

Model Direct Payment Permit Regulation

A Report of the Steering Committee

*Task Force on EDI Audit and Legal Issues
for Tax Administration*

June 2000

Federation of Tax Administrators
444 North Capitol Street, NW – Suite 348
Washington, D.C. 20001
Telephone (202) 624-5890

CONTRIBUTING ORGANIZATIONS

Committee On State Taxation
122 C Street, NW, Suite 330
Washington, DC 20001-2109
Telephone: 202/484-5222
Telefax: 202/484-5229
Internet: <http://www.statetax.org>

Federation of Tax Administrators
444 North Capitol Street, NW, Suite 348
Washington, DC 20001
Telephone: 202/624-5890
Telefax: 202/624-7888
Internet: <http://www.taxadmin.org>

Institute for Professionals in Taxation
One Capital City Plaza
3350 Peachtree Road, NE, Suite 280
Atlanta, GA 30326
Telephone: 404/240-2300
Telefax: 404/240-2315
Internet: <http://www.ipt.org>

Multistate Tax Commission
444 North Capitol Street, NW, Suite 425
Washington, DC 20001
Telephone: 202/624-8699
Telefax: 202/624-8819
Internet: <http://www.mtc.gov>

Tax Executives Institute
1001 Pennsylvania Avenue, NW, Suite 320
Washington, DC 20004-2505
Telephone: 202/638-5601
Telefax: 202/638-5607
Internet: <http://www.tei.org>

TABLE OF CONTENTS

Foreword.....	i
Introduction.....	1
Current Practices.....	2
Local Tax Issues.....	3
Taxpayer Perspective.....	4
Tax Jurisdiction Perspective.....	4
Conclusion.....	5
Appendix A - Direct Payment Permits Requirements, Restrictions, Revocation.....	7
Appendix B - Model Direct Payment Permit Regulation.....	35
Appendix C - Explanation and Commentary.....	39
Appendix D - Persons Contributing to This Report.....	43
Appendix E - Summary of Task Force Reports.....	45

FOREWORD

The Task Force on EDI Audit and Legal Issues for Tax Administration (Task Force) was formed to coordinate efforts between the business community and tax administrators in analyzing and addressing the issues posed for tax administration by electronic data interchange and related business processes. The Task Force is comprised of representatives of the Committee On State Taxation (COST), Institute for Professionals in Taxation (IPT), Tax Executives Institute (TEI), Multistate Tax Commission (MTC), and Federation of Tax Administrators (FTA). This report is the *fifth* in a series of Task Force reports on issues relating to electronic commerce, emerging business processes and tax administration. (See Appendix E for other reports in the series.)

As part of the Task Force, the Electronic Business Processes work group is exploring alternative processes that can reduce the burden associated with sales and use tax compliance and administration for taxpayers and taxing authorities alike. It is for this reason that the Task Force has developed a *Model Direct Payment Permit Regulation* that states could follow when implementing or expanding a direct pay program. The purpose of this regulation is to focus on the business process of a taxpayer when a tax jurisdiction considers whether to grant direct pay authority; to stress how applicable tax laws and business processes relate from a compliance perspective; and to demonstrate how direct pay authority will benefit tax compliance. The report is intended solely as an educational document for taxpayers and tax administration agencies. The model regulation, as presented in this report, is not binding on any one state or taxpayer organization.

The Steering Committee wishes to acknowledge the contributions of all individuals who devoted their time and effort in developing and refining this report. A complete list of participants can be found in Appendix D.

Stanley R. Arnold, Steering Committee Chair
Commissioner, New Hampshire Department of Revenue Administration

June 2000

MODEL DIRECT PAYMENT PERMIT REGULATION

A Report of the Steering Committee Task Force on EDI Audit and Legal Issues for Tax Administration

Introduction

The Task Force on EDI Audit and Legal Issues for Tax Administration (Task Force) was formed to coordinate efforts between the business community and tax administrators in analyzing and addressing issues that electronic data interchange and related new business practices pose for proper tax administration. Under the direction of the Task Force, the Electronic Business Processes Work Group has examined the tax management and compliance issues associated with direct payment authority (direct pay) and expanding its use to assist taxpayers with their sales and use tax compliance responsibility.

Direct pay is an authority granted by a tax jurisdiction that generally allows the holder of a direct payment permit to purchase otherwise taxable goods and services without payment of tax to the supplier at the time of purchase. (Also in the case of exempt transactions, it allows a holder to purchase without issuing exemption certificates.) Suppliers are to be furnished a written notification of the purchaser's direct pay authority (often a numeric designation). The holder of the direct payment permit is to timely review its purchases and make a determination of taxability and then report and pay the applicable tax due directly to the tax jurisdiction. The permit holder's tax determinations and adequacy of payment are subject to audit by the tax jurisdiction.

Direct pay was originally designed to overcome the tax complexities in situations where the taxability of a transaction could not be easily determined at the time of purchase. For example, a number of states exempt transactions if the item purchased is used in a particular manner, e.g., for manufacturers, if the item is used in the manufacturing process or as an "ingredient and component part" of their sale products. In such instances, direct pay authority would allow an entity to purchase certain products for all types of uses and to report the appropriate tax after the actual use had been determined.

In today's environment, however, with the increased volume of activities in interstate commerce and the application of new technologies to purchasing practices, some members of the business community have expressed an interest in expanding the use of direct pay authority. This expanded use of direct pay is seen as a way of allowing more taxpayers to better administer their tax compliance activities and accommodate new electronic business processes such as evaluated receipts settlement (ERS)¹ and procurement cards.²

¹ ERS is a business process between trading partners that conduct commerce without invoices. In an ERS transaction, the supplier ships goods based upon an Advance Shipping Notice, and the purchaser, upon receipt, confirms the existence of a corresponding purchase order or contract, verifies the identity and quantity of the goods, and then pays the supplier. See also Evaluated Receipts Settlement and Tax

Another example of the interest in expanding direct pay authority is the increasing reliance on a mutually agreed upon percentage to maintain tax compliance. In an effort to place tax decisions in the hands of tax professionals, businesses are increasingly approaching states to enter into sales and use tax compliance agreements that allow a taxpayer to report and pay tax on purchases using a predetermined effective taxable rate.³ Using direct pay authority facilitates implementation of such agreements. Tax jurisdictions are hesitant to enter into these agreements unless the business is a direct pay permit holder.

Despite the growing interest in direct pay, there has not been a systematic review of the standards and application of the concept in state tax administration. The lack of consistency in eligibility among tax jurisdictions may make it impossible for a taxpayer to obtain direct pay status for some locations in which it does business and cause it to maintain separate recordkeeping for its operations.

Current Practices

Thirty-three of the forty-five states with sales and use taxes provide for the direct payment of tax. Two states—Maryland and Massachusetts—repealed their direct pay provisions; however, Maryland has allowed permits issued prior to July 1, 1993, to remain in effect. Research of the direct pay states indicates that application procedures, requirements and restrictions for direct pay status vary widely. A comprehensive chart outlining state requirements and procedures for obtaining direct pay authority is included as Appendix A.

Several states impose the obligation to collect taxes strictly on the vendor. Current taxing structures and principles would not allow for a direct pay program and legislation would be necessary. For these states it may be difficult, but not impossible, to implement a direct payment program.

Other states must also consider the impact of new or expanded direct pay programs on local tax revenues. Local option and home rule tax structures have caused problems for some tax jurisdictions as they try to implement direct pay programs or expand existing

Compliance, A Report of the Steering Committee, Task Force on EDI Audit and Legal Issues for Tax Administration, published September 1998.

² Procurement cards are corporate charge cards issued to specific employees to purchase designated goods and services on behalf of the company. Procurement card programs can effectively simplify and streamline the procurement process by replacing the various steps in the traditional purchasing process with an authorization to an employee to use a charge card to procure the necessary goods and services. See also Procurement Cards and Tax Compliance: Bridging the Gap, A Report of the Steering Committee, Task Force on EDI Audit and Legal Issues for Tax Administration, published June 1997.

³ The Electronic Business Processes Work Group of the Task Force has examined alternative reporting methodologies and developed recommendations for taxpayers and tax authorities to follow when entering into sales and use tax compliance agreements. See also Sales and Use Tax Compliance Agreements, A Report of the Steering Committee, Task Force on EDI Audit and Legal Issues for Tax Administration, published March 2000.

ones. Local tax structures may differ from state laws making direct pay programs difficult to administer. These differences also add to the expense and confusion for multistate businesses that are trying to comply with the law.

Local Tax Issues

Local sales and use taxes can present complex issues for direct pay programs and, in some cases, can seriously restrict the attractiveness and effectiveness of the program. There are at least two issues that present themselves.

First, when a taxpayer remits tax under direct pay authority, it is technically remitting a use tax as opposed to a sales tax. In states which allow local sales taxes, but not local use taxes, there may be a reduction in the total tax paid to local governments. In some cases, a tax jurisdiction may enter into an informal arrangement with a taxpayer to allow for the direct payment of local sales taxes provided the taxes are allocated as if they had been paid to the retailer.

Second, an issue can arise depending on the "sourcing" or "siting" rules employed for applicable local taxes. If the local tax is "sited" or applied based on the jurisdiction in which the taxpayer is using the item purchased, no issue arises, i.e., the taxpayer simply remits based on the jurisdiction in which the good or service is used. The information necessary to make these determinations should be known to the taxpayer. If, on the other hand, local taxes are "sited" to or applied based on the point of sale instead of point of use, serious complexity can arise for the taxpayer. In such instances, the taxpayer would need to know more specific transaction details in order to track, report and remit tax for all jurisdictions in which it made purchases. This can seriously detract from the attractiveness of direct pay to a taxpayer and reduce the benefits it provides.

A November 1997 report by the National Conference of State Legislatures provides the following statistics with regard to local option taxes.⁴

Thirty-three of the forty-five states with sales and use taxes allow one or more local governments to levy sales taxes;

Alaska, which lacks a state sales and use tax, allows cities and boroughs to levy a sales tax;

Twenty-three of the thirty-three states that allow local sales taxes provide authority to both cities and counties;

⁴ Critical Issues in State-Local Fiscal Policy, A Guide to Local Option Taxes, Foundation for State Legislatures and National Conference of State Legislatures, November 1997.

Nine states allow counties but not cities to levy sales taxes, while one state allows cities but not counties to impose a sales tax; and

Nine states allow “other” authorities (e.g., transit and/or school districts) to levy sales taxes.

Taxpayer Perspective

Advanced technology has allowed businesses to streamline their purchasing and payment processes, but has increased the administrative work of complying with state and local tax laws. Large multistate businesses view direct pay authority as a valuable tool in automating their accounts payable function and managing their tax compliance responsibility. Automation of these functions is becoming increasingly important in today’s leaner business climate. For example, many hours are spent verifying rates and amounts charged by vendors. Direct pay authority would eliminate this expense by allowing the purchaser to determine the correct rate and taxable amount. Under direct pay, EDI transactions can be handled more efficiently, and ERS transactions are much more straightforward and auditable. Direct pay authority also facilitates prospective accrual agreements for remittance of use tax.

Businesses have expressed concern over the diverse and complex rules that must be met to qualify for direct pay status. In many cases, the criteria currently employed restrict direct pay authority to a very few taxpayers. The application process can also be difficult and time-consuming. Consistent and logical direct payment provisions among all states would enhance the industry’s ability to comply with state and local tax requirements. At a minimum, tax jurisdictions should consider requests on a case-by-case basis rather than imposing arbitrary restrictions that disqualify many businesses up front. Businesses also agree that to be considered for direct pay status, they must be in good standing with the taxing authority and demonstrate that their accounting system(s) will reflect the proper amount of tax due.

Tax Jurisdiction Perspective

Tax jurisdictions are interested in administering programs that ease tax compliance and administration. When evaluating whether to expand an existing direct pay program or implement a new program, taxing authorities must consider the overall effect on the tax administration process.

Direct pay authority is typically granted to very large and/or multistate businesses with large volumes of potentially taxable transactions that must be reviewed during regular audit cycles. An increase in the number of direct pay taxpayers may impact the number of audit personnel required to adequately monitor taxpayer compliance. Tax jurisdictions are also under increasingly tighter budget and resource constraints and are losing staff. Local tax allocations have also been identified as a major disincentive to implementing or expanding direct pay programs. Tax jurisdictions may be more willing to expand direct

pay authority to taxpayers that mitigate the audit resource problem by providing access to electronic records for conducting the tax compliance audits.

Tax jurisdictions also are concerned that expanded direct pay authority would have a negative impact on their cash flows and revenues. It is for this reason that some states have accelerated the payment due date for direct pay returns and have stipulated that direct pay permit holders must agree to submit all tax payments via EFT and file electronically if so required.

Some tax jurisdictions also are searching for prospective tax compliance solutions and have entertained the possibility of using sales and use tax compliance agreements. Under these agreements, a predetermined taxable percentage is approved by the tax jurisdiction and used by the taxpayer for reporting tax and making tax allocations on expense purchases.⁵ There are tax jurisdictions that are reluctant to adopt this procedure unless the taxpayer has been granted direct pay authority.

Conclusion

Tax jurisdictions and taxpayers should work together to establish tax compliance procedures that ease the tax administration process. State legislatures play an important role as their laws directly affect local option and home rule tax structures. As stated previously, it is these local tax structures that impose the biggest burden on taxpayers working to comply and on tax administrators carrying out the tax laws. Taxpayers should make use of available opportunities to work with the appropriate legislative bodies to ensure that lawmakers understand business concerns and to minimize the number or reduce the complexity of issues associated with local sales and use taxes and the burden such taxes place on businesses.

Taxpayers believe that simplified, consistent rules for direct pay authorization should be considered by all taxing jurisdictions. It is for this reason that the Task Force has developed a *Model Direct Payment Permit Regulation* that states could follow when implementing or expanding a direct pay program. The purpose of this regulation is to focus on the business process of a taxpayer when a tax jurisdiction considers whether to grant direct pay authority; to stress how applicable tax laws and business processes relate from a compliance perspective; and to demonstrate how direct pay authority will benefit tax compliance.

⁵ Each tax authority must consider whether it has, or requires, statutory authority to enter into sales and use tax compliance agreements.

Appendix A

DIRECT PAYMENT PERMITS

Requirements, Restrictions, Revocation

	<i>ALABAMA</i>	<i>ALASKA</i>	<i>ARIZONA</i>	<i>ARKANSAS</i>
REQUIREMENTS				
<i>Application Process</i>	FORM ST:DPA1. Upon the DOR demand's, holder may be required to post a bond or security agreement securing the payment of taxes in an amount not to exceed a three-month sales tax or six-month use tax liability.	The state currently does not impose a sales or use tax.	Apply to Department of Revenue for a registration certificate.	Apply in writing to the Commissioner of Revenue.
<i>Allowable Business</i>	Manufacturers, transportation companies, electric cooperatives, or persons engaged in the business of mining, quarrying, compounding or processing tangible personal property; certain users of motor fuels.			Permits are issued at Commissioner's discretion.
<i>Applicable Business Locations</i>				Any location under same federal ID number can use. Department issues a separate certificate to each location.
<i>Allowable Purchases</i>	Tangible personal property.		Tangible personal property purchased from out-of-state vendors only.	Tangible personal property and services.
<i>Vendor Documentation</i>				Provide copy of DPP certificate to vendor. Purchase order must contain statement that permit holder is responsible for the tax.
<i>Reports, Records and Filing</i>	Returns must be filed and sales and use taxes paid by the 20 th of the month unless permit holder qualifies to file S&U tax returns quarterly or annually. Only purchases from AL vendors are to be reported on a sales tax DPP return. Purchases from out-of-		A monthly report of purchases and taxes paid must be submitted to the state.	Report and remit tax on or before 20 th of month for previous month's taxable purchases.

	ALABAMA	ALASKA	ARIZONA	ARKANSAS
	state vendors are to be reported on consumer UT returns.			
<i>Local Tax Collections</i>	A County Commission may elect to collect taxes in this manner. If this election is made, the Commission would have the same rights, remedies, and authority as the DOR.			Remit local tax of city and/or county where property is first used, stored, consumed or distributed. Local tax due on services where performed.
<i>General</i>			Arizona purchasers making recurring purchases from out of state may apply to the Department for a registration certificate and remit payment of the <u>use tax</u> directly to the state in lieu of making payment to the vendor.	DPP holder not entitled to any discount for prompt payment of tax.
RESTRICTIONS				
<i>Disallowed Usage</i>	Construction contracts.			
<i>General</i>	Permit is not transferable.		Permit valid only for direct payment of the AZ use tax.	
REVOCAION				
<i>Involuntary</i>	May be revoked for failure to comply upon notice by registered mail.			May be canceled by Commissioner if permit holder is in non-compliance or if cancellation in best interest of the collection of the tax.
<i>Voluntary</i>				
CITATION				
<i>Statutes Regulations, Rules</i>	§40-23-31 Rule 810-6-4-.14		R15-5-2310	§26-52-509 GR-87

	<i>CALIFORNIA</i>	<i>COLORADO</i>	<i>CONNECTICUT</i>	<i>DELAWARE</i>
REQUIREMENTS				
<i>Application Process</i>	<p>Sales Tax: No state specific form. Written request stating that requirements are met; must hold a valid seller's permit; certified financial statement; description of invoice processing system. Taxpayer must have gross receipts from sales of tangible personal property of at least \$75 million and purchases of taxable tangible personal property of at least \$75 million in each calendar quarter during the 12 months preceding the application.</p> <p>Use Tax: An application must be filed on a form prescribed by the State Board of Equalization, specifying the name under which the taxpayer transacts or intends to transact business, the location of the place or places of business where the applicant intends to make direct payment of use tax, and any other information that the Board may require.</p>	<p>Effective 1/1/00, a provision dealing with direct payment permits shall take effect.</p> <p>Submit application to the Executive Director stating in preceding 12 months the taxpayer has purchased at least \$7 million of taxable commodities, services, or tangible personal property excluding items to be erected upon or affixed to real property; the taxpayer has filed and remitted returns timely; and the taxpayer has an accounting system in place to allocate local sales taxes.</p> <p>DPP must be renewed every third year.</p>	<p>No state specific form. Written request to the Commissioner of Revenue Services plus \$20 permit fee. If application is for a reissuance of a suspended or revoked permit, fee is \$50. Permit is renewed biennially.</p>	<p>The state currently does not impose a sales or use tax.</p>
<i>Allowable Businesses</i>			<p>Businesses that make purchases of tangible personal property for use, and by reason of the nature of operations and purposes for which the tangible personal property may be used, cannot determine the proper application of tax to the property until it's put to use.</p>	
<i>Applicable Business Locations</i>			<p>Separate permit needed for each business location.</p>	
<i>Allowable Purchases</i>	<p>Tangible personal property.</p>	<p>Tangible personal property and services.</p>	<p>Tangible personal property and services.</p>	

	<i>CALIFORNIA</i>	<i>COLORADO</i>	<i>CONNECTICUT</i>	<i>DELAWARE</i>
<i>Vendor Documentation</i>	Sales Tax: When making a purchase, a seller must give an exemption certificate in a form prescribed by the Board. A model exemption certificate can be found in Reg. 1699.5(h).	Provide direct payment number to vendor.	Copy of DPP form must be supplied to vendor. Upon acceptance of the form, vendor is relieved of any obligation to collect tax from the holder.	
<i>Reports, Records and Filing</i>	A return for DPP remittance must be filed by the last day of the month following each quarterly period. A schedule must be included with each return on which all local and district sales and use taxes are allocated to the applicable local jurisdictions. Misallocation can result in a 10% penalty.	A return for DPP remittance must be filed by the 20 th day of the month following each DPP transaction. The holder is entitled to a vendor's discount when remitting tax.	Holder will be required to report on a form designated by the Commissioner.	
<i>Local Tax Collections</i>	<p>Sales Tax: Permit holder must include with the tax return reporting the tax liability, a schedule allocating all local sales and use tax and all transactions and use tax to cities, counties, redevelopment agencies, and districts to which such tax would be allocated if paid by the retailer. A 10% penalty is imposed on any misallocated amount.</p> <p>Use Tax: Permit holder must report in its return the amount of local use tax applicable to each county, city, city and county, or redevelopment agency in which the first use of the taxable property occurs.</p>	DPP holder is liable for any county, city, or town or district sales tax in the same manner as would be imposed by the vendor or retailer on a qualified purchaser.		
<i>General</i>	Sales Tax: Permit holders are required to prepay tax, due 5 days earlier than for prepaying taxpayers in general. The Board has the right to accelerate this due date by 10 additional days to guard against a potential cash flow loss.		Commissioner is authorized to issue permits to certain persons who purchase substantial amounts of tangible personal property for business use under circumstances that normally make it difficult or impractical at the time of purchase to determine whether such	

	<i>CALIFORNIA</i>	<i>COLORADO</i>	<i>CONNECTICUT</i>	<i>DELAWARE</i>
	Use Tax: Taxpayer must agree to self-assess and pay directly to the Board any use tax liability incurred, and certify that either the taxpayer is the purchaser for its own use or is the lessee of tangible personal property at a cost of \$500,000 or more in the aggregate, during the calendar year immediately preceding the application for the permit, or that the taxpayer is a county, city, city and county, or redevelopment agency.		property will be subject to sales or use tax. Each application accepted will receive a direct payment permit numbered, dated, and signed by the tax commissioner or the commissioner's representative.	
RESTRICTIONS				
<i>Disallowed Usage</i>			A direct payment permit may not be used in connection with: purchases of food or beverages, lodging or related services, or purchases of admissions to places of amusement or athletic events, or the use of amusement devices.	
<i>General</i>			Permit is not transferable	
REVOCAION				
<i>Involuntary</i>	Sales Tax: Board has determined that permit holder no longer meets requirements. Use Tax: Board may notify seller or retailer of revocation if it determines that the requirements are no longer being met by the permit holder.	Executive Director may revoke permit if holder has violated any provision. DPP holder may appeal within 30 days of notice by requesting a hearing.	Commissioner may revoke due to failure to comply or failure to file 4 successive monthly or quarterly returns showing no sales. Holder will be given 10 days' notice of a show cause hearing.	
<i>Voluntary</i>	Use Tax: Revision or withdrawal by the permit holder will terminate the permit.			
CITATION				
<i>Statutes Regulations, Rules</i>	§7051.1, 7051.2, 7051.3 1699.5	§39-26-103.5	§12-409a	

	<i>DISTRICT OF COLUMBIA</i>	<i>FLORIDA</i>	<i>GEORGIA</i>	<i>HAWAII</i>
REQUIREMENTS				
<i>Application Process</i>	The District has no sales or use tax provisions dealing with direct payment permits.	No state specific form. Request in writing. Permits are renewable every 5 years.	No state specific form. Written application stating taxpayer will obligate itself to report and pay directly to the Commissioner sales & use taxes on all taxable purchases of property & services. Commissioner may require a bond.	The state has no sales or use tax provisions dealing with direct payment permits.
<i>Allowable Businesses</i>		Dealers who annually make purchases in excess of \$10 million per year in any county; dealers who annually purchase at least \$100,000 of tangible personal property, including maintenance and repairs for their own use; dealers who purchase promotional materials whose ultimate use is unknown at purchase; telecommunication services, eligible air carriers, vessels, railroads, and motor vehicles engaged in interstate and foreign commerce; dealers who lease realty from a number of independent property.		
<i>Applicable Business Locations</i>				
<i>Allowable Purchases</i>		Tangible personal property	Tangible personal property or services.	
<i>Vendor Documentation</i>		Provide vendor with copy of permit.	Provides vendor with copy of permit or Certificate of Exemption (ST-5) with registration no. after which purchase order with registration no. will be sufficient.	
<i>Reports, Records and Filing</i>		Holder must file a report by 9/30 of each year showing the amount of total purchases by county for the period 9/1 - 8/31, and the amount of UT self-accrued on purchases by county.		
<i>Local Tax Collections</i>				

	<i>DISTRICT OF COLUMBIA</i>	<i>FLORIDA</i>	<i>GEORGIA</i>	<i>HAWAII</i>
<i>General</i>		Any applicant initially denied the issuance of a permit may submit an amended application or a new application following a reasonable period of time after the denial of the first application.		
RESTRICTIONS				
<i>Disallowed Usage</i>				
<i>General</i>		Permit is not transferable.		
REVOCAION				
<i>Involuntary</i>		May be revoked for failure to comply, failure to respond to renewal request, or to cooperate with DOR during its review of the self-accrual authority. Holder must notify vendors of cancellation.		
<i>Voluntary</i>		Holder must notify vendors of cancellation.		
CITATION				
<i>Statutes Regulations, Rules</i>		Rule 12A-1.0911	560-12-1-.16	

	<i>IDAHO</i>	<i>ILLINOIS</i>	<i>INDIANA</i>	<i>IOWA</i>
REQUIREMENTS				
<i>Application Process</i>	No state specific form. Written application to Commission explaining reasons why it is necessary for the taxpayer to pay taxes directly to the Commission. Direct pay authorization must be renewed every two years.	The state has no general sales or use tax provisions dealing with direct payment permits. Effective 7/31/98, the Department commenced a voluntary pilot program, beginning 1/1/99 to end no later than 7/1/01, with authorized taxpayers. Interested taxpayers file application FORM ST-45.	FORM DP-1. Direct pay permit must be renewed annually.	Written application to the Director with certification that sales and use tax has averaged \$4,000 semimonthly over the prior two years.
<i>Allowable Businesses</i>	It is to the mutual convenience of the Tax Commission, the taxpayer, and the taxpayer's vendors.	Taxpayer must establish a business purpose and demonstrate how direct payment will benefit tax compliance. They must also demonstrate ability to comply with sales/use tax law and reporting requirements.	Registered retail merchants, manufacturers, or wholesalers who make substantial purchases of tangible personal property where it is impossible at the time of purchase to determine whether or not the materials will be used for an exempt purpose.	Purchasers, users or consumers who accrue a tax liability of more than \$4,000 in a semimonthly period. Cannot include local tax amounts to meet the \$4,000 threshold.
<i>Applicable Business Locations</i>		Applicable for multi locations.		Any location under same federal ID number may use permit. It is not mandatory that all such locations in state use the permit.
<i>Allowable Purchases</i>	Tangible personal property.	Tangible personal property.	Tangible personal property.	Tangible personal property or services.
<i>Vendor Documentation</i>	Provide vendor with a copy of the letter from the Commission granting the direct pay authority.	Provide vendor with notification of DPP including holder's name, address, IBT no., statement purchase being made under DPP, and effective date of permit.	FORM ST-1. Provide vendor with a copy of the permit.	Iowa exemption certificate provides box to check and space to provide DPP number.
<i>Reports, Records and Filing</i>		Tax must be remitted with return on the next due date following transaction.		Tax must be remitted by EFT. Consolidated return required for all locations in state using the DPP.
<i>Local Tax Collections</i>		Local tax due based upon rate imposed by locality in which property would have been taxed if DPP had not been used.		Local tax due based on delivery point of tangible personal property, usually the permit holder's location.

	<i>IDAHO</i>	<i>ILLINOIS</i>	<i>INDIANA</i>	<i>IOWA</i>
<i>General</i>		Holder must choose one of two payment methods: 1) pay use tax for out-of-state purchases only, or 2) pay use tax for out-of-state purchases and state and local tax for in-state purchases.		
RESTRICTIONS				
<i>Disallowed Usage</i>	Does not apply to: contractors or other third parties; or hotel/motel room or campground accommodations.	Purchases of food or beverages; tangible personal property required to be titled or registered with an agency of Federal or State government; taxable services under IL statutes.	Purchases of utilities, motor vehicles required to be licensed for highway use, or aircraft required to be registered with the state.	Purchases of gas, electricity, water, heat, pay TV, communication service and vehicles subject to registration. Permit may not be assigned to a third party.
<i>General</i>		Permit is not transferable or assignable to a third party.		Permit is not transferable.
REVOCAION				
<i>Involuntary</i>	May be revoked for failure to comply or for allowing contractors or third parties to make exempt purchases with permit. Holder must notify vendors of revocation.	Department may cancel permit due to non-compliance. Notice must be in writing. Holder must notify vendors of cancellation.	May be revoked by the Department without cause, at any time.	May be revoked by the Director if holder fails to meet requirements of DPP, misuses DPP, or fails to comply. Holder must notify all vendors of revocation.
<i>Voluntary</i>		Holder must notify vendors of cancellation.		
CITATION				
<i>Statutes Regulations, Rules</i>	§63-3631 Rule 35.01.02.112	Public Act 90-682	Rule 45 IAC 2.2-8-15, Rule 45 IAC 2.2-8-16	§422.53(8) 701-12.3 701-15.3

	KANSAS	KENTUCKY	LOUISIANA	MAINE
REQUIREMENTS				
<i>Application Process</i>	No state specific form. Written request to Director of Taxation with completed business tax application form if one has not been submitted within five years.	Form 51A112, Application for Direct Pay Authorization. The Revenue Cabinet may require a bond or indemnity agreement not less than \$75,000 and not greater than three times estimated tax liability.	Application by letter to Department of Revenue and Taxation (DRT). Department will notify local tax agencies of application who may disapprove application independent of state.	Special form provided by the Bureau of Taxation.
<i>Allowable Businesses</i>	Any taxpayer who purchases more than \$1 million of tangible personal property annually for own use or purchases where use cannot be determined at time of purchase; makes purchase in sufficient volume to justify the expense of regular audits by the department; maintains a place of business in the state; and maintains accounting records which clearly identify purchases and tax due.	Manufacturers, transportation companies or persons engaged in the business of mining, quarrying, compounding or processing tangible personal property and have property (other than inventory and office furniture and equipment) located in more than one state.	Manufacturers of tangible personal property for resale with a manufacturing establishment in state, who have an annual average of \$15 million of taxable purchases or leases of tangible personal property and services for 3 calendar years prior to the year of application, and have such an average for each subsequent 3-year period.	Manufacturer or utility. Taxpayer must have substantial purchases where use cannot be determined at time of purchase and in sufficient volume to justify the expense of regular audits by the Bureau.
<i>Applicable Business Locations</i>		Locations having separate sales tax numbers would be required to have separate direct payment permits.	Separate permit required for each manufacturing location.	
<i>Allowable Purchases</i>	Tangible personal property or services.	Tangible personal property.	Tangible personal property and services, including lease of.	Taxable tangible personal property.
<i>Vendor Documentation</i>	Provide vendor with copy of DPP along with an exemption certificate with DPP no. noted.	Copy of direct pay authorization, form 51A110, issued by the Revenue Cabinet.	Presentation of valid DPP number to vendor or lessor.	Provide vendor with copy of permit (form ST-P-3) and include DPP no. on purchase orders.
<i>Reports, Records and Filing</i>	Taxpayer will be required to file a monthly return reporting the taxable purchases used by the holder and use tax remitted. Holder may be required to submit returns by EDI and taxes by EFT. An annual reconciliation of purchases is required when inventory.	Returns filed on or before 20 th day of month following the month during which such tangible personal property was used for a taxable purpose.	Permit holder allowed 1.1% vendor's compensation for tax due.	
<i>Local Tax Collections</i>	Local sales tax will be accounted for based on vendor's place of business.		Application for direct payment permit may be made to local taxing jurisdiction.	

	KANSAS	KENTUCKY	LOUISIANA	MAINE
<i>General</i>	DPP holder may elect to issue permit to selected vendors or to all their vendors.			
RESTRICTIONS				
<i>Disallowed Usage</i>	Purchases of meals, food or drinks, motor vehicles, aircraft, telephone & telegraph services, subscriber radio & television services, admission to places of amusement, charges to private clubs, rental of hotel rooms, construction contracts.	Construction contractors. Purchases of taxable services and tangible personal property for the permit holder's own use.		Construction contracts. Purchases of prepared food or beverages in an eating place; occupancy or accommodations at hotels, motels; telephone & telegraph service; rentals under interim rental provisions and short-term rental of autos.
<i>General</i>		Permit is not transferable.		
REVOCATION				
<i>Involuntary</i>	Secretary may revoke permit at any time for noncompliance or misuse. Holder must notify vendors within 30 days after revocation.	Revenue Cabinet may notify holder via certified mail of permit termination for noncompliance, failure to file returns and remit tax, and permit holder is no longer eligible. Holder must notify vendors within 30 days of revocation.	May be revoked by Secretary at any time if taxpayer fails to meet qualifications or if DPP holder receives notice of revocation by local tax collection agencies.	May be revoked for failure to comply. Holder must return permit to Assessor and notify vendors within 30 days of revocation.
<i>Voluntary</i>	Permit holder may cancel permit by mailing permit to Secretary with written request to cancel permit. Holder must notify vendors within 30 days after cancellation.			Holder must obtain written permission from State Tax Assessor first. Holder must return permit to Assessor and notify vendors within 30 days after receiving cancellation notice.
CITATION				
<i>Statutes Regulations, Rules</i>	§79-3619(b) Reg. 92-20-11 Public Notice 98-03	§139.260, 139.400 Reg. 103 KAR 31:030	§47:303.1	Reg. 308

	<i>MARYLAND</i>	<i>MASSACHUSETTS</i>	<i>MICHIGAN</i>	<i>MINNESOTA</i>
REQUIREMENTS				
<i>Application Process</i>	Effective 7/1/93, direct payment permits are no longer granted; however, permits issued prior to 7/1/93 will remain in effect.	The state has no sales or use tax provisions dealing with direct payment permits.	An officer of company must make written request to the Michigan Department of Treasury.	Application in the form of a letter containing the applicant's name, address, sales and use tax account number, description of the business, description of their accounting system, volume of purchases, and justification for adoption of direct pay method must be submitted to the Commissioner of Revenue.
<i>Allowable Businesses</i>	Businesses which were issued permits prior to 7/1/93.		Typically granted to manufacturers.	Business must presently hold a sales and use tax permit. Taxpayer must also demonstrate that: the nature of their business is such that direct pay will materially reduce the administrative work of collecting the tax, and they must make taxable purchases sufficient enough to justify the expense of regular audits by the Department.
<i>Applicable Business Locations</i>			Any manufacturing locations under same federal ID number.	
<i>Allowable Purchases</i>	Purchase, lease or rental of taxable tangible personal property or services.			Tangible personal property.
<i>Vendor Documentation</i>	Furnish vendor with copy of DPP and certificate of exemption with DPP number.		Provide copy of authorization letter to vendor.	Must furnish a copy of the permit or a statement that the taxpayer holds a direct pay permit number (with the permit date) to each vendor from whom the taxpayer purchases tangible personal property on which an exemption is claimed. A permit holder must either issue the permit to all vendors required to collect state sales and use taxes and accrue all liability as a use tax, or maintain accounting records in sufficient detail to show in summary, and in respect to each transaction, the

	MARYLAND	MASSACHUSETTS	MICHIGAN	MINNESOTA
				amount of sales taxes paid to vendors in each reporting period.
<i>Reports, Records and Filing</i>	Holder is required to file returns and remit taxes by 21 st of each month.			Taxpayer's accounting system must clearly reflect the proper amount of tax due. Permit holders must maintain a current list of all vendors from whom purchases are made under the direct pay method, and must submit this list for examination upon request of the Commissioner.
<i>Local Tax Collections</i>				
<i>General</i>			No provisions on the issuance of direct payment permits; however, they are available to manufacturers who present valid reasons for need.	Commissioner authorized to issue permits to certain persons who purchase substantial amounts of tangible personal property for business use under circumstances that normally make it difficult or impractical at the time of purchase to determine whether such property will be subject to sales tax or whether the use of it will be exempt. Issued permits will be numbered, dated and signed by the Commissioner or delegated representative.
RESTRICTIONS				
<i>Disallowed Usage</i>	S&U tax due when property or service is actually placed in service, or when the utilization becomes known, whichever occurs first. If the determination of taxability is not made within 1 year from purchase date, those goods and services shall be deemed to be taxable		For purchases of vehicles, aircraft, and water craft.	Purchases of: food and beverages; lodging or services; admissions to places of amusement or athletic events, or the privilege of use of amusement devices; or, motor vehicles.
<i>General</i>				Permit is not transferable and may not be assigned to a third party.

	<i>MARYLAND</i>	<i>MASSACHUSETTS</i>	<i>MICHIGAN</i>	<i>MINNESOTA</i>
REVOCATION				
<i>Involuntary</i>	May be revoked for failure to comply or for any other good cause. Holder must notify vendors within 30 days after revocation.			Commissioner may revoke a permit at any time for noncompliance; misuse; or its continued use to be against the best interests of the State.
<i>Voluntary</i>	Holder must notify vendors within 30 days after discontinuance.			
CITATION				
<i>Statutes</i> <i>Regulations, Rules</i>	§11-407 Reg. 03.06.01.31			§297A.16 Reg. 8130.3400

	<i>MISSISSIPPI</i>	<i>MISSOURI</i>	<i>MONTANA</i>	<i>NEBRASKA</i>
REQUIREMENTS				
<i>Application Process</i>	FORM 61-034	FORM 4098. Holder of a direct pay certificate must show proof of qualification every five years for sales tax purposes and every two years for use tax purposes.	The state currently does not impose a sales or use tax.	File application on prescribed form which includes agreement to accrue and pay tax by 25 th day of month following purchase. \$10 fee.
<i>Allowable Businesses</i>	Manufacturers, custom processors, and public service corporations. The DOR may authorize or require the issuance of a DPP to a utility or construction contractor if such DPP will expedite proper tax classification.	Any business with annual purchases for their own use in excess of \$750,000.		Any business with annual taxable purchases of at least \$3 million.
<i>Applicable Business Locations</i>				
<i>Allowable Purchases</i>	Tangible personal property or services.	Tangible personal property.		
<i>Vendor Documentation</i>		Furnish vendor with copy of DPP.		Furnish vendor with copy of DPP.
<i>Reports, Records and Filing</i>				
<i>Local Tax Collections</i>		Based on the location of the purchaser's place of business.		
<i>General</i>		The holder is entitled to the timely filing discount.		Holder is not entitled to any collection fee.
RESTRICTIONS				
<i>Disallowed Usage</i>				Purchases of motor vehicles
<i>General</i>				Permit is not transferable.
REVOCAION				
<i>Involuntary</i>	May be revoked at Commissioner's discretion.	Department may cancel the permit by issuing a cancellation letter. Holder must notify each vendor within ten days of the date of a cancellation letter.		The Tax Commissioner may revoke a direct payment permit. This decision is not appealable. Upon revocation, the holder shall notify vendors of the cancellation of the permit.
<i>Voluntary</i>		The Department will issue a cancellation letter upon the holder's notification to the Department of the		The holder must notify vendors of the cancellation of the permit.

	<i>MISSISSIPPI</i>	<i>MISSOURI</i>	<i>MONTANA</i>	<i>NEBRASKA</i>
		desire to relinquish the direct pay certificate. Holder must notify each vendor within ten days of the date of a cancellation letter.		
CITATION				
<i>Statutes Regulations, Rules</i>	§§27-65-93, 27-67-15 Rule 8	§144.190 Reg. 12 CRS 10-3.856 Reg. 12 CRS 10-4.626		§§77-2705.1,77-2705.02, 2705.03 Revenue Update 10, Sum. 97

	<i>NEVADA</i>	<i>NEW HAMPSHIRE</i>	<i>NEW JERSEY</i>	<i>NEW MEXICO</i>
REQUIREMENTS				
<i>Application Process</i>	The state has no sales or use tax provisions dealing with direct payment permits.	The state currently does not impose a sales or use tax.	FORM ST-6B	The state has no sales or use tax provisions dealing with direct payment permits.
<i>Allowable Businesses</i>			Business is unable to determine at time of purchase the manner in which the tangible personal property or services will be used. Contractors, subcontractors, and repairmen may obtain a DPP.	
<i>Applicable Business Locations</i>				
<i>Allowable Purchases</i>			Tangible personal property or services.	
<i>Vendor Documentation</i>			FORM ST-6A, Direct Payment Certificate. Provide copy to vendor.	
<i>Reports, Records and Filing</i>				
<i>Local Tax Collections</i>				
<i>General</i>			Holder is ineligible for any reduced record disposal provision, except upon written determination of the Director.	
RESTRICTIONS				
<i>Disallowed Usage</i>				
<i>General</i>				
REVOCAION				
<i>Involuntary</i>			May be revoked for failure to comply.	
<i>Voluntary</i>			Holder must obtain written permission from Director prior to surrendering permit. Cancellation is based upon holder's payment record; present liquidity of holder's business; & the vendor's willingness to extend the period for assessing prior tax liabilities.	
CITATION				
<i>Statutes Regulations, Rule</i>			§54:32B-12(b), Regs. 18:24-1.1, 18:24-2.9	

	<i>NEW YORK</i>	<i>NORTH CAROLINA</i>	<i>NORTH DAKOTA</i>	<i>OHIO</i>
REQUIREMENTS				
<i>Application Process</i>	FORM AU-298	Request permission from the Secretary for a certificate of authority. Taxpayer will be required to post bond or other security with the DOR.	Application in the form of a letter containing the applicant's name, address, sales and use tax account number, description of the business, the accounting system used, volume of purchases, and justification for adopting the direct payment method.	Form ST-900
<i>Allowable Businesses</i>	Business is unable to determine at time of purchase the manner in which the tangible personal property or services will be used.	Manufacturers and other businesses that make purchases of tangible personal property for use, and by reason of the nature of operations and purposes for which the tangible personal property may be used, cannot determine the proper application of tax to the property until it's put to use.	Businesses that purchase substantial amounts of tangible personal property for business use under circumstances that normally make it difficult or impractical at the time of purchase to determine whether such property will be subject to sales or use tax. Must also demonstrate that: they hold or have applied for a sales and use tax permit; the nature of their business is such that direct payment will materially reduce the administrative work of collecting the tax; they make taxable purchases sufficient enough to justify the expense of regular audits by the Dept. of Revenue; and their accounting system will clearly reflect the amount of tax due.	Manufacturers or other purchasers of tangible personal property or services under circumstances that normally make it impossible at time of purchase to determine the manner in which the property or services will be used.
<i>Applicable Business Locations</i>				Taxpayer discretion
<i>Allowable Purchases</i>	Tangible personal property or services.	Tangible personal property.		Tangible personal property or services.
<i>Vendor Documentation</i>	FORM AU-297, Direct Payment Permit. Provide vendor with copy of DPP with first purchase.	FORM E-537, Direct Payment Permit. Holder must furnish copy to vendor with first purchase.	Must either issue the permit to all vendors required to collect state sales and use taxes and accrue liability as a use tax, or maintain accounting records sufficient to show the amount of sales tax paid to vendors in each reporting period. If latter alternative is chosen, all purchases from any one supplier must be made either exempt or taxable.	Permit holders must notify vendors of their DPP number and inform them that the tax is being paid directly to the state.

	<i>NEW YORK</i>	<i>NORTH CAROLINA</i>	<i>NORTH DAKOTA</i>	<i>OHIO</i>
<i>Reports, Records and Filing</i>			Taxpayer's accounting system must clearly reflect the proper amount of tax due. Permit holders must keep a list of all vendors from whom purchases are made under the direct payment method and must submit such list for examination upon the tax commissioner's request.	Returns due on or before the 23 rd day of each month.
<i>Local Tax Collections</i>	Local tax based upon where transfer of title occurs. If transfer occurs in a county with a higher rate than taxpayer's county, higher rate applies. If transfer occurs in a county with a lower rate, the taxpayer's county rate would apply.			Local tax may be due where the tangible personal property is used.
<i>General</i>				
RESTRICTIONS				
<i>Disallowed Usage</i>	DPP may not be used as a device to defer payment of ST on purchases; as a substitute for a resale certificate or other exemption certificate; or as a device to transfer the holder's privileges to another person.	Purchases of electricity, piped natural gas, telecommunication services, local taxes on room occupancy or prepared food and beverages; leases/rentals of motor vehicles. Contractors may not use DPP granted to the taxpayer unless they have been established as an agent of the permit holder for purposes of purchasing tangible personal property on behalf of the holder. In such a situation, a bona fide agency agreement must exist between the contractor and the holder.	Purchases of taxable food or beverages; taxable lodging or related services, or purchases of admissions to places of amusement or athletic events, or the use of amusement devices.	
<i>General</i>	Permit is not transferable.		Permit is not transferable.	Permit is not transferable
REVOCACTION				
<i>Involuntary</i>	May be revoked for failure to comply; failure to file timely sales & use tax returns and payments; or a change in business operations. Holder must surrender permit to Audit Bureau.		The tax commissioner may revoke a direct payment permit at any time with or without cause.	May be canceled for cause by the Commissioner. If this is done, it is the taxpayer's duty to notify vendors.

	NEW YORK	NORTH CAROLINA	NORTH DAKOTA	OHIO
<i>Voluntary</i>	Holder must surrender permit to Audit Bureau.	When holder withdraws or cancels the bond, certificate is invalid and all vendors must be notified.		Surrender of permit requires taxpayer to notify vendors in writing of such action.
CITATION				
<i>Statutes Regulations, Rules</i>	§1132(c)(2) Reg. §532.5	17 NCAC 7B.5301	§57-39.2-14.1 Reg. 81-04.1-01-05	§5739.031

	<i>OKLAHOMA</i>	<i>OREGON</i>	<i>PENNSYLVANIA</i>	<i>RHODE ISLAND</i>
REQUIREMENTS				
<i>Application Process</i>	Application to the Tax Commission. Permit valid for only 3 years from date of issue.	The state currently does not impose a sales or use tax.	File application FORM REV-139AU.	The state has no sales or use tax provisions dealing with direct payment permits.
<i>Allowable Businesses</i>	Person that make annual purchases of \$1 million or more in taxable items for use in their OK enterprises.		Businesses that are unable to determine the manner in which acquired property or services will be used at time of purchase. Business must be of a size and nature that the issuance of the DPP is economical and efficient accounting for tax incurred.	
<i>Applicable Business Locations</i>	DPP valid for all branches and divisions of entity.			
<i>Allowable Purchases</i>	Tangible personal property.		Tangible personal property or services.	
<i>Vendor Documentation</i>	Provide vendor with a copy of DPP.		FORM REV-139AU. Provide vendor with copy of permit.	
<i>Reports, Records and Filing</i>				
<i>Local Tax Collections</i>				
<i>General</i>	Holder is not entitled to collection discount. Permit is not transferable.			
RESTRICTIONS				
<i>Disallowed Usage</i>	For purchases for resale, a resale must be given rather than a DPP.		May not be used for purchase of any motor vehicles, trailer, semitrailer, or tractor required to be registered with the Bureau of Motor Vehicles; purchase of prepared food or beverage at any eating place; or purchase of occupancy or accommodations subject to hotel occupancy tax.	
<i>General</i>				

	<i>OKLAHOMA</i>	<i>OREGON</i>	<i>PENNSYLVANIA</i>	<i>RHODE ISLAND</i>
REVOCATION				
<i>Involuntary</i>	Tax Commission may revoke DPP if annual purchases fall below qualifying threshold; for non-compliance; and allowing unauthorized persons to use DPP. Holder must notify vendors permit is no longer valid.		May be revoked for failure to comply. Holder must return permit to DOR; notify vendors within 30 days of revocation; and maintain evidence of such notification.	
<i>Voluntary</i>	Holder must notify Tax Commission of voluntary forfeiture. Holder must notify vendors permit is no longer valid.		Holder must return permit to DOR; notify vendors of cancellation; and maintain evidence of such notification. If discontinuance is result of cessation of business or merger, DOR may waive requirements upon written request.	
CITATION				
<i>Statutes Regulations, Rules</i>	§710:65-9-10		§7237(d) Reg. 34.4	

	<i>SOUTH CAROLINA</i>	<i>SOUTH DAKOTA</i>	<i>TENNESSEE</i>	<i>TEXAS</i>
REQUIREMENTS				
<i>Application Process</i>	File application FORM ST-10.	The state has no sales or use tax provisions dealing with direct payment permits.	Commissioner may grant DPP under exceptional circumstances.	File application FORM AP-101.
<i>Allowable Businesses</i>	Taxpayers whose businesses render it impractical to account for S&U taxes at the time of purchase. A person performing construction contracts both within and without the State, who qualify under §12-35-1240, may apply for DPP for the purchase of building.		Registered dealers. DOR must ascertain that the taxpayer would experience hardship or other exceptional circumstances.	Taxpayer must have annual sales of \$800,000 of taxable items not for resale.
<i>Applicable Business Locations</i>	Taxpayer can specify all or select locations.			Entire corporation (including all locations in state).
<i>Allowable Purchases</i>	Tangible personal property or services.		Tangible personal property or services.	Applies to the purchase, lease or rental of taxable tangible personal property or services, and contractors performing separated lump sum contracts.
<i>Vendor Documentation</i>	ST-9 - Direct Payment Permit; holder must furnish copy to vendor.		With first purchase, provide copy of permit registration and a resale certificate.	Provide vendor with blanket exemption certificate containing DPP number and statement that holder will accrue and remit applicable taxes.
<i>Reports, Records and Filing</i>			Taxpayer reports separately to DOR.	File returns and remit tax by 20 th day of month following purchases.
<i>Local Tax Collections</i>	If a taxpayer obtains a DPP for state taxes, they are directly liable to the locality for the 1% local option S&U tax if imposed.			Based upon permit holder's location.
<i>General</i>	DPP authorizes the holder to make purchases at wholesale and is liable for taxes with respect to the gross proceeds of the sales price of the property withdrawn, used or consumed within SC.			Holder is not entitled to collection discount.

	<i>SOUTH CAROLINA</i>	<i>SOUTH DAKOTA</i>	<i>TENNESSEE</i>	<i>TEXAS</i>
RESTRICTIONS				
<i>Disallowed Usage</i>				Items purchased for resale. Contractors performing lump sum contracts.
<i>General</i>	A general contractor to which a manufacturer's DPP is improperly extended shall remain liable for use tax on materials purchased from the manufacturer.			
REVOCACTION				
<i>Involuntary</i>			Permit may be revoked for failure to comply.	Requirements are no longer met. The cancellation is not appealable. Holder must immediately notify vendors. Failure to so notify is deemed a failure & refusal to pay taxes.
<i>Voluntary</i>				Holder must immediately notify vendors upon surrendering permit. Failure to so notify is deemed a failure & refusal to pay taxes.
CITATION				
<i>Statutes</i>	§12-36-2510			§§151.417, 151.418, 151.419, 151.420, 151.421, 151.422
<i>Regulations, Rules</i>			Rule 1320-5-1-.68	

	<i>UTAH</i>	<i>VERMONT</i>	<i>VIRGINIA</i>	<i>WASHINGTON</i>
REQUIREMENTS				
<i>Application Process</i>	The state has no sales or use tax provisions dealing with direct payment permits.	FORM S5; a bond may be required. Returns have been timely filed and taxes due have been paid in prior 12 months.	Taxpayer may apply to the Department if it is impossible to determine at the time of purchase the taxable status of tangible personal property	The state has no sales or use tax provisions dealing with direct payment permits.
<i>Allowable Businesses</i>		Business is unable to determine at time of purchase the manner in which the tangible personal property or services will be used. Contractors, subcontractors, and repairmen may apply.	Manufacturers, mine operators, and public service corporations where it is impossible to determine the manner in which the tangible personal property will be used in or outside the state.	Limited exceptions are granted for air, rail, and water carriers operating in interstate commerce.
<i>Applicable Business Locations</i>				
<i>Allowable Purchases</i>		Tangible personal property or services.	Purchase, lease or rental of taxable tangible personal property.	
<i>Vendor Documentation</i>		Placement of DPP no. on purchase order.	Provide vendor with copy of DPP form, ST-21.	
<i>Reports, Records and Filing</i>		Each year, at the time of physical inventory count for income tax purposes, a reconciliation of purchases made with the DPP should be prepared. Any inventory differences not accounted, should be remitted on the S&U tax return.		
<i>Local Tax Collections</i>				
<i>General</i>				
RESTRICTIONS				
<i>Disallowed Usage</i>				
<i>General</i>				
REVOCAION				
<i>Involuntary</i>			Holder must notify vendor of cancellation.	
<i>Voluntary</i>			Holder must notify vendor of cancellation.	
CITATION				
<i>Statutes Regulations, Rules</i>		§9745 RuleA5.700	§58.1-624 Reg. 10-210-510	

	WEST VIRGINIA	WISCONSIN	WYOMING
REQUIREMENTS			
<i>Application Process</i>	FORM CST-250. Permits are valid until the expiration of the business registration year. Permits are automatically renewed when the business license is issued for the succeeding year.	FORM S-101 plus \$5 fee.	File application with Director of DOR.
<i>Allowable Businesses</i>	Manufacturing, transportation, transmission communication, or the production of natural resources businesses. Business subject to the B&O, severance, or telecommunication taxes; or is a bona fide charitable organization that does not charge for its services.	Taxpayer must have enough taxable purchases to justify expense of regular audits by DOR.	Any licensed vendor or person liable for the payment of sales tax may apply for a DPP.
<i>Applicable Business Locations</i>			
<i>Allowable Purchases</i>	Tangible personal property or services.	Tangible personal property or services.	
<i>Vendor Documentation</i>	Provide vendor with copy of permit.		Issue proof to vendor that holder has DPP in form prescribed by the Department. Proof shall indicate that holder assumes all obligations to pay sales tax directly to DOR.
<i>Reports, Records and Filing</i>			
<i>Local Tax Collections</i>		Based upon permit holder's location.	
<i>General</i>			Holder may be audited by Department once in each calendar year.
RESTRICTIONS			
<i>Disallowed Usage</i>	Food purchases, as a substitute for an exemption certificate or material purchase certificate, or for purchases of gasoline or special fuel.	Permit may be used for a single purchase or for continuous purchases from a vendor. Services such as lodging, admissions, telecommunications, parking, cable television, and landscaping; Property	

	<i>WEST VIRGINIA</i>	<i>WISCONSIN</i>	<i>WYOMING</i>
		such as motor vehicles, food products, & beverages; and contractors performing contracts for new construction, capital improvements, or repair to real property.	
<i>General</i>		Permit is non-transferable.	
REVOCATION			
<i>Involuntary</i>	Revoked for failure to comply. Holder will be given 20 days notice of a show cause hearing. Must notify vendors within 10 days after revocation.	Canceled by DOR when requirements are no longer met.	The permit could be revoked at any time on 90 days written notice to the holder.
<i>Voluntary</i>	Holder must notify vendors within 10 days after surrendering permit.	Holder must return permit with letter to DOR stating intent to cancel permit.	
CITATION			
<i>Statutes Regulations, Rules</i>	§§11-15-9, 11-15-9d, 11-15A-3d	§77.52 Reg. TAX 11.12	§39-15-107.1

Appendix B

MODEL DIRECT PAYMENT PERMIT REGULATION

A. "Direct payment permit" means a permit issued by [taxing authority] that allows a holder of such permit to accrue and pay state and local taxes under [statute] directly to the [taxing authority].

B. Application for Permit. Applicants for a direct payment permit must apply in writing to the [chief tax administrator]. The application shall be on a form required by the [chief tax administrator] or in a letter containing the applicant's name, address, the location of the place or places of business for which the applicant intends to make direct payment of tax, the sales and use tax account number(s) for which direct payment will be made, and any other information that the [taxing authority] may require.

C. Qualification Process and Requirements.

- (1) Applicants for a direct payment permit shall demonstrate the applicant's ability to comply with the [taxing authority] sales and use tax laws and reporting and payment requirements. The applicant must provide a description of the accounting system(s) which will be used by the applicant and demonstrate that the accounting system(s) will reflect the proper amount of tax due.
- (2) Applicants must establish a business purpose for seeking a direct payment permit and must demonstrate how direct payment will benefit tax compliance. For example, the utilization of direct payment authority should accomplish one or more of the following:
 - (a) Reduce the administrative work of determining taxability; collecting, verifying, calculating and/or remitting the tax;
 - (b) Provide for improved compliance with the tax laws of the [taxing jurisdiction];
 - (c) Provide for accurate compliance in circumstances where determination of taxability of the item is difficult or impractical at the time of purchase;
 - (d) Provide for more accurate calculation of the tax where new or electronic business processes such as electronic data interchange, evaluated receipts settlement, or procurement cards are utilized;
 - (e) Provide for more accurate determination and calculation of tax where significant automation and/or centralization of purchasing and/or accounting processes have occurred and applicant must comply with the laws and regulations of multiple state and local jurisdictions.

- (3) The [chief tax administrator] or his/her designee shall review all permit applications. The review of applications shall be conducted in a timely manner so that applicants receive notification of authorization or denial within [30-120] days of the date the [chief tax administrator] or designee receives the application; however, if additional documentation or discussion is required, the [chief tax administrator] or designee shall schedule a conference with the applicant prior to the end of the [30-120]-day period.

D. Recordkeeping Requirements. A direct payment permit holder shall maintain all records that are necessary to a determination of the correct tax liability under [insert appropriate citations to state tax statutes]. All required records must be made available on request by the [taxing authority] or its authorized representatives as provided for in [insert appropriate citations to state tax statutes].

[Insert elements of state law which require certain records to be retained (e.g., books of account, invoices, sales receipts), or specific tax elements or transactions (e.g., credits) for which particular records may be required.]

E. Reporting of Tax. Each holder of a valid direct payment permit shall, on a form approved by the [taxing authority], accrue and pay directly to the [taxing authority] the taxes due under [statute] for all transactions subject to tax for which a direct payment permit applies. Taxes for which the direct payment permit is used shall be considered due and payable on the sales and use tax return next due following the date on which a determination of taxability is, or in the exercise of reasonable care should be, made for a given transaction, unless otherwise provided by written agreement between the taxpayer and the [taxing authority].

F. Certain Transactions Not Permitted. A holder of a direct pay permit shall not use such permit in connection with the following transactions:

- (1) purchases of taxable meals or beverages;
- (2) purchases of taxable lodging or services related thereto;
- (3) purchases of admissions to places of amusement, entertainment or athletic events, or the privilege of use of amusement devices;
- (4) purchases of motor vehicles, or other tangible personal property required to be licensed or titled with a taxing authority, taxed under [taxing authority] statutes [list applicable sections];
- (5) purchases of any of the following enumerated services listed in [tax authority] statutes. [List applicable sections. May include services such as telecommunications and utilities.]; and
- (6) such other purchases as may be agreed to between the holder of the direct payment permit and the [taxing authority].

G. Permit Holder's Duties. The holder of a direct payment permit shall furnish a copy of the direct payment permit or other acceptable evidence, if allowed by statute, that the holder has been granted a direct payment permit, including the number of the permit and the date issued, to each vendor from whom the holder purchases tangible personal property or services. Persons who hold a direct payment permit shall not be required to issue a separate exemption certificate and shall not be required to pay the tax as prescribed in [state taxing statutes related to billing of sales or use tax by vendor].

The holder of a direct payment permit shall have responsibility for accruing and paying tax directly to [taxing authority] on all taxable transactions not taxed at the time of sale. If [taxing authority] and permit holder agree, the holder may maintain accounting records in sufficient detail to show in summary, and in respect to each transaction, the amount of sales or use taxes paid to vendors in each reporting period.

H. Vendor's Responsibilities. Receipt of the direct payment permit or other acceptable evidence that the holder has been granted a direct payment permit, shall relieve the vendor of the responsibility of collecting the sales tax on sales made to a direct payment permit holder on qualifying transactions. Vendors and sellers who make sales upon which the tax is not collected by reason of the provisions of this section shall maintain records in such manner that the amount involved and identity of the purchaser may be ascertained. Receipts from such sales shall not be subject to the tax levied in [state taxing statutes related to billing of sales or use tax by vendor].

I. Local Taxes [if imposed]. A direct pay permit holder that makes taxable purchases of tangible personal property or services shall report and pay applicable local sales or use tax on those purchases. The local sales or use tax shall be calculated at the rate imposed by the jurisdiction in which the first taxable use occurs.

J. Revocation of Permit. A direct payment permit is not transferable, and the use of a direct pay permit may not be assigned to a third party. Direct payment permits may be revoked by the [chief tax administrator] at any time whenever the [chief tax administrator] determines that the person holding the permit has not complied with the provisions of this regulation or that the revocation would be in the best interests of the [taxing authority]. The notice of revocation must be in writing and effective as of the end of the direct payment permit holder's normal reporting period. In the case of a business restructuring, where the taxpayer's business remains the same and effective ownership is unchanged, the direct payment permit holder shall be allowed a period of [60-120 days] to apply for direct payment status for the new entity. During such period, the previous permit shall remain in effect.

Any person whose direct payment permit is either voluntarily forfeited or revoked by action of the [taxing authority] shall return the permit to the [taxing authority] and immediately notify all vendors from whom purchases of taxable items are made advising

them that the direct payment certificate issued to them pursuant to the direct payment permit is no longer valid. Failure to give notification is a violation of [statute].

Appendix C

MODEL DIRECT PAYMENT PERMIT REGULATION

Explanation and Commentary

Purpose. The purpose of this regulation is to define the requirements imposed on taxpayers seeking direct payment status. It is also the purpose of this regulation to focus on the business needs of the taxpayer in determining whether direct pay authority should be granted rather than relying on traditional qualification requirements currently in place in many states.

Section A defines “direct payment permit” for purposes of this regulation. The holder of a direct payment permit may make purchases of taxable items for use in its business and defer the taxes imposed until such time as taxability is determined. The permit holder is responsible for accruing and paying state and local taxes directly to the taxing authority based on the requirements of this regulation.

Section B. Application for Permit.

This section establishes the process the taxpayer must follow when applying for a direct payment permit and identifies the basic information that must be submitted to the taxing authority. It further provides the taxing authority discretion to require additional information that may be necessary to initiate the application process.

Section C. Qualification Process and Requirements.

This section defines the general requirements a taxpayer must meet to qualify for a direct payment permit.

Subsection C (1) requires that a taxpayer demonstrate its ability to comply with the applicable sales and use tax laws and generally be in good standing with the taxing authority. The taxpayer must provide an explanation of the accounting procedures that will be used to determine the taxability of purchases and to ensure that any tax due is correctly accrued and remitted. The taxpayer must maintain records that clearly distinguish between taxable and nontaxable purchases and must demonstrate that the internal controls used will ensure accurate and reliable processing and reporting of the tax liability.⁶

Subsection C (2) focuses on the business needs of the taxpayer in determining whether direct pay authority should be granted. Advanced business processes, such as evaluated

⁶ When entering into sales and use tax compliance agreements, taxpayers and taxing authorities would agree upon a single factor tax rate for the reporting of state and local taxes due for a specified period rather than making a determination of tax due on a per transaction basis.

receipts settlement (ERS), have allowed businesses to streamline their purchasing and payment processes, but have increased the administrative work of complying with state and local tax laws. This section requires the taxpayer to demonstrate how direct payment authority will benefit tax compliance.

Subsection C (3) provides that the review of all applications for direct payment status be conducted in a timely manner, normally within 30-120 days of receipt of the application. It further states that the taxing authority notify the applicant during the review period if additional information is required to ensure final notification of authorization or denial is provided to the taxpayer on or before the end of the review period.

Section D. Recordkeeping Requirements.

This section outlines the recordkeeping requirements of the taxpayer and is consistent with the Model Recordkeeping and Retention Regulation developed by the Task Force.⁷ The taxpayer has an obligation to retain all records necessary for the correct determination of the tax liability and to make such records available to the taxing authority upon request. Each taxing authority may list specific types of records or specific tax elements or transactions for which particular records may be required.

Section E. Reporting of Tax.

This section addresses the sales and use tax reporting and payment requirements placed on each holder of a direct payment permit and states that the permit holder is responsible for accruing and reporting tax on all taxable transactions for which a direct payment permit applies. It further states that a taxpayer must exercise reasonable care when determining the point at which tax is due for a given transaction. The term “reasonable” should be defined by each state implementing a direct payment program.

Section F. Certain Transactions Not Permitted.

This section identifies transactions for which the direct payment permit may not be issued and for which the permit holder must pay tax directly to the vendor at the time of purchase. Types of transactions not permitted typically include travel and entertainment, motor vehicles, and taxable services, but may include other categories of transactions as designated by the taxing authority. Nothing in this section should be interpreted to override existing tax law or statutes.

Section G. Permit Holder’s Duties.

This section defines the duties of the taxpayer who has been granted direct payment status by the taxing authority. It states that the permit holder will not be required to pay tax to the vendor on qualifying transactions as long as evidence is provided to the vendor

⁷ See Model Recordkeeping and Retention Regulation, A Report of the Steering Committee, Task Force on EDI Audit and Legal Issues for Tax Administration, published March 1996.

of the permit holder's direct payment status. This may be a copy of the direct payment certificate or other evidence as prescribed by the taxing authority.

This section further states that the permit holder has final responsibility for accruing and paying tax directly to the taxing authority on all taxable transactions not taxed at the time of sale. The permit holder is generally required to issue the direct payment permit to all vendors required to collect tax (except as noted in section F). In some instances, the taxing authority may agree to allow the permit holder to maintain sufficient documentation to show in summary and detail the amount of sales or use taxes paid to vendors in each reporting period.

Section H. Vendor's Responsibilities.

This section defines the responsibility of the vendor when making sales to a direct payment permit holder and states that the vendor is relieved of the responsibility of collecting tax on qualifying transactions as long as sufficient detail level information is maintained which supports the tax free sale.

Section I. Local Taxes [if imposed].

This section addresses the responsibility of the direct payment permit holder to accrue and pay applicable local sales or use taxes on purchases of tangible personal property made pursuant to this regulation. It further states that local tax is imposed by the jurisdiction in which the first taxable use occurs. While this is a recommended standard, it is not currently true in all taxing jurisdictions. For example, some taxing authorities may be required to calculate local sales tax at the rate imposed in the jurisdiction in which the sale occurred and calculate local use tax at the rate imposed by the jurisdiction in which the first taxable use occurs. These are examples only, and each taxing authority will address local tax implications related to tangible personal property and services.

Section J. Revocation of Permit.

This section provides that direct payment permits are not transferable or assignable, and identifies circumstances for which the taxing authority may revoke direct payment authority. It further defines the responsibility of the permit holder to its vendors upon cancellation or forfeiture of direct payment authority. In cases of business restructuring where ownership and business activities remain unchanged, a direct payment permit will remain in effect for a period of time as determined by the taxing authority to allow the new entity to apply for direct payment status.

Appendix D

PERSONS CONTRIBUTING TO THIS REPORT

Debra Abbott
The Coca-Cola Company

Norman W. Ayers
New York State Dept. Taxation & Finance

Dawn Baldwin
Michigan Department of Treasury

Barbara Barton
Electronic Data Systems Corporation

Glenn Bedonie
Florida Department of Revenue

René Blocker
Multistate Tax Commission

Andy Blumbergs
New York State Dept. Taxation & Finance

David Boeder
Ohio Department of Taxation

Julie Bragg
International Paper Company

Barbara Britt
Arthur Andersen LLP

Vic Carpenter
Michigan Department of Treasury

Terry Charlton
Illinois Department of Revenue

Barbara Connolly
Illinois Tool Works, Inc.

Harley Duncan
Federation of Tax Administrators

Joe Evans
Missouri Department of Revenue

Oscar Garza
Shell Oil Company

Paul Greenfield
Connecticut Dept. of Revenue Services

Judith Gries
Chartwell Advisory Group

Dan Hall
Illinois Department of Revenue

Beth Ann Kendzierski
Apria Healthcare, Inc.

Doug Lindholm
Committee On State Taxation

David Mays
South Carolina Department of Revenue

William McArthur
PricewaterhouseCoopers LLP

Chris Mucke
BDO Seidman, LLP

Edwin P. Nacci
General Motors Corporation

Stephen P. Olivier
Chevron Corporation

Dorothy Pearson
Ernst & Young LLP

Elizabeth Pitman
Arthur Andersen

Jeffrey M. Rhines
Grant Thornton, LLP

Sandra Robertson
Georgia-Pacific Corporation

Stephanie Rosenbusch
Federation of Tax Administrators

Rick Scheer
Wyoming Department of Audit

Terry Schroeder
Marvin F. Poer & Co.

Robert Shickora
New Jersey Division of Taxation

Barbara A. Timek
AT&T

Steve Veilleux
Connecticut Department of Revenue Services

Cathy Wicks
Minnesota Department of Revenue

Will Yancey
Ryan & Company

Diane Yetter
Yetter Consulting Services, Inc.

Appendix E

SUMMARY OF OTHER TASK FORCE REPORTS

Model Recordkeeping and Retention Regulation is intended to govern taxpayer retention of books and records, particularly electronically generated and retained records, for tax administration purposes. To date, *Alabama, Arizona, California Board of Equalization, Connecticut, Florida, Georgia, Illinois, Iowa, Maryland, New Hampshire, New Jersey, City of New York, South Carolina* and *Utah* have adopted the model regulation in whole or in part.

Auditing Electronic Data provides an overview of the basic framework of the tax audit and examines various issues related to auditing in an electronic environment.

Procurement Cards and Tax Compliance: Bridging the Gap discusses use tax compliance issues associated with corporate procurement cards and examines alternative methods of achieving the appropriate compliance.

Evaluated Receipts Settlement (ERS) and Tax Compliance focuses on understanding the ERS process and identifying potential solutions that would be helpful in addressing the audit and recordkeeping issues created by the use of ERS.

Sales and Use Tax Compliance Agreements (SUTCAs) are agreements between taxing agencies and taxpayers that specify an agreed-upon method for calculating and remitting tax on specified purchases, and which identify alternative reporting methodologies, best practices, and recommendations for taxpayers and tax agencies to follow when entering into these agreements. This report includes a summary of state practices with respect to sales and use tax compliance agreements.

Editor's Note: All reports are available from the Federation of Tax Administrators Web site www.taxadmin.org.