



This Week in State Tax (TWIST)

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Florida: Guidance Issued on Sales Tax Responsibilities for Delivery Network Companies

Under Florida law, a marketplace provider does not include a person who is a delivery network company unless the delivery network company (1) is a registered dealer and (2) notifies all local merchants that sell through the delivery network company's website or mobile application that the company is a marketplace provider and is responsible for collecting and remitting Florida sales tax. The Florida Department of Revenue recently issued guidance on who is responsible for remitting sales and use tax when a third-party delivery network company is involved in the transaction. In Tax Information Publication No: 23A01-24, the Department notes that it has become aware of situations in which restaurants, grocery stores, convenience stores, and other local merchants using third-party delivery network companies did not report or remit the correct amount of Florida sales tax on their sales made through these networks. The guidance reminds such retailers that some delivery companies do not collect and remit Florida sales tax on the merchant's behalf; others collect Florida sales tax from customers but return the tax to the merchant to remit to the Department. Still others elect to collect and remit the tax. The Department recommends that local merchants using third-party delivery network companies should closely review the terms of their agreements related to sales tax collection and remittance responsibilities and the effective date of any changes related to those responsibilities. Merchants may also visit their delivery network company's website to determine if and when the delivery network company has made such an election. Interestingly, legislation has been introduced in the Florida Legislature (House Bill 1099 and Senate Bill 676) that, among other things, would require food delivery platforms to itemize and clearly disclose to a customer any taxes due on the transaction and would require an agreement between a food delivery platform and a food service establishment to identify the party responsible for collecting and remitting sales taxes. Please stay tuned to TWIST for updates on these bills.

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