



MISSISSIPPI DEPARTMENT OF REVENUE

Sales and Use Tax Bureau

Notice 72-20-09

September 16, 2020

NOTICE TO FOOD DELIVERY SERVICE PROVIDERS PURSUANT TO THE MISSISSIPPI FACILITATOR ACT OF 2020

House Bill 379, as passed during the 2020 Regular Session of the Mississippi Legislature, creates the Mississippi Marketplace Facilitator Act of 2020. This bill became effective July 1, 2020. The bill removes the sale of food made through a third-party delivery service from the definition of a “retail sale.”

Mississippi sales tax will no longer be due on the sale of food through third-party delivery services where the delivery service allows customers to order food to be delivered from a restaurant of the customer’s choosing and pay for the food through the delivery service’s app or website. The restaurant will charge the regular retail rate of tax and any applicable local taxes on the selling price charged by the restaurant for the food. Tips paid to the delivery driver of these types of third-party delivery services are not subject to sales and local taxes.

*****Note*** Food delivery service companies that keep their own inventory of items for sale or perform a combination of third-party deliveries and direct sales of items to customers are required to register to collect and remit sales tax on sales to their customers from their own inventory.**

Any food delivery service making such direct sales is required to register for a retail sales tax account to collect and remit Mississippi sales tax and any applicable local city or county taxes on the entire charge for the food and delivery. The registration application can be completed online in TAP (Taxpayer Access Point) at www.dor.ms.gov. Sales tax also applies to delivery charges and any other charges added by the delivery service related to sales of items from their own inventory. Tips that are not required but are at the discretion of the customer are not subject to sales tax.

Sales tax returns are filed monthly by the 20th of the month following the month being reported. Food delivery services that maintain their own inventory of items for sale and deliver to customers in more than one city are required register as a “TRANSIENT VENDOR” and will be required to file a distribution of sales by city report with the monthly sales tax return.

If you have any questions, please contact the Sales Tax Department at 601-923-7015.