

1 AN ACT concerning revenue.

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

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

6 (35 ILCS 120/2-10.5)

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

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

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

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

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

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

26 (1) food or beverage;

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

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

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

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

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

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

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

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

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

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