

SENATE BILL REPORT

HB 1706

As Reported By Senate Committee On:
Ways & Means, March 22, 2001

Title: An act relating to granting the department of revenue the authority to issue direct pay permits.

Brief Description: Authorizing the department of revenue to issue direct pay permits.

Sponsors: By Representatives Morris and Cairnes; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 3/22/01 [DP].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Brown, Chair; Constantine, Vice Chair; Fraser, Hewitt, Honeyford, Kohl-Welles, Parlette, Rasmussen, Regala, Roach, Rossi, Sheahan, B. Sheldon, Snyder, Spanel, Thibaudeau and Winsley.

Staff: Terry Wilson (786-7433)

Background: The sales tax is paid on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, restaurant meals, physical fitness, and some recreation and amusement services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms and applies on the first use in the state.

The state tax rate is 6.5 percent. Local sales and use taxes also apply. The local sales tax is imposed by the jurisdiction in which the sale occurs. The local use tax is imposed by the jurisdiction where the property is first used. The total state and local sales tax rate imposed is between 7 percent and 8.6 percent, depending on the location.

The sales tax must be collected by the seller from the buyer and is held in trust by the seller until paid to the Department of Revenue. The use tax must be collected from the buyer by a business that maintains in this state a place of business or a stock of goods, or engages in business activities within this state. In all other cases, the use tax must be paid by the user.

Taxpayers with an annual tax liability of \$240,000 or more are required to pay taxes through an Electronic Funds Transfer (EFT) process. The department may allow other taxpayers to file tax returns or remittances electronically.

Direct payment is a program that allows a business to buy goods without payment of sales tax to the seller at time of purchase. Instead, the business would pay the sales tax due, if any, directly to the Department of Revenue. According to a survey by the Federation of Tax Administrators, 33 of the 40 states with sales taxes provide for the direct payment of sales tax. Application procedures, requirements, and restrictions vary widely. For example, California limits the program to taxpayers with at least \$75 million in taxable purchases in each calendar quarter, while Idaho allows participation whenever it is to the "mutual convenience of the Tax Commission, the taxpayer, and the taxpayer's vendors."

Summary of Bill: The Department of Revenue may grant a taxpayer a direct pay permit. The direct pay permit allows the taxpayer to accrue and remit directly to the department the use tax on the acquisition of tangible personal property and the sales tax on labor and services. To be eligible, a taxpayer must be required to use EFT or must make taxable purchases over \$10 million per year.

Application procedures are provided. The department must approve or deny an application based on the applicant's ability to comply with local government use tax coding capabilities and responsibilities; requirements for vendor notification; record keeping obligations; electronic data capabilities; and tax reporting procedures.

A taxpayer who uses a direct pay permit must continue to maintain records that are necessary to a determination of the tax liability. A direct pay permit is not transferable. A taxpayer using a direct pay permit must provide a copy to each vendor from whom the taxpayer purchases property. A direct pay permit may be revoked if the department determines that the taxpayer has violated permit requirements or if revocation would be in the best interests of collecting the taxes due.

If a taxpayer ceases to use a direct pay permit or the permit is revoked, the taxpayer must return the permit to the department and make a good faith effort to notify all vendors to whom the permit was given that the permit is no longer valid.

A direct pay permit may be used for any retail sale except:

- 1) Meals or beverages;
- 2) Motor vehicles, trailers, boats, airplanes, and other property requiring a title by the Department of Licensing;
- 3) Purchases for which a resale certificate may be used;
- 4) Lodging;
- 5) Auto towing;
- 6) Amusement and recreation services;
- 7) Abstract, title insurance, and escrow services;
- 8) Credit bureau services;
- 9) Auto parking and storage;
- 10) Professional sports tickets;
- 11) Physical fitness and other personal services;
- 12) Telephone services;
- 13) Other activities that the department designates by rule.

The use tax is based on the selling price if the purchase would have been subject to the sales tax. Local use taxes are imposed at the buyer's location rather than at the seller's location.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 2001.

Testimony For: (From SB 5725) This bill is good for the taxpayer and good for the Department of Revenue. Direct pay programs exist in 33 of the 45 states with a sales tax. It is simplification because it consolidates records for many transactions to one taxpayer. It lowers administrative costs for business. It eliminates the requirement that procurement personnel be tax experts. The tax status of all purchases are not known at the time of purchase, only at the time of use.

Testimony Against: None.

Testified: (From SB 5725) PRO: Tim Sekerak, DOR; Sandi Swarthout, Naomi Rush, ALCOA.