

Transmittal Sheet For Notice Of Intended Action

Control: 810 Department or Agency: Revenue
Rule Nos: 810-6-4-.14
Rule Title: Sales And Use Tax Direct Pay Permit

New; Amended; Repealed; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that result from the absence of the proposed rule? N/A

Are all the facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule relate to or effect any matter of litigation which the agency is a party to concerning the subject matter of the proposed rule? Yes

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency .

Signature of certifying officer
Date 09/20/2021



REC'D & FILED
SEP 20 2021
LEGISLATIVE SVC AGENCY

**ALABAMA DEPARTMENT OF REVENUE
Sales and Use Tax**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-6-4-.14

Sales And Use Tax Direct Pay Permit

INTENDED ACTION

Amended

**SUBSTANCE OF
PROPOSED ACTION:**

In accordance with the Red Tape Reduction Act 2013-88, this rule has been reviewed and is being amended to simplify the procedural language for the direct payment permit process.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be conducted at **01:30 PM on Tuesday, November 09, 2021** via web-conference. To participate in the upcoming web-conference public hearing please contact the Tax Policy and Governmental Affairs Division at Taxpolicy@revenue.alabama.gov or 334-242-1380 to obtain the appropriate sign-in information for a specific public hearing date. Copies of the rule(s) can be obtained at <http://www.revenue.alabama.gov/tax-policy/>.

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also may present their views during the web-conference.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, November 09, 2021

CONTACT PERSON AT AGENCY:

Meagan Barrett

Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Mary Martin Mitchell, Secretary
Alabama Department of Revenue

810-6-4-.14 Sales And Use Tax Direct Pay Permit.

(1) **Requirements.** ~~Where the Department finds that it is practically impossible at the time of purchase for a manufacturer, transportation company, or persons engaged in the business of mining, quarrying, compounding, or processing tangible personal property, or their vendors, to determine with any degree of certainty the applicability of sales or use tax upon purchases of tangible personal property and where it would facilitate and expedite the collection of the taxes to permit the manufacturer, transportation company, or person engaged in the business of mining, quarrying, compounding or processing tangible personal property to purchase tangible personal property without payment to the vendor of the sales or use tax upon, or with respect to, the property, the manufacturer, transportation company, or person engaged in the business of mining, quarrying, compounding or processing tangible personal property upon application therefor may be permitted to purchase tangible personal property without payment to the vendor of Alabama sales or use tax subject to~~ Direct pay permits issued by the department authorize a business to make certain purchases from vendors without payment of state sales and use tax as well as county and municipal sales and use taxes administered by the department. In order to maintain the direct pay permit, the following conditions must be met:

(a) ~~The permit holder shall purchase all tangible personal property without payment of sales or use tax to the seller, and report and pay all sales and use tax directly to the Department of Revenue. All purchases of tangible personal property made with a direct pay permit must be reported directly to the department.~~

(b) ~~The permit holder shall must report the sales and use tax upon on forms approved by the Ddepartment and shall must pay the taxes directly to the Sstate Department of Revenue. Unless the permit holder qualifies to file and pay sales and use taxes on a quarterly, semi-annually, or annual calendar quarter or calendar year basis, sales and use taxes must be reported and paid monthly on or before the twentieth day of the month following the month during which the tangible personal property was used for a taxable purpose. See Rule 810-6-5-30 Filing and Paying State Sales and Use Taxes and State Administered County and Municipal Sales and Use Taxes on a Quarterly or Annual Basis. (Sections 11-51-211(a)(1), 11-51-211(a)(2), 40-23-7, and 40-23-68, Code of Ala. 1975)~~

(c) ~~The permit holder shall be is required to keep the books and records necessary to determine the permit holder's correct tax liability, which records shall be All books and records are subject to examination by the Ddepartment.~~

(d) ~~Upon demand of the Department the permit holder shall execute a bond or indemnity agreement securing the payment of the taxes to the~~

~~Department in an amount not exceeding estimated sales tax liability for three months and estimated use tax liability for six months.~~

~~(e) (d) The direct pay permit does not extend to construction contracts. The contractor is the consumer of Sales Tax is due on building materials, consumed by a contractor used in the performance of construction contracts, and must pay the sales tax to the seller at the time of purchasing tangible personal property from vendors in Alabama, and use tax to the seller on purchases of tangible personal property from the vendors located outside of Alabama. If the use tax is not paid to the seller, the contractor is required to pay the tax consumers use tax directly to the Ddepartment of Revenue.~~

~~(f) (e) The direct pay permit ~~shall is~~ not be transferable and can be revoked by the department may be canceled upon notice by registered mail to the permit holder.~~

(2) Application Required. The An application for a sales and use tax direct pay permit shall is required and available from the department, the following information:

- ~~(a) Applicant's Federal Employer Identification Number,~~
- ~~(b) Applicant's legal name and complete mailing address,~~
- ~~(c) Business address(es) in Alabama including city, county, and street address or, if location is on highway or rural route, including details sufficient to allow Department personnel to find the place of business,~~
- ~~(d) Indication of the nature of business (e.g. steel manufacturing, auto manufacturer, etc.),~~
- ~~(e) Business phone number,~~
- ~~(f) Desired effective date of permit, and~~
- ~~(g) Signature and title of sole proprietor, each partner, or an elected corporate officer and the date of each signature.~~

(3) Permit Issued. Sales and use tax Upon approval of an application, a direct pay permits is issued by the Ddepartment, of Revenue shall contain the following information:

- ~~(a) Taxpayer's direct pay permit number, legal name, and complete address,~~
- ~~(b) Permit holder's principal business location,~~

- ~~(c) Nature of the permit holder's business,~~
- ~~(d) Effective date of the permit,~~
- ~~(e) Statement of the conditions to which the permit is subject,~~
- ~~(f) Legal name of the applicant for the direct pay permit, the date the application was filed, and the date the Department of Revenue approved the application,~~
- ~~(g) Signature on behalf of the Department of Revenue and the date signed, and~~
- ~~(h) Attesting signature of the Departmental Secretary.~~

~~(4) Returns Provided. Sales tax direct pay permit returns shall require the following information are provided through the department's electronic filing system, My Alabama Taxes.:~~

- ~~(a) Taxpayer's sales tax direct pay permit account number, legal name, and complete address,~~
- ~~(b) Period covered by the return and due date of the return,~~
- ~~(c) Estimated tax due for the current month, if applicable,~~
- ~~(d) A breakdown, by applicable tax rate, of total gross purchases of tangible personal property from Alabama vendors,~~
- ~~(e) Credit allowed for automotive vehicles traded in, if applicable,~~
- ~~(f) A breakdown, by otherwise applicable tax rates, of total deductions claimed,~~
- ~~(g) Measure of tax by applicable tax rate,~~
- ~~(h) Gross tax due by applicable tax rate,~~
- ~~(i) Total gross amount of tax due,~~
- ~~(j) Estimated tax paid on previous month's return, if applicable,~~
- ~~(k) Tax due after deducting credit for previous month's estimate,~~
- ~~(l) Total tax due (tax due plus current month's estimate), if applicable,~~

- ~~(m) Penalties and interest due, if applicable,~~
- ~~(n) Credits claimed,~~
- ~~(o) Total amount due,~~
- ~~(p) Total amount remitted,~~
- ~~(q) An indication if payment of tax is made through electronic funds transfer (EFT), and~~
- ~~(r) Taxpayer's signature and the date signed.~~

(5) Purchases to Report. ~~Only~~ purchases from Alabama vendors shall must be reported by the permit holder on the sales tax direct pay permit returns outlined in paragraph (4). Purchases by direct pay permit holders from out of state vendors shall must be reported separately on consumers use tax returns.

Author: Dan DeVaughn, ~~Asst. Chief, Sales Tax Div. and Lee Ann Rouse~~
Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, and 40-23-83.
History: Amended: August 16, 1974, readopted through APA effective October 1, 1982. Amended: Filed May 6, 1992.
 Amended: Filed February 26, 1996; effective April 1, 1996.
 Amended: Filed September 15, 1998; effective October 20, 1998.
 Amended: Filed September 20, 2021; effective