

Reseller Permit

Background:

The 2009 legislature hastily passed and the Governor signed SB 6173 to change the resale certificate into a seller's permit issued by the DOR. The goal is to improve sales tax compliance and raise additional revenue. The former resale certificate was self-issued while the new seller's permit requires approval and issuance by the DOR. Nationally, businesses may use a self-issued form that is more similar to the former resale certificate or retain the appropriate data electronically/digitally as allowed through the Streamlined Sales and Use Tax Agreement and the Multistate Tax Commission requirements.

Problem:

The new reseller permit law goes into effect on January 1, 2010 but several legislative changes will be required to prevent undue hardship on businesses. While officially called a "seller's permit", this name is confusing to vendors and to businesses that make purchases for resale (The Department of Revenue is calling the permit a "Reseller's Permit," which is more accurate). Additionally, contractors have different eligibility criteria than other businesses because of the emphasis lawmakers placed on the underground economy for improved sales tax compliance, which increases the compliance burden for contractors. Further, confusion exists over what forms will be accepted by the Department of Revenue (DOR) from multi-state employers. Finally, the law lacks sufficient safe harbor protections for businesses that rely on agency information or use electronic/digital data storage in place of a copy of the seller's permit. The law also fails to incorporate provisions allowing sellers under audit to prove through other means that sales were correctly made for resale.

Solution:

1. Clarify terminology in the seller's permit law to end confusion by officially renaming the program to a "reseller" permit.
2. Improve contractor requirements by allowing the automatic issuance of permits for eligible businesses, change the time frame from one year to two and coordinate statutory definitions for different types of contractors.
3. Provide safe harbor provisions for businesses that rely on agency provided data through a voluntary automatic verification process and allow DOR or sellers to supplement audit information from their own data and other sources to prove that sales were made for resale.
4. Allow a single use reseller permit for companies with intermittent needs (e.g., spec builder obtaining a single use reseller permit for a single retail construction job).
5. Ensure the acceptance by DOR and state businesses of uniform resale certificates or its electronic/digital equivalent from multi-state businesses
6. Coordinate existing tax exemption certificates with the reseller permit.