

59-12-107.1 Direct payment permit.

- (1) The commission may issue a direct payment permit to a seller that:
 - (a) obtains a license under Section 59-12-106;
 - (b) makes aggregate purchases of at least \$1,500,000 for each of the three years prior to the year in which the commission issues the direct payment permit to the seller;
 - (c) has a record of timely payment of taxes under this chapter as determined by the commission; and
 - (d) demonstrates to the commission that the seller has the ability to determine the appropriate location of a transaction:
 - (i) under:
 - (A) Section 59-12-211;
 - (B) Section 59-12-212; or
 - (C) Section 59-12-213; and
 - (ii) for each transaction for which the seller makes a purchase using the direct payment permit.
- (2) The commission shall within 120 days after the date a seller applies for a direct payment permit notify the seller of the commission's decision to issue or deny the issuance of the direct payment permit.
- (3) A direct payment permit may not be used in connection with the following transactions:
 - (a) a purchase of the following purchased in the same transaction:
 - (i) prepared food; and
 - (ii) food and food ingredients;
 - (b) amounts paid or charged for accommodations and services described in Subsection 59-12-103(1)(i);
 - (c) amounts paid or charged for admission or user fees under Subsection 59-12-103(1)(f);
 - (d) a purchase of:
 - (i) a motor vehicle;
 - (ii) an aircraft;
 - (iii) a watercraft;
 - (iv) a modular home;
 - (v) a manufactured home; or
 - (vi) a mobile home;
 - (e) amounts paid under Subsection 59-12-103(1)(b); or
 - (f) sales under Subsection 59-12-103(1)(c).
- (4) The holder of a direct payment permit shall:
 - (a) present evidence of the direct payment permit to a seller at the time the holder of the direct payment permit makes a purchase using the direct payment permit;
 - (b) determine the appropriate location of a transaction under:
 - (i)
 - (A) Section 59-12-211;
 - (B) Section 59-12-212; or
 - (C) Section 59-12-213; and
 - (ii) for each transaction for which the holder of the direct payment permit makes a purchase using the direct payment permit;
 - (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax due on each transaction for which the holder of the direct payment permit uses the direct payment permit;

- (d) report and remit to the commission the sales and use tax described in Subsection (4)(c) at the same time and in the same manner as the holder of the direct payment permit reports and remits a tax under this chapter; and
- (e) maintain records:
 - (i) that indicate the appropriate location of a transaction under:
 - (A)
 - (I) Section 59-12-211;
 - (II) Section 59-12-212; or
 - (III) Section 59-12-213; and
 - (B) for each transaction for which a purchase is made using the direct payment permit; and
 - (ii) necessary to determine the amount described in Subsection (4)(c) for each transaction for which the holder of the direct payment permit uses the direct payment permit.
- (5) A seller that is presented evidence of a direct payment permit at the time of a transaction:
 - (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the transaction;
 - (b) shall, for a period of three years from the date the seller files a return with the commission reporting the transaction, retain records to verify that the transaction was made using a direct payment permit; and
 - (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the transaction.
- (6) The holder of a direct payment permit may calculate the amount the holder of the direct payment permit may retain under Section 59-12-108 on the amount described in Subsection (4)(c):
 - (a) for each transaction for which the holder of the direct payment permit uses the direct payment permit; and
 - (b) that the holder of the direct payment permit remits to the commission under this section.
- (7) The commission may revoke a direct payment permit issued under this section at any time if the holder of the direct payment permit fails to comply with any provision of this chapter.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section.

Amended by Chapter 382, 2008 General Session

Amended by Chapter 384, 2008 General Session