WEST VIRGINIA CODE: §11-15A-3D

§11-15A-3d. Direct pay permits.

(a) Notwithstanding any other provision of this article, the Tax Commissioner may, pursuant to rules promulgated by him or her in accordance with article three, chapter twenty-nine-a of this code, authorize a person as defined in section two of article fifteen who is a user, consumer, distributor or lessee to which sales or leases of tangible personal property are made or services provided to pay any tax levied by this article or article fifteen of this chapter directly to the Tax Commissioner and waive the collection of the tax by that person's vendor. This authority is not to be granted or exercised except upon application to the Tax Commissioner and after issuance by the Tax Commissioner of a direct pay permit. Each direct pay permit granted pursuant to this section continues to be valid until surrendered by the holder or canceled for cause by the commissioner. The commissioner shall prescribe by rules promulgated in accordance with article three, chapter twenty-nine-a of this code those activities which will cause cancellation of a direct pay permit issued pursuant to this section. Upon issuance of the direct pay permit, payment of the tax imposed or assertion of the exemptions allowed by this article or article fifteen of this chapter on sales and leases of tangible personal property and sales of taxable services from the vendors thereof shall be made directly to the Tax Commissioner by the permit holder.

(b) On or before the twentieth day of each month, every permit holder shall make and file with the Tax Commissioner a consumers sales and use tax direct pay permit return for the preceding month in the form prescribed by the Tax Commissioner showing the total value of the tangible personal property so used, the amount of taxable services purchased, the amount of tax due from the permit holder, which amount shall be paid to the Tax Commissioner with the return, and any other information the Tax Commissioner considers necessary: Provided, That if the amount of consumers sales and use taxes due averages less than $250 per month, the Tax Commissioner may permit the filing of quarterly returns in lieu of monthly returns and the amount of tax shown thereon to be due shall be remitted on or before the twentieth day following the close of the calendar quarter; and if the amount due averages less than $150 per calendar quarter, the Tax Commissioner may permit the filing of an annual direct pay permit return and the amount of tax shown to be due is to be remitted on or before the thirtieth day after the close of permit holder's taxable year: Provided, however, That the Tax Commissioner may, by nonemergency legislative rules promulgated pursuant to article three, chapter twenty-nine-a of this code, change the minimum amounts established in this subsection. The Tax Commissioner, upon written request filed by the permit holder before the due date of the return, may grant a reasonable extension of time, upon the terms the Tax Commissioner may require, for the making and filing of direct pay permit returns and paying the tax due. Interest on the tax is chargeable on every extended payment at the rate specified in section seventeen, article ten of this chapter.

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(c) A permit issued pursuant to this section is to be valid until expiration of the taxpayer's registration year under article twelve of this chapter. This permit is automatically renewed when the taxpayer's business registration certificate is issued for the next succeeding fiscal year, unless the permit is surrendered by the holder or canceled for cause by the Tax Commissioner.

(d) Persons who hold a direct payment permit which has not been canceled are not required to pay the tax to the vendor as otherwise provided in this article or article fifteen of this chapter. These persons shall notify each vendor from whom tangible personal property is purchased or leased or from whom services are purchased of their direct payment permit number and that the tax is being paid directly to the Tax Commissioner. Upon receipt of the notice, the vendor is absolved from all duties and liabilities imposed by this chapter for the collection and remittance of the tax with respect to sales, distributions, leases or storage of tangible personal property and sales of services to the permit holder. Vendors who make sales upon which the tax is not collected by reason of the provisions of this section shall maintain records in a manner by which the amount involved and identity of each purchaser may be ascertained.

(e) Upon the expiration, cancellation or surrender of a direct payment permit, the provisions of this chapter, without regard to this section, shall thereafter apply to the person who previously held the permit, and the person shall promptly notify in writing vendors from whom tangible personal property or services are purchased of the cancellation or surrender. Upon receipt of the notice, the vendor is subject to the provisions of this chapter, without regard to this section, with respect to all sales of tangible personal property or taxable services, thereafter made to or for the person.

(f) The amendments to this section enacted in the year 2006 are effective for tax years beginning on or after January 1, 2006.

WV Legislature