilitator; and
2. The person collects the sales or purchase price, processes payments, or makes payment processing available.

Specifically, the Department concluded that while the taxpayer owns and administers a marketplace in North Carolina that lists a marketplace seller’s items for sale, neither the taxpayer nor its affiliates, directly or indirectly, collect the sales price or purchase price of the marketplace seller’s items, process the payments for such items, or make payment processing services available. In this case, independent parties that are not affiliates of the taxpayer process a qualified customer’s payment and make payment processing services available. Please contact us with any questions.

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