



Ohio Revised Code

Section 5741.11 Liability of seller for failure to collect and remit tax.

Effective: July 18, 2019

Legislation: House Bill 166 - 133rd General Assembly

(A) Except as otherwise provided in divisions (B) and (C) of this section, if any seller who is required or authorized to collect the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code fails to do so, the seller shall be liable personally for such amount as the seller failed to collect. If any seller collects the tax imposed by or pursuant to any such section and fails to remit the same to the state as prescribed, the seller shall be personally liable for any amount collected that the seller failed to remit. The tax commissioner may make an assessment against such seller, based upon any information within the commissioner's possession. The commissioner shall give to the seller written notice of such assessment. Such notice may be served upon the seller personally or by certified mail.

(B) A marketplace facilitator is relieved of all liability under division (A) of this section for failure to collect the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code on a sale facilitated by the marketplace facilitator on behalf of an unaffiliated marketplace seller if it is demonstrated to the satisfaction of the commissioner that the marketplace facilitator made a reasonable effort to obtain sufficient and accurate information about the sale from the marketplace seller and that the marketplace facilitator failed to collect the correct amount of tax because of insufficient or incorrect information provided by the marketplace seller.

If a marketplace facilitator is relieved of liability under this division, the marketplace seller for which the sale was facilitated and the purchaser are personally liable for any amount of tax that is not properly collected, paid, or remitted.

(C) Division (B) of this section does not absolve a marketplace facilitator, marketplace seller, or any other person from personal liability for collecting but failing to remit the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code.

(D) No class action may be brought against a marketplace facilitator in any court of this state on behalf of consumers arising from or in any way related to an overpayment of the tax imposed by or



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DOCUMENT #234825

pursuant to sections 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code on sales facilitated by the marketplace facilitator, regardless of whether the claim is characterized as a tax refund claim.