

AB 147 Marketplace Facilitator Act – Full Implementation

The California Marketplace Facilitator Act, carried out under AB 147 in response to the Supreme Court's "Wayfair" decision in 2018, has now completed the initial four quarters of full implementation. Impacts from this legislation are discussed below.

The background and key provisions of this law can be found in our [April 2019 Issue Update](#).

THE MARKETPLACE FACILITATOR ACT

Assembly Bill 147 required out-of-state retailers meeting specific requirements to collect and remit California's sales, use and transactions taxes effective April 1, 2019; however, marketplace facilitators were not required to begin reporting until October 1, 2019.

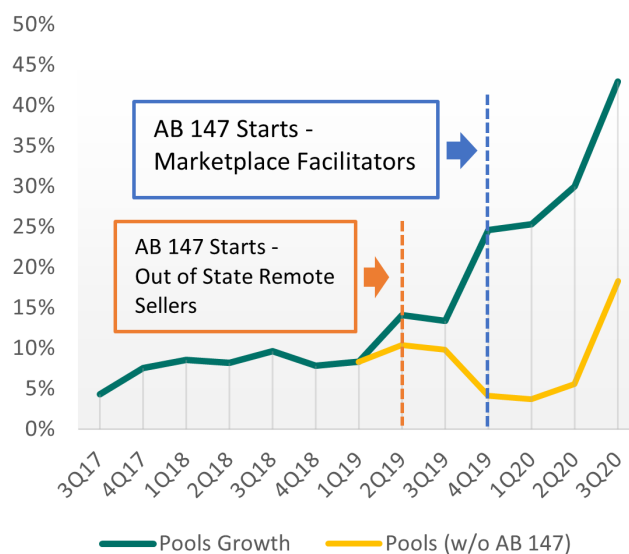
Marketplace Facilitator Requirements: Beginning October 1, 2019, the marketplace facilitator (who functions as the retailer) must obtain a state permit to collect and remit use tax on all sales of tangible personal property into California, including those sales made on behalf of its marketplace sellers, if the marketplace facilitator's cumulative annual sales into California meet the \$500,000 economic nexus threshold. In determining cumulative sales, a marketplace facilitator shall include sales of tangible personal property made on its own behalf plus transactions processed through its marketplace on behalf of third-party sellers.

LOCAL JURISDICTION REVENUE – COUNTY POOLS

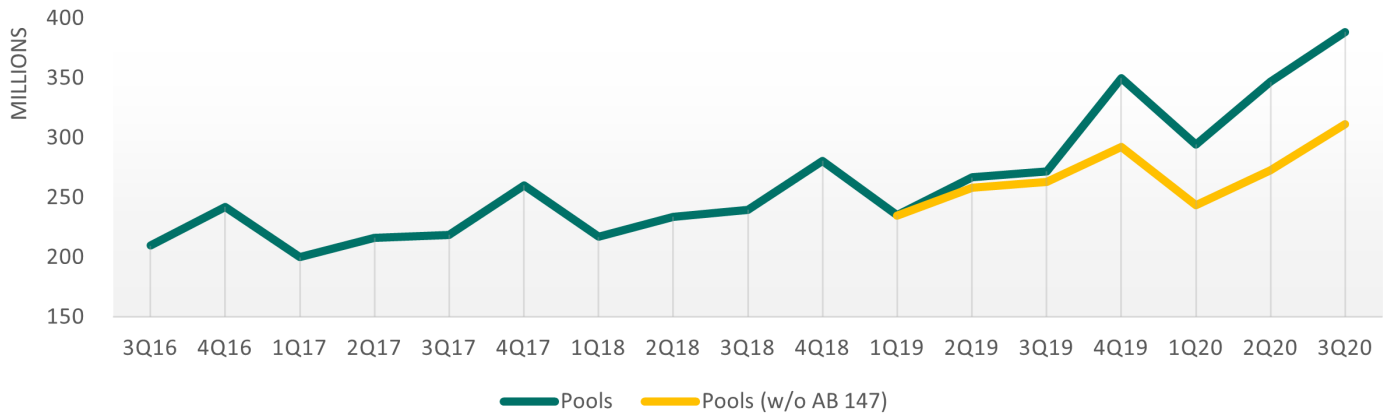
HdL has been reviewing new accounts in an effort to identify and track AB 147 impacts on city and county revenues across the state.¹ This new local tax revenue is allocated indirectly through the county-wide use tax pools system. With one year of Marketplace filings now completed, new taxes (the Bradley-Burns 1% rate) distributed through the county-wide pools were nearly \$260 million.

The four-quarter state & county pools totals beginning October 1, 2019 saw \$1.4 billion indirectly allocated to cities and counties with Wayfair based tax collections accounting for 19% of these receipts.

When measuring results from 4Q19 through 3Q20, the pools have averaged growth of 31% each quarter compared to the same period in the prior year. After removing revenue identified with AB 147, countywide pools averaged just 8% growth. The chart below illustrates the significant impact on pools revenues coming from new Wayfair taxpayers.



State & County Pools Trend Line

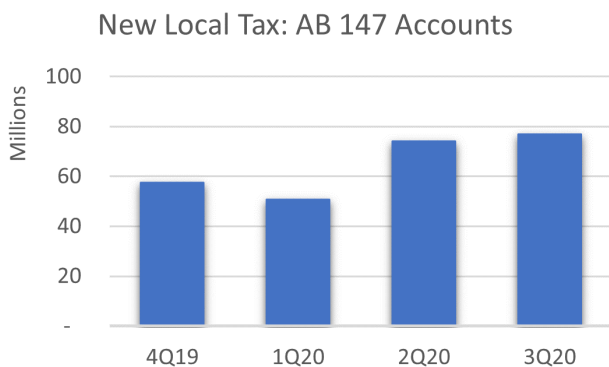


The vigorous gains spurred by current requirements on remote sellers has created a new baseline for pools allocations. Looking ahead, although recent acceleration to online buying should continue growing the pools, future gains in this sector are expected to subside to levels moderately better than pre-Wayfair historical levels.

CORONAVIRUS AND THE ECONOMIC IMPACTS

There is no question that as California began its battle with the Coronavirus, local government revenues were expected to be negatively impacted. Contrary to early assumptions last spring, the decline of taxable sales and by extension the 1% tax receipts were not as severe despite statewide restrictions for most communities. As consumers were forced to adapt to buying through new channels, the shift to online shopping forged ahead at a record pace. Marketplace facilitators along with other direct to consumer retailers emerged as clear winners because both necessity and discretionary spending moved away from brick-and-mortar stores.

The following chart offers a recent quarterly breakdown of new local tax revenue that somewhat mitigated economic hardships on local agencies during the pandemic.



Typically, retail spending peaks in the fourth quarter of each year during the holiday shopping season. As shown in the above line graph, public health and safety restrictions combined with federal stimulus induced a more rapid shift in consumer shopping habits beginning in April 2020. Local tax reported by AB 147 accounts increased 29% and 34% in the second and third quarters of 2020 respectively compared to the initial filing quarter of October through December 2019. This elevated performance from new accounts is expected to wane as physical stores reopen and brick-and-mortar retailers regain lost momentum.

CALIFORNIA FISCAL IMPACT

Based on local tax collections, HdL estimates over \$26 billion in taxable sales have been reported through new AB 147 accounts generating nearly \$1.9 billion in statewide sales and use tax revenue, not including add-on district taxes.

California Fiscal Impact

AB 147 Marketplace Facilitator Act (4Q19 – 3Q20)

Taxable Sales	26 Billion
Statewide Sales & Use Tax (7.25%)	\$1.9 Billion

State General Fund (3.9375%)	\$1.02 Billion
County Public Safety (0.5%)	\$130 Million
County Realignment (1.5625%)	\$405 Million
Local Jurisdiction (1%)	\$260 Million
Local Transportation Fund (0.25%)	\$65 Million

data is rounded

Due to the size and market population, many major online retailers previously established nexus in California prior to AB 147 mandates. Therefore, portions of the revenue this law was designed to capture were already being collected.

CONCLUSION

Although AB 147 captured taxes not previously collected, COVID-19 restrictions further boosted sales from remote sellers and marketplace facilitators which partially mitigated statewide declines in retail spending resulting from the pandemic crisis. Absent the implementation of the Marketplace Facilitator Act, local jurisdictions would be even more negatively impacted by economic pressures as the ongoing battle tied to the spread of and response to COVID-19 continues.

TOP 25 IDENTIFIED AB 147 TAXPAYERS¹

Below is a current list of the top 25 taxpayers that HdL identified as collecting and remitting new sales and use tax as a result of the Marketplace Facilitator Act.

1661, Inc (GOAT)	Groupe Atallah Inc (SSENSE)
Adorama Inc	Mercari App
Alibaba.com	Poshmark
Amazon.Com Services Inc	Reverb.com
Asos.com	Rockauto
Autosales, Inc	Savvas Learning Company
B&H Foto & Electronics	Sweetwater Sound
Blue Nile	The Tire Rack
Boxy Charm Inc	Wal-Mart.Com USA LLC
Etsy, Inc	Webstaurant Store
Facebook	Wish
Florists Transworld Delivery	Zoetop Business Co. (Shein)
Gilt Groupe LP	



¹**HdL Identified Accounts:** HdL reviews data provided by the CDTFA to identify new taxpayers related to AB 147 using the following general criteria. Due to the volume of accounts the list is not exhaustive.

1. New local tax being allocated through the county pools beginning in 2Q-2019
2. Taxpayer account as an effective date of April 1, 2019 or later
3. Has an online store or eCommerce presence
4. Does not replace a prior California resale account

Additional Resources

- [Use Tax Collection Requirements Based on Sales into California Due to the Wayfair Decision](#)
- [Tax Guide for Marketplace Facilitator Act](#)