CHAPTER 13

Contract for Reimbursement of Federal Manufacturer’s Excise Tax

**SECTION 32‑13‑110.** Contract for reimbursement of federal manufacturer’s excise tax; security for payment.

 (A) If a contract calls for one party to reimburse the other party for the federal manufacturer’s excise tax levied by Part III, Subchapter A, Chapter 32 of the United States Internal Revenue Code, whether as a separate item or as part of the price, there exists for the party making the reimbursement a contractual right relating to the timing of that payment which may be invoked at the option of the party as provided in subsection (B).

 (B) The party making the reimbursement is not required to tender payment for the taxes more than one business day before the time that the other party is required to remit the taxes to the United States Internal Revenue Service.

 (C) If a party exercises the option provided in subsections (A) and (B), the other party may demand security for the payment of the taxes in proportion to the amount the taxes represent compared to the security demanded on the contract as a whole. That party, however, may not change the other payment terms of the contract without a valid business reason other than to exercise the option as provided in subsections (A) and (B) except to require the payment of the taxes under the option to be made by electronic transfer of funds.

 (D) The party exercising the option provided in subsections (A) and (B) shall notify the other party in writing of the intent to exercise the payment option and the effective date of the exercise which must be no earlier than thirty days after the notice of intent is received or the beginning of the next federal tax quarter, whichever is later.

 (E) This section applies to all contracts now in effect which have no expiration date and are continuing contracts and to all other contracts entered into or renewed after the effective date of this section. A contract in force and effect on the effective date of this section, which, by its own terms terminates on a date subsequent to it, must be governed by the law as it existed before the effective date of this section.

 (F) The option provided for in subsections (A) and (B) does not impair the obligations arising under any contract executed before the effective date of this section. If the option provided for in subsections (A) and (B) is exercised, it does not relieve the party of the obligation to make the reimbursement as provided for in the contract but affects only the timing of when that reimbursement must be tendered.

HISTORY: 2004 Act No. 278, Section 2.