



3rd PARTY ORDER APPS CREATE A TAX LIABILITY FOR RESTAURANTS – HERE IS THE SOLUTION

Today many restaurants are using 3rd Party Order Apps (3POA) such as GrubHub and EAT24 to attract new customers and increase their bottom lines. However, 3POA apps have the potential to create huge sales tax liabilities for the business if not handled correctly. This can result in costly fines and penalties that come straight out of the owner's wallet and in the worst cases these excessive fines can be fatal to a business if left unchecked.

The problem is the online orders coming from 3POAs are not received on the restaurant's POS system. Instead, they are received on a separate device outside the restaurant's POS system and the income from these 3POA sales is deposited directly into the merchant's bank account. Neither order nor revenue is being recorded in the POS System. This can set up a potentially huge sales tax liability for the merchant if these sales are not reported or create a tremendous time consuming bookkeeping headache to report accurately. The merchant's bank account will not balance with the sales from their POS and this is one of the first places a State Auditor will look in a sales tax audit. There is a simple solution to make sure 3POA orders are recorded and accounts reconciled.

The simple solution to this problem is to record the 3POA sales in the merchants POS on a daily basis. (As sales tax professionals, we recommend daily recording as a best business practice.) However, there is a bit of nuance to this simple solution depending on where the restaurant is located. In most states it is the merchant's responsibility to collect, file and pay sales tax on 3POA orders. But in 5 states, Florida, Georgia, Michigan, Utah and Virginia the 3POA is required to collect, file and pay the sales tax on the merchant's behalf. Both scenarios require action by the merchant.

In the five states listed above, the 3POAs pay sales tax directly to the state on the merchant's behalf, unless the merchant specifically signs a waiver saying they will pay it themselves, in which case the sales tax is returned to the merchant for payment. But, according to GrubHub, this rarely happens. Even though the 3POA pays the sales tax for the merchant, this does not get the merchant totally off the hook because the sales must still be recorded and reported to the state. Having accurate sales records means the POS sales must reconcile or balance with the deposits in merchant's bank account. But if orders from 3POAs go to a separate device and revenue goes directly into the merchant's bank account, they are not being recorded in the POS system and this creates a reconciliation problem. To rectify this, the merchant needs to enter their 3POA sales into their POS system. To do this, they simply create an ORDER TYPE (ITEM) called "3rd Party Orders" with an OPEN PRICE function and make it a non-taxable

item. At the end of each day, yes daily, they enter the TOTAL NET SALES (gross sales minus sales tax) from all 3POAs they are using, as one "non-taxable" sale into their POS system. The "Total Net Sales" is readily available on the 3POA merchant dashboard or by adding all the guest checks from each 3POA. Entering this amount will ensure the 3POA sales are accurately recorded in the POS and reported to the state when DAVO files on the merchant's behalf. In the event of a Sales Tax Audit, the merchant's sales records from their POS will match their bank account deposit records.

For all other states that 3POAs do not file sales tax on the merchant's behalf, it is the merchant's responsibility to pay the sales tax. Again, the 3POA sales need to be entered into the POS, but this time as taxable sales. To account for these sales, the merchant again creates an ORDER TYPE (ITEM) called "3rd Party Orders" in the POS with an OPEN PRICE function making the item a "taxable" sale. At the end of each day, they enter their NET TOTAL SALES (gross minus sales tax) from all the 3POAs they are using. The total can again be found on the 3POA merchant dashboard or by totaling all the 3POA guest checks. Now the POS will calculate the sales tax on the total 3POA sales, making them part of the total daily sales reported by the restaurant's POS. DAVO will automatically set aside the correct amount of sales tax collected for payment to the state. Make sure that delivery charges are entered separately as either taxable or non-taxable depending on the laws of the taxing jurisdiction.

By entering the net total sales into the POS every day, the merchant is making their POS the official record of sales that will balance with their bank statements. Additionally, DAVO will have an accurate record of the merchant's total monthly sales including what was sold outside the POS system via the 3POA. This will enable DAVO to accurately collect, file and pay sales tax on the merchant's behalf and create a secure audit trail by correlating the sale data from the POS to the sales data reported on the sales tax return.

To learn more please contact us at:

info@davotechnologies.com

888 659-8432

www.davotechnologies.com

