

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

DIRECT PAY 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, at the time of purchase, the manner in which property will be used. It is impractical in these 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 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 pay permit:

1. A permit application must be filed with the Bureau of Revenue Services (“the 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 a copy of the permit with 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, except in those transactions excluded in Section 4 below. The holder of

direct payment permits shall not authorize anyone to whom they have issued a direct payment permit to file the direct payment permit or permit number with 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. Sales tax shall be paid to the retailer on the following types of purchases:

A. Purchases of prepared food;

B. Purchases of taxable services other than the transmission and distribution of electricity;

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 permit for the purposes described in Paragraphs A and B below. Any such authorization constitutes grounds for revocation of the permit in accordance with Section 5, Subsection 2.

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.

SECTION 5. Revocation of Direct Payment Permit

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

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

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

A. Give notice to each supplier 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

LAST AMENDED: October 19, 2016