

**MAINE REVENUE SERVICES
SALES, FUEL, AND SPECIAL TAX DIVISION
RULE NO. 308**

DIRECT PAYMENT PERMITS

SUMMARY: Establishes a system for combined reporting of purchases by manufacturers and utilities under a direct payment permit.

SECTION 1. Introduction

Many manufacturers and utilities routinely acquire large quantities of tangible personal property under circumstances ~~that make it impractical to determine in which it is not known~~, at the time of purchase, ~~how the manner in which~~ property will be used. It is impractical in these ~~instances-circumstances~~ to determine whether the purchase or use of the property will be taxable or exempt. Holders of direct payment permits are authorized to purchase most items of tangible personal property without payment of the tax to their vendors, and such holders of direct payment permits may instead report and pay tax directly to the State.

SECTION 2. General Requirements

The following requirements must be met by a taxpayer in order to be eligible to receive a direct payment permit:

1. A permit application must be ~~filed with~~ submitted to the Bureau of Revenue Services (“~~the bureau~~ Bureau”) on a special form provided by the Bureau.
2. The applicant must hold a valid Maine Retailer Certificate.
3. The applicant must routinely purchase large quantities of tangible personal property under circumstances that make it impractical to determine, at the time of purchase, whether the purchase or use of the property will be taxable or exempt.
4. The applicant must establish to the satisfaction of the State Tax Assessor that its accounting methods will clearly reflect the proper amount of tax due and that payment of sales or use taxes to the State will not be jeopardized by permitting sales and use taxes to be reported directly.
5. The applicant must make purchases in sufficient volume to justify the expense of regular audits by the Bureau.
6. The applicant must be either a manufacturer or a utility.

SECTION 3. Manner in Which Direct Payment Permit is to be used by Taxpayer

Each holder of a direct payment permit must ~~file~~ provide a copy of the permit ~~with to~~ each of its vendors and ensure that the permit number is placed on all purchase orders or contracts covering the purchase of tangible personal property, in lieu of payment of tax to the ~~retailer~~ vendor, except in those transactions excluded in Section 4 below. The holder of

a direct payment permits shall not authorize a vendor anyone to whom it they has have issued a provided its direct payment permit to make use of file the direct payment permit or provide the permit number with to a third party.

~~Sales tax registrations held by holders of direct payment permits will be placed on an inactive basis and accrued sales and use tax liabilities will be reported on sales and use tax returns which will be issued under the direct payment permit number.~~

SECTION 4. Exceptions, ~~and~~ Restrictions

1. The permit holder shall pay sales ~~Sales tax shall be paid to the retailer vendor on~~ the following types of purchases:

- A. Purchases of prepared food;
- B. Purchases of taxable services other than the transmission and distribution of electricity; and
- C. Purchases of services taxable under Title 36, Chapter 358 (Service Provider Tax); and.
- ~~D. Interim rentals under Section 1758.~~

2. A permit holder may not authorize a contractor ~~or lessor~~ to use its direct payment permit for the purposes described in Paragraphs A and B below purchases of tangible personal property to be incorporated into real estate of the permit holder. Any such authorization constitutes grounds for revocation of the permit in accordance with Section 5, Subsection 2 of this Rule.

~~A. Purchases of Real Estate. Contracts for the construction of real estate, the provisions of which require the incorporation of tangible personal property into the real estate of a permit holder prior to passage of title, shall not use a direct payment permit or permit number in any way that infers that such tangible personal property purchased by the contractor may be purchased tax free under a direct payment permit. It will be deemed that passage of title to the permit holder does not occur prior to incorporation into real estate unless specifically stated in the contract.~~

~~B. Leases. Leases (other than leases in lieu of purchase) covering the lease of tangible personal property to a holder of a direct payment permit shall not include a direct payment permit number, nor shall the use of direct payment permit numbers in any way infer that tangible personal property to be purchased by the lessor for lease to the holder of a direct payment permit may be purchased tax free under a direct payment permit.~~

~~The direct payment permit holder (lessor) is responsible for payment of the sales and use tax liability, regardless of whether the lease requires the lessee to reimburse the lessor for any taxes incurred by the lessor on leased property.~~

3. Contracts for the construction of real estate, the provisions of which require the incorporation of tangible personal property into the real estate of a permit holder prior to passage of title, shall not refer to a direct payment permit or permit number in any way that suggests that such tangible personal property purchased by the contractor may be purchased tax free under a direct payment permit. Unless otherwise addressed in a construction contract, the passage of title to the permit holder occurs upon incorporation of tangible

personal property into real estate.

SECTION 5. Revocation of Direct Payment Permit

1. The holder of a direct payment permit ~~who~~that wishes to surrender such permit voluntarily must provide the State Tax Assessor with ~~30 days~~ written notice of at least 30 days.

2. The State Tax Assessor may revoke a direct payment permit at any time for failure of the ~~permit holder taxpayer~~ to comply with the ~~conditions~~ general requirements under which the permit was granted, or for any improper use of the permit.

3. Within ~~30-10~~ 10 days after receipt by a permit holder of notice of revocation by the State Tax Assessor or within ~~30-10~~ 10 days after receipt of the Assessor's permission for discontinuance of the direct payment permit by the ~~permit holder taxpayer~~, the permit holder must:

A. Give notice to each ~~supplier-vendor~~ with whom it had transacted business pursuant to the direct payment authority, that ~~subsequent to any appropriate effective date,~~ it will no longer claim exemption from payment of tax by reason of a direct payment permit; and

B. Return the direct payment permit to the State Tax Assessor.

AUTHORITY: 36 MRSA §112

AMENDED: October 19, 2016

LAST AMENDED: ~~October 19, 2016~~ **X, 2024**