

(2) IF THE COMPTROLLER FURNISHES A CERTIFICATE OF NO TAX DUE FROM THE NONRESIDENT CONTRACTOR OR IF THE COMPTROLLER FAILS TO PROVIDE, WITHIN 30 DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR A TAX CLEARANCE CERTIFICATE, TO BOTH THE NONRESIDENT CONTRACTOR AND THE PERSON REQUIRED TO WITHHOLD THE PAYMENT, A CERTIFICATE UNDER PARAGRAPH (1)(I) OR (II) OF THIS SUBSECTION, THE PERSON REQUIRED TO WITHHOLD THE PAYMENT MAY PAY THE NONRESIDENT CONTRACTOR THE AMOUNT WITHHELD UNDER THE TERMS OF THE CONTRACT FREE FROM ANY CLAIMS OF THE COMPTROLLER AGAINST THE PERSON REQUIRED TO WITHHOLD THE PAYMENT.

(3) IF THE COMPTROLLER FURNISHES A CERTIFICATE THAT TAXES ARE DUE FROM THE NONRESIDENT CONTRACTOR, THE PERSON REQUIRED TO WITHHOLD THE PAYMENT:

(I) SHALL PAY OVER TO THE COMPTROLLER THE AMOUNT DUE AS STATED IN THE CERTIFICATE UP TO 3% OF THE CONTRACT PRICE, TAKING A RECEIPT FOR THE AMOUNT; AND

(II) MAY PAY TO THE NONRESIDENT CONTRACTOR THE EXCESS OF THE AMOUNT WITHHELD OVER THE AMOUNT DUE AS STATED IN THE CERTIFICATE.

(4) ON PAYING OVER AMOUNTS WITHHELD TO THE COMPTROLLER AS REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE PERSON REQUIRED TO WITHHOLD THE PAYMENT IS FREE FROM:

(I) ANY CLAIM OF THE NONRESIDENT CONTRACTOR FOR THAT AMOUNT; AND

(II) ANY CLAIM OF THE COMPTROLLER FOR TAXES DUE FROM THE NONRESIDENT CONTRACTOR

(D) (1) A PERSON THAT FAILS TO WITHHOLD OR TO PAY OVER THE AMOUNTS WITHHELD AS REQUIRED IN THIS SECTION SHALL BE PERSONALLY LIABLE FOR THE PAYMENT OF ANY SALES AND USE TAX OR INCOME TAX WITHHELD ATTRIBUTABLE TO THE CONTRACT UP TO 3% OF THE CONTRACT PRICE.

(2) THE AMOUNTS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE RECOVERABLE BY THE COMPTROLLER BY APPROPRIATE LEGAL PROCEEDINGS, WHICH MAY INCLUDE THE ISSUANCE OF AN ASSESSMENT UNDER THIS ARTICLE.

(E) (1) A NONRESIDENT CONTRACTOR'S LIABILITY FOR ANY SALES AND USE TAX OR INCOME TAX WITHHELD ATTRIBUTABLE TO A CONTRACT THAT IS SUBJECT TO THIS SECTION IS NOT AFFECTED BY:

(I) THE COMPTROLLER'S FAILURE TO PROVIDE A CERTIFICATE UNDER SUBSECTION (C)(1)(I) OR (II) OF THIS SECTION WITHIN 30 DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR A TAX CLEARANCE CERTIFICATE; OR

(II) THE ISSUANCE OF AN ERRONEOUS CERTIFICATE BY THE COMPTROLLER UNDER THIS SECTION.