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**WEST VIRGINIA LEGISLATURE**

FIRST EXTRAORDINARY SESSION, 1996



**ENROLLED**

SENATE BILL NO. 4

(By Senators TOUBLIN MR. PRESIDENT, AND BALEY,  
By REQUEST OF THE EXECUTIVE)



PASSED July 14, 1996  
In Effect From Passage

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AN ACT to repeal section nine-b, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section nine-d of said article, all relating to repealing the current method for claiming exemptions, refunds of tax and credits against other taxes; providing for direct pay permits; validity of permit; promulgation of rules by the tax commissioner; filing of monthly returns by the permit holder along with remittance of the tax due; permitting quarterly or annual returns in lieu of the monthly returns; extensions of payment with interest; automatic renewal of the permit; notifying the vendor of the direct payment number; maintenance of records by the vendor; and expiration, cancellation or surrender of a direct pay permit.

*Be it enacted by the Legislature of West Virginia:*

That section nine-b, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section nine-d of said article be amended and reenacted, all to read as follows: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,  
2 the tax commissioner may, pursuant to rules promul-  
3 gated by him or her in accordance with article three,  
4 chapter twenty-nine-a of this code, authorize a person  
5 that is a user, consumer, distributor or lessee to which  
6 sales or leases of tangible personal property are made or  
7 services provided, to pay any tax levied by this article or  
8 article fifteen-a of this chapter directly to the tax  
9 commissioner and waive the collection of the tax by that  
10 person's vendor. No such authority shall be granted or  
11 exercised except upon application to the tax commis-  
12 sioner and after issuance by the tax commissioner of a  
13 direct pay permit. Each direct pay permit granted  
14 pursuant to this section is valid until surrendered by the  
15 holder or canceled for cause by the commissioner. The  
16 commissioner shall prescribe by rules promulgated in  
17 accordance with article three, chapter twenty-nine-a of  
18 this code, those activities which will cause cancellation  
19 of a direct pay permit issued pursuant to this section.  
20 Upon issuance of a direct pay permit, payment of the tax  
21 imposed or assertion of the exemptions allowed by this  
22 article or article fifteen-a of this chapter on sales and  
23 leases of tangible personal property and sales of taxable  
24 services from the vendors of the personal property or  
25 services shall be made directly to the tax commissioner  
26 by the permit holder.

27 (b) On or before the fifteenth day of each month, every  
28 permit holder shall make and file with the tax commis-  
29 sioner a consumers sales and use tax direct pay permit  
30 return for the preceding month in the form prescribed by  
31 the tax commissioner showing the total value of the  
32 tangible personal property used, the amount of taxable

33 services purchased, the amount of consumers sales and  
34 use taxes due from the permit holder, which shall be  
35 paid to the tax commissioner with the return, and such  
36 other information as the tax commissioner considers  
37 necessary: *Provided*, That if the amount of consumers  
38 sales and use taxes due averages less than one hundred  
39 dollars per month, the tax commissioner may permit the  
40 filing of quarterly returns in lieu of monthly returns and  
41 the amount of tax shown on the returns to be due shall  
42 be remitted on or before the fifteenth day following the  
43 close of the calendar quarter; and if the amount due  
44 averages less than fifty dollars per calendar quarter, the  
45 tax commissioner may permit the filing of an annual  
46 direct pay permit return and the amount of tax shown on  
47 the return to be due shall be remitted on or before the  
48 last day of January each year. The tax commissioner,  
49 upon written request by the permit holder, may grant a  
50 reasonable extension of time, upon such terms as the tax  
51 commissioner may require, for the making and filing of  
52 direct pay permit returns and paying the tax due.  
53 Interest on the tax shall be chargeable on every extended  
54 payment at the rate specified in section seventeen,  
55 article ten of this chapter.

56 (c) A permit issued pursuant to this section is valid  
57 until expiration of the taxpayers registration year under  
58 article twelve of this chapter. This permit shall automat-  
59 ically be renewed when the taxpayers business registra-  
60 tion certificate is issued for the next succeeding fiscal  
61 year, unless the permit is surrendered by the holder or  
62 canceled for cause by the tax commissioner.

63 (d) Persons who hold a direct payment permit which  
64 has not been canceled are not required to pay the tax to  
65 the vendor as otherwise provided in this article or article  
66 fifteen-a of this chapter. They shall notify each vendor  
67 from whom tangible personal property is purchased or  
68 leased or from whom services are purchased of their  
69 direct payment permit number and that the tax is being  
70 paid directly to the tax commissioner. Upon receipt of  
71 the notice, the vendor is absolved from all duties and

72 liabilities imposed by this chapter for the collection and  
73 remittance of the tax with respect to sales of tangible  
74 personal property and sales of services to the permit  
75 holder. Vendors who make sales upon which the tax is  
76 not collected by reason of the provisions of this section  
77 shall maintain records in such manner that the amount  
78 involved and identity of each purchaser may be ascer-  
79 tained.

80 (e) Upon the expiration, cancellation or surrender of a  
81 direct payment permit, the provisions of this chapter,  
82 without regard to this section, shall thereafter apply to  
83 the person who previously held the permit, and that  
84 person shall promptly notify in writing vendors from  
85 whom tangible personal property or services are pur-  
86 chased or leased of the cancellation or surrender. Upon  
87 receipt of the notice, the vendor is subject to the provi-  
88 sions of this chapter, without regard to this section, with  
89 respect to all sales, distributions, leases or storage of  
90 tangible personal property, thereafter made to or for that  
91 person.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Randy Schanover*  
.....  
Chairman Senate Committee

*Randy Seaman*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage

*Carroll Adams*  
.....  
Clerk of the Senate

*Bugary W. Bony*  
.....  
Clerk of the House of Delegates

*Carl Roy Tomblin*  
.....  
President of the Senate

*Ed Coker*  
.....  
Speaker House of Delegates

The within *is approved* this the *24<sup>th</sup>*  
day of *July*, 1996.

*Yastin Caperton*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 7/19/96

Time 3:53 *jmn*