

**8130.3400 DIRECT PAY AUTHORIZATION PROCEDURE.**

Subpart 1. **Issuance.** The commissioner of revenue may issue a direct pay permit to certain persons who:

A. 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 the sales tax or whether the use thereof will be exempt; and

B. hold a sales and use tax permit.

Subp. 2. **Payment.** The holder of a direct pay permit must report and pay the applicable use tax directly to the commissioner instead of paying the sales tax to its vendors with respect to all materials purchased pursuant to a direct pay permit.

Subp. 3. **Application.** An application for a direct pay permit must be submitted to the commissioner of revenue. The application should be in the form of a letter containing the applicant's name, address, sales and use tax account number, description of the business, description of accounting system to reflect the proper amount of tax due, volume of purchases, and justification for adopting the direct pay method.

Subp. 4. **Qualification requirements.** To qualify for a direct pay permit, a business must demonstrate to the satisfaction of the commissioner that:

A. the nature of the business is such that the direct pay method will materially reduce the administrative work of collecting the tax;

B. the firm's accounting system will clearly reflect the proper amount of tax due;

C. the firm makes taxable purchases in sufficient volume to justify the expense of regular audits by the Department of Revenue; and

D. it is in the best interests of the state to issue the permit.

Each person whose application is approved will receive a direct pay permit which will be numbered, dated, and signed by the commissioner or the commissioner's delegated representative.

Subp. 5. **Holder's duties to vendors.** The holder of a direct pay permit must furnish a copy of the direct pay permit or a statement that the holder holds a direct pay permit, the number of the permit and the date issued, to each vendor from whom the holder purchases tangible personal property on which an exemption is claimed. The use of the permit will relieve the vendor from the responsibility of collecting the sales tax on sales made to a direct pay permit holder. Each person issued a direct pay permit must keep a current list of all vendors from whom purchases are made under the direct pay method, and, upon request by the commissioner, must submit such list for examination.

The holder of a direct pay permit must either issue the permit to all vendors required to collect Minnesota sales and use taxes (except those excluded in subpart 6), 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 amount of sales taxes paid to vendors in each reporting period.

If the holder of the permit chooses the latter alternative, then all purchases from any one supplier must be made either exempt or taxable. It is not permissible to request the vendor to assess the sales tax on only selected transactions.

Subp. 6. **Certain transactions not permitted.** A holder of a direct pay authorization may never use it in connection with the following transactions:

- A. purchases of taxable food or beverages;
  - B. purchases of taxable lodging or services related thereto;
  - C. purchases of admissions to places of amusement or athletic events, or the privilege of use of amusement devices;
  - D. purchases of motor vehicles taxed under Minnesota Statutes, chapter 297B;
- and

E. purchases of any of the taxable services listed in Minnesota Statutes, section 297A.61, subdivision 3, paragraph (g), clauses (3), (4), and (6), and paragraph (i).

Subp. 7. **Authorization revocable and not transferable or assignable.** A direct pay authorization is not transferable nor may the use of a direct pay authorization be assigned to a third party. The commissioner may revoke a direct pay authorization at any time the holder fails to comply with the conditions under which the authorization was granted or for any other reason constituting misuse of the authorization. The direct pay authorization may also be revoked when the commissioner determines that its continued use is contrary to the best interests of the state of Minnesota.

**Statutory Authority:** *MS s 14.388; 270C.06; 297A.25; 297A.27; 297A.29*

**History:** *15 SR 693; L 2005 c 151 art 1 s 114; 31 SR 449*

**Published Electronically:** *February 18, 2008*