



December 1, 2007

Notice to Direct Payment Permit Holders

Sales and Use Tax Changes Effective January 1, 2008

Direct pay permit holders are allowed to purchase otherwise taxable merchandise and taxable services without payment of sales and use tax to the vendor at the time of the purchase. The holder of a direct pay permit will continue to make a determination of the taxability and to report and pay the applicable state and local sales and use taxes directly to the Department of Finance and Administration.

Sourcing of Direct Pay Purchases: Beginning January 1, 2008, direct pay permit holders will remit state and local sales and use taxes based on the rates applicable to the city and county where they take receipt or delivery of the purchase. The terms "receive" and "receipt" mean taking possession of tangible personal property or making first use of services. The terms do not include possession by a shipping company on behalf of a purchaser.

Taxation of Services – In-State and Out-of-State Purchases: Beginning January 1, 2008, state and local sales and use tax for taxable services will be collected based on where the direct pay permit holder receives the service. If the service is not received at the seller's business location, the local taxes due are based on where the purchaser takes receipt of the service provided. Services subject to tax under Arkansas sales and use tax code provisions that are purchased from vendors located outside of Arkansas are also subject to tax in Arkansas if first use of the service occurs within the State. Local sales and use tax is due based on place of receipt of the services. Credit will be given for taxes legally imposed and paid to the vendor in the state where the taxable service was performed.

Elimination of Local Tax Caps: Beginning January 1, 2008, local tax caps on single transactions will no longer apply when sellers collect city and county sales and use taxes. Sellers will begin collecting local sales taxes on the total invoice amount. The local tax cap will continue to apply to the first \$2500 per item on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes and sellers will continue to apply the cap on sales of those items only.

Rebates or Refunds of Additional Local Tax Paid: Direct Pay permit holders are eligible for a rebate or refund of the additional local tax paid on qualifying business purchases if tax is remitted to the seller on purchase invoices that exceed \$2500.00 or when self accruing the tax. For purposes of determining eligibility of the rebate for taxes paid to the seller and for determining eligibility when self accruing, a qualifying business purchase is defined to mean a purchase of tangible personal property or a taxable service for which a business may claim a business expense deduction or depreciation deduction for federal income tax purposes.

To calculate the rebate or refund amount and the limits when self accruing the tax, a uniform single transaction definition has been adopted effective January 1, 2008:

"Single transaction shall mean any sale of tangible personal property or taxable service reflected on a single invoice, receipt, or statement for which an aggregate sales or use tax amount has been reported or remitted to the state for a single local taxing jurisdiction."

Claiming Local Tax Rebates on Monthly Reporting Forms: The Department of Finance and Administration in its special mailing dated December 1, 2007 regarding "Changes in Arkansas Sales and Use Tax Law Effective January 1, 2008", provided instructions for registered businesses to claim rebates and refunds of the additional local taxes paid to sellers on invoice purchases that exceed \$2,500. Direct pay permit holders should follow these same instructions for rebates and refunds of the additional local taxes paid to sellers on business purchases.

Claiming Local Tax Rebates when Self-Accruing the Local Tax: For purchases upon which the Direct Pay Permit Holder is self-accruing state and local taxes, the taxable amount to be reported for local taxes for each purchase invoice should be limited to a \$2,500.00 amount. This procedure will allow the Direct Pay Permit Holder to “self-rebate” the additional local tax at time of tax payment to DFA and avoid the necessity of remitting local tax on the total invoice amount and subsequently requesting rebates and refunds on eligible transactions. This is the same accounting and reporting procedure as the current practice of capping each invoice with the exception of applying the new single transaction definition that is applicable for all local taxing jurisdictions.

Additional Changes to Sales and Use Tax Code Provisions: This notice is designed to offer general guidance and information and is not meant to be all inclusive. Additional information is found in your mailing dated December 1, 2007 regarding “Changes in Arkansas Sales and Use Tax Law Effective January 1, 2008”. Changes in Arkansas Sales and Use Tax Code provisions have also been adopted for sales and purchases of certain types of products and services. Included within these changes are new provisions regarding sales and purchases of medical equipment and prosthetic devices and telecommunications and related services.

Businesses must familiarize themselves with the upcoming changes in Arkansas law that affect their business, and should contact the Department of Finance and Administration for assistance.

To request a written legal opinion concerning taxation for a specific type of transaction, please contact:

Office of Revenue Legal Counsel
P. O. Box 1272
Little Rock AR 72203

Should you have any questions you are encouraged to contact the Sales and Use Tax Section at 501-682-7104 or you may visit our website at: www.state.ar.us/salestax . If you prefer to e-mail your questions, the e-mail address for the Sales and Use Tax Section is sales.tax@rev.state.ar.us .