

2023 Kansas Statutes

79-5601. Definitions. As used in K.S.A. 2023 Supp. 79-5601 through 79-5604, and amendments thereto:

(a) "Department" means the department of revenue.

(b) (1) "Marketplace facilitator" means a person, including any affiliate of the person, that:

(A) Contracts or otherwise agrees with marketplace sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the marketplace seller's products or rooms, lodgings or accommodations through a physical or electronic marketplace operated, owned or otherwise controlled by the person; and

(B) either directly or indirectly through contracts, agreements or other arrangements with third parties, collects the payment from the purchaser and transmits all or part of the payment to the marketplace seller.

(2) A "marketplace facilitator" includes a person that provides a platform through which unaffiliated third parties offer to rent to and collect consideration from occupants for rental, for a period of less than 29 consecutive days, of rooms, lodgings, accommodations, homes, apartments, cabins or residential dwelling units that are intended to be used as a room, lodging or sleeping accommodation by one person or by two or more persons maintaining a common household, to the exclusion of all others. A person is not a marketplace facilitator with respect to the sale or charges for rooms, lodgings or sleeping accommodations, if such rooms, lodgings or sleeping accommodations are provided by a hotel as described in K.S.A. 36-501, and amendments thereto, and the hotel provides the rooms, lodgings or sleeping accommodations for occupancy under a brand belonging to such person or the person facilitates sales or charges on behalf of the hotel.

(3) A "marketplace facilitator" does not include:

(A) A platform or forum that exclusively provides advertising services, including listing products for sale, so long as the advertising service platform or forum does not also engage directly or indirectly through one or more affiliated persons in the activities described in K.S.A. 2023 Supp. 79-5601(b)(1)(A) or (b)(1)(B), and amendments thereto;

(B) a person whose principal activity with respect to marketplace sales is to provide payment processing services between two parties; or

(C) a derivatives clearing organization, designated contract market, foreign board of trade or swap execution facility, registered with the commodity futures trading commission, and any clearing members, futures commission merchants or brokers when using the services of the commodity futures trading commission.

(c) "Marketplace seller" means a seller that makes sales through any physical or electronic marketplace operated, owned or controlled by a marketplace facilitator.

(d) "Tax" means:

(1) The retailers' sales tax imposed under K.S.A. 79-3603, and amendments thereto;

(2) the compensating use tax imposed under K.S.A. 79-3703, and amendments thereto; or

(3) the transient guest tax imposed under K.S.A. 12-1693 or 12-1697, and amendments thereto, or any applicable city or county resolution or ordinance.

History: L. 2021, ch. 93, § 1; July 1.