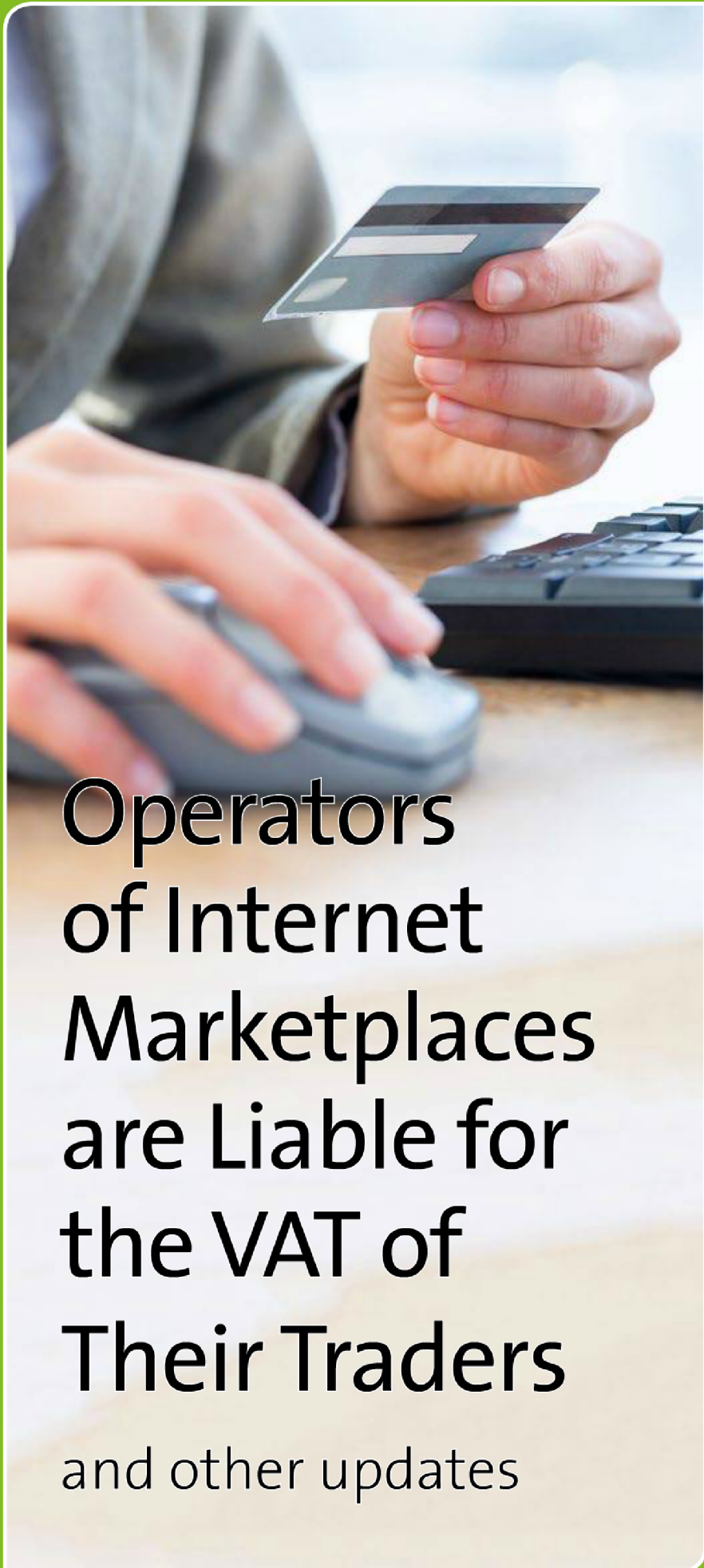




Indirect Taxes NEWS



Operators of Internet Marketplaces are Liable for the VAT of Their Traders

and other updates

Newsletter
No. 08 | Spring 2019

© 2019
GGI | Geneva Group International

Dock Sales: When Simple Sourcing is not so Simple

By J. Pablo Garciga

The sale of taxable property in the US is generally subject to sales tax at the location where the vendor delivers it to the buyer. This principle is not always as simple to apply as it might first appear.

Assume a vendor has a warehouse in New Jersey (NJ) with a customer in “State A”.

If the vendor delivers the items purchased to the customer and the vendor has sales tax nexus in State A, it collects the applicable sales tax. If the vendor does not have sales tax nexus in State A, it is generally incumbent on the customer to self-assess the compensating State A use tax.

However, what if the customer hires a common carrier to pick

up the item at the NJ warehouse? Since NJ has a “dock sale” rule, the “delivery” is deemed to occur at the NJ warehouse and the sale is subject to NJ sales tax. But, if the NJ vendor hires the common carrier to deliver the items to the customer, the sale is sourced to State A (the common carrier is deemed the agent of the person hiring it).

...next page

This same concept impacts other taxes. Apportionment is used to determine how much of an entity's taxable income is subjected to tax in a particular state. It is essentially a percentage – the numerator is the in-state amount and the denominator is the total amount everywhere. Some states source dock sales to the destination state; others, like NJ, source them to the state in which the dock sale occurs.

There may be planning opportunities. Refund scenarios arise when the dock sale occurs in a state that follows the destination rule and the property is shipped to a state that sources the sales to the state where the dock sale occurs.

This would create sales that would not be sourced to any state's numerator and thereby reduce the overall effective state income tax rate. As a caveat, potential detrimental

impacts can be sustained if the fact pattern is reversed. The same sale may increase the apportionment

GGI member firm
Funaro & Co. PC
 Advisory, Auditing & Accounting, Tax
 New York (NY), USA
 T: +1 212 947 33 33
 W: www.funaro.com
J. Pablo Garciga
 E: pablo.garciga@funaro.com

Funaro & Co. PC provide a wide range of services, including accounting and auditing, tax reporting and compliance, tax advisory, management consulting, and transaction advisory.

J. Pablo Garciga specialises in state and local taxes (SALT), with an emphasis on multi-state corporate income/



J. Pablo Garciga

franchise taxes and sales and use taxes. He has over 20 years of cumulative SALT experience with Funaro and Big Four Public Accounting firms. He is a CPA, JD with an LLM in Taxation.

funaro & Co/pc

factors in two separate states, thereby increasing the respective states' apportioned taxable base.



Indirect Taxes NEWS

Contacts

GGI | Geneva Group International AG

Schaffhauserstrasse 550

8052 Zurich, Switzerland

T: +41 44 256 18 18

E: info@ggi.com

W: www.ggi.com

W: www.ggiforum.com

Let us know what you think about FYI – Indirect Tax News, we welcome your feedback. If you wish to be removed from the mailing list, please email info@ggi.com.

Responsible Editor in charge of Indirect Taxes content:

Steve McCrindle

Global Chairperson of the

GGI Indirect Taxes Practice Group

E: smccrindle@hwca.com

GGI member firm

Haines Watts

Advisory, Auditing & Accounting,

Corporate Finance, Fiduciary

& Estate Planning, Tax

11 A Park House, Milton Park

OX14 4RS

Abingdon

UK

T: +44 207 025 4656

W: www.hwca.com



Indirect
Taxes
NEWS