

WEST VIRGINIA CODE: §11-15B-37

§11-15B-37. State review and approval of certified automated system software and certain liability relief.

- (a) The Tax Commissioner shall review software submitted to the governing board for certification as a certified automated system under the agreement. The Tax Commissioner's review shall include a review to determine that the program adequately classifies the State of West Virginia's product-based exemptions. Upon completion of the review, the Tax Commissioner shall certify to the governing board its acceptance of the classifications made by the system.
- (b) Certified service providers and Model 2 sellers shall be relieved of liability for not collecting sales or use taxes resulting from the certified service provider or Model 2 seller relying on the certification provided by the Tax Commissioner.
- (c) Certified service providers shall be relieved of liability for not collecting sales and use taxes in the same manner as provided to sellers under the provisions of section twenty-four of this article.
- (d) The governing board and the State of West Virginia shall not be responsible for classification of an item or transaction within the product-based exemptions certified and the relief from liability provided in this section shall not be available for a certified service provider or a Model 2 seller that has incorrectly classified an item or transaction into a product-based exemption certified by the Tax Commissioner: Provided, That the provisions of this subsection shall not apply to the individual listing of items or transactions within a product definition approved by the governing board or the Tax Commissioner.
- (e) If the Tax Commissioner determines that an item or transaction is incorrectly classified as to its taxability, the Tax Commissioner shall notify the certified service provider or Model 2 seller of the incorrect classification. The certified service provider or Model 2 seller shall have ten days to revise the classification after receipt of notice from the Tax Commissioner of the determination. Upon expiration of the ten days, the certified service provider or Model 2 seller shall be liable for the failure to collect the correct amount of sales or use taxes due and owing the state.