COMPLIANCE ALERT——

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

Changes to Increase Participant Compliance in the Illinois Department of Revenue's Direct Pay Permit Program

December 2024

Compliance Problem

The Illinois Department of Revenue (IDOR) has determined that many participants in the Direct Pay Permit program (DPP) are not in compliance with the record-keeping, filing, and payment requirements for purchases made under DPP. Specifically,

- local governments and other authorities that are dependent upon IDOR for distributions included in the Illinois Retailers' Occupation Tax are not receiving the correct amount of distributions as a result of DPP participants failing to comply with program requirements.
- participants are not filing amended returns to correct tax rates on and sourcing of transactions.
- participants are not remitting any additional tax due on incorrectly-sourced transactions.

Solution

Under Public Act 103-0966, the General Assembly has enacted new reporting requirements and a penalty to promote proper compliance with DPP. Participants should familiarize themselves with the changes to DPP, as indicated below.

Note: Prior to the due date of the annual transactional reporting, IDOR will issue a Notice of Direct Pay Annual Review to taxpayers reminding them of their annual reporting obligations.

- Effective January 1, 2025, participants are responsible for completing an annual review of all transactions for the previous calendar year, and submit confirmation of the annual review via their MyTax Illinois account, no later than March 31, of the following calendar year.

  Note: If the taxpayer was in business for less than 12 months during the calendar year, or part of the calendar year is under an active audit with IDOR, the annual review must still be conducted for the short-year period in which the business was operational or not under audit.

- Participants are responsible for filing Form ST-1-X, Amended Sales and Use Tax and E911 Surcharge Return, for any filing period in which a transaction was not taxed at the correctly-sourced rate, and remitting any additional tax liability, no later than April 20 of the following calendar year.

Consequences

- Failure to comply with any of the reporting, filing, and payment requirements, as stated in P.A. 103-0966 may result in a penalty of $6,000 for the transactional review reporting period, if less than **95 percent** of the total applicable transactions are found to be incorrectly sourced upon audit of the account for the reporting and filing periods. The penalty is limited to a one-time assessment per annual transaction reporting period.

  A transactional review reporting period of less than twelve months ("short-year period") does not negate the requirement to conduct your annual transaction review, and submit any corrections or payment for incorrectly sourced transactions. The short-year period prorates neither the 95 percent threshold, nor the $6,000.00 penalty.

  Note: The penalty may be waived if the participant can show that any errors were made while exercising ordinary business care and prudence, as provided by the Uniform Penalty and Interest Act.

- Continuous noncompliance with the annual transaction review and reporting requirements may result in the termination of the permit holder's participation in DPP.

Changes to Increase Participant Compliance in the Illinois Department of Revenue's Direct Pay Permit Program (continued)

Background

Since 2001, IDOR has allowed certain qualified taxpayers the cost-saving benefit of entering into the Direct Pay Permit Program. When approved for participation, IDOR issues a permit which allows the participant to purchase tangible personal property tax-free from their suppliers upon presentation of their IDOR-issued permit. As a result, the permit holder voluntarily assumes the responsibility to report and remit the amount of Retailers' Occupation Tax (ROT) on the purchase at the supplier's ROT rate, directly to IDOR.

Sales tax rates include taxes collected by IDOR and distributed to local governments. IDOR determines the amounts to distribute based on taxes that are reported and collected for each local authority. When a DPP holder fails to report and pay DPP transactions, or fails to assess the transaction at the appropriate location code and tax rate, local governments do not receive the correct amount of monies due to them.

An increasing number of transactions that are subject to the incorrect tax rates or sourcing locations have become a costly problem for both IDOR and local governments. In order to hold DPP owners responsible for their participation in the DPP program, the new reporting requirements and penalty have been implemented.

Questions

For more information,

- review our statute, 35 ILCS 120/2-10.5
- email us at **REV.IllinoisDirectPaymentProgram@Illinois.gov**
- visit our website at tax.illinois.gov, or scan the QR code provided

Note: Language assistance services are available upon request and are free of charge.

The content of this compliance alert is informational only and does not take the place of statutes, rules and regulations, or court decisions.

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