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PART AA

2 Section 1. Paragraph 1 of subsection (a) of section 632 of the tax
3 law, as amended by chapter 28 of the laws of 1987, is amended to read as
4 follows:

5 (1) In determining New York source income of a nonresident partner of
6 any partnership, there shall be included only the portion derived from
7 or connected with New York sources of such partner's distributive share
8 of items of partnership income, gain, loss and deduction entering into
9 his federal adjusted gross income, as such portion shall be determined
10 under regulations of the tax commission consistent with the applicable
11 rules of section six hundred thirty-one of this part. If a nonresident
12 is a partner in a partnership where a sale or transfer of the membership
13 interest of the partner is subject to the provisions of section one-
14 thousand sixty of the internal revenue code, then any gain recognized on
15 the sale or transfer for federal income tax purposes shall be treated as
16 New York source income allocated in a manner consistent with the appli-
17 cable methods and rules for allocation under this article in the year
18 that the assets were sold or transferred.

19 § 2. This act shall take effect immediately

20

PART BB

21 Section 1. Section 1101 of the tax law is amended by adding a new
22 subdivision (e) to read as follows:

23 (e) When used in this article for the purposes of the taxes imposed
24 under subdivision (a) of section eleven hundred five of this article and

1 by section eleven hundred ten of this article, the following terms shall
2 mean:

3 (1) Marketplace provider. A person who, pursuant to an agreement with
4 a marketplace seller, facilitates sales of tangible personal property by
5 such marketplace seller or sellers. A person "facilitates a sale of
6 tangible personal property" for purposes of this paragraph when the
7 person meets both of the following conditions: (i) such person provides
8 the forum in which, or by means of which, the sale takes place or the
9 offer of sale is accepted, including a shop, store, or booth, an inter-
10 net website, catalog, or similar forum; and (ii) such person or an
11 affiliate of such person collects the receipts paid by a customer to a
12 marketplace seller for a sale of tangible personal property, or
13 contracts with a third party to collect such receipts. For purposes of
14 this paragraph, two persons are affiliated if one person has an owner-
15 ship interest of more than five percent, whether direct or indirect, in
16 the other, or where an ownership interest of more than five percent,
17 whether direct or indirect, is held in each of such persons by another
18 person or by a group of other persons that are affiliated persons with
19 respect to each other. Notwithstanding anything in this paragraph, a
20 person who facilitates sales exclusively by means of the internet is not
21 a marketplace provider for a sales tax quarter when such person can show
22 that it has facilitated less than one hundred million dollars of sales
23 annually for every calendar year after two thousand fifteen.

24 (2) Marketplace seller. Any person, whether or not such person is
25 required to obtain a certificate of authority under section eleven
26 hundred thirty-four of this article, who has an agreement with a market-
27 place provider under which the marketplace provider will facilitate

1 sales of tangible personal property by such person within the meaning of
2 paragraph one of this subdivision.

3 § 2. Subdivision 1 of section 1131 of the tax law, as amended by chap-
4 ter 576 of the laws of 1994, is amended to read as follows:

5 (1) "Persons required to collect tax" or "person required to collect
6 any tax imposed by this article" shall include: every vendor of tangible
7 personal property or services; every recipient of amusement charges;
8 [and] every operator of a hotel, and every marketplace provider with
9 respect to sales of tangible personal property it facilitates as
10 described in paragraph one of subdivision (e) of section eleven hundred
11 one of this article. Said terms shall also include any officer, director
12 or employee of a corporation or of a dissolved corporation, any employee
13 of a partnership, any employee or manager of a limited liability compa-
14 ny, or any employee of an individual proprietorship who as such officer,
15 director, employee or manager is under a duty to act for such corpo-
16 ration, partnership, limited liability company or individual proprietor-
17 ship in complying with any requirement of this article; and any member
18 of a partnership or limited liability company. Provided, however, that
19 any person who is a vendor solely by reason of clause (D) or (E) of
20 subparagraph (i) of paragraph (8) of subdivision (b) of section eleven
21 hundred one of this article shall not be a "person required to collect
22 any tax imposed by this article" until twenty days after the date by
23 which such person is required to file a certificate of registration
24 pursuant to section eleven hundred thirty-four of this part.

25 § 3. Section 1132 of the tax law is amended by adding a new subdivi-
26 sion (1) to read as follows:

27 (1) (1) A marketplace provider, with respect to a sale of tangible
28 personal property it facilitates: (i) shall have all the obligations and

1 rights of a vendor under this article and article twenty-nine of this
2 chapter and under any regulations adopted pursuant thereto, including,
3 but not limited to, the duty to obtain a certificate of authority, to
4 collect tax, file returns, remit tax, and the right to accept a certif-
5 icate or other documentation from a customer substantiating an exemption
6 or exclusion from tax, the right to receive the refund authorized by
7 subdivision (e) of this section and the credit allowed by subdivision
8 (f) of section eleven hundred thirty-seven of this part subject to the
9 provisions of such subdivision; and (ii) shall keep such records and
10 information and cooperate with the commissioner to ensure the proper
11 collection and remittance of tax imposed collected or required to be
12 collected under this article and article twenty-nine of this chapter.

13 (2) A marketplace seller who is a vendor is relieved from the duty to
14 collect tax in regard to a particular sale of tangible personal property
15 subject to tax under subdivision (a) of section eleven hundred five of
16 this article and shall not include the receipts from such sale in its
17 taxable receipts for purposes of section eleven hundred thirty-six of
18 this part if, in regard to such sale: (i) the marketplace seller can
19 show that such sale was facilitated by a marketplace provider from whom
20 such seller has received in good faith a properly completed certificate
21 of collection in a form prescribed by the commissioner, certifying that
22 the marketplace provider is registered to collect sales tax and will
23 collect sales tax on all taxable sales of tangible personal property by
24 the marketplace seller facilitated by the marketplace provider, and with
25 such other information as the commissioner may prescribe; and (ii) any
26 failure of the marketplace provider to collect the proper amount of tax
27 in regard to such sale was not the result of such marketplace seller
28 providing the marketplace provider with incorrect information. This

1 provision shall be administered in a manner consistent with subparagraph
2 (i) of paragraph one of subdivision (c) of this section as if a certif-
3 icate of collection were a resale or exemption certificate for purposes
4 of such subparagraph, including with regard to the completeness of such
5 certificate of collection and the timing of its acceptance by the
6 marketplace seller. Provided that, with regard to any sales of tangible
7 personal property by a marketplace seller that are facilitated by a
8 marketplace provider who is affiliated with such marketplace seller
9 within the meaning of paragraph one of subdivision (e) of section eleven
10 hundred one of this article, the marketplace seller shall be deemed
11 liable as a person under a duty to act for such marketplace provider for
12 purposes of subdivision one of section eleven hundred thirty-one of this
13 part.

14 (3) The commissioner may, in his or her discretion: (i) develop a
15 standard provision, or approve a provision developed by a marketplace
16 provider, in which the marketplace provider obligates itself to collect
17 the tax on behalf of all the marketplace sellers for whom the market-
18 place provider facilitates sales of tangible personal property, with
19 respect to all sales that it facilitates for such sellers where delivery
20 occurs in the state; and (ii) provide by regulation or otherwise that
21 the inclusion of such provision in the publicly-available agreement
22 between the marketplace provider and marketplace seller will have the
23 same effect as a marketplace seller's acceptance of a certificate of
24 collection from such marketplace provider under paragraph two of this
25 subdivision.

26 § 4. Section 1133 of the tax law is amended by adding a new subdivi-
27 sion (f) to read as follows:

1 (f) A marketplace provider is relieved of liability under this section
2 for failure to collect the correct amount of tax to the extent that the
3 marketplace provider can show that the error was due to incorrect infor-
4 mation given to the marketplace provider by the marketplace seller.
5 Provided, however, this subdivision shall not apply if the marketplace
6 seller and marketplace provider are affiliated within the meaning of
7 paragraph one of subdivision (e) of section eleven hundred one of this
8 article.

9 § 5. Paragraph 4 of subdivision (a) of section 1136 of the tax law, as
10 amended by section 46 of part K of chapter 61 of the laws of 2011, is
11 amended to read as follows:

12 (4) The return of a vendor of tangible personal property or services
13 shall show such vendor's receipts from sales and the number of gallons
14 of any motor fuel or diesel motor fuel sold and also the aggregate value
15 of tangible personal property and services and number of gallons of such
16 fuels sold by the vendor, the use of which is subject to tax under this
17 article, and the amount of tax payable thereon pursuant to the
18 provisions of section eleven hundred thirty-seven of this part. The
19 return of a recipient of amusement charges shall show all such charges
20 and the amount of tax thereon, and the return of an operator required to
21 collect tax on rents shall show all rents received or charged and the
22 amount of tax thereon. The return of a marketplace seller shall exclude
23 the receipts from a sale of tangible personal property facilitated by a
24 marketplace provider if, in regard to such sale: (A) the marketplace
25 seller has timely received in good faith a properly completed certif-
26 icate of collection from the marketplace provider or the marketplace
27 provider has included a provision approved by the commissioner in the
28 publicly-available agreement between the marketplace provider and the

1 marketplace seller as described in subdivision (1) of section eleven
2 hundred thirty-two of this part, and (B) the information provided by the
3 marketplace seller to the marketplace provider about such tangible
4 personal property is accurate.

5 § 6. Section 1142 of the tax law is amended by adding a new subdivi-
6 sion 15 to read as follows:

7 15. To publish a list on the department's website of marketplace
8 providers whose certificate of authority has been revoked and, if neces-
9 sary to protect sales tax revenue, provide by regulation or otherwise
10 that a marketplace seller who is a vendor will be relieved of the duty
11 to collect tax for sales of tangible personal property facilitated by a
12 marketplace provider only if, in addition to the conditions prescribed
13 by paragraph two of subdivision (1) of section eleven hundred thirty-two
14 of this part being met, such marketplace provider is not on such list at
15 the commencement of the calendar year in which the sale was made.

16 § 7. This act shall take effect September 1, 2017, and shall apply to
17 sales made on or after that date.

18 PART CC

19 Section 1. Paragraph 4 of subdivision (b) of section 1101 of the tax
20 law is amended by adding a new subparagraph (v) to read as follows:

21 (v) Notwithstanding the provisions of subparagraph (i) of this para-
22 graph, the following sales of tangible personal property shall be deemed
23 to be retail sales: (A) a sale to a single member limited liability
24 company or a subsidiary for resale to its member or owner, where such
25 single member limited liability company or subsidiary is disregarded as
26 an entity separate from its owner for federal income tax purposes (with-