



Review of Telecom and Marketplace Facilitator Drafting Committees

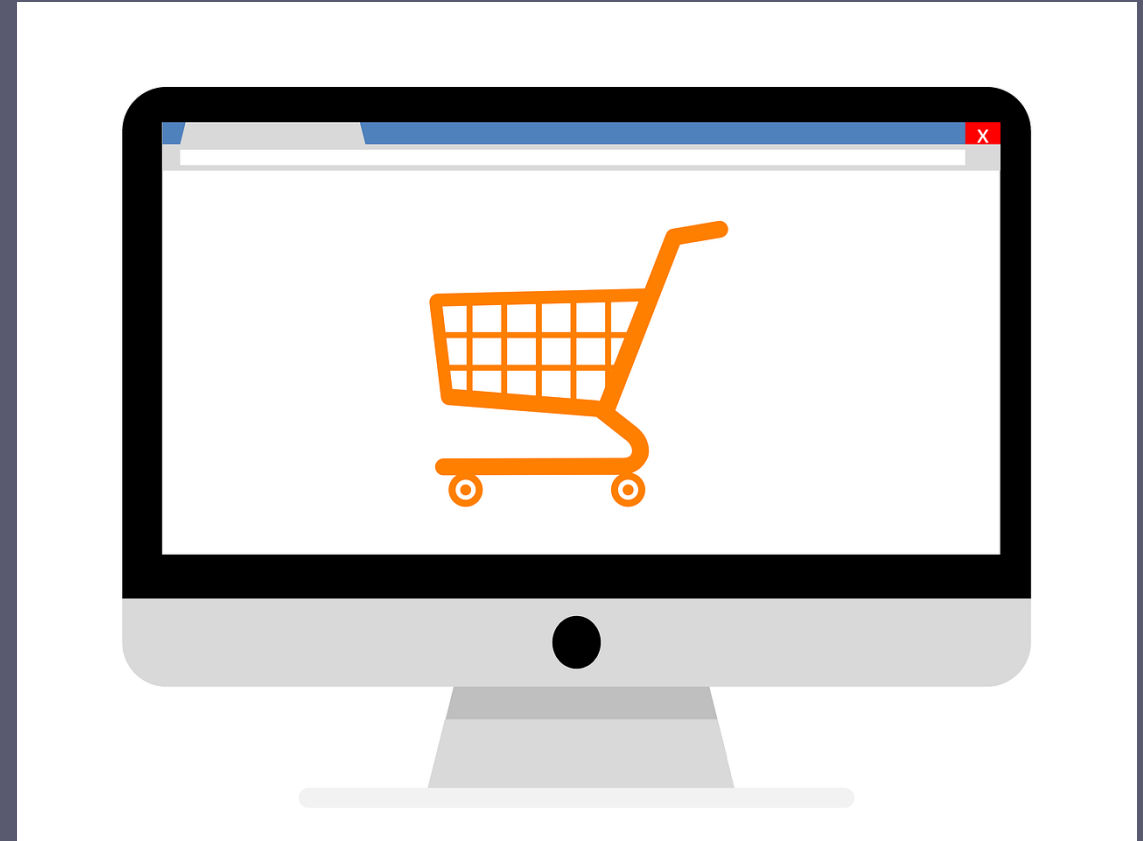
NCSL SALT Task Force

Jackson Brainerd, Program Principal

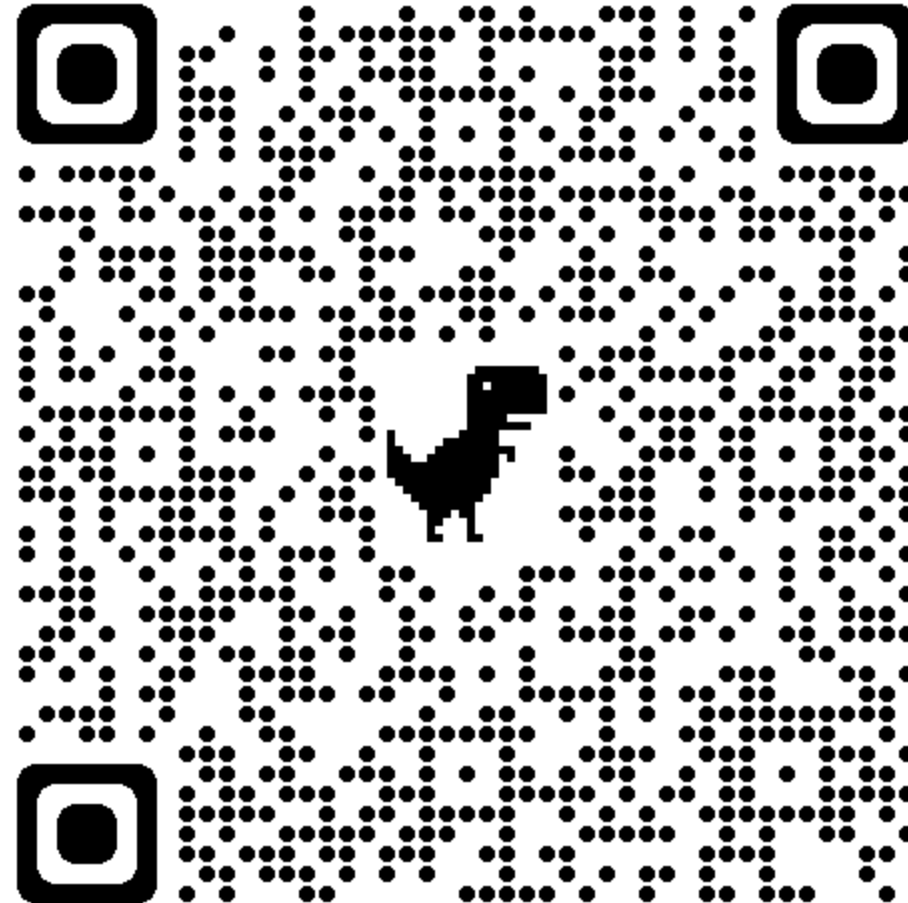
June 2, 2023

Prior SALT Task Force Policies on Remote Sales Tax Collection

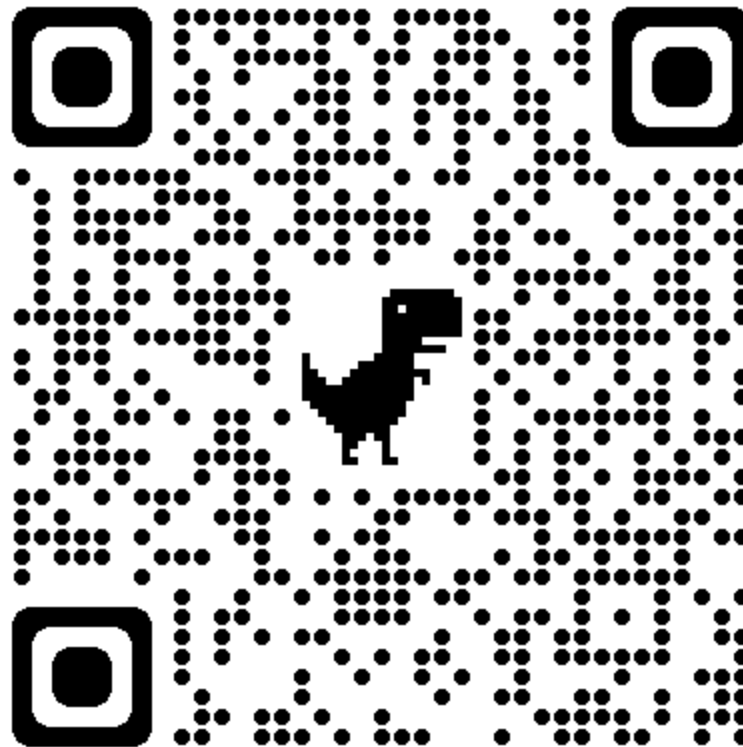
- **Resolution:** Remote Transactions Parity Act Resolution
- **Model Language:** Expanding sales/use tax collection requirements through state lawmaking
- **Model Language:** Marketplace Facilitator Tax Collection



NCSL Marketplace Facilitator Model Language, 2020



Government Accountability Office Remote Sales Tax Report



Marketplace Facilitator Priority Issues

■ **Economic Nexus Thresholds**

- Is the separate transactions threshold necessary?
- What is the appropriate sales volume threshold?
- Lack of uniformity in threshold metrics: gross sales, retail sales, taxable sales.
- Treatment of sale for resale transactions.

Other Issues

- Sales tax exemption certificates and double taxation.
- Consistency in audits and protections from class action.
- In the event of erroneous or inaccurate information provided to a marketplace provider by a seller, should there be an error percentage allowed to avoid conflicts between sellers and providers over minor errors/inaccuracies?
- Requiring remote sellers and marketplace facilitators to collect and remit other local taxes and fees:
- Lack of understanding of the burdens being placed on businesses; many of these new taxes do not go through tax committees at the local level.
- Software systems that assist businesses with sales tax compliance do not exist for other taxes and fees that are being imposed.

Marketplace Facilitator Priority Issues Cont.

Need for clarity in several areas:

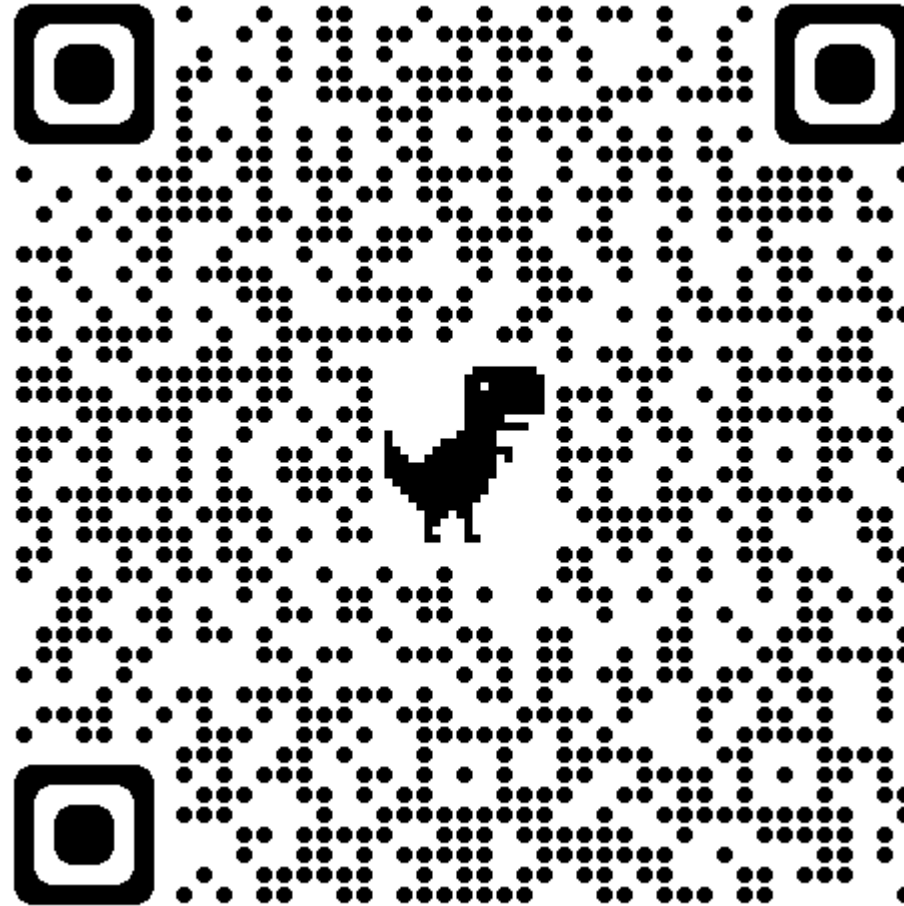
- The determination of collection responsibility with regard to legacy retailers and food delivery/lodging platforms.
- Collection dates and when tax must be remitted.
- What information marketplace facilitators can provide to sellers.
- Should there be contract choice in instances with multiple marketplace facilitators or sellers?
- How to deal with transactions involving multiple marketplaces, direct and indirect sales: Who should register?
- Instructions for when two parties are required remit tax and prohibition/guardrails to avoid necessitating confidential taxpayer records of one party to support the other's audit.
- Some entities are being held responsible for sales and use tax collection when they are not involved in the financial transaction. How are they supposed to remit tax without a connection to the payment?
- With regard to liability relief, how to arbitrate between sellers and marketplace facilitators?
- For states that tax technology (software, digital products, etc.), what is taxable v. exempt if a marketplace facilitator is required to collect?

Prior SALT Task Force Telecommunication Policies

- **Policy Primer:** Property Taxation of Communication Providers; last updated in 2017
- **Resolution:** Communication Network Equipment Sales Tax Exemption
- **Resolution and Model Language:** State Disaster Response
- **Resolution and Model Language:** E911 Fee Collection



Primer: Property Taxation on Communications Providers



NCSL Resolution on Communications Network Equipment Exemption



Whereas, American consumers increasingly rely on high-speed communications networks in their everyday lives for work, entertainment, emergency communications, and other purposes; and

Whereas, communications networks have become an integral part of the business process for millions of American businesses in sectors as diverse as agriculture, health care, manufacturing, retail, transportation, and many others; and

Whereas, communications networks, both wired or wireless, have become integral to the delivery of government services and have the potential to allow for more efficient and cost effective delivery of government services; and

Whereas, the United States is a technology leader with respect to wired and wireless broadband deployment; and

Whereas, this technology leadership has allowed American businesses to lead the way in the global marketplace in areas such as applications development, “cloud-based” services, and the utilization of software in the communications networks; and

Whereas, the rapid adoption of new communications technologies by American businesses and consumers requires the investment of tens of billions of dollars to keep pace with the exponential growth in demand for network capacity; and

Whereas, state economic growth and competitiveness is dependent upon the deployment of modern, efficient communications networks; and

Whereas, a 2013 study by Ernst & Young confirmed what many prior economic studies have concluded – that the taxation of business inputs results in tax pyramiding, economic distortions, and a lack of transparency in the tax system; and

Whereas, a study by Dr. Raul Katz at Columbia University found that (1) sales taxes on communications network investment reduce economic growth by increasing the cost of investment and slowing communications network investment, and (2) that the elimination of sales taxes on communications network investment in the states that impose such taxes could increase economic growth by \$33 billion and lead to the creation of 243,000 jobs in 3 years; and

Whereas, the National Conference of State Legislatures supports the policy goal of encouraging deployment of high speed communications networks across all States, including rural and underserved areas;

Be it therefore resolved, that the National Conference of State Legislatures recommends that states who wish to encourage broadband deployment consider exempting communications network equipment from the sales and use tax.

Adopted by the NCSL Executive Committee Task Force on State and Local Taxation August 2, 2015

NCSL Resolution on Response to Declared Disasters to Repair and Replace Damaged Infrastructure



WHEREAS 48 states experienced natural catastrophes including storms, blizzards, hurricanes, tornados, flooding, tidal waves, earthquakes, volcanic eruptions, fires, landslides, mudslides and other acts of God in 2011 for which a state's Governor or the President of the United States issues a Declaration of Disaster or Emergency.

WHEREAS states and its citizens experience damage and destruction to infrastructure, including buildings, roads, communications networks, utility lines and other property, as a result of such Disasters or Emergencies.

WHEREAS such Disasters or Emergencies result in interruption of crucial civic and business services to a state's citizens and the demand for resources to repair and replace the damaged property and infrastructure can exceed local capacity.

WHEREAS such Disasters and Emergencies may involve the need for companies to bring in resources on a temporary basis from out-of-state including materials, equipment, temporary shelters, and personnel to assist in the repair and restoration of the damaged infrastructure and property.

WHEREAS existing state regulation and policies can cause delays in a business's ability to quickly bring resources into the state to aid in the recovery efforts.

WHEREAS out of state companies and personnel that have entered the state on a temporary basis solely to provide crucial resources and assistance to the state or its instate registered businesses should not be hampered in their efforts by registrations and taxes that are intended for companies and individuals in the state in the normal course of business, nor should they be deterred from entering the state on account of such taxes and registrations.

WHEREAS, state action that will facilitate the ability of companies and their personnel to provide rapid response to state Declared Disasters or Emergencies throughout the United States will aid the state and its citizens in restoring and repairing crucial infrastructure.

THEREFORE, LET IT BE RESOLVED that the National Conference of State Legislatures supports efforts by states to pass legislation with appropriate safeguards that facilitates rapid and unburdened response in the interest of restoring a state's property and infrastructure damage in the event of a Declared Disaster or Emergency.

Adopted Unanimously December 8, 2011

Thank You!

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