

2019 PRIORITIES

OF THE UTAH STATE TAX COMMISSION



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UTAH STATE TAX COMMISSION
JANUARY 7, 2019

2019 Legislative Priorities

1. **Marketplace Facilitators**
2. **Income Tax Domicile Modifications**
3. **Income Tax Dependent Deduction Adjustments**
4. **Personal Property Taxation Issues**
5. **Corporate Transfer Pricing & Section 113 Concerns**
6. **Tax Moderization**

Marketplace Facilitators

Marketplace Facilitators

Several states, including South Dakota, have enacted legislation imposing sales tax collection obligations on marketplace facilitators such as Amazon Marketplace, eBay, Etsy, etc.

The Utah Legislature will likely explore similar legislation in the 2019 Legislative Session.

Marketplace Facilitators

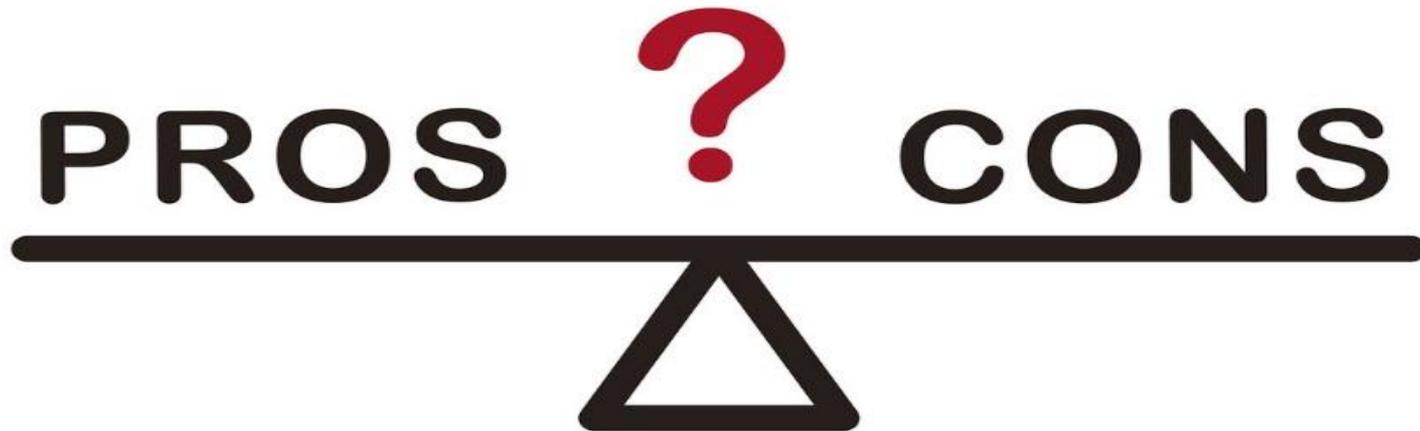
Unlike traditional sales, facilitated sales pose unique challenges because two “sellers” are cooperating to conduct each sale:

1. the marketplace seller; and
2. the marketplace facilitator.

This raises administrative questions that have not been encountered before.

Marketplace Facilitator Legislation Issues?

How will “Marketplace Facilitator” be defined?



Legislation must strike a balance



Marketplace Facilitator Legislation Issues?

How will nexus be determined for a Marketplace Facilitator?

- Will all sales on the marketplace platform be counted in the aggregate?

OR

- Will each seller on the platform be separately examined to determine if the that seller met the \$100k or 200 transaction threshold?

Marketplace Facilitator Legislation Issues?

Who should bear the tax collection obligation?

Should all sales conducted on a marketplace platform be taxed and reported by the marketplace facilitator?

Marketplace Facilitator Legislation Issues?

Who should bear the tax collection obligation?

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OR

Marketplace Facilitator Legislation Issues?

Who should bear the tax collection obligation?

Should all sales conducted on a marketplace platform be taxed and reported by the marketplace facilitator?

OR

Should an individual remote seller be allowed to “opt out” and self report?

Marketplace Facilitator Legislation Issues?

Who is subject to audit?



"The Inquisition is down the hall - this is Tax Audits."

Marketplace Facilitator Legislation Issues?

Sales tax exemptions?

1. Consumer Based exemptions

- Religious and Charities
- Exempt industries

2. Product Based exemptions

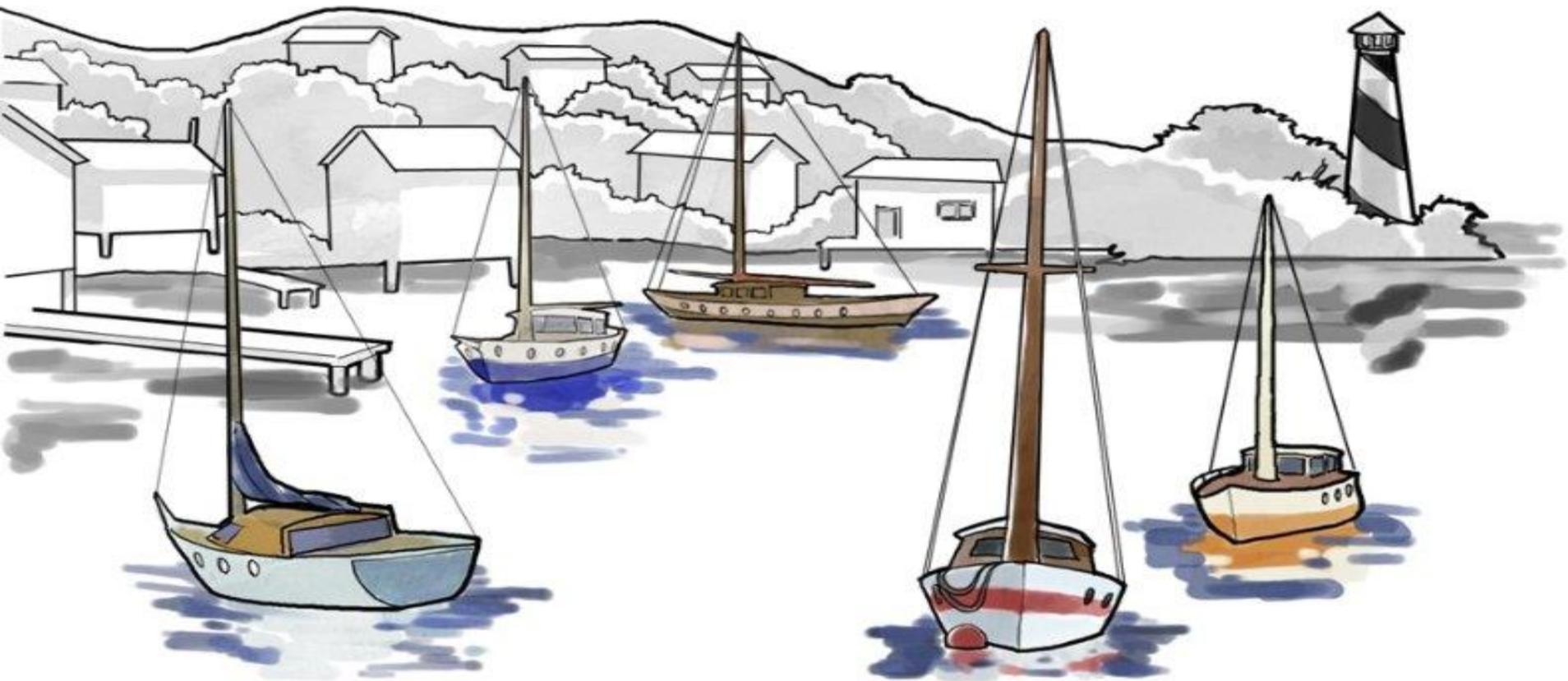
- Prescription Drugs
- Newspapers

3. Use Based exemptions

- Isolated and Occasional Sales
- Resale exemption

Marketplace Facilitator Legislation Issues?

Safe Harbors?



Marketplace Facilitator Legislation Issues?



Waivers?

Marketplace Facilitator Legislation Issues?

Seller Discount?



"ANY DISCOUNT FOR CASH?"

Marketplace Facilitator Legislation Issues?

Effective Date?

Congress

Watch for going forward

- If Congress acts on this issue, a solution along the lines of the Streamlined Sales and Use Tax Agreement (SSUTA) might emerge.
- An approach based on the SSUTA would advance the states' needs for revenue, the traditional retailers' call for a level playing field, and remote sellers' concerns with unfair compliance burdens.
- Unfortunately, Congress is slow and has failed in the past.

QUESTIONS?

