

## DIRECT PAY B

### Direct Pay Changes – Business Proposal AM08013

#### Section 310.1(C)

~~6. Such member state shall provide for direct pay permits pursuant to Section 326 of this Agreement and the requirements of this subsection. Purchasers which remit sales and use tax pursuant to such a permit shall remit tax at the rate in effect for the location Streamlined Sales and where receipt of the product by the purchaser occurs or the product is first used as determined by state law. A member state may establish reasonable thresholds at which level the member state will consider direct pay applications, provided the threshold must be based upon purchases with no distinction between taxable and non-taxable purchases. The member state shall establish a process for application for a direct pay permit as provided herein. The member state may require the applicant to demonstrate:~~

- ~~a. Ability to comply with the sales and use tax laws of the state,~~
- ~~b. A showing of a business purpose for seeking direct payment permit and how the permit will benefit tax compliance, and~~
- ~~c. Proof of good standing under the tax laws of the state.~~

~~The member state shall review all permit applications in a timely manner so that applicants receive notification of authorization or denial within one hundred twenty (120) days. The member state may not limit direct pay applicants to businesses engaged in manufacturing or businesses that do not know the ultimate use of the product at the time of the purchase.~~

#### Section 326: DIRECT PAY PERMITS

~~A. Each member state shall provide for a direct pay authority that allows the holder of a direct pay permit to purchase otherwise taxable goods and services without payment of tax to the supplier at the time of purchase. The holder of the direct pay permit will make a determination of the taxability and then report and pay the applicable tax due directly to the tax jurisdiction. Each state can set its own limits and requirements for the direct pay permit. The governing board shall advise member states when setting state direct pay limits and requirements, and shall consider use of the Model Direct Payment Permit Regulation as developed by the Task Force on EDI Audit and Legal Issues for Tax Administration.~~

~~B. Purchasers which remit sales and use tax pursuant to a direct pay permit shall remit tax at the rate in effect for the location where receipt of the product by the purchaser occurs or the product is first used as determined by state law. A member state is not required to establish thresholds to consider direct pay applications, but if a threshold is used it cannot exceed \$500,000 in taxable purchases on a yearly basis. A member state using thresholds shall allow exceptions to the~~

thresholds to purchasers that demonstrate they have unique circumstances warranting direct pay authority.

C. A member state may require the applicant to demonstrate:

1. Proof of good standing under the tax laws of the state,

2. An ability to comply with the sales and use tax laws of the state, and

3. A showing of a business purpose for seeking direct pay permit and how the permit will benefit tax compliance. A purchaser establishes a “business purpose” by demonstrating that utilization of direct pay authority will 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 member state;

(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.

(f) Any other business purpose acceptable to the member state.

D. The member state shall review all permit applications in a timely manner so that applicants receive notification of authorization or denial within one hundred twenty (120) days. A denial shall be subject to review by a hearing officer, or an equivalent person, to review the merits of the denial.

E.1. A member state may not limit direct pay applicants to businesses engaged in manufacturing.

2. A member state sourcing sales pursuant to Section 310.1 cannot limit direct pay applicants to businesses that do not know the ultimate use of the product at the time of the purchase. Bill - is this section needed?

F. Nothing in this section prohibits a member state from revoking a permit holder's direct pay authority for failing to abide by the member state's conditions to retain direct pay authority. Does this cause appeal rights?

**Proposed Modification 6/18/2010 by BAC**