

Sec. 12-410(5)-1. Resale of services

(a) When a resale certificate may be used.

(1) As used in this section, a “primary service provider” means a service provider that purchases a service from a secondary service provider in order to render its own taxable service to either another service provider or to an ultimate consumer. A “secondary service provider” means a service provider that renders the service being purchased by a primary service provider.

(2) A primary service provider may issue a resale certificate to a secondary service provider for the purchase of a service described in section 12-407(2)(i) of the general statutes from the secondary service provider if the primary service provider intends to transfer the service as an integral, inseparable component part of a service described in said section 12-407(2)(i) which is to be subsequently sold by the primary service provider either to another service provider or to an ultimate consumer. A resale certificate may be used in such circumstances even if the ultimate consumer is an entity whose purchases are exempt from sales and use taxes or if the benefit of the services rendered to the ultimate consumer will be realized outside Connecticut. A service shall be considered an integral, inseparable component part of a service described in said section 12-407(2)(i) if the service purchased by a primary service provider from a secondary service provider is essential to complete the performance of the primary service provider’s service and without which such provider’s service could not be rendered.

Example 1: *C* brings his motor vehicle to *D*, a motor vehicle repair shop, for repairs to the vehicle’s air conditioner. *D* sends the automobile to *E*, an automotive air conditioner specialist. *D* may purchase the repair services of *E* on a resale basis because *D* will resell the repair services to *C*.

Example 2: *F*, a property management company providing taxable services to industrial, commercial or income-producing real property, contracts with *G*, a protective services company, for watchman services to guard the property that *F* manages. *F* may purchase the protective services from *G* on a resale basis because such services are an integral, inseparable component part of the property management services that *F* provides to ultimate consumers.

Example 3: *H*, a property management company providing taxable services to industrial, commercial or income-producing real property contracts with *J*, a retailer of janitorial services. In order to render its services to *H*, *J* obtains janitorial employees from *K*, a temporary personnel agency. *H* may purchase the janitorial services of *J* on a resale basis; in addition, *J* may purchase the personnel services of *K* on a resale basis as long as the personnel will be used solely to fulfill *J*’s obligations under its contract with *H*.

(3) When a service of a secondary service provider is purchased on a resale basis by a primary service provider, collection of tax is not required until the ultimate consumer is charged by the primary service provider. The primary service provider may issue a resale certificate to the secondary service provider in lieu of paying the tax at that time, in which case the primary service provider shall maintain records that substantiate (A) from whom the service was purchased and to whom the service was sold, (B) the purchase price of the service and (C) the nature of the service, to demonstrate that the services purchased from the secondary service provider were an integral, inseparable component part of a service

described in section 12-407(2)(i) of the general statutes which was subsequently sold by the primary service provider to an ultimate consumer. The primary service provider need not separately state the charge by the secondary service provider to the primary service provider for the services rendered by the secondary service provider on the bill to the ultimate consumer.

A secondary service provider may accept a resale certificate only if it is taken in good faith from the primary service provider. Such certificate shall be deemed to be taken in good faith if the service purchased is one that the secondary service provider could reasonably assume would be resold without change by the primary service provider or would be resold by the primary service provider as an integral, inseparable component part of a service also enumerated in section 12-407(2)(i) of the general statutes.

(b) When a resale certificate may not be used.

(1) The secondary service provider may not accept a resale certificate if such service provider could reasonably assume that the primary service provider does not sell services which include the same type of services sold by the secondary service provider, or that the services purchased will not be resold by the primary service provider as an integral, inseparable component part of a service also enumerated in section 12-407(2)(i) of the general statutes.

(2) A primary service provider is the consumer of a service that is a customary or usual expense of maintaining or operating its business, including an expense incurred because the customer or client requires the primary service provider to work outside of its normal business hours or outside of its principal place of business, and may not purchase such service on a resale basis.

Example: *L*, a property management company providing taxable services to industrial, commercial or income-producing real property contracts with *M*, a protective services company, for watchman services to guard *L*'s own offices. The protective services may not be purchased on a resale basis from *M* because such services are consumed by *L* as an expense of operating its own business.

(3) Where the service being sold by a primary service provider is not a service enumerated in section 12-407(2)(i) of the general statutes, the primary service provider may not purchase a service enumerated in said section 12-407(2)(i) on a resale basis from a secondary service provider even though such service is so enumerated and will become an integral, inseparable component part of the service sold by the primary service provider to the ultimate consumer. Where the service being sold by the primary service provider is a service enumerated in section 12-407(2)(i) of the general statutes, but the service being purchased by the primary service provider from the secondary service provider is not so enumerated, the primary service provider may not purchase the service from the secondary service provider on a resale basis.

Example 1: *N*, a contractor constructing a new office building for *P*, obtains personnel from *R*, a temporary personnel agency, to unload construction materials from delivery trucks at the job site. Because new construction is excluded from taxable services to industrial, commercial or income-producing real property under subparagraph (I) of section 12-407(2)(i) of the general statutes, *N* shall pay tax on her purchase from *R* of the personnel services, which are enumerated under subparagraph (C) of said section 12-407(2)(i).

Example 2: *S*, a property management company providing taxable services to industrial, commercial or income-producing real property, incurs long-distance telephone charges on behalf of *T*, its client, in the course of rendering its management services, may not purchase telecommunications services on a resale basis because telecommunications services are enumerated in section 12-407(2)(k), not section 12-407(2)(i), of the general statutes.

(Adopted effective April 7, 1999)