

## TEXT OF PROPOSED CHANGES

### Title 18. Public Revenues

#### Regulation 1684.5, Marketplace Sales.

##### (a) Definitions.

(1) through (11) Unchanged...

(12) "Optional accessory" includes, but is not limited to, a child seat, a GPS navigation system, snow chains or other traction device, and a ski rack.

~~(12)~~ (13) "Order taking" means the process of getting or obtaining a buyer's order for a marketplace seller's tangible personal property by telephone, fax, email or any other physical or electronic means, including, but not limited to, the customer including the items in a physical or virtual shopping cart at checkout.

(14) "Passenger vehicle" has the same meaning as defined in Section 465 of the Vehicle Code.

(15) "Passenger vehicle rental" means any lease of a passenger vehicle, including any optional accessory, which is classified as a "continuing sale" and a "continuing purchase" in accordance with Revenue and Taxation Code sections 6006.1 and 6010.1.

~~(16)~~ (13) "Payment order" means a written instruction or order to pay money signed by the person giving the instruction whether created in electronic or paper format.

~~(17)~~ (14) "Payment processing services" means any services related to charging a buyer the price to purchase a marketplace seller's tangible personal property, collecting, handling, or processing the payment, and transmitting any portion of the payment to the marketplace seller. Such services include, but are not limited to, providing a physical or virtual credit or debit card terminal, integrating payment processing with an online shopping cart at checkout, or otherwise directly or indirectly authorizing or providing the means for payment processing in any manner. Payment methods may include, but are not limited to, credit cards, debit cards, prepaid cards, stored value cards, Automated Clearing House (ACH) debits, and payment orders, whether accomplished through the use of software or otherwise.

~~(18)~~ (15) "Providing customer service or accepting or assisting with returns or exchanges" means providing any service related to a marketplace seller's tangible personal property to a potential buyer with or without the marketplace seller's authorization, including, but not limited to, answering a question about the property or the terms of its sale. It also means providing any service to a buyer related to their purchase of a marketplace seller's tangible personal property with or without the marketplace seller's authorization, including, but not limited to, answering a question about the property's use, assisting with fixing or trouble shooting a problem with the property, assisting the buyer with requesting a refund or credit for the property or requesting to exchange the property for other property, or accepting the buyer's return of the property or exchanging the buyer's property for other property.

(1916) "Related person." For the purposes of this regulation, a person is related to another person if both persons are related to each other pursuant to section 267(b) of the Internal Revenue Code and the regulations thereunder.

(20) "Rental company" means a person or entity in the business of leasing passenger vehicles to the public and that is registered with the department under chapter 2 (commencing with section 6051) or chapter 3 (commencing with section 6201) of part 1 of division 2 of the Revenue and Taxation Code.

(2147) "Setting prices" means establishing a price or prices at which an item is offered for sale or sold to customers and includes establishing a price at which an item must be sold or a minimum or maximum price, below or above which an item cannot be sold.

(22) "Vehicle rental broker" means a person that facilitates, for a commission, fee, or other consideration, passenger vehicle rentals through an online marketplace owned, operated, or controlled by the person or a related person. A person that is a vehicle rental broker is not a marketplace facilitator with respect to the facilitation, for a commission, fee, or other consideration, of a passenger vehicle rental on behalf of a rental company that is not a related person.

(2348) "Virtual currency" is a digital representation of value that functions as a medium of exchange, a unit of account, or a store of value, but which does not have legal tender status in any jurisdiction. Virtual currency does not include retailer coupons or gift cards.

(b) through (e) Unchanged...

NOTE: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6041, 6041.1, 6041.5, 6041.6, 6042, 6043, 6044, 6045, 6046 and 6203, Revenue and Taxation Code.