

Sales/Use/Indirect:

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

Amended 12 CSR 10-113.200; New 12 CSR 10-113.400, Mo. Dept. of Rev. (6/1/23). The Missouri Department of Revenue adopted changes to 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/v48n11June1/v48n11.pdf>

Another newly adopted 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 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. The new and amended rules were adopted as originally proposed and take effect 30 days after publication in the Code of State Regulations [see *State Tax Matters*, Issue 2023-7, for details on these rule changes as originally proposed]. Please contact us with any questions.

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/STM/230217_12.html

— Collin Koenig (Kansas City)
Senior Manager
Deloitte Tax LLP
cokoenig@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.