

3-9-1-2: STANDARDIZED DEFINITIONS:

When not clearly indicated by the context, the following words and phrases, as used in this chapter, shall have the following meanings:

AGRICULTURE PRODUCER: Means a person regularly engaged in the business of using land for the production of commercial crops or commercial livestock. The term includes farmers, market gardeners, commercial fruit growers, livestock breeders, dairymen, poultrymen, and other persons similarly engaged, but does not include a person who breeds or markets animals, birds, or fish for domestic pets nor a person who cultivates, grows, or harvests plants or plant products exclusively for that person's own consumption or casual sale.

AUTOMOTIVE VEHICLE: Means any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. Automotive vehicle includes, but is not limited to, motor vehicles, trailers, semitrailers, or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

BUSINESS: Means all activities engaged in, or caused to be engaged in, with the object of gain, benefit, or advantage, direct or indirect.

CANDY: Means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour, products that require refrigeration or marijuana infused products.

CARRIER ACCESS SERVICES: Means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

CHARITABLE ORGANIZATION: Means any entity which: a) has been certified as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code, and b) is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.

CITY OR TOWN: Means the Municipality of Littleton, Colorado.

CITY TREASURER: Means the City Finance Director or his or her designee.

COIN OPERATED DEVICE: Means any device operated by coins or currency or any substitute therefor.

COINS: Means monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium or other such metals now, in the future or heretofore designated as a medium of exchange under the laws of this State, the United States or any foreign nation.

COMMERCIAL PACKAGING MATERIALS: Means containers, labels, and/or cases, that become part of the finished product to the purchaser, used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use, and is not returnable to said person for reuse. Commercial packaging materials does not include commercial shipping materials.

COMMERCIAL SHIPPING MATERIALS: Means materials that do not become part of the finished product to the purchaser which are used exclusively in the shipping process. Commercial shipping materials include but are not limited to containers, labels, pallets, banding material and fasteners, shipping cases, shrink wrap, bubble wrap or other forms of binding, padding or protection.

CONSTRUCTION EQUIPMENT: Means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.

CONSTRUCTION MATERIALS: Means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wallboard, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or inseparable part of a completed structure or project, are not construction materials.

CONSUMER: Means any individual person, in the City who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the City.

COVER CHARGE: Means a charge paid to a club or similar entertainment establishment which may, or may not, entitle the patron paying such charge to receive tangible personal property, such as food and/or beverages.

DIGITAL PRODUCT: Means an electronic product including, but not limited to:

(A) "Digital images" which means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as "photographs", "logos", "cartoons", or "drawings",

(B) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any,

(C) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. For purposes of the definition of "digital audio works", "ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication, and

(D) "Digital books" which means works that are generally recognized in the ordinary and usual sense as "books".

DWELLING UNIT: Means a building or any portion of a building designed for occupancy as complete, independent living quarters for one or more persons, having direct access from the outside of the building or through a common hall and having living, sleeping, kitchen and sanitary facilities for the exclusive use of the occupants.

ECONOMIC NEXUS: means the connection between the City and any retailer who does not have a physical presence in the State of Colorado, which connection is established when the retailer meets any one of the following criteria:

(A) In the previous calendar year, the retailer has made retail sales of goods or services delivered into the State of Colorado exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended, and the location at which property or a product is delivered or the service rendered is within the city; or

(B) In the current calendar year, 90 days has passed following the month in which a retailer has made retail sales of goods or services delivered into the State of Colorado exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended, and the location at which property or a product is delivered or the service rendered is within the city.

ENGAGED IN BUSINESS IN THE CITY: Means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. "Engaged in business in the City" includes, but is not limited to, any one of the following activities by a person ~~who~~:

(A) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;

(B) Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction ~~City~~ to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons within the taxing jurisdiction;

(C) Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;

(D) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or

(E) Retailer or vendor in the state of Colorado that Makes more than one delivery into the taxing jurisdiction within a twelve (12) month period - by any means other than a common carrier, or

(F) Makes retail sales sufficient to meet the definitional requirements of economic nexus as set forth in 3-9-1-2

FARM CLOSEOUT SALE: Means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

FARM OPERATIONS: Means the production of any of the following products for profit, including, but not limited to, a business that hires out to produce or harvest such products: a) agricultural, viticultural, fruit, and vegetable products; b) livestock; c) milk; d) honey; and e) poultry and eggs.

FINANCE DIRECTOR: Means the Finance Director of Littleton, Colorado or such other person designated by the Municipality. "Finance Director" shall also include such person's designee.

FOOD FOR HOME CONSUMPTION: Means food for domestic home consumption as defined in 7 USC section 2012(k) (2014), as amended, for purposes of the Supplemental Nutrition Assistance Program, or any successor program, as defined in 7 USC section 2012(t), as amended, except that "food" does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow food; prepared salads and salad bars; packaged and unpackaged cold sandwiches; deli trays; and hot and cold beverages served in unsealed containers or cups that are vended by or through machines or non-coin-operated coin- collecting food and snack devices on behalf of a vendor, and food, snacks or drinks vended by or through machines.

GROSS SALES: Means the total amount received in money, credit, property or other consideration, valued in money, for all sales, leases, or rentals of tangible personal property or services.

INTERNET SUBSCRIPTION SERVICE: Means services that provide or enable computer access by multiple users to the internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of internet access services.

LICENSE: Means a Littleton, Colorado Sales and/or Use Tax license.

LODGING SERVICES: Means the furnishing of rooms or accommodations by any person, to a person who, for consideration, uses, possesses, or has the right to use or possess, any room in a hotel, inn, bed and breakfast, residence, apartment, lodging house, motor hotel, guest house, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, or similar establishment, for a period of less than thirty (30) days, under any concession, permit, right of access, license to use, or other agreement, or otherwise.

MARKETPLACE: means a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where tangible personal property, taxable products, or taxable services are offered for sale.

MARKETPLACE FACILITATOR: means a person who:

(A) Contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale of the marketplace seller's tangible personal property, products, or services through the person's marketplace;

(B) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser or consumer and the marketplace seller or multichannel seller; and

(C) Either directly or indirectly, through agreements or arrangements with third parties, collects payment from the purchaser on behalf of the seller.

(D) "Marketplace Facilitator" does not include a person that exclusively provides internet advertising services or lists products for sale, and that does not otherwise meet this definition.

MARKETPLACE SELLER: means a person, regardless of whether or not the person has a physical presence in the State of Colorado, which has an agreement with a marketplace facilitator and offers for sale tangible personal property, products, or services through a marketplace owned, operated, or controlled by a marketplace facilitator.

MEDICAL SUPPLIES: Means drugs dispensed in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose useable for treatment of insulin reactions; urine- and blood-testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient; and corrective eyeglasses, contact lenses, or hearing aids.

MOBILE MACHINERY AND SELF-PROPELLED CONSTRUCTION EQUIPMENT: Means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways. This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance and repair of roadways, the drilling of wells, and the digging of ditches.

MULTICHANNEL SELLER: means a retailer that offers for sale tangible personal property, commodities, or services through a marketplace owned, operated, or controlled by a marketplace facilitator, and through other means.

NEWSPAPER: Means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term newspaper does not include: magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

PERSON: Means any individual, firm, partnership, joint venture, corporation, limited liability corporation, estate or trust, receiver, trustee, assignee, lessee or any person acting in fiduciary or representative capacity, whether appointed by a court or otherwise, or any group or combination acting as a unit.

PRESCRIPTION DRUGS FOR ANIMALS: Means drugs dispensed in accordance with any order by a licensed veterinarian, not including drugs available over the counter, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

PRESCRIPTION DRUGS FOR HUMANS: Means a drug which, prior to being dispensed or delivered, is required by the Federal Food, Drug, and Cosmetic Act, 21 USC section 301, et seq., as amended, and to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner, not including drugs available over the counter, and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

PRICE OR PURCHASE PRICE: Means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the Federal government or by this chapter, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if: a) such exchanged property is to be sold thereafter in the usual course of the retailer's business, or b) such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this State, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

(A) Price or purchase price includes:

1. The amount of money received or due in cash and credits.

2. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.

3. Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.

4. The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.

5. Installation, applying, remodeling or repairing the property, delivery and wheeling- in charges included in the purchase price and not separately stated.

6. Transportation and other charges to affect delivery of tangible personal property to the purchaser.

7. Indirect Federal Manufacturers' Excise Taxes, such as taxes on automobiles, tires and floor stock.

8. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

(B) Price or purchase price shall not include:

1. Any Sales or Use Tax imposed by the State of Colorado or by any political subdivision thereof.

2. The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to exchanges in Colorado. Out of State trade-ins are an allowable adjustment to the purchase price.

3. Discounts from the original price if such discount and the corresponding decrease in Sales Tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

PRIVATE COMMUNICATIONS SERVICES: Means telecommunications services furnished to a subscriber, which entitles the subscriber to the exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate intercommunications system for the subscriber's stations.

PROSTHETIC DEVICES FOR ANIMALS: Means any artificial limb, part, device or appliance for animal use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is

prescribed by a licensed veterinarian. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

PROSTHETIC DEVICES FOR HUMANS: Means any artificial limb, part, device or appliance for human use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

PURCHASE OR SALE: (A) Means the acquisition for any consideration by any person of tangible personal property or taxable services that are purchased, leased, rented, or sold. These terms include capital leases, installment and credit sales, and property and services acquired by:

1. Transfer, either conditionally or absolutely, of title or possession or both, to or of tangible personal property or taxable services;
2. A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services;
3. Performance of taxable services; or
4. Barter or exchange for other tangible personal property or services including coupons.

(B) The terms "purchase" and "sale" do not include:

1. A division of partnership assets among the partners according to their interests in the partnership;
2. The transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;
3. The dissolution and the pro rata distribution of the corporation's assets to its stockholders, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;
4. A transfer of a partnership or limited liability company interest;
5. The transfer of assets to a commencing or existing partnership or limited liability company, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;
6. The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

7. The transfer of assets from a parent company to a subsidiary company or companies which are owned at least eighty percent (80%) by the parent company, which transfer is solely in exchange for stock or securities of the subsidiary company;

8. The transfer of assets from a subsidiary company or companies which are owned at least eighty percent (80%) by the parent company to a parent company or to another subsidiary which is owned at least eighty percent (80%) by the parent company, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

9. The transfer of assets between parent and closely held subsidiary companies, or between subsidiary companies closely held by the same parent company, or between companies which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this chapter was paid by the transferor company at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor company. To such an extent any transfer referred to in this subsection (B)9 shall constitute a sale. For the purposes of this subsection (B)9, a closely held subsidiary corporation is one in which the parent company owns stock possessing or membership interest at least eighty percent (80%) of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent (80%) of the total number of shares of all other classes of stock.

RESIDENT: Means a person who resides or maintains one or more places of business within the City, regardless of whether that person also resides or maintains a place of business outside of the City.

RETAIL SALES: Means all sales except wholesale sales.

RETAILER-CONTRACTOR: Means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for resale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

RETAILER OR VENDOR: Means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. Retailer or vendor shall include but is not limited to, any:

(A) Auctioneer;

(B) Salesperson, representative, peddler or canvasser who makes sales as a direct or indirect agent of or obtains such property or services sold from, a dealer, distributor, supervisor or employer;

(C) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes;

(D) Retailer-contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property.

(E) A marketplace facilitator, marketplace seller, or multichannel seller.

RETURN: Means the tax that is or should be collected and remitted by a retailer on sales taxed under this Code.

SALE THAT BENEFITS A COLORADO SCHOOL: Means a sale of a commodity or service from which all proceeds of the sale, less only the actual cost of the commodity or service to a person or entity as described in this Code, are donated to a school or a school-approved student organization.

SALES TAX: Means the tax that is or should be collected and remitted by a retailer on sales taxed under this chapter.

SOFTWARE AS A SERVICE: Means software that is rented, leased or subscribed to from a provider and used at the consumer's location, including but not limited to applications, systems or programs.

SOFTWARE LICENSE FEE: Means a fee charged for the right to use, access, or maintain software programs.

SOFTWARE MAINTENANCE AGREEMENT: Means an agreement, typically with a software provider, that may include: a) provisions to maintain the right to use the software; b) provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software, or c) technical support.

SOFTWARE PROGRAM: Means a sequence of instructions that can be measured, interpreted and executed by an electronic device (e.g., a computer, tablets, smart phones) regardless of the means by which it is accessed or the medium of conveyance. Software program includes:

(A) Custom software program, which is a software program prepared to the special order or specifications of a single customer;

(B) Pre-written software program, which is a software program prepared for sale or license to multiple users, and not to the special order or specifications of a single customer. Pre-written software is commonly referred to as "canned", "off-the-shelf ("COTS")", "mass produced" or "standardized";

(C) Modified software, which means pre-written software that is altered or enhanced by someone other than the purchaser to create a program for a particular user; and

(D) The generic term "software", "software application", as well as "updates", "upgrades", "patches", "user exits", and any items which add or extend functionality to existing software programs.

STORAGE: Means any keeping or retention of, or exercise or dominion or control over, or possession of, for any length of time, tangible personal property not while in transit

but on a standstill basis for future use when leased, rented or purchased at retail from sources either within or without the City from any person or vendor.

STUDENT: Means any person enrolled in a school.

TANGIBLE PERSONAL PROPERTY: Means personal property that can be one or more of the following: seen, weighed, measured, felt or touched, stored, transported, or exchanged, or that is in any other manner perceptible to the senses.

TAX: Means the Use Tax due from a consumer or the Sales Tax due from a retailer or the sum of both due from a retailer who also consumes.

TAX DEFICIENCY: Means any amount of tax, penalty, interest, or other fee that is not reported and/or not paid on or before the date that any return or payment of the tax is required under the terms of this Code.

TAXABLE SALES: Means gross sales less any exemptions and deductions specified in this Code.

TAXABLE SERVICES: Means services subject to tax pursuant to this Code.

TAXPAYER: Means any person obligated to collect and/or pay tax under the terms of this Code.

TELECOMMUNICATIONS SERVICE: Means the service of which the object is the transmission of any two way interactive electronic or electromagnetic communications, including, but not limited to, voice, image, data and any other information; by the use of any means, including, but not limited to, wire, cable, fiber optic cable, microwave, radio wave, voice over internet protocol (VOIP), internet access, remote access to computers and electronic storage equipment, or any combinations of such media, including any form of mobile two way communication.

TELEVISION AND ENTERTAINMENT SERVICES: Means audio or visual content, that can be transmitted electronically by any means, for which a charge is imposed.

TOTAL TAX LIABILITY: Means the total of all tax, penalties and/or interest owed by a taxpayer and shall include Sales Tax collected in excess of such tax computed on total sales.

USE: Means the exercise, for any length of time by any person within the City of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the City from any person or vendor or used in the performance of a contract in the City whether such tangible personal property is owned or not owned by the taxpayer, or withdrawn from inventory for consumption.

USE TAX: Means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

WHOLESALE SALES: Means licensed sales by wholesalers to retailers, jobbers, dealers or wholesalers for resale and does not include a sale by wholesalers to users and consumers not for resale; the latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this chapter.

WHOLESALER: Means any person doing an organized wholesale or jobbing business and selling to retailers, jobbers, dealers or other wholesalers, for the purpose of resale and not for storage, use, consumption or distribution. (Ord. 35, Series of 2017)

3-9-1-8: RESERVED:

Section 3-9-1-8: Marketplace Sales.

(A) Obligation to collect tax.

1. A marketplace facilitator engaged in business in the city is required to collect and remit sales tax on all taxable sales made by the marketplace facilitator, or facilitated by it for marketplace sellers or multichannel sellers to customers in the city, whether or not the marketplace seller for whom sales are facilitated would have been required to collect sales tax had the sale not been facilitated by the marketplace facilitator.
2. A marketplace facilitator shall assume all the duties, responsibilities, and liabilities of a retailer under this title. Marketplace facilitators shall be liable for the taxes collected from marketplace sellers or multichannel sellers. The City may recover any unpaid taxes, penalties, and interest from the marketplace facilitator that is responsible for collecting on behalf of marketplace sellers or multichannel sellers.
3. The liabilities, obligations, and rights set forth under this title are in addition to any duties and responsibilities of the marketplace facilitator imposed under this title, if it also offers for sale tangible personal property, products, or services through other means.
4. A marketplace seller shall be subject to all the same licensing, collection, remittance, filing and recordkeeping requirements as any other retailer under this Article for retail sales made on its own behalf and not facilitated by or through a licensed marketplace facilitator in a marketplace.
5. Marketplace seller relief. A marketplace seller, with respect to sales of tangible personal property, products, or services made in or through a marketplace facilitator's marketplace, does not have the liabilities, obligations, or rights of a retailer under this title, if the marketplace seller can show that such sale was facilitated by a marketplace facilitator:

(a) With whom the marketplace seller has a contract that explicitly provides that the marketplace facilitator will collect and remit sales tax on all sales subject to tax under this article; or

(b) From whom the marketplace seller requested and received in good faith a certification that the marketplace facilitator is registered to collect sales tax and will collect sales tax on all sales subject to tax under this article made in or through the marketplace facilitator's marketplace.

(B) Auditing. With respect to any sale, the city shall solely audit the marketplace facilitator for sales made by marketplace sellers or multichannel sellers but facilitated by the marketplace. The city will not audit or otherwise assess tax against marketplace sellers or multichannel sellers for sales facilitated by a marketplace facilitator.

(C) No retroactive application. The obligations to collect and remit the sales and use tax required by this title are applicable at the effective date of the ordinance from which this section was derived.