

**Illinois Department of Revenue
Regulations**

Title 86 Part 131 Section 125	Remote Retailers – Obligations – Procedures – Hold Harmless Provisions
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**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 131
LEVELING THE PLAYING FIELD FOR ILLINOIS RETAIL ACT**

Section 131.125 Remote Retailers – Obligations – Procedures – Hold Harmless Provisions

- a) Remote retailers meeting either of the thresholds in Section 131.115(a) are required to register with the Department to file returns and remit tax for all sales made to Illinois purchasers. However, a remote retailer that has entered into a Tax Remittance Agreement with a CSP is not required to register with the Department. The CSP shall instead register, as agent, for the remote retailer and file returns and make payment of tax as provided in Section 131.160. A remote retailer that no longer has a Tax Remittance Agreement with a CSP as provided in Section 131.160(i) is required to register and file returns to remit tax as otherwise provided in this Part.
- b) A remote retailer may, but is not required to, use a CSP to file returns and remit taxes, as provided in Section 131.160.
- c) A remote retailer may file its own returns, and may, but is not required to, utilize a CAS in filing its own returns and making payment of taxes. A remote retailer using a CAS shall maintain in its books and records the name of the owner or provider of the CAS it is using. A remote retailer shall also maintain this information in its books and records for any subsequent uses of a different CAS. This information shall be made available to the Department upon demand.
- d) If a remote retailer uses a CSP, the CSP is considered the agent of the remote retailer as provided in Section 131.160. All notices, assessments and other communications shall be sent by the Department to the CSP, not the remote retailer. (See Section 131.160 for additional information.)
- e) Remote retailers that are "marketplace sellers" as defined in Section 131.105 are not required to file returns or make payment of tax for sales made to Illinois purchasers over a marketplace that meets the thresholds in Section 131.135, provided that the remote retailer has received certification from the marketplace facilitator that the marketplace facilitator is legally responsible for payment of tax on those sales as provided in Section 131.145. The sales are considered to be sales made by the marketplace facilitator.
- f) *A remote retailer is subject to audit on all its sales, other than those which are made on a marketplace and for which a marketplace facilitator remitted the applicable State and local retailers' occupation taxes, unless the marketplace facilitator seeks relief as a result of incorrect information provided to the marketplace facilitator by the remote*

retailer as provided in Section 131.145. [35 ILCS 120/2(c)] (See Section 131.160(c) and (d) for audit procedures for remote retailers using a CSP.)

- g) A remote retailer shall maintain books and records for its sales, including all sales made over a marketplace, in accordance with the requirements of Section 7 of ROTA.
- h) A remote retailer that files its own returns and makes payment of tax shall be entitled to the retailers' discount for all sales for which it timely files returns and makes payment of tax as required by Section 3 of ROTA. However, a remote retailer is not entitled to the retailers' discount for sales reported on returns filed by a CSP with whom it has a Tax Remittance Agreement. Similarly, a remote retailer is not entitled to the retailers' discount for sales made over a marketplace as provided in subsection (e).
- i) *Remote retailers using a certified service provider or a certified automated system provider are relieved from liability to the State for having remitted the incorrect amount of use or occupation tax resulting from a certified service provider or certified automated system relying, at the time of the sale, on erroneous data provided by the Department in database files on tax rates, boundaries, or taxing jurisdictions, or erroneous data provided by the Department in database files concerning the taxability of products and services. [35 ILCS 185/5-30]*
- j) *Remote retailers using a certified automated system shall be liable for any tax resulting from errors caused by use of an updated or upgraded certified automated system prior to recertification of the updated or upgraded certified automated system by the Department as provided in Section 131.165. [35 ILCS 185/5-25(c)]*
- k) Unless otherwise provided to the contrary in this Part, a remote retailer is subject to all the rights and duties, and is subject to the same modes of procedure, as all other retailers under ROTA.
- l) *Nothing in this Section affects the obligation of any consumer to remit use tax for any taxable transaction for which a remote retailer does not collect and remit the appropriate tax. [35 ILCS 120/2(j)]*

(SOURCE: Adopted at 45 Ill. Reg. 931, effective December 31, 2020.)