

Sales/Use/Indirect:

South Carolina Appellate Court Affirms Online Marketplace Owes Tax on Third-Party Sales

Case No. 2019-001706, S.C. Ct. of App. (1/24/24). The South Carolina Court of Appeals (Court) affirmed that based on the underlying facts involving an online marketplace platform and a broad interpretation of South Carolina statutes in effect for the 2016 tax periods at issue, the online marketplace was in the business of selling tangible personal property at retail under state law and therefore responsible for collecting and remitting South Carolina sales tax on in-state sales of tangible personal property owned by third-parties occurring on the marketplace. The Court also held that the South Carolina Administrative Law Court appropriately found that the online marketplace, which had in-state physical distribution centers, failed to show any constitutional violations (*i.e.*, fair notice or equal protection violations) in having such South Carolina sales tax collection and remittance responsibilities. Rejecting the online marketplace's claim that the underlying tax assessment was an invalid attempt to retroactively apply 2019 statutory amendments to it, the Court explained that South Carolina was *not* attempting to retroactively apply subsequent marketplace facilitator legislation to its actions, but rather, apply state law that was in place at that time. Please contact us with any questions.

URL: <https://www.sccourts.org/opinions/HTMLFiles/COA/6047.pdf>

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