WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

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ENROLLED

HOUSE BILL No. 2473

(By Delegate Pettit)

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Passed

March 11, 1994

In Effect 90 Days From Passage
AN ACT to amend and reenact section nine-d, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section three-d, article fifteen-a of said chapter, all relating to consumers sales tax and use tax and providing for permanently assigned direct pay permits.

Be it enacted by the Legislature of West Virginia:

That section nine-d, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section three-d, article fifteen-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 15. CONSUMERS SALES TAX.

§11-15-9d. Direct pay permits.

1 (a) Notwithstanding any other provision of this article, the tax commissioner may, pursuant to rules promulgated by him in accordance with article three, chapter twenty-nine-a of this code, authorize a person (as defined in section two) that is a 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-a of this chapter directly to the tax commissioner and waive the collection of the tax by that person’s vendor. No such authority
shall 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 shall continue
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
such direct pay permit, payment of the tax imposed or
assertion of the exemptions allowed by this article or
article fifteen-a 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 fifteenth day of each month, every
permit holder shall make and file with the tax commis-
sioner a consumer 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 consumers
sales and use taxes due from the permit holder, which
amount shall be paid to the tax commissioner with such
return, and such other information as the tax commis-
sioner deems necessary: Provided, That if the amount of
consumers sales and use taxes due averages less than
one hundred dollars 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 fifteenth day
following the close of the calendar quarter; and if the
amount due averages less than fifty dollars per calendar
quarter, the tax commissioner may permit the filing of
an annual direct pay permit return and the amount of
tax shown thereon to be due shall be remitted on or
before the last day of January each year. The tax
commissioner, upon written request by the permit
holder, may grant a reasonable extension of time, upon
such terms as the tax commissioner may require, for the
making and filing of direct pay permit returns and
paying the tax due. Interest on such tax shall be chargeable on every such extended payment at the rate specified in section seventeen, article ten of this chapter.

(c) A permit issued pursuant to this section shall continue to be valid until expiration of the taxpayers registration year under article twelve of this chapter. This permit shall automatically be renewed when the taxpayers 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 shall not be required to pay the tax to the vendor as otherwise provided in this article or article fifteen-a of this chapter. Such 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 such notice, such vendor shall be absolved from all duties and liabilities imposed by this chapter for the collection and remittance of the tax with respect to sales of tangible personal property and sales of services to such 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 such manner that the amount involved and identity of each such 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 such permit, and such person shall promptly so notify in writing vendors from whom tangible personal property or services are purchased or leased of such cancellation or surrender. Upon receipt of such notice, the vendor shall be subject to the provisions of this chapter, without regard to this section, with respect to all sales, distributions, leases or storage of tangible personal property, thereafter made to or for such person.
ARTICLE 15A. USE TAX.

§11-15A-3d. Direct pay permits.

(a) Notwithstanding any other provision of this article, the tax commissioner may, pursuant to rules promulgated by him in accordance with article three, chapter twenty-nine-a of this code, authorize a person (as defined in section two of article fifteen) that 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. No such authority shall 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 shall continue 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 such 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 fifteenth 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 such return, and such other information as the tax commissioner deems necessary: Provided, That if the amount of consumers sales and use taxes due averages less than one hundred dollars 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 fifteenth day following the close of the calendar quarter; and if the amount due averages less than fifty dollars per calendar quarter, the tax commissioner may permit the filing of an annual direct pay permit return and the amount of tax shown thereon to be due shall be remitted on or before the last day of January each year. 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 such terms as the tax commissioner may require, for the making and filing of direct pay permit returns and paying the tax due. Interest on such tax shall be chargeable on every such extended payment at the rate specified in section seventeen, article ten of this chapter.

(c) A permit issued pursuant to this section shall continue to be valid until expiration of the taxpayer's registration year under article twelve of this chapter. This permit shall automatically be 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 shall not be required to pay the tax to the vendor as otherwise provided in this article or article fifteen of this chapter. Such 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 such notice, such vendor shall be 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 such 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 such manner that the amount involved and identity of each such
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 such permit, and such person shall promptly so notify in writing vendors from whom tangible personal property or services are purchased of such cancellation or surrender. Upon receipt of such notice, the vendor shall be 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 such person.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage

Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 30th day of March, 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/25/94
Time 9:40am