

HOUSE BILL No. 4906

May 7, 2009, Introduced by Rep. Ebli and referred to the Committee on Tax Policy.

A bill to amend 2004 PA 174, entitled "Streamlined sales and use tax administration act," by amending section 25 (MCL 205.825), as amended by 2008 PA 437.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 25. (1) A certified service provider is the agent of a
2 seller, with whom the certified service provider has contracted for
3 the collection and remittance of sales and use taxes. As the
4 seller's agent, the certified service provider is liable for sales
5 and use tax due to this state on all sales transactions it
6 processes for the seller unless the seller made a material
7 misrepresentation or committed fraud.

8 (2) A seller that uses a certified automated system is
9 responsible and is liable to this state for reporting and remitting
10 tax.

11 (3) A certified service provider or a seller that uses a

1 certified automated system ~~shall be relieved from liability~~ **IS NOT**
2 **LIABLE** for sales tax and use tax if it relied on the department's
3 determination that the software program submitted to the board for
4 certification as a certified automated system under the agreement
5 accurately reflected the taxability of the product categories
6 included in the software program. ~~The relief~~ **RELIEF** from liability
7 under this section does not apply if a certified service provider
8 or a seller that uses a certified automated system has incorrectly
9 classified an item or transaction into a product category of the
10 certified automated system.

11 (4) ~~As provided in section 12(9) of the general sales tax act,~~
12 ~~1933 PA 167, MCL 205.62, a~~ **A** certified service provider ~~shall be~~ **IS**
13 considered a seller and ~~shall be~~ **IS** eligible for relief from
14 liability for sales tax as provided in section ~~12~~ **12(9)** of the
15 general sales tax act, 1933 PA 167, MCL 205.62.

16 (5) **IF THE DEPARTMENT DETERMINES THAT AN ITEM OR TRANSACTION**
17 **IS INCORRECTLY CLASSIFIED AS TO ITS TAXABILITY BY A CERTIFIED**
18 **SERVICE PROVIDER OR BY A SELLER THAT USES A CERTIFIED AUTOMATED**
19 **SYSTEM, THE DEPARTMENT SHALL NOTIFY THAT CERTIFIED SERVICE PROVIDER**
20 **OR SELLER OF THE INCORRECT CLASSIFICATION. THE CERTIFIED SERVICE**
21 **PROVIDER OR SELLER SHALL REVISE THE CLASSIFICATION WITHIN 10 DAYS**
22 **AFTER RECEIPT OF NOTICE FROM THE DEPARTMENT. IF THE CLASSIFICATION**
23 **IS NOT CHANGED WITHIN 10 DAYS OF NOTICE FROM THE DEPARTMENT, THE**
24 **CERTIFIED SERVICE PROVIDER OR SELLER THAT USES A CERTIFIED**
25 **AUTOMATED SYSTEM IS LIABLE FOR THE FAILURE TO COLLECT THE CORRECT**
26 **AMOUNT OF SALES OR USE TAX DUE AND OWING TO THIS STATE.**