

§7129. Seller and 3rd-party liability

1. Certified service provider agent of seller. A certified service provider is the agent of the seller with whom the certified service provider has contracted for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use taxes due each signatory state to the agreement on all sales transactions the certified service provider processes for the seller, except as set forth in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use taxes due on transactions processed by the certified service provider unless the seller misrepresents the type of items the seller sells or commits fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed for the seller by a certified service provider. A seller is subject to audit for transactions not processed by a certified service provider. The signatory states to the agreement acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by a certified service provider.
[PL 2001, c. 496, §1 (NEW).]

2. Responsibility for errors. A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the State for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the State for reporting and remitting tax.
[PL 2001, c. 496, §1 (NEW).]

3. Proprietary system of seller. A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement with this State establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.
[PL 2001, c. 496, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 496, §1 (NEW).

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