



This Week in State Tax (TWIST)

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Missouri: Department rules on food delivery service platforms

A food delivery service platform recently requested a letter ruling from the Missouri Department of Revenue. The platform, which has no physical presence in Missouri, enters into agreements with Missouri-based restaurants to display the restaurants' menus, provide marketing, and facilitate the delivery of the restaurants' food and beverages to customers. When a customer places an order with a restaurant on the platform, the customer has the option to pick up the order at the restaurant's location, or to request delivery of the order. If the customer selects the delivery option, the customer must pay an additional delivery fee to the platform. The platform retains the delivery fee if the platform arranges delivery with a third-party contractor rather than with the restaurant. Once the platform confirms the customer's order, the platform charges the customer's credit card or PayPal account. The platform then remits all funds collected, including the order subtotal, the delivery fee (if the restaurant performed the delivery), and any applicable taxes to the restaurant. By contract, the restaurant agrees to remit the taxes collected to the state on its own behalf.

In the letter ruling request, the platform asked whether it was required to collect and remit sales taxes on sales made to Missouri customers from in-state restaurants. The Department responded that the platform was not required to collect and remit sales taxes, but that the platform may transfer sales taxes collected on behalf of the restaurants to the restaurants. The Department analogized the platform's role to that of a financial institution or credit card company which does not have a requirement to collect sales taxes on payments that it facilitates. The Missouri restaurants using the platform, however, still have a requirement to charge, collect, and report sales taxes on sales facilitated by the platform.

The platform also requested a ruling on whether the delivery fees charged to customers were subject to Missouri sales and use tax. The Department responded that because customers had the option to request pickup rather than delivery of their orders, the delivery fees were optional and excluded from tax. In Missouri, delivery charges that are usual, customary, and stated separately from the sale of taxable goods are not subject to tax.

The Department's letter ruling did not address Missouri's marketplace law, which went into effect this year. The marketplace law requires marketplace facilitators engaged in business activities within Missouri to collect and remit use tax on taxable sales delivered to customers in the state. For questions on Letter Ruling 8244, please contact [John Griesedieck](#).

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