

**Illinois Department of Revenue
Regulations**

Title 86 Part 131 Section 145	Marketplace Facilitators – Obligations – Procedures – Hold Harmless Provisions
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**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 131
LEVELING THE PLAYING FIELD FOR ILLINOIS RETAIL ACT**

Section 131.145 Marketplace Facilitators – Obligations – Procedures – Hold Harmless Provisions

- a) Marketplace facilitators meeting either of the thresholds in Section 131.135(a) are required to register with the Department, file returns and remit tax for all sales made over the marketplace to Illinois purchasers, including their own sales and sales made on behalf of marketplace sellers.
- b) *A marketplace facilitator shall certify to each marketplace seller:*
 - 1) *That the marketplace facilitator assumes the rights and duties of a retailer under ROTA and all applicable local retailers' occupation taxes administered by the Department with respect to sales made by the marketplace seller through the marketplace; and*
 - 2) *That the marketplace facilitator will remit taxes imposed by the retailers' occupation tax and all applicable local retailers' occupation taxes administered by the Department for sales made through the marketplace. [35 ILCS 120/2(d)]*
- c) *A marketplace facilitator is liable for the remittance of all applicable State and local retailers' occupation taxes administered by the Department on sales made on behalf of marketplace sellers on the marketplace, as well as its own sales made over the marketplace, and is subject to audit on all such sales. A marketplace facilitator is not liable for tax on any sales made by a marketplace seller that take place outside of the marketplace and that are not a part of an agreement between a marketplace facilitator and a marketplace seller for the facilitation of sales by the marketplace seller over the marketplace. [35 ILCS 120/2(f)]*
- d) *Marketplace facilitators shall not be liable to State and local governments of Illinois for having charged and remitted an incorrect amount of State and local retailers' occupation tax if, at the time of the sale, the tax is computed based on erroneous data provided by the Department in database files on tax rates, boundaries, or taxing jurisdictions or on incorrect information provided to the marketplace facilitator by a marketplace seller. [35 ILCS 120/2(c)] (See also Section 131.150(b) and (c) for further information.)*
- e) A marketplace facilitator shall maintain books and records for sales made over the marketplace to Illinois purchasers on behalf of marketplace sellers in accordance with the requirements of Section 7 of ROTA.

- f) *Marketplace facilitators shall file returns and remit tax on sales made over the marketplace to Illinois purchasers on behalf of marketplace sellers separately from any sales made directly by the marketplace facilitator itself. [35 ILCS 120/2(C)] Marketplace facilitators must separately register with the Department to file and pay tax on their own sales; tax on those sales shall be reported and paid on a return separate from the return filed on behalf of marketplace sellers.*
- g) Marketplace facilitators are not authorized to file returns and remit tax on sales made by affiliates over the marketplace to Illinois purchasers unless the marketplace facilitator is acting as a certified CSP or CAS for the affiliate.
- h) *A marketplace facilitator shall be entitled to any credits, deductions, or adjustments to the sales price otherwise provided to the marketplace seller, in addition to any such adjustments provided directly to the marketplace facilitator, such as discounts, coupons, and rebates. [35 ILCS 120/2(c)] For provisions regarding the taxation of rebates, discounts, and coupons, see 86 Ill. Adm. Code 130.2125.*
- i) *A marketplace facilitator shall be entitled to the retailers' discount as provided in Section 3 of ROTA on all marketplace sales made to Illinois purchasers on behalf of marketplace sellers. [35 ILCS 120/2(c)]*
- j) A marketplace is a location held out to the public as being habitually engaged in the selling of tangible personal property. As such, no sales made on a marketplace are considered to be occasional sales (see 86 Ill. Adm. Code 130.110).
- k) *The Department is prohibited from collecting State and local retailers' occupation taxes from both the marketplace facilitator and the marketplace seller on the same transaction. [35 ILCS 120/2(h)]*
- l) *Nothing in this Part affects the obligation of any consumer to remit use tax for any taxable transaction for which a marketplace facilitator does not collect and remit the appropriate tax. [35 ILCS 120/2(j)]*
- m) Unless otherwise provided to the contrary in this Part, a marketplace facilitator is subject to all the rights and duties, and is subject to the same modes of procedure, as all other retailers under ROTA with respect to sales made over the marketplace.

(SOURCE: Adopted at 45 Ill. Reg. 931, effective December 31, 2020.)