

AN ACT concerning revenue.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Retailers' Occupation Tax Act is amended by changing Section 2-10.5 as follows:

(35 ILCS 120/2-10.5)

Sec. 2-10.5. Direct payment program; purchaser's providing of permit to retailer; retailer relieved of collecting use tax and local retailers' occupation tax reimbursements from purchaser; direct payment of retailers' occupation tax and local retailers' occupation tax by purchaser.

(a) Beginning on July 1, 2001 there is established in this State a Direct Payment Program to be administered by the Department. The Department shall issue a Direct Pay Permit to applicants who have been approved to participate in the Direct Payment Program. Each person applying to participate in the Direct Payment Program must demonstrate (1) the applicant's ability to comply with the retailers' occupation tax laws and the use tax laws in effect in this State and that the applicant's accounting system will reflect the proper amount of tax due, (2) that the applicant has a valid business purpose for participating in the Direct Payment Program, and (3) how the applicant's participation in the Direct Payment Program

will benefit tax compliance. Application shall be made on forms provided by the Department and shall contain information as the Department may reasonably require. The Department shall approve or deny an applicant within 90 days after the Department's receipt of the application, unless the Department makes a written request for additional information from the applicant.

(b) A person who has been approved for the Direct Payment Program and who has been issued a Direct Pay Permit by the Department is relieved of paying tax to a retailer when purchasing tangible personal property for use or consumption, except as provided in subsection (d), by providing that retailer a copy of that Direct Pay Permit. A retailer who accepts a copy of a customer's Direct Pay Permit is relieved of the obligation to remit the tax imposed by this Act on the transaction. References in this Section to "the tax imposed by this Act" include any local occupation taxes administered by the Department that would be incurred on the retail sale.

(c) Once the holder of a Direct Pay Permit uses that Permit to relieve the Permit holder from paying tax to a particular retailer, the holder must use its Permit for all purchases, except as provided in subsection (d), from that retailer for so long as the Permit is valid.

(d) Direct Pay Permits are not valid and shall not be used for sales or purchases of:

- (1) food or beverage;

(2) tangible personal property required to be titled or registered with an agency of government; or

(3) any transactions subject to the Service Occupation Tax Act or Service Use Tax Act.

(e) Direct Pay Permits are not assignable and are not transferable. As an illustration, a construction contractor shall not make purchases using a customer's Direct Pay Permit.

(f) A Direct Pay Permit is valid until it is revoked by the Department or until the holder notifies the Department in writing that the holder is withdrawing from the Direct Payment Program. A Direct Pay Permit can be revoked by the Department, after notice and hearing, if the holder violates any provision of this Act, any provision of the Illinois Use Tax Act, or any provision of any Act imposing a local retailers' occupation tax administered by the Department.

(g) The holder of a Direct Pay Permit who has been relieved of paying tax to a retailer on a purchase for use or consumption by representing to that retailer that it would pay all applicable taxes directly to the Department shall pay those taxes to the Department not later than the 20th day of the month following the month in which the purchase was made. Permit holders making such purchases are subject to all provisions of this Act, and the tax must be reported and paid as retailers' occupation tax in the same manner that the retailer from whom the purchases were made would have reported and paid it, including any local retailers' occupation taxes

applicable to that retail sale. Notwithstanding any other provision of this Act, Permit holders shall make all payments to the Department through the use of electronic funds transfer.

(h) By March 31, 2025, and by March 31 of each year thereafter, each holder of a Direct Pay Permit shall review its purchase activity to verify that the purchases made during the 12-month period ending on December 31 of the immediately preceding calendar year were sourced correctly and that the correct tax rate was applied. If the holder of the Direct Pay Permit discovers an error in sourcing or the tax rate during the review process, then, by April 20 of the calendar year in which the review under this subsection occurs, the holder of the Direct Pay Permit shall file an amended return to correct the error. If, for any 12-month review period under this subsection, a holder of a Direct Pay Permit fails to properly verify purchase activity and correct sourcing and tax rate errors as required by this subsection and the rules adopted by the Department, then the Direct Pay Permit holder is liable to pay a penalty of \$6,000 to the Department, for deposit into the Tax Compliance and Administration Fund. However, the penalty under this subsection shall not be imposed if the Department finds that at least 95% of the Direct Pay Permit holder's transactions for the applicable 12-month review period are correctly sourced and the correct taxes have been remitted or the permit holder acted with ordinary business care and

prudence. For the purposes of this subsection, ordinary business care and prudence shall be determined in accordance with Section 3-8 of the Uniform Penalty and Interest Act. The Department may adopt rules to administer the penalties under this Section.

(Source: P.A. 92-484, eff. 8-23-01.)

Section 99. Effective date. This Act takes effect upon becoming law.