

Direct Pay Authorization

The traditional sales and use tax compliance system includes a very labor intensive and paper intensive system of exemption claims and documentation. **Public Act 117 of 1999** opens the door to alternative compliance systems.

The amendment and the subsequent issuance of Revenue Administrative Bulletin 2000-3 provides for the first time a statutorily authorized direct pay permit. It is called a "direct pay authorization". Under the more common compliance system, the seller will charge sales tax on all purchases unless an exemption certificate is issued. This system has the potential for human error and it is very costly in the form of labor and paperwork.

Act 117 of 1999 provides in Section 8 of the Use Tax Act a Direct Pay Authorization and reads as follows.

- (1) The commissioner...may authorize...a direct pay authorization, if the following conditions are met:
 - (a) The authorization is to be used for the purchase or lease of tangible personal property or services.
 - (b) The authorization is necessary because it is either impractical at the time of acquisition to determine the manner in which the tangible personal property or services will be used or it will facilitate improved compliance with the tax laws of the state.
 - (c) The person requesting authorization for direct payment maintains accurate and complete records of all purchases or leases and uses of tangible personal property or services purchased pursuant to the direct payment authorization in a form acceptable to the department.
- (2) The commissioner has the authority to identify items that are not eligible for a direct payment authorization.

The taxpayer must apply for direct pay authorization. The request must be in writing and submitted to the Michigan Department of Treasury at the Treasury Building in Lansing, Michigan 48922. In addition to the applicant's name, address and account number, the request must contain a statement of how the applicant meets each of the three conditions described above. The request must be signed by the business owner,

a responsible corporate officer or a person with similar authority. A request signed by a person who lacks proper authority will be rejected.

If the request is granted, a direct pay authorization will be provided to the applicant in the form of a letter. In the authorization letter, the Department of Treasury will assign an authorization number to each authorization. The letter will also state that direct payment authorization is granted to the taxpayer named in the letter and will list items, if any, that are excluded from the direct payment authorization. It will also describe how a claim under direct pay is to be made to a person who sells or leases tangible personal property or services at the time of purchase or lease, including the requirement that a copy of the authorization letter must be provided to the person.

When granted, the taxpayer may purchase all items of tangible personal property tax free under the direct pay authorization. The authorization to purchase tax-free is limited to tangible personal property. Any affixation to realty would not come under the direct pay authorization. The taxpayer would then be required to self assess for use tax on the property purchased tax-free which was ultimately used in a taxable manner.

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