

## Title 35 Mississippi State Tax Commission

### Part IV Sales & Use

#### Sub Part 01 Administrative

#### Chapter 01 Direct Payment of Sales or Use Tax to the State in Lieu of Payment to Seller

##### 100 Statutory Authority

~~100101~~ Miss. Code Ann. Section 27-65-93, ~~Mississippi Code of 1972~~, provides that the ~~e~~Commissioner may provide for the issuance of a direct pay permit to manufacturers, utilities, construction contractors, companies receiving bond financing, and other taxpayers where in those instances the ~~e~~Commissioner determines that permit will facilitate and expedite the collection of tax at the proper rates.

~~101102~~ ~~(Reserved)~~ Taxes levied under Miss. Code Ann. Sections 27-65-17, 27-65-18, 27-65-19 (excluding the taxes levied against telecommunications services), 27-65-23 and 27-67-5 may be paid directly to the State by the holder of a direct pay permit. Taxes levied under any other Sections are not covered with the use of a direct pay permit including the contractor's tax levied under Miss. Code Ann. Section 27-65-21.

##### 103 (Reserved)

##### 200 Usage

~~200201~~ The issuance of a direct pay permit transfers the liability of the tax directly to the permit holder in lieu of payment to the vendor and relieves vendors ~~taxed under code Sections 27-65-17 (selling tangible personal property wholesale and retail), 27-65-19 (utilities), 27-65-23 (miscellaneous businesses) and 27-67-5 (use tax levy)~~ of the liability for the tax. ~~Vendors taxed under all other sections of the sales tax law, including 27-65-21 (contractor's tax) are not relieved of this liability.~~ The direct pay permit shall not be used to purchase telecommunications services exempt from tax. The tax due from these services must be remitted by the telecommunications provider due to the separate diversions for interstate and intrastate services.

~~201202~~ If the permit holder continues to remit sales tax to the vendor rather than directly to state, the permit holder will be required to contact the vendor for a credit or refund of any overpayment resulting from this practice. This will be required even if the overpayment is discovered during a sales or use tax audit where there will be an assessment of additional tax made or in cases where the Statute of Limitation has run on a portion of the overpayment

203 Direct pay permits will be issued to qualified industries and to taxpayers eligible to receive certain sales and use tax related incentives that will be project or special purpose related. Permits issued to qualified industries will be active as long as the taxpayer

maintains the use tax account to which the permit is associated or until such time as the Commissioner revokes the permit. Project and special purpose related permits will be good only for the special purpose or for the eligible time frame associated with a specific project.

204 (Reserved)

300 Qualified Industry Permits

202301Manufacturers. The Commissioner requires all manufacturers and custom processors, with certain exceptions, to obtain a direct pay permit for purposes of reporting and remitting the applicable sales and use tax due on all purchases of tangible personal property, utilities and services directly to the state in lieu of payment of the tax to the vendor.

~~203302~~Utilities, and Contractors. The Commissioner may also authorize or require ~~the issuance of a direct pay permit to any utilities companies and construction contractors if, the direct pay permit will expedite the proper tax classification and payment of applicable sales and use taxes due on purchases of personal property and services. to obtain a direct pay permit for purposes of reporting and remitting the applicable sales and use tax on all purchases of tangible personal property and services directly to the state in lieu of payment of tax to the vendor. A contractor may obtain a direct pay permit for the purposes of reselling free-standing tangible personal property to an exempt entity in the performance of its construction project or for jobs where the contractor is purchasing manufacturing machinery or other equipment for sale to an entity financing its project with bond proceeds or for an entity holding a valid statutory exemption under Section 27-65-101 (1)(q), (1)(r) and (2).~~

303 Telecommunications Enterprises. The Commissioner may authorize or require any entity providing telecommunications services taxed under Miss. Code Ann. Section 27-65-19 to obtain a direct pay permit for purposes of reporting and remitting the applicable sales and use tax on all purchases of tangible personal property, utilities and services directly to the state in lieu of payment of the tax to the vendor.

~~204304~~Floating Structures. The Commissioner requires the owners of casinos and other floating structures taxable under Miss. Code Ann. Section 27-65-18 to obtain a direct pay permit. The direct pay permit holder is responsible for remitting the applicable sales and use tax on purchases of tangible personal property, utilities and services, as well as sales of tangible personal property that become a component of the structure or construction activities taxed under Miss. Code Ann. Section 27-65-18. ~~Section 27-65-18~~This section requires that the owner SHALL furnish the permit to a seller or person performing construction activities on the floating structure. However, in those instances where a contract is issued covering both water based and land based construction activities taxed under Miss. Code Ann. Sections 27-65-18 and 27-65-21, respectively, the contractor is permitted to qualify the total contract and remit the 3½% contractor's tax due provided that the land based construction activity is in excess of \$10,000.

305 (Reserved)

400 Project Related and Special Purpose Permits

401 Contractor. A contractor may obtain a direct pay permit for the purpose of reselling free-standing tangible personal property to an exempt entity in the performance of its construction project or for jobs where the contractor is purchasing manufacturing or process machinery for sale to an entity financing its project with bond proceeds or for an entity holding a valid statutory exemption under Miss. Code Ann. Section 27-65-101 (1)(q), (1)(r) and (2).

~~205~~402 Bond Proceeds Project. The Commissioner requires any entity wishing to take advantage of the sales tax exemptions provided for under Miss. Code Ann. Sections 57-10-1 et seq., 57-61-1 et. seq. and 57-71-1 et seq. to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. This direct pay permit is applicable only for purchases made for the specified project. The direct pay permit holder must remit the applicable sales and use tax on any purchases that are not made with or reimbursed with bond proceeds. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21; ~~Mississippi Code of 1972~~ or vehicles tagged for highway use. The direct pay permit for this exemption will ~~bestand~~ rescinded when the bond money is depleted and tax will once again be due to the vendor if the applicant is NOT a qualified industry.

~~206~~ ~~Telecommunications Enterprises. The Commissioner may authorize or require any entity providing telecommunications services taxed under Section 27-65-19, Mississippi Code of 1972 to obtain a direct pay permit for purposes of reporting and remitting the applicable sales and use tax on all purchases of tangible personal property and services directly to the state in lieu of payment to the vendor.~~

~~207~~403 Motion Picture Production Companies. The Commissioner requires any entity wishing to take advantage of the exemption from sales tax provided for under Miss. Code Ann. Section 27-65-101(1)(bb) or the reduced manufacturing rate of tax provided for under Section 27-65-17 to obtain a direct pay permit for use in purchasing equipment used in the production of a motion pictures , which shall not include the production of television coverage of new and athletic events, or a film, video, television series or commercial that contains any material or performance defined in Miss. Code Ann. Section 97-29-103. The direct pay permit must be provided to vendors in order to make purchases tax exempt. The holder of the permit is responsible for accruing the correct rate of tax on all purchases made which are not exempt. Any direct pay permit issued to a motion picture production company will be production specific and stand rescinded when the production is complete.

~~208~~404 Growth and Prosperity (GAP) Area Exemption. The Commissioner requires any entity - wishing to take advantage of the exemption from sales tax provided for under Miss. Code Ann. Section 57-80-1 et seq. to obtain a direct pay permit. The direct pay permit holder

must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The GAP exemption is for a period of 10 years; however the sales and use tax component of a GAP exemption ~~and~~ covers only purchases of component materials and purchases or leases of machinery and equipment used in the initial construction or expansion of the business in the GAP area. The holder of the permit is responsible for accruing the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21, ~~Mississippi Code of 1972~~ or vehicles tagged for highway use. The direct pay permit for this exemption will bestand rescinded when ~~the bond money is depleted~~ project is complete and tax will once again be due to the vendor if the applicant is NOT a qualified industry.

- 405 National or Regional Headquarters Exemption. The Commissioner requires any entity wishing to take advantage of the exemption from sales tax provided for under Miss. Code Ann. Section 27-65-101(1)(r) to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The holder of the permit is responsible for accruing the correct rate of tax on all purchases made which were not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21, vehicles tagged for highway use or on-going expense and supply items. The direct pay permit for this exemption will stand rescinded three (3) months after the initial start up date of the facility.
- 406 Broadband Technology. The Commissioner requires any telecommunications entity wishing to take advantage of the sales tax exemption or reduced rated provided for under Miss. Code Ann. Section 27-65-101(5) to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase qualified equipment exempt from tax. The holder of the permit is responsible for accruing the correct rate of tax on all purchases made that are not exempt.
- 407 Major Economic Impact Project Exemption. The Commissioner requires any entity establishing or operating as a Major Economic Impact Project, as defined by Miss. Code Ann. Section 57-75-5(f) to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The holder of the permit is responsible for accruing the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21.
- 408 Data/Information and Technology Intensive Enterprises Exemption. The Commissioner requires any entity wishing to take advantage of the exemptions from sales tax provided for under Miss. Code Ann. Sections 27-65-101(1)(ff), 27-65-101(1)(gg), 27-65-101(3) and 27-65-101(4). The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The holder of the permit is responsible for accruing the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21, vehicles tagged for highway use or on-going expense and

supply items. The direct pay permit for this exemption will stand rescinded three (3) months after the initial start up date of the facility.

2409 (Reserved)

500 Filing Requirements

300501 Use tax returns are required to be filed based upon the filing status assigned by the Tax Commission. Any tax due on taxable purchases by the permit holder must be reported on its return. Any other sales tax liability of the permittee shall be reported under a separate account.

301502 A direct pay permit is subject to revocation when the Commissioner feels that the best interest of the state will be served in so doing.

302503 (Reserved)

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- 200 Usage
- 201 The issuance of a direct pay permit transfers the liability of the tax directly to the permit holder in lieu of payment to the vendor and relieves vendors of the liability for the tax. The direct pay permit shall not be used to purchase telecommunications services exempt from tax. The tax due from these services must be remitted by the telecommunications provider due to the separate diversions for interstate and intrastate services.
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- 300 Qualified Industry Permits
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- 302 Utilities. The Commissioner may also authorize or require any utility company, to obtain a direct pay permit for purposes of reporting and remitting the applicable sales and use tax on all purchases of tangible personal property and services directly to the state in lieu of payment of tax to the vendor.
- 303 Telecommunications Enterprises. The Commissioner may authorize or require any entity providing telecommunications services taxed under Miss. Code Ann. Section 27-65-19 to obtain a direct pay permit for purposes of reporting and remitting the applicable sales and use tax on all purchases of tangible personal property, utilities and services directly to the state in lieu of payment of the tax to the vendor.
- 304 Floating Structures. The Commissioner requires the owners of casinos and other floating structures taxable under Miss. Code Ann. Section 27-65-18 to obtain a direct pay permit. The direct pay permit holder is responsible for remitting the applicable sales and use tax on purchases of tangible personal property, utilities and services, as well as sales of tangible personal property that become a component of the structure or construction activities taxed under Miss. Code Ann. Section 27-65-18. This section requires that the owner SHALL furnish the permit to a seller or person performing construction activities on the floating structure. However, in those instances where a contract is issued covering both water based and land based construction activities taxed under Miss. Code Ann. Sections 27-65-18 and 27-65-21, respectively, the contractor is permitted to qualify the total contract and remit the 3½% contractor's tax due provided that the land based construction activity is in excess of \$10,000.
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- 409 (Reserved)
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