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

101 Miss. Code Ann. Section 27-65-93 provides that the 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 Commissioner determines that a permit will facilitate and expedite the collection of tax at the proper rates.

102 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

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.

202 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

301 Manufacturers. The Commissioner requires all manufacturers and custom processors, with certain exceptions, to obtain a direct pay permit for purposes of accruing and paying 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.

302 Utilities. The Commissioner may also authorize or require any utility company to obtain a direct pay permit for purposes of accruing and paying 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 accruing and paying 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 accruing and paying 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 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 letter granting the authority to purchase free-standing tangible personal property tax free to resell 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).

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 accrue and pay 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 or vehicles tagged for highway use. The direct pay permit for this exemption will stand 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.

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 news 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 and paying 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.

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 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 and paying 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 or vehicles tagged for highway use. The direct pay permit for this exemption will stand rescinded when the 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 and paying the correct rate of tax on all purchases made which ware 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 rate 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 and paying 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 and paying 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) 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 and paying 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.

409 In order to receive an exemption, the exempt items must be sold directly to, billed or invoiced directly to and paid for directly by the entity receiving the exemption.

410 If a person improperly uses a direct pay permit or letter granting the authority to make tax exempt purchases, that person may still be liable for tax that would normally have been paid to the vendor.

411 (Reserved)

500 Filing Requirements

501 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.

502 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.

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