

**Illinois Department of Revenue
Regulations**

Title 86 Part 131 Section 160 Hold Harmless Provisions	Certified Service Providers – Obligations – Procedures –
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**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

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

Section 131.160 Certified Service Providers – Obligations – Procedures – Hold Harmless Provisions

- a) A certified service provider (CSP) is an agent of a remote retailer that performs all of a remote retailer's sales tax functions, as outlined in the contract between the Department and the CSP. These functions include the preparation and filing of all required tax returns or amended returns, payment of tax, and resolution of any notices or audits of the remote retailer. These functions do not include remittance of use tax by the remote retailer on its own purchases.

- b) The software of a CSP interfaces with a remote retailer's accounting system to:
 - 1) Identify which products are taxable;
 - 2) Apply the appropriate tax rate; and
 - 3) Maintain a record of the transaction

- c) A CSP will provide services necessary to:
 - 1) Set up and integrate the CSP's software with the remote retailer's system;
 - 2) As agent for the remote retailer, prepare and file all required returns or amended returns;
 - 3) As agent for the remote retailer, remit tax to the Department;
 - 4) As agent for the remote retailer, resolve any notices or audits by the Department; and
 - 5) Provide for the protection and confidentiality of tax information consistent with the requirements of Section 11 of ROTA.

- d) The Department shall send all notices, assessments and other communications regarding the remote retailer's tax functions to the CSP, as agent for the remote retailer. The Department shall not, except as otherwise provided in this subsection, send these communications to the remote retailer. A remote retailer must contact the CSP with whom it has contracted in order to receive copies of the notices, assessments and other communications. In the event that an assessment has been issued to a CSP, and the

CSP demonstrates to the satisfaction of the Department that its failure to correctly remit tax on a retail sale resulted from its good faith reliance on incorrect or insufficient information provided by a remote retailer, the Department shall withdraw the assessment of the CSP and issue the assessment to the remote retailer, who shall be liable for any resulting tax, penalties and interest due.

e) A CSP, or the remote retailer that has contracted with the CSP, shall be subject to all the same conditions, restrictions, limitations, penalties and modes of procedure as other retailers under ROTA in cases in which assessments have been issued as provided in subsection (d).

f) Before acting as a CSP for a remote retailer, a CSP must be certified by the Department. Certification requires that a CSP applicant meet all established evaluation criteria. In addition, the systems of a CSP must have been tested and approved by the Department for properly determining the taxability of items to be sold, the correct rate of tax to apply to a transaction, and the appropriate jurisdictions to which the tax must be remitted.

g) A CSP that has been certified by the Department shall enter into a contractual relationship with the Department. The contract shall, at a minimum:

1) *Provide that the CSP shall be held liable for State and local retailers' occupation taxes administered by the Department if the CSP fails to correctly remit the tax after having been provided with the tax and information by a remote retailer to correctly remit those taxes. However, if the CSP demonstrates to the satisfaction of the Department that its failure to correctly remit tax on a retail sale resulted from the CSP's good faith reliance on incorrect or insufficient information provided by the remote retailer, the CSP shall be relieved of liability for the tax on that retail sale, and the remote retailer shall be liable for any resulting tax, penalties and interest due;*

2) *Provide for the responsibilities of the CSP and the remote retailers that contract with the CSP with respect to record keeping and auditing consistent with the requirements imposed under ROTA;*

3) *Provide for the protection and confidentiality of tax information consistent with the requirements of Section 11 of ROTA;*

4) *Provide that the CSP is entitled to compensation equal to 1.75% of the tax dollars remitted to the State by a CSP on a timely basis on a return that has been properly and timely filed by the CSP on behalf of a remote retailer, and that a remote retailer using a CSP may not claim the vendor's discount allowed under Section 3 of ROTA;*

5) Provide that a CSP shall enter into a Tax Remittance Agreement with a remote retailer prior to acting as a CSP for that remote retailer, under which the CSP agrees to remit all State and local retailers' occupation taxes administered by the Department for sales made by the remote retailer. The agreement shall be retained by the CSP in its books and records and shall be provided to the Department upon demand;

6) Provide that a CSP shall obtain and provide to the Department, upon request, a Power of Attorney, in the form and manner required by the Department, for each remote retailer with whom it has a Tax Remittance Agreement;

7) Provide that a CSP shall obtain and maintain updated information for each remote retailer with which it has a Tax Remittance Agreement. This information shall include the name, post office address, email address, phone number, and FEIN or SSN of the remote retailer. It shall also include the name and address of the person or persons identified by the remote retailer who are responsible for filing returns and payment of taxes due under ROTA. This information shall be made available to the Department upon request.

8) *Provide that a CSP shall file a separate return for each remote retailer with which it has a tax remittance agreement and make payment by electronic means as required by the Department. [35 ILCS 185/5-25]*

h) A CSP that has been certified must electronically register with the Department. Registration shall include an acceptance of responsibility signed by the person or persons of the CSP who will be responsible for filing returns and payment of the taxes due under ROTA. As part of its registration, a CSP must also certify that it has obtained from each remote retailer for whom it acts as agent an acceptance of responsibility signed by the person or persons of the remote retailer who are responsible for filing returns and making payment of taxes under ROTA, that it will keep the information current, and that it will provide the information to the Department upon request.

i) Once certified, a CSP must notify the Department that it has entered into a Tax Remittance Agreement with a remote retailer within 30 days after execution of the Tax Remittance Agreement. A CSP cannot file returns or pay tax on behalf of a remote retailer until it has notified the Department that it has entered into a Tax Remittance Agreement with a remote retailer. Returns and payment of tax made on behalf of a remote retailer may then be filed by the CSP only for periods beginning with the current reporting period of the remote retailer (monthly, quarterly or annual). The CSP is not authorized to file returns, including amended returns, for any periods prior to the commencement of the current reporting period. Only one CSP is authorized to file a return for a remote retailer for any given reporting period (e.g., if the remote retailer terminates its contract with a CSP and enters into a contract with a new CSP before the end of its current reporting period, only one of those CSPs can file the return for the remote retailer). A CSP shall notify the Department of the termination of a Tax Remittance Agreement within 30 days after the termination of the Tax Remittance Agreement. Notification shall be made electronically as required by the Department.

j) *A CSP shall file a separate return for each remote retailer with whom it has a Tax Remittance Agreement. [35 ILCS 185/5-25]*

k) *A CSP shall be entitled to compensation equal to 1.75% of the tax that is remitted with a return that is timely and properly filed on behalf of a remote retailer. [35 ILCS 185/5-25]*

l) *A CSP shall not be held liable for any State and local retailers' occupation taxes administered by the Department if the remote retailer does not provide the CSP with the tax and information to correctly remit all taxes due. A CSP that demonstrates that it*

relied in good faith on incorrect or insufficient information provided by the remote retailer shall be relieved of liability for the tax on that transaction. [35 ILCS 185/5-25] Incorrect or insufficient information includes, but is not limited to, incorrect information that an item being sold is taxable or not taxable, exempt from tax, or taxed at a specified rate (e.g., the rate applicable to either general merchandise or the low preferential 1% rate). Incorrect or insufficient information also includes failure of the remote retailer to report sales or to obtain properly executed documentation of an exemption as required by ROTA and 86 Ill. Adm. Code 130.

m) *A CSP is relieved of liability to the Department for having remitted the incorrect amount of tax resulting from reliance, 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 concerning the taxability of products and services (Illinois Sales Tax Matrix).* [35 ILCS 185/5-30]

n) *When a CSP contemplates a material revision to its systems, it must notify the Department at least 60 days before any such revision. Upon receipt of that notification, the Department shall discuss the proposed revision with the CSP. If the Department determines that the revision is sufficiently material, the CSP must be recertified. The Department shall test the proposed revision to assess whether the revised system of the CSP can properly determine the taxability of items to be sold, the correct tax rate to apply to a transaction, and the appropriate jurisdictions to which the tax shall be remitted. The Department shall recertify revised systems that meet these requirements. A CSP shall be liable for any tax resulting from errors caused by use of a revised system prior to recertification by the Department.* [35 ILCS 185/5-25]

o) The Department shall provide each CSP with a test deck two times per year, in December and June, as a check to ensure that the CSP's system can properly determine the taxability of items to be sold, the correct tax rate to apply to a transaction, and the appropriate jurisdictions to which the tax shall be remitted. (See 35 ILCS 185/5-25.)

p) A CSP must be recertified every three years. At least 1 year prior to expiration of a CSP's certification status, the Department shall contact the CSP to initiate the recertification process. Once recertified, the Department's contract with the CSP shall be amended or renewed.

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