Title 35 Mississippi Department of Revenue

Part IV Sales and Use Tax

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Sub Part 01 Administrative

Chapter 01 Direct Payment of Sales or Use Tax to the State in Lieu of Payment to Seller

100 Statutory Authority

101 Miss. Code Ann. Section 27-65-93 provides that the Commissioner may provide for the issuance of a direct pay permit to manufacturers, utilities, construction contractors, companies receiving bond financing, and other taxpayers where in those instances the Commissioner determines that a permit will facilitate and expedite the collection of tax at the proper rates.

102 Taxes levied under Miss. Code Ann. Sections 27-65-17, 27-65-18, 27-65-19 (excluding the taxes levied against telecommunications services), 27-65-23, 27-65-24, 27-65-26 and 27-67-5 may be paid directly to the State by the holder of a direct pay permit. Taxes levied under any other Sections are not covered with the use of a direct pay permit including the contractor's tax levied under Miss. Code Ann. Section 27-65-21.

103 (Reserved)

200 Usage

201 The issuance of a direct pay permit transfers the liability of the tax directly to the permit holder in lieu of payment to the vendor and relieves vendors of the liability for the tax. The direct pay permit shall not be used to purchase telecommunications services exempt from tax. The tax due from these services must be remitted by the telecommunications provider due to the separate diversions for interstate and intrastate services.

202 If the permit holder continues to remit sales tax to the vendor rather than directly to state, the permit holder will be required to contact the vendor for a credit or refund of any overpayment resulting from this practice. This will be required even if the overpayment is discovered during a sales or use tax audit where there will be an assessment of additional tax made or in cases where the Statute of Limitation has run on a portion of the overpayment.

203 Direct pay permits will be issued to qualified industries and to taxpayers eligible to receive certain sales and use tax related incentives that will be project or special purpose related. Permits issued to qualified industries will be active as long as the taxpayer maintains the use tax account to which the permit is associated or until such time as the Commissioner revokes the permit. Project and special purpose related permits will be good only for the special purpose or for the eligible time frame associated with a specific project.

204 (Reserved)

300 Qualified Industry Permits

301 Manufacturers. The Commissioner requires all manufacturers and custom processors, with certain exceptions, to obtain a direct pay permit for purposes of accruing and paying the applicable sales and use tax due on all purchases of tangible personal property, utilities and services directly to the state in lieu of payment of the tax to the vendor.

302 Utilities. The Commissioner may also authorize or require any utility company to obtain a direct pay permit for purposes of accruing and paying the applicable sales and use tax on all purchases of tangible personal property and services directly to the state in lieu of payment of tax to the vendor.

303 Telecommunications Enterprises. The Commissioner may authorize or require any entity providing telecommunications services taxed under Miss. Code Ann. Section 27-65-19 to obtain a direct pay permit for purposes of accruing and paying the applicable sales and use tax on all purchases of tangible personal property, utilities and services directly to the state in lieu of payment of the tax to the vendor.

304 Floating Structures. The Commissioner requires the owners of casinos and other floating structures taxable under Miss. Code Ann. Section 27-65-18 to obtain a direct pay permit. The direct pay permit holder is responsible for accruing and paying the applicable sales and use tax on purchases of tangible personal property, utilities and services, as well as sales of tangible personal property that become a component of the structure or construction activities taxed under Miss. Code Ann. Section 27-65-18. This section requires that the owner furnish the permit to a seller or person performing construction activities on the floating structure. However, in those instances where a contract is issued covering both water based and land based construction activities taxed under Miss. Code Ann. Sections 27-65-18 and 27-65-21 respectively, the contractor is permitted to qualify the total contract and remit the 3½% contractor's tax due provided that the land based construction activity is in excess of $10,000.

305 (Reserved)

400 Project Related and Special Purpose Permits

401 Contractor. A contractor may obtain a letter granting the authority to purchase free-standing tangible personal property tax free to resell to an exempt entity in the performance of its construction project or for jobs where the contractor is purchasing manufacturing or process machinery for sale to an entity financing its project with bond proceeds or for an entity holding a valid statutory exemption.

402 Bond Proceeds Project. The Commissioner requires any entity wishing to take advantage of the sales tax exemptions provided for under Miss. Code Ann. Sections 57-10-1 et seq., 57-61-1 et. seq. and 57-71-1 et seq. to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. This direct pay permit is applicable only for purchases made for the specified project. The direct pay permit holder must accrue and pay the applicable sales and use tax on any purchases that are not made with or reimbursed with bond proceeds. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21 or vehicles tagged for highway use. The direct pay permit for this exemption will stand rescinded when the bond money is depleted and tax will once again be due to the vendor if the applicant is not a qualified industry.

403 Motion Picture Production Companies. The Commissioner requires any entity wishing to take advantage of the reduced manufacturing rate of tax provided for under Miss. Code Ann. Section 27-65-17(e) to obtain a direct pay permit for use in purchasing equipment used in the production of a motion picture, which shall not include the production of television coverage of news and athletic events, or a film, video, television series or commercial that contains any material or performance defined in Miss. Code Ann. Section 97-29-103. The direct pay permit must be provided to vendors in order to make purchases tax exempt. The holder of the permit is responsible for accruing and paying the correct rate of tax on all purchases made which are not exempt. Any direct pay permit issued to a motion picture production company will be production specific and stand rescinded when the production is complete.

404 Growth and Prosperity (GAP) Area Exemption. The Commissioner requires any entity wishing to take advantage of the exemption from sales tax provided for under Miss. Code Ann. Section 57-80-1 et seq. to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The GAP exemption is for a period of 10 years; however, the sales and use tax component of a GAP exemption covers only purchases of component materials and purchases or leases of machinery and equipment used in the initial construction or expansion of the business in the GAP area. The holder of the permit is responsible for accruing and paying the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21 or vehicles tagged for highway use. The direct pay permit for this exemption will stand rescinded when the project is complete and tax will once again be due to the vendor if the applicant is not a qualified industry.

405 National or Regional Headquarters Exemption. The Commissioner requires any entity wishing to take advantage of the exemption from sales tax provided for under Miss. Code Ann. Section 27-65-101(1)(r) to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The holder of the permit is responsible for accruing and paying the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21, vehicles tagged for highway use or on-going expense and supply items. The direct pay permit for this exemption will stand rescinded three (3) months after the initial startup date of the facility.

406 Broadband Technology. The Commissioner requires any telecommunications entity wishing to take advantage of the sales tax exemption or reduced rate provided for under Miss. Code Ann. Section 27-65-101(5) to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase qualified equipment exempt from tax. The holder of the permit is responsible for accruing and paying the correct rate of tax on all purchases made that are not exempt.

407 Major Economic Impact Project Exemption. The Commissioner requires any entity establishing or operating as a Major Economic Impact Project, as defined by Miss. Code Ann. Section 57-75-5(f), to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The holder of the permit is responsible for accruing and paying the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21.

408 Data/Information and Technology Intensive Enterprises Exemptions. The Commissioner requires any entity wishing to take advantage of the exemptions from sales tax provided for under Miss. Code Ann. Sections 27-65-101(1)(ff), 27-65-101(1)(gg), 27-65-101(3) and 27-65-101(4) to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The holder of the permit is responsible for accruing and paying the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21, vehicles tagged for highway use or on-going expense and supply items. The direct pay permit for this exemption will stand rescinded three (3) months after the initial startup date of the facility.

409 Clean Energy Business Enterprise, Aerospace Industry Enterprise, and Data Center Enterprise Exemptions. The Commissioner requires any entity wishing to take advantage of the exemptions from sales tax provided for under Miss. Code Ann. Sections 27-65-101(1)(kk), 27-65-101(1)(ll), 27-65-101(1)(mm) and 27-65-101(1)(nn) to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The holder of the permit is responsible for accruing and paying the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21, vehicles tagged for highway use or on-going expense and supply items.

410 Health Care Industry Zone Exemption. The Commissioner requires any entity wishing to take advantage of the exemptions from sales tax provided for under Miss. Code Ann. Sections 27-65-101(1)(kk) and 27-65-101(1)(mm) to obtain a direct pay permit. The direct pay permit holder must present the permit to its vendors in order to purchase tangible personal property and services exempt from tax. The holder of the permit is responsible for accruing and paying the correct rate of tax on all purchases made which are not exempt. The exemption does not apply to any contractor's tax levied under Miss. Code Ann. Section 27-65-21, vehicles tagged for highway use or on-going expense and supply items. The direct pay permit for this exemption will stand rescinded three (3) months after the completion of the facility, addition or improvement.

411 In order to receive an exemption, the exempt items must be sold directly to, billed or invoiced directly to and paid for directly by the entity receiving the exemption.

412 If a person improperly uses a direct pay permit or letter granting the authority to make tax exempt purchases, that person may still be liable for tax that would normally have been paid to the vendor.

413 (Reserved)

500 Filing Requirements

501 Use tax returns are required to be filed based upon the filing status assigned by the Department. Any tax due on taxable purchases by the permit holder must be reported on its return. Any other sales tax liability of the permittee shall be reported under a separate account.

502 A direct pay permit is subject to revocation when the Commissioner determines that the best interest of the state will be served in so doing.

503 (Reserved)

35.IV.01.01 revised effective April 1, 2018.

Chapter 02 Damages for Delinquent Payment of Tax

100 The Sales Tax Law requires that monthly sales tax returns shall be filed by the twentieth of the month following the period covered, and quarterly sales tax returns shall be filed by the twentieth of the month following the end of the quarter. Persistent, willful or recurring failure to file such returns on or before the due date subjects the taxpayer to damages and interest on the amount due.

101 Any taxpayer, to whom a sixty (60) day delinquent notice has been directed or who makes a payment after the due date, will be assessed a ten percent (10%) penalty and be subject to interest when the tax is paid. This penalty is applicable in those instances where the failure to pay is due to the taxpayers' negligence and the failure to comply is determined to be without the intent to defraud. The interest rate assessed on or after January 1, 2015, is:

1. Nine-tenths of one percent (9/10 of 1%) per month for taxes assessed on or after January 1, 2015, and before January 1, 2016;
2. Eight-tenths of one percent (8/10 of 1%) per month for taxes assessed on or after January 1, 2016, and before January 1, 2017;
3. Seven-tenths of one percent (7/10 of 1%) per month for taxes assessed on or after January 1, 2017, and before January 1, 2018;
4. Six-tenths of one percent (6/10 of 1%) per month for taxes assessed on or after January 1, 2018, and before January 1, 2019; and
5. One-half of one percent (1/2 of 1%) per month for taxes assessed on or after January 1, 2019.

102 In the instance a taxpayer makes a late payment, and it is determined by the Commissioner that there is intentional disregard of the law or done with intent to defraud, there will be a fifty percent (50%) penalty assessed. This penalty will be used when the taxpayer continually pays late, when an underpayment of tax by one hundred percent (100%) or more is discovered during an audit or when an audit of taxpayer records reveals an attempt to disguise or hide taxable transactions. This penalty will not be assessed if the taxpayer can prove reasonable cause for failure to comply.

103 A penalty of three hundred percent (300%) of the tax due will be assessed if it is proved by preponderance of the evidence, from the taxpayer's records that tax was collected and then knowingly and intentionally not remitted. The taxpayer cannot be presumed to have collected the tax. The penalty can be assessed in addition to the ten percent (10%) or the fifty percent (50%) late pay penalty.

104 The only exceptions to this procedure will be in those cases where the taxpayer makes a bond, or when the taxpayer requests, and is granted an extension of time in which to file, as provided by Section 27-65-33. When the taxpayer makes bond, returns may be filed quarterly; and if the extension is granted, returns may be filed before expiration of the extension without penalty.

105 The taxpayer discount will not be allowed on returns which are filed after the twentieth of the month following the period covered or if the return is not fully paid. The granting of extensions of time in which to file returns does not extend the period for claiming the discount. In the instance a taxpayer files and pays a timely return claiming a discount, and then subsequently files an amended return owing more tax, the discount claimed shall be added back in the amended calculation.

106 (Reserved)

Chapter 03 Sales Tax Bonds

100 The Sales Tax Law provides that cash or surety bonds be filed in various instances where the revenue of the State of Mississippi must be protected and the payment of taxes assured. Bonds are required in the following circumstances, however, the Commissioner does retain

the authority to require a taxpayer to post a bond for other circumstances where the Commissioner feels it is necessary.

101 Any taxpayer operating a business from their home or from a temporary location (less than 90 day lease), shall be required to post a cash or surety bond prior to receiving a Sales Tax Permit to engage in business. The cash bond or approved surety bond shall be in an amount sufficient to cover the estimated tax liability for a six-month period. The amount of the bond shall be set by the Commissioner.

102 A temporary location includes, but is not limited to, an event held for a limited period of time that may include the issuance of a temporary beer license. Any taxpayer who can demonstrate that they operate a permanent business location in this State may be exempted from posting a bond for a temporary event.

103 Any taxpayer operating a new or used mobile home dealership shall be required to post a cash or surety bond prior to receiving a Sales Tax Permit to engage in business. The amount of the bond shall be $25,000 for a dealer of new mobile homes and $10,000 for a dealer of used mobile homes, unless the taxpayer or Commissioner can show cause for another amount to be accepted.

104 Any manufactured home dealer who files delinquent tax returns for more than one period in a calendar year or who presents a check for payment of tax that is returned by the bank for insufficient funds, shall be required to post a bond equal to six months' tax liability. The six months' liability shall be determined by accumulating the past 12 months' liability (determined by returns filed or audit results) and dividing by 2.

105 Any person who fails to comply with all the provisions of the sales tax law forfeits his right to do business in this state until such time as the person shall comply with all the provisions, post an adequate surety bond as established by the Commissioner and pay all taxes legally due. A surety bond will be required for any person who:

1. Fails to obtain a sales tax permit before going into business;
2. Continues to operate a business after revocation of the sales tax permit;
3. Fails to file their sales tax returns;
4. Fails to keep adequate records and invoices as required by the sales tax laws;
5. Fails or refuses to permit inspection of records; or
6. Fails to pay any taxes due under the sales tax laws.

The surety bond shall be in an amount sufficient to cover the estimated tax liability for a six months' period and conditioned that all taxes accruing in the future will be paid when due.

106 A taxpayer petitioning for a hearing prior to sale of property which has been seized under a jeopardy warrant must execute a supersedeas surety bond with a surety company doing business in this state for double the amount of the assessment. The bond must be conditioned that any taxes, damages, interest and costs adjudged to be due after the hearing will be paid promptly upon order of the Department of Revenue.

107 Contractors performing contracts in excess of $75,000 must post a bond, prior to beginning construction, on any taxable contracts performed in this State unless the tax is prepaid. The bonds shall be either a job bond which guarantees payment when due of the taxes resulting from performance of a specified job or activity regardless of date of completion or a blanket bond which guarantees payment when due of the taxes resulting from performance of all jobs or activities taxable under Miss. Code Ann. Section 27-65-21 begun during the time period covered by the bond regardless of the date of completion of the job. The bond must be sufficient to cover the liability for sales, use, income, withholding and motor fuel taxes. The bond must be approved by the Commissioner. When a bond is filed, the sales tax due under Miss. Code Ann. Section 27-65-21 must be paid on a monthly basis as compensation is received.

108 The surety on the tax bond is secondarily liable for all taxes due on the contract covered by the bond. When a contractor defaults on the execution of his contract and the bonding company acting as surety for the performance of the contract assumes completion of the contract, the bonding company becomes primarily liable for the payment of the sales, use, income, withholding and motor fuel taxes accruing as a result of its activities and is subject to the same bonding requirements and MPC (material purchase certificate) requirements as the original contractor.

109 (Reserved)

35.IV.01.03 revised effective July 1, 2018

Chapter 04 Reserved

35.IV.1.04 updated effective September 1, 2018

Chapter 05 Taxpayer Discount

100 Taxpayers must file a single sales tax return which includes all individual permit locations. Taxpayers should file a consolidated use tax return.

101 For prompt filing and payment of all taxes due, certain taxpayers are allowed a 2% discount of the tax liability subject to the following limitations:

1. It shall not exceed $50.00 per calendar reporting period (monthly, quarterly, or annually), per permit location on each sales tax return and on each use tax return.
2. Total shall not exceed $600.00 per permit location per calendar year.
3. The discount is not available to:
   a. Contractors
   b. County or State agencies serving as collectors of sales or use tax
   c. Public utilities
   d. Wholesalers collecting the wholesale rates of tax which are equal to or greater than the tax rate applicable to retail sales of the same property or service.
   e. Any person failing to file by the 20th day following the reporting period. The granting of extensions of time does not extend the period for claiming the discount.

An authorized extension avoids imposition of penalty and interest on returns filed by the extended due date, but the discount is confined by Statute to returns filed within twenty (20) days after the reporting period only.

f. Any person found deficient in the payment of his liability for any period. When a deficiency assessment amounts only to a very small percentage of the total tax paid, approval may be given to allow the discount.

102 (Reserved)

Chapter 06 Definitions

100 Credit for tax paid to another state – An individual, who imports property into Mississippi, is entitled to a tax credit for taxes paid to another state at either the state or local level or both. The tax credit is the smaller of either the amount of Mississippi use tax due or the total amount of tax properly paid in another state. For sales tax to be properly paid to another state, the situs of the sale must be that state, and for use tax to be properly paid, first use must occur in that state. Also, any sales or use tax claimed as a credit must have been levied by a state or local taxing authority. The individual must provide an invoice or other evidence that clearly and correctly shows the amount of tax as a separate item to support the credit for taxes paid to another state.

101 Value – For sales tax purposes, the term "value" as used in Miss. Code Ann. Section 27-65-3(h) means the entire cost of goods, wares, merchandise or property that is withdrawn from the inventory or stock of a business for use, either personal use or for use in the performance of a job or service. The entire cost includes the cost of materials, labor, overhead or any other similar costs that are incurred in delivering the property to the point of use and which would otherwise contribute to the sales price of such property if it were not converted to use.

102 Value – For use tax purposes, the term "value" as used in Miss. Code Ann. Section 27-67-3(h) means the estimated or assessed monetary worth of a thing or property. The value of property transferred into this state for sales promotion or advertising shall not be less than the cost paid by the person who transfers the property or who donates the property. The value of property that is brought into this state when the property has been used in another state is determined by its cost less straight line depreciation; however, the value cannot be less than twenty percent (20%) of the cost. Any other method of determining value may be used when such method is acceptable to the Commissioner. The value of property imported by the manufacturer of such property for rental or lease in this state is the manufactured cost of the property.

103 Person – For sales tax purposes, the term "person" shall mean any individual, firm, copartnership, joint venture, association, corporation, promoter of a temporary event, estate, trust or other group or combination acting as a unit, and includes the plural as well as the singular in number. "Person" shall also include husband or wife, or both, where they may jointly benefit from the operation of a business that is subject to sales tax. "Person" shall also include any state, county, municipality or other political subdivision and any

agency, institution or instrumentality thereof engaging in a business that is subject to sales tax.

104 Person – For use tax purposes, the term "person" shall mean any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate or any other group or combination acting as a unit and includes the plural as well as the singular in number. "Person" shall also include husband or wife, or both, where joint benefits are derived from the operation of a business that is subject to use tax or where joint benefits are derived from the use of property that is subject to use tax.

105 (Reserved)

35.IV.01.06 revised effective September 1, 2018.

Chapter 07 Sales and Use Tax - Returns, Amended Returns, Credits and Refunds

100 General

101 Miss. Code Ann. Sections 27-65-33 and 27-67-17 require taxpayers to file a return on the twentieth day of each month with the amount of tax due by such taxpayer for the preceding calendar month. The Commissioner of Revenue may permit filing periods of a different duration.

102 All returns must be sworn to by the taxpayer to be a true, correct and complete return as required by Miss. Code Ann. Section 27-65-33(3).

103 If the taxpayer fails to timely file a return, the Commissioner shall issue an assessment estimating the amount of tax due as required under Miss. Code Ann. Section 27-65-35.

104 (Reserved)

200 Requesting an Examination of a Return or Returns

201 If a taxpayer determines that the amount of tax due on a previously filed return is incorrect, the taxpayer may request an examination of such by filing an amended return.

202 Amended returns must be sworn to by the taxpayer to be a true, correct and complete return as required by Miss. Code Ann. Section 27-65-33(3). Single adjustment or transaction requests will not be granted. The taxpayer must attest to the accuracy of the entire tax amount for the period. An adjustment to a customer's invoice reported on a prior period within statute can be included in the period the adjustment was made.

203 Miss. Code Ann. Section 27-65-42 provides thirty-six (36) months for the Commissioner to determine and assess the amount of taxes due on any return which has been filed. Any amended return which is filed is also subject to audit and assessment in the same manner.

204 Amended returns resulting in an increase in the taxpayer's liability will result in the loss of the discount previously allowed under Miss. Code Ann. Section 27-65-33. The additional amount due will be subject to applicable penalty and interest.

205 (Reserved)

300 Authorized Tax Credits or Refunds

301 Tax Credits or Refunds will only be granted to the taxpayer having paid the tax to the State of Mississippi.

302 Tax collected by a vendor cannot be refunded by the Department directly to the customer of the vendor. Retail customers believing they were charged the incorrect tax should contact the vendor to pursue any available refund.

303 If the overpayment can be used within a twelve (12) month period, the Department will allow a credit to be used against the account for future periods as authorized in Miss. Code Ann. Section 27-65-53. Refund claims for an overpayment that cannot be used within a twelve (12) month period will be granted. The determination as to whether the credit can be used within a twelve (12) month period will be based on the amount of tax paid on the account within the twelve (12) months preceding the date the amended return reflecting the claim for overpayment received.

304 If the taxpayer wants a refund in lieu of a credit on the account, the taxpayer should send a written request that states, in detail, the basis for the refund request after filing amended returns.

305 The Department, at its discretion, may still issue a refund as requested in the taxpayer's claim under extenuating circumstances when the credit of the overpayment can be used within a twelve (12) month period. The determination to not issue a refund on an account where a credit can be used within a twelve (12) month period is not subject to appeal under Miss. Code Ann. Section 27-77-5 so long as the credit was issued in the amount requested.

306 (Reserved)

Chapter 08 – Liability When Selling a Business and Transfer of Assessments

100 For purposes of this chapter, the term, "person", is defined in Miss. Code Ann. Section 27-65-3(c). Note that the definition of a "person" includes a spouse when joint benefits are derived from the operation of the business.

101 A lien is attached to any property of a person having a sales tax liability who closes or sells a business, which includes selling off the inventory of the business. A return is required to be filed within ten (10) days after the date the business is closed, or sold, or the inventory is sold and any sales tax liability due must be paid.

102 A purchaser of a business is required to withhold an amount not to exceed the purchase price assuming the purchase is at arm's length. If the purchase is not an arm's length

transaction, then the amount withheld should not be below the fair market value of the business. The amount withheld is used to cover any tax liability due in the event the seller is unable to produce a tax clearance letter from the Department showing the liability has been paid. If the purchaser fails to withhold this amount and the liability due is unpaid after the ten (10) days allowed, the total tax liability becomes the liability of both the purchaser and the seller. The property sold to the purchaser will be proceeded against by the Commissioner.

103 Persons owning stock of ten percent (10%) or more of a total corporation or interest of ten percent (10%) or more in a limited liability company (LLC) with thirty-five (35) or fewer owners, and exercising responsibility for fiscal management at the time that the tax liability is accrued are liable for the taxes due.

104 Exercising responsibility for fiscal management includes, but is not limited to, any one of the following activities:

1. A significant involvement in the day-to-day management of the business;
2. the authority to sign business checks or tax returns;
3. the authority to direct payment of business funds to creditors;
4. the authority to pledge business assets as collateral for loans, advances, or lines of credit for the business;
5. the authority to bind the business to contracts;
6. the authority to hire or fire employees who are authorized to perform any act described in three (3) through five (5) of this paragraph;
7. acting as a high ranking officer of the corporation or LLC including, but not limited to, President, Vice-President, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chairman, Vice-Chairman, Director, Controller, Secretary and/or Treasurer;
8. ownership of more than fifty percent (50%) interest in the corporation or LLC unless an operating agreement exists at the time the tax liability is accrued specifying that the taxpayer is not responsible for fiscal management; or
9. participating in decisions regarding the purchase or sale of the business or the authority to participate in decisions regarding the purchase or sale of the business.

105 The Department must transfer the assessment from the corporation or LLC to the person exercising fiscal management within thirty-six (36) months of when the liability of the corporation or LLC becomes final. A notice will be issued to the transferee, and once received the transferee will have sixty (60) days in which to appeal the transfer of assessment. The transfer is appealable on the issue of the ownership interest and fiscal management requirements only.

106 Bankruptcy of the transferee does not prevent the Department from transferring a liability.

107 (Reserved)

35.IV.1.08 effective November 11, 2017.

Sub Part 02 Gross Income and Gross Proceeds of Sales

Chapter 01 Employee and Accommodation Sales

100 When a person engaged in the business of selling any property or services taxable under the Sales Tax Law sells to his employees or others at discount prices for reason of accommodation, such sales are taxable retail sales.

101 A sale of property which is delivered to and for which collection is made from a person that will consume or use the property rather than resell it, is a retail sales taxable to the person making delivery even though the billing is to another dealer.

102 (Reserved)

Chapter 02 Prizes, Premiums, Gifts, Coupons, Rebates, Discounts, Buy Downs, and Trading Stamps

100 Statutory Authority

101 Miss. Code Ann. Section 27-65-3(h) defines gross proceeds of sales to include amounts received by the seller from a third party if:

1. The seller actually receives consideration from someone other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
2. The seller is required to pass the price reduction or discount on to the purchaser;
3. The amount of the consideration that is attributable to the sale is fixed and determinable by the seller at the time of the sale; and
4. One of the following criteria is met:
    a. The purchaser presents a coupon, certificate or other documentation to the seller to claim the price reduction or discount and the coupon, certificate or other documentation is authorized, distributed or granted by a third party and the third party will reimburse the seller;
    b. The purchaser identifies himself or herself as a member of a group or organization entitled to a price reduction or discount (a preferred customer card available to any patron does not constitute membership in such a group); or
    c. The price reduction or discount is identified as a third party price reduction or discount on the invoices or receipt received by the purchaser or on a coupon, certificate of other documentation presented by the purchaser.

102 Miss. Code Ann. Section 27-65-3 provides that gross proceeds of sales also includes the value of property purchased at wholesale that is withdrawn or used by the business for use in the business or for any other purpose by the business or owner(s).

103 Miss. Code Ann. Section 27-67-5 levies a use tax on the use, storage or consumption of tangible personal property in this state.

104 (Reserved)

200 Prizes, Gifts, or Premiums

201 Persons purchasing property or withdrawing property from inventory to be given away, awarded as prizes in games and contests of chance or skill or distributed for advertising purposes are regarded as the user or consumer of the property and the regular retail sales or use tax applies.

202 The purchase price of goods ordinarily bought for resale but subsequently given away or used must be included in the gross sales of the purchaser and the regular retail tax paid. The value of a gift received from an out-of-state donor is subject to use tax.

203 When a person sells tangible personal property and simultaneously includes other tangible personal property as a premium or gift to the purchaser as a part of the same transaction, the selling price is deemed to include all items to which title passes as the time of sale.

204 (Reserved)

300 Coupons, Rebates, Discounts, and Buy-Downs

301 Coupons that may be used at any store location and that are reimbursed by the manufacturer of the merchandise are called manufacturer's coupons. Merchandise purchased in whole or in part by manufacturer's coupons is taxable on the full selling price because the amount of the discount is known, the purchaser has taken an affirmative action to claim the discount and the seller will be reimbursed by the manufacturer for the amount of the coupon. Price reductions given through the use of seller's loyalty cards or preferred customer discount cards are treated as manufacturer's coupon when the discount is identified on the cash register tape as a manufacturer's discount and the seller is reimbursed by a third party.

302 Coupons that can be used only at a particular seller, store or chain of stores are called store coupons. Merchandise purchased in whole or in part by store coupons is taxable on the selling price less any discount allowed for the coupon because the seller is not reimbursed by any third party for the amount of discount. Price reductions given through the use of seller's loyalty cards or preferred customer discount cards are treated as store coupons when the seller does not receive any reimbursement from a third party.

303 A rebate given by the seller is considered to be a discount deductible from the selling price when shown on the invoice and is exempt because the seller is not reimbursed by any third party for the amount of the rebate.

304 A rebate made directly by the manufacturer to the purchaser or to the seller, or assigned to the seller by the purchaser is taxable as a segment of the selling price because the amount of the rebate is known at the time of the sale, the rebate is identified as a manufacturer's rebate on documentation received by the purchaser and the rebate is directly related to the sale.

305 Any discount offered by a seller to all members of a particular group are taxable when the seller receives a reimbursement from a third party and the members of the group are required to identify themselves as a member of the group eligible for a discount.

306 Buy down programs are those programs where a manufacturer enters into an agreement with a seller to provide the seller with a discount for each qualifying sale or purchase of a particular product. The retailer passes the discount through to the customer. The buy down received by the seller is not taxable unless the customer presents some type of documentation to the seller to claim the discount or the discount is identified as a third party discount on the invoice received by the purchaser.

307 (Reserved)

400 Trading Stamps

401 The transfer of property through the exchange or redemption of coupons, trading stamps or other thing of value is a transaction in which title of property passes and constitutes a taxable sale. The regular retail rate of tax applies to the stated value of the stamps or coupons or the retail value of the merchandise received, whichever is greater, regardless of whether redeemed by the store originally issuing the stamps or by a merchandise redemption center.

402 Trading stamp firms maintaining a redemption store in Mississippi are not liable for sales tax on the cost of merchandise for resale. Trading stamp firms distributing or selling trading stamp programs in this State are liable for the regular retail rate of sales or use tax on the cost of stamps, stamp books, catalogues, signs, stamp trays, and other supplies for use in this State.

403 Trading stamps redeemed at points outside this State are subject to use tax, and if the tax is not collected and paid by the out-of-state redeemer, it accrues to the person in this State receiving the property.

404 (Reserved)

500 Prepaid Discount Voucher Programs

501 Prepaid discount voucher programs are programs in which merchants advertise promotional deals and discounts through a third-party, online marketing agent, such as Groupon and Living Social. The promotional deals or discounts are offered as a voucher that the customer purchases for a percentage, usually fifty percent (50%) or less, of its face value or the value of the goods or services that may be redeemed with the voucher. The customer can use the voucher like a gift card toward the purchase of goods or services from the merchant. No tax is due on the sale of the voucher. The tax at the regular retail rate must be collected by the merchant for the full sale price of the goods or services, including the amount covered by the voucher, or on the amount that would normally be charged for goods or services redeemed with the voucher.

502 Reserved

35.IV.2.02 revised effective December 1, 2018

Chapter 03 Mileage, Delivery Charges and Rebilled Expenses

100 Income received from travel, mileage or delivery charges must be included in gross proceeds of sales or gross income when incurred in connection with the sale of tangible personal property or in the performance of taxable services by vendors doing business within this state. This includes any charges made by the seller for delivery of property sold to the purchaser even though such amounts are separately stated on the seller's invoice apart from the sales price of the property.

101 Purchases from or sales by out-of-state vendors of tangible personal property are subject to use tax on the full purchase price to the point of use within this state.

102 Any business which performs a delivery service or which incurs travel expenses recovers this expense through the charge for its goods or services. Separately invoicing the customer with charges representing a recovery of these expenses is in reality an allocation of the selling price to this cost of operation and cannot be excluded from the measure of tax imposed.

103 Hotel expenses, meals, supplies, freight and other expenses which are itemized by the seller and rebilled to the customer must be included in gross proceeds of sales or gross income even though separately billed and irrespective of the fact that such goods and services may have borne a retail tax.

104 (Reserved)

35.IV.2.03 revised effective August 3, 2026

Chapter 04 Finance Charges and Bad Debts

100 Finance Charges

101 Sales tax is levied on the gross proceeds of sales or gross income as the case may be, excluding charges on account of deferred payment by the purchaser, such as finance charges and late payment penalties

102 Bad check charges as provided for in Miss. Code Ann. Section 97-19-57 are also to be excluded from the gross proceeds of sales or gross income as the case may be.

103 (Reserved)

200 Bad Debts

201 Miss. Code Ann. Section 27-65-33 provides that any taxpayer reporting credit sales and

paying the sales tax on such sales may take a credit on any subsequent return for bad debts actually charged off as uncollectible accounts. A taxpayer may not be allowed credit or refund for the sales tax associated with the uncollectible portion of a credit sale unless the taxpayer remitted the tax on the initial sales and also extended the credit used to finance the sale.

202 If any amount that has been written off as bad debt and has been taken as a credit on a return is subsequently collected, the tax due on the collected amount must be paid on the next return filed.

203 When credit is extended by a third party or when the credit instrument or account receivable is sold to a third party, neither the third party nor the retailer is eligible for a refund of sales tax associated with any bad debt charged off for uncollectible accounts.

204 (Reserved)

Sub Part 03 Taxability

Chapter 01 Wholesale Sales

100 Wholesale sales are sales of tangible personal property from a wholesaler, jobber or distributor, known to the trade as such, to licensed retail merchants, jobbers, dealers, or other wholesalers for resale. It does not include sales to users or consumers that are not for resale.

101 "Wholesale sales" shall include**:**

1. a. A sale of tangible personal property taxable under Section 27-65-17 for resale in the regular line of business, when made in good faith to a retailer regularly selling or renting that property and when said dealer is licensed under Section 27-65-27 if located in this State.
   b. A sale of a service taxable under Section 27-65-23 for resale in the regular line of business, when made to a regular dealer in that service and when said dealer is licensed under Section 27-65-27 if located in this State, or a charge for custom processing rendered upon merchandise for resale or rental by a dealer licensed under Section 27-65-27.
   c. A sale of telecommunications services taxable under Section 27-65-19 for resale in the regular course of business, when made to a regular telecommunications provider of the service and the provider is the holder of a permit issued under Section 27-65-27 and is located in this state or is providing telecommunications services in this state.
   d. A sale of specified digital product taxable under Section 27-65-26 for resale in the regular course of business, when made to a regular dealer of specified digital products and the dealer is the holder of a permit issued under Section 27- 65-27 and is located in this state.
2. A sale of tangible personal property or service which is to become a component part of a structure or improvement erected, constructed, repaired, or made only

when such sale is made to a contractor taxable under Section 27-65-21 on the contract in which the component materials are to be used; and only when the contractor holds a Material Purchase Certificate as required by Section 27-65-21.

3. A sale of boxes, crates, cartons, cans, bottles and other packaging materials to a retailer or retail custom processor for use as a container to accompany goods or services sold by said retailer or custom processor where possession thereof will pass to the customer at the time of sale of the goods or services contained therein.
4. The value of soft drinks and syrup withdrawn from the business by a manufacturer for sale at retail and food or drink withdrawn by a manufacturer or wholesaler to be sold through full-service vending machines for human consumption.

102 "Wholesale sales" shall not include a transaction whereby property is delivered to and collection for same is made from a person that will consume the property rather than resell it even though the billing is to a retailer. Provided, however, when a taxpayer sells merchandise and has paid a rate equal to the retail rate of tax on the purchase price to a wholesaler, the taxpayer may take credit for the tax paid to the wholesaler from the tax due on the sale of the merchandise specifically included in his return to the Commissioner.

103 Items that were purchased at wholesale but are withdrawn from inventory for use of the business are subject to sales tax. This includes any items that are purchased tax free for resale but are withdrawn from inventory and used by the owner, employees, or any other person instead of being sold.

104 Wholesale sales of medical cannabis may only be made to licensed medical cannabis cultivators, medical cannabis processors, or medical cannabis dispensaries. The purchaser must provide their sales tax number and ten-digit license number as documentation of a valid wholesale sale.

105 (Reserved)

200 Tax on Certain Wholesale Sales:

1. Food and drink for human consumption is taxed at the 8% wholesale rate of tax when the operator of a full-service vending machine places the merchandise in the machine for sale (see Title 35, Mississippi Administrative Code, Part IV, Subpart 4, Chapter 3.). All other sales at wholesale are exempt from sales or use tax.
2. The wholesale tax is not subject to the 2% taxpayer discount and shall not be included in the amount on which the discount is taken.

201 (Reserved)

300 Document Retention to Substantiate Wholesale Sales:

1. The quantity of property or services sold or the price at which they are sold is immaterial in determining whether a sale is at wholesale. Sales may be classed as wholesale, or exempt, only if evidenced by proper and adequate records and invoices to substantiate the exemption from the tax on each individual sale.

2. The substantiation of wholesale or exempt sales must be by an invoice clearly indicating the date, the name and address of the vendor and vendee, the items sold and the price. Vendors making wholesale sales to customers who are issued a permit under Miss. Code Ann. Section 27-65-27 or have a letter ruling indicating an exemption must maintain a copy of the permit or letter ruling for these customers. Such proof of wholesale or exempt sales shall be filed in chronological order and preserved for a period of three (3) years from the date of sale. These records shall be subject to inspection by the Commissioner and his agents, at their discretion, for the verification of returns filed by either the wholesaler or his customers. This requirement shall apply equally to a retailer making wholesale or exempt sales. Please see Title 35, Mississippi Administrative Code, Part I, Chapter 02, Taxpayer Records and Document Retention for general document retention requirements imposed on all taxpayers.
3. Any failure to comply with all the above requirements shall subject the violator to the retail rate of tax on all such violations.
4. Wholesalers and distributors of light wines, light spirit products or beer are further required to file detailed monthly reports of all sales of such light wines, light spirit products or beer with the Commissioner.

301 (Reserved)

35.IV.03.01 Revised effective December 7, 2023

Chapter 02 Isolated, Casual or Occasional Sales

100 Sales Tax

101 Isolated or occasional sales, except sales of motor vehicles, made by persons not regularly engaged in business are not subject to sales tax. No sale, except a sale of a motor vehicle, is taxable under the Sales Tax Law if it is not made in the regular course of the business of a person selling tangible personal property.

102 "Motor vehicle" means a motor vehicle required to be registered or licensed by County Tax Collectors pursuant to Miss. Code Ann. Section 27-19-43. This includes private carriers of passengers, school buses, church buses, taxicabs, ambulances, hearses, motorcycles, private carriers of property, and private commercial carriers of property and drays of a gross weight of 10,000 pounds or less.

103 Transfers of motor vehicles from any person, firm, or corporation not considered to be a licensed dealer to any person, firm, or corporation is subject to a five percent (5%) casual sales tax based on the true value of the motor vehicle as calculated by the official motor vehicle assessment schedule provided by the Department pursuant to Miss. Code Ann. Section 27-65-201. The tax due on such sales or transfers are to be paid by the purchaser(s) to the County Tax Collector at the time the motor vehicle is registered or licensed.

104 Transfers of motor vehicles are not subject to the casual sales tax if the transfer is:

1. Between a husband and wife; a parent and child; a grandparent and grandchildren; or siblings,
2. Pursuant to a will or any law providing for the distribution of the property of any person having died without a legal will,
3. Pertaining to a motor vehicle that is ten (10) or more years old based on the date of the vehicle's manufacture,
4. Between a trustee and a beneficiary of the trust as evidenced by a completed Affidavit of Motor Vehicle Title Transfer,
5. Between a corporation and one (1) of its shareholders in a transaction that qualifies for nonrecognition of gain or loss in accordance with Section 351 of the IRS Code, as evidenced by a completed Affidavit of Motor Vehicle Title Transfer, or
6. Between a partnership or limited liability company and one (1) of its partners or owners, as evidenced by a completed Affidavit of Motor Vehicle Title Transfer.

Using a licensed dealer in the transfer of a motor vehicle will void the tax exemptions listed above; the licensed dealer will be responsible for collecting and remitting the applicable sales tax.

105 All sales made by officers of a court, pursuant to court orders, are occasional sales, except for sales made by trustees, receivers, assignees, and the like in connection with the liquidation or conduct of a regularly established place of business. Examples of casual sales are those made by sheriffs in foreclosure proceedings, sales of confiscated property, and sales of tangible personal property, such as used equipment when the sale represents the disposal of capital assets that the seller does not offer for sale in his regular course of business. Example: Anyone selling his old boat rather than trading it in on a new one.

106 The bulk sale of an inventory of merchandise to a dealer is exempt from sales tax. This exemption does not include the liquidation of a business when the inventory is sold to the general public at sale or auction.

107 Mobile homes, vehicles (except motor vehicles as defined above) or other personal property repossessed by a bank or finance company and resold through the dealer who made the original sale will be regarded as a casual sale and will not be subject to sales tax. All other sales of repossessed property are subject to sales tax.

108 Sales of personal property (except for motor vehicles as defined above) through auctions, flea markets, antiques malls, or other similar establishments, are not classified as isolated, casual, or occasional sales.

109 (Reserved)

200 Use Tax

201 Use tax will not be applicable to non-business personal property acquired outside of this State under conditions where a similar acquisition in this State would not be subject to sales

tax. Business property acquired in any manner and imported into this State for use in a business is subject to use tax, with proper credit allowed for another state's tax.

202 (Reserved)

35.IV.03.02 revised effective August 23, 2024.

Chapter 03 Leased Departments

100 When an established business leases a portion of its shelves, counters or floor space to another business or person selling tangible personal property or performing taxable services, the sales made by the leased departments or the gross income received shall be reported and paid by the lessor. A lessor not otherwise subject to the tax shall obtain a license on behalf of the lessee.

101 When the lessee conducts the leased department in the same manner as a similar established business and gives evidence to the public of conducting the department separately from the lessor's business, the lessee may apply for a sales tax license and file sales tax returns, provided separate records of the business are maintained. The lessor shall be secondarily liable for the tax in instances where the lessee does not fulfill his tax obligations under such license.

102 Use tax shall be reported and paid to the State by the lessee.

103 The word "lease" used in this rule includes permitted occupancy regardless of consideration.

104 (Reserved)

35.IV.3.03 revised effective January 15, 2019

Chapter 04 (Reserved)

35.IV.03.04 revised effective May 1, 2019.

Chapter 05 Interstate Commerce, Sales In

100 Sales delivered outside this state

101 All sales made and taxable services performed from a business location within the state or by a Mississippi dealer are presumed to be taxable Mississippi sales unless and until the dealer can substantiate an authorized claim for exemption. In the case of exemption by reason of delivery of the goods outside the state to an out-of-state customer, the dealer is required to establish that such delivery did, in fact, take place and that such delivery was a condition precedent to consummation of the sale.

102 Sales and taxable repairs of tangible personal property are exempt from the Mississippi sales tax levy when:

1. The seller is required by the sales agreement to physically deliver the goods sold in the vendor's equipment from a point in this state to a point outside this state, not to be returned to a point within this state, and provided that such delivery is actually made, or
2. The seller is required by the sales agreement to deliver the goods to a common carrier or to the United States Post Office for transportation outside the state at the seller's direction, or
3. The seller is required by the sales agreement to deliver the goods outside the state by use of an independent trucker.

103 For purposes of this Chapter, neither the purchaser nor the seller is considered a common carrier even though they may operate as one commercially.

104 When tangible personal property is purchased in Mississippi for resale in another state by a dealer regularly engaged in selling such property and such dealer holds a valid sales tax permit or its equivalent for that state, the sale is exempt from tax.

105 Sales of automobiles, trucks, truck-tractors, semi-trailers, trailers, boats, motorhomes (R.V.), travel trailers, motorcycles and all-terrain cycles which are exported from this state within forty-eight (48) hours and registered and first used in another state are exempt from sales tax under Miss. Code Ann. Sections 27-65-101(1)(s) and 27-65-111(i). A properly executed Certificate of Interstate Sale must be maintained to substantiate sales of boats, all-terrain cycles or other equipment not required to be registered for highway use. A golf cart, regardless of whether it receives aftermarket modifications, is not considered an all-terrain vehicle. If the Certificate of Origin identifies the vehicle as a golf cart, it remains a golf cart for tax purposes and would be taxable at the seven percent (7%) regular rate of tax at the time of purchase, and would not be eligible for the forty-eight (48) hours exemption.

106 (Reserved)

200 Sales delivered into this state

201 Persons operating a place of business in this state as well as one or more places of business outside this state are liable for sales tax on all sales made by or delivered from the Mississippi business and are liable for collection of use tax on all sales delivered in Mississippi by or from their out-of-state businesses.

202 Persons who do not maintain a place of business in Mississippi but who are represented in this state by salesmen who solicit or accept orders for merchandise which is subsequently delivered in this state are liable for collection of Mississippi use tax.

203 Merchandise shipped from a point of origin in Mississippi which passes through another state before reaching a point of destination in Mississippi is not considered as a sale made

through channels of interstate commerce and the receipts from the property sold are taxable.

204 (Reserved)

300 Drop shipment sales into this state

301 A drop shipment of merchandise is a shipment from a seller directly to the retailer's Mississippi customer, at the direction of the retailer. Generally, a retailer accepts an order from an end customer, places this order with a third party seller, usually a manufacturer or wholesale distributor, and directs the third party to ship the goods directly to the end customer. This sequence of events results in two transactions: a) the sale by the primary seller (i.e. distributor) to the retailer and b) the sale from the retailer to the retailer's Mississippi customer.

302 If the retailer has a valid Mississippi sales tax permit, then the retailer should furnish a copy of the permit to the primary seller, rendering the first sale a non-taxable transaction. The retailer then collects sales tax on behalf of the state on the sale to its Mississippi customer.

303 If the retailer is not registered to do business in Mississippi and the primary seller has nexus with Mississippi the sale to the retailer is a taxable transaction by the primary seller who is responsible for remitting the tax. An exception occurs when one of the following conditions are met:

1. The Mississippi customer is a licensed dealer purchasing the property for resale through his regular course of business. The primary seller can obtain a copy of the Mississippi customer's sales tax permit and the resale exemption may flow through the retailer to the seller.
2. The Mississippi customer has a Direct Pay Permit. The Direct Pay Permit authorization may flow through the retailer to the seller.
3. The Mississippi customer is an exempt entity under the provision of the Mississippi Sales Tax Law. The Mississippi customer must furnish proof of exempt status to the seller. If proof of such exemption is not furnished, the sale is taxable.

304 (Reserved)

35.IV.03.05 revised effective December 1, 2019.

Chapter 06 Governmental Exemptions

100 General

101 Sales of tangible property, charges for labor or services are exempt when sold to, billed to and paid for by the United States Government or the State of Mississippi, its departments and institutions, counties and municipalities or departments or school districts of said counties and municipalities, or Acts of Congress or Acts of the Mississippi Legislature. The governmental exemption does not apply to states other than the State of Mississippi

and requires that goods or services are sold directly to, billed directly to and paid for directly by the exempt governmental entity.

102 Any state department, county or municipality, or any political division or subdivision thereof, or agency, institution, instrumentality, commission, board or district created by the legislature of the State of Mississippi and fiscally responsible to the State of Mississippi is construed to be a part of the state government.

103 The sales, labor or service performed must be billed directly to the governmental entity and not to or through a contractor or quasi-governmental agency, and the title of the property or benefit from the service must pass to the government rather than to a beneficiary.

104 This exemption does not apply to contractor's tax levied by Code Section 27-65-21.

105 (Reserved)

200 Sales to Government Employees

201 Sales to government employees are considered exempt when payment is made directly from the exempt governmental entity by government check, a centrally billed debit or credit card or other form of payment. Sales to government employees who pay for the goods or services are subject to Mississippi sales or use tax even though the employee may be reimbursed by an exempt governmental entity.

202 Businesses must verify that purchases are made with a centrally billed debit or credit card. Centrally billed means that the governmental entity is billed directly for any purchases made with the card. Individually billed means that the person named on the card is billed for any purchases made with the card, and the person named on the card may be reimbursed by the governmental employer for approved purchases.

203 (Reserved)

300 Exemptions

301 Retail sales of food for human consumption purchased with food instruments issued the Mississippi Band of Choctaw Indians under the Women, Infants and Children Program (WIC) funded by the United States Department of Agriculture are exempt from tax.

302 Retail sales of food for human consumption purchased with food stamps issued by the United States Department of Agriculture, or other federal agency are exempt from and after October 1, 1987.

303 Sales of firefighting equipment to governmental fire departments or volunteer fire departments for their use. This exemption does not apply to any other type of property except firefighting equipment.

304 Sales of any gas from any project, as defined in the Municipal Gas Authority of Mississippi Law, to any municipality shall not be subject to sales, use or other tax.

305 Sales to regional educational service agencies established under Section 37-7-345.

306 Sales of buses and other motor vehicles, and parts and labor used to maintain and/or repair such buses and motor vehicles, to an entity that (a) has entered into a contract with a school board under Section 37-41-31 for the purpose of transporting students to and from schools and (b) uses or will use the buses and other motor vehicles for such transportation purposes are exempt from sales tax.

307 Parking at events held solely for religious or charitable purposes at livestock facilities, agriculture facilities or other facilities constructed, renovated or expanded with funds for the grant program authorized under Section 18, Chapter 530, Laws of 1995 are exempt from sales tax.

308 Sales of tangible personal property, labor, services or products are exempt when sold to schools and school districts under a program that is administered by or coordinated with an agency, commission, department or other instrumentality of the United States government. Payment must be made by or through a nonprofit organization or other entity established by or for the benefit of the agency, commission, department or other instrumentality of the United States government administering or coordinating the program.

309 Federal Credit Unions organized under the Federal Credit Union Act are not subject to sales or use tax on tangible personal property or services purchased for their own use. Sales of tangible personal property or services to state and national banks and to state credit unions are subject to the retail sales and/or use tax.

310 Sales made by the exchange service, officers club or government agency to members of the armed forces are exempt from tax under the Federal Buck Act.

311 The American Red Cross is considered a federal instrumentality and is not subject to sales tax on tangible personal property or services purchased for its own use.

312 Mississippi Housing Authorities are considered part of the state government and are not subject to sales tax on tangible personal property or services purchased for their own use.

313 Materials purchased by contractors for use in the performance of a government contract are taxable. Sales by independent dealers, merchants or contractors on government reservations are taxable.

314 Sales of merchandise by governmental agencies, political subdivisions or state institutions are taxable when in competition with private business.

315 Adequate records must be maintained to substantiate all exemptions since the Department does not issue exemption certificates. These records must be maintained for a period of at least thirty-six (36) months.

316 (Reserved)

35.IV.03.06 revised effective May 1, 2019.

Chapter 07 Exempt Organizations

100 Miss. Code Ann. Section 27-65-111 provides an exemption from sales tax for sales of tangible personal property and services to certain groups of organizations and for specifically named organizations. The exemption from sales tax does not cover the contractor's taxes levied under Miss. Code Ann. 27-65-21. To qualify for the exemption, the sale of property or charge for services must be sold directly to, billed directly to and paid for directly by the exempt entity.

101 The Department of Revenue will issue a letter ruling authorizing an entity's exemption when requested to do so by the exempt entity. The entity should make its request in writing. The Department may require the entity to furnish a copy of its charter, articles of incorporation, letter from the Internal Revenue Service documenting its tax-exempt status and any other information that may help in determining if the entity is eligible for sales tax exempt status. The letter ruling may be used to provide to vendors who request such documentation. The Department does not issue tax exempt numbers.

102 "Boys and girls clubs", found in Miss. Code Ann. Section 27-65-111(f), means a nonprofit youth organization. To be eligible for the sales tax exemption, the organization must meet the following requirements:

1. The organization must be registered with the Internal Revenue Service as a 501(c)(3) entity.
2. The organizations sole purpose is to provide and manage youth activities.
3. The organization must be active. The term "active" means that the organizations principle activity must be continued for a total of at least 10 months out of a year. (Example: A youth baseball club would be required to provide organized activities for 10 months out of the year.)

This exemption will apply only to those purchases that remain the property of the organization. The exemption would not apply to the purchase of uniforms that are provided to the players through either the payment of a registration fee or a separate charge.

103 "Old Men's or Ladies' Homes", found in Miss. Code Ann. Section 27-65-111(e), means a place that provides group living arrangements for elderly persons who are provided food, shelter, personal and medical care. The elderly persons must be unrelated to the operator unless approved in a letter ruling by the Department. This includes facilities such as nursing homes, convalescent homes and assisted living facilities. Additionally, the facility must be supported wholly or in part by a religious denomination, fraternal nonprofit organization or other nonprofit organization.

104 "Orphanages", found in Miss. Code Ann. Section 27-65-111(e), means a place, facility or home that receives children and provides for long-term or extended supervision, care, lodging and maintenance of the child, with or without transfer of custody. Children must not be related to the operators, and parents or guardians must not be residents of the same facility unless approved in a letter ruling by the Department. Additionally, the facility must be supported wholly or in part by a religious denomination, fraternal nonprofit organization or other nonprofit organization.

105 Exempt organizations can be found in Miss. Code Ann. Sections 27-65-101, 27-65-103, 27-65-105, 27-65-107 and 27-65-111.

106 (Reserved)

35.IV.03.07 revised effective September 1, 2018.

Chapter 08 Amusements

100 Definitions

101 Amusement is defined to include any and all forms of entertainment including all forms of diversion, sport, recreation or pastime, shows, exhibitions, contests, displays and games, or any other types of amusement.

102 Admissions charges include monetary charges and all other methods of obtaining admission including donations or contributions. Taxable charges also include admissions to an event in exchange for specific personal or professional services such as, but not limited to, advertising or security services. Taxable admission charges include but are not limited to cover charges or one time fees for admission to museums, restaurants and bars, galleries and gyms or fitness centers. Admission charges do not include membership fees. Membership fees represent a cost to join an organization, group, club, etc., and do not represent the cost for admission even though membership may grant admission to the member.

103 Religious organizations are defined as ecclesiastical or denominational organizations, churches, diocese or presbytery or established physical places for worship, whether or not incorporated, at which nonprofit religious services and activities are regularly conducted and carried on and also includes those religious groups which do not maintain specific places of worship.

104 Charitable organizations are defined as any person determined by the Internal Revenue Service to be a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code; or any person actually or purporting to be established solely for any voluntary health and welfare, benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other charitable purpose or

for the benefit of law enforcement personnel, fire fighters, or other public safety organizations.

105 Education organizations are defined as any person providing educational, informative or instructional services.

106 Civic Clubs are defined as any association, society, foundation or other entity that is determined by the Internal Revenue Service to be a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code established for purposes relating to or providing benefit for any citizen or city. Local chapters organized under a national organization will be treated as a part of the tax exempt national organization if the local chapter has not obtained its own designation from the Internal Revenue Service.

107 Fraternal organizations are defined as any association, fraternity, sorority or other entity determined by the Internal Revenue Service to be a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code operating as a social, charitable or service organization.

108 (Reserved)

200 Levy

201 Miss. Code Ann. Section 27-65-22(1) levies a tax at the rate of 7% on the gross income from admissions charges held at any place of amusement or activity as defined above.

202 The tax is due at the rate of 3% on the gross income from admissions charges to a publicly owned enclosed coliseum or auditorium. However, this reduced rate is not applicable to athletic contests between colleges and universities. Admissions charges to such events are taxable at the rate of 7%.

203 The tax is due at the rate of 7% on the gross income from admissions charges to events conducted and held at the Mississippi Veterans Memorial Stadium.

204 The tax levied under Miss. Code Ann. Section 27-65-22(1) is to be collected by the operator of the place of amusement and is to be in addition to the price charged for admission. Tax will be collected on the gross income received including associated charges. The operator may enter into an agreement with a ticket sales agent whereby the agent actually collects the tax.

205 When a temporary amusement is held at a facility and conducted by a promoter who is not the owner, lessee or custodian of the facility, the promoter is required to notify the Department of such event and will be required to register the event and will be liable for the tax. In the event the promoter does not register and pay the tax as required, the owner, lessee or custodian of the facility will be jointly liable for the tax.

206 (Reserved)

300 Exemptions

301 The tax levied under Miss. Code Ann. Section 27-65-22(1) is not due from the following:

1. Admissions charges at a place of amusement operated by religious, charitable or educational organizations or by nonprofit civic clubs or fraternal organizations when one of the following qualifications is met:
    a. The proceeds may not be used to the benefit of any one or more individuals of the organization and are used solely for religious, charitable or education purposes; or
    b. The entire proceeds are used to defray the normal operating expenses of the organization.
2. Admissions charges to gospel singing promoted by nonprofit charitable or religious organizations.
3. Admissions charges for high school or grade school athletic games.
4. Admissions charges to ticket sales for baseball games between teams operated under a professional league franchise.
5. Admissions charges to county, state or community fairs and to entertainments held in publicly owned community homes or houses.
6. Admissions charges or ticket sales to garden pilgrimages and to antebellum and historic houses when sponsored by an organized civic or garden club.
7. Admissions charges to golf tournaments held under the Professional Golf Association or the United States Golf Association.
    a. The tournament must be sponsored by a nonprofit association incorporated under the laws of the State of Mississippi; and
    b. The proceeds of such tournament may not benefit any individual or group and dividends may not be declared.
8. Admissions charges to any university or community college conference, state, regional or national playoffs or championships.
9. Admissions charges or fees charged by any county or municipally owned and operated swimming pools, golf courses and tennis courts. This exemption does not cover the sales and rentals of tangible personal property. The exemption does cover facilities owned and operated by state supported colleges and universities.
10. Admissions charges for symphony orchestra, opera, vocal or instrumental performances where professional or amateur performers are compensated from the proceeds of the admissions charges and amateur or professional dramatic productions when both of the following conditions are met;
    a. The event must be sponsored by a local music or charity association or by a children's dramatic association; and
    b. The association may not declare dividends, receive profits, pay salary or other compensation to any members and may not pay any person for producing the performance.
11. Admissions charges or ticket sales to any hockey games between teams operated under a professional league franchise.
12. Admissions charges or ticket sales to any event sanctioned by the Mississippi Athletic Commission when the event is held within a publicly owned enclosed coliseum or auditorium.

13. Guided tours on any navigable waters of this state, which include providing accommodations, guide services and/or related equipment operated by or under the direction of the person providing the tour, for the purposes of outdoor tourism.
14. Any admissions to events held solely for religious or charitable purposes at livestock facilities, agriculture facilities or other facilities constructed, renovated or expanded with funds from the grant program authorized under Section 18 of Chapter 530, Laws of 1995.

302 (Reserved)

400 Purchases or Donation

401 Any charitable fund raising events that are open to the public and sponsored, organized or hosted by nonprofit civic, fraternal, educational, religious or charitable organizations are exempt from tax on the gross income received from admissions charges, however, sales or use tax is due on any purchases or donations made for the event.

402 Food, drinks, and supplies purchased for the event are taxable on the purchase price or cost. The tax must be paid to the vendor at the time of purchase or paid directly to the Department of Revenue on the cost of items brought into this state.

403 Food or drink donated for the event is taxable on the cost of such items as a withdrawal from stock or inventory. The tax must be paid to the Department by the person(s) making the donation. The cost of the donated items should be added to the total sales on the next return due.

404 Items purchased for sale or auction at the event are taxable on the purchase price or cost. This tax must be paid to the vendor at the time of purchase, or paid directly to the Department by the event sponsor on the cost or value of any items brought into this state.

405 Any items donated for sale at the event are taxable on the cost or value of the items being donated. This tax should be paid directly to the Department by the person(s) making the donation.

406 Tax is due on all purchases necessary to operate the organization unless the organization holds a valid exemption from sales tax authorized under Miss. Code Ann. Section 27-65-111.

407 (Reserved)

35.IV.3.08 revised effective April 1, 2018.

Chapter 09 Out of State Sales into the State

100 Sellers who lack physical presence nexus in Mississippi but who are purposefully or systematically exploiting the Mississippi market have a substantial economic presence for

use tax purposes if their sales into the state exceed $250,000 for the prior twelve months. These sellers are required to register with the Department of Revenue in order to collect and remit tax as provided by Miss. Code Ann. Section 27-67-4(2)(e).

101 Purposefully or systematically exploiting the market includes but is not limited to:

1. Television or Radio advertising on a Mississippi station;
2. Telemarketing to Mississippi customers;
3. Advertising on any type of billboard, wallscape, bus bench, interiors and exteriors of buses or other signage located in Mississippi;
4. Advertising in Mississippi newspapers, magazines or other print media;
5. Emails, texts, tweets and any form of messaging directed to a Mississippi customer;
6. Online banner, text or pop up advertising directed toward Mississippi customers;
7. Advertising to Mississippi customers through applications "apps" or other electronic means on customer's phones or other devices; or
8. Direct mail marketing to Mississippi customers.

102 As provided by Miss. Code Ann. Section 27-67-1 et seq., sellers with a substantial economic presence must add to the sales price of tangible personal property the amount of tax imposed on the purchaser. The tax must be stated separately from the sales price on the invoice and accounted for separately on the seller's records.

103 This rule applies to all transactions occurring on or after December 1, 2017. However, any seller who has collected and not remitted Mississippi tax on sales made before December 1, 2017 would still be liable for any tax collected.

104 (Reserved)

35.4.03.09 effective December 1, 2017

Subpart 4 Retail

Chapter 01 Gasoline Distributors and Service Stations

100 The term motor fuel means gasoline, butane, diesel, ethanol, biodiesel, natural gas or any other fuel used to propel or power motor vehicles or stationary engines.

101 Wholesale sales of motor fuel, motor oils, lubricants, tires, batteries, accessories and other sales by a distributor to licensed retailers for resale are exempt from sales tax.

102 Retail sales of motor fuel are exempt from sales tax.

103 All other services of a service station, including but not limited to, washing, greasing, and tire repairing are taxable at the regular retail rate of sales tax.

104 Charges for wrecker or towing services where no other taxable services are provided are exempt from sales tax. When wrecker or towing services are provided in connection

with other services that are taxable (repairs, storage or other similar services), the total amount is subject to the regular retail rate of tax. The separate invoicing of the wrecker or towing services would not affect the taxability of the charges. The taxability of wrecker or towing services is determined for each instance that includes this service and not for the business as a whole.

105 The tax is due on the total selling price without any deduction for federal or state excise taxes on oil or grease, or Federal manufacturers' excise taxes on tires, tubes and batteries. The selling price also includes carrying charges or any other amount added because of deferred payments. Sales must include the value of merchandise withdrawn from stock for use in the business or for personal use by the owner. Sales to customers using courtesy cards or letters of credit are taxable as cash sales.

106 All tools, supplies and equipment used in conducting the business of a service station or bulk distributor are taxable at the regular retail rate of sales or use tax. The tax paid on such purchases is not deductible as a tax credit from the retail tax liability.

107 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

108 (Reserved)

35.IV.4.01 revised effective August 8, 2025

Chapter 02 Marble Works and Monument Sales

100 Sales of monuments, memorials, markers, cornerstones and building materials by manufacturers and dealers are subject to the regular retail rate of sales tax on the gross proceeds of sales.

101 The following types of sales are considered wholesale sales and are exempt from sales tax:
1. Sales to licensed dealers or retailers for resale through the regular course of business.
2. Sales to qualified contractors holding a Material Purchase Certificate when the marble or granite products are to become a component part of a structure.
3. Sales to manufacturers for further processing.

102 Charges for lettering or engraving monuments, memorials, etc., are included in gross proceeds of sales derived from the sale of tangible property. The amount received for lettering or engraving a customer's monument, memorial, etc., is not included as gross proceeds of sales when no sale of tangible property is involved. For example, when additional inscriptions are desired on a customer's memorial, the charges for engraving are exempt.

103 Charges by the seller for delivery and/or installation of a monument, memorial, etc., are taxable at the regular retail rate of tax, even though such charges are itemized on the sales invoice.

104 Purchases of manufacturing machinery, machine parts or hand tools by manufacturers of monuments and marble products are taxable at the $1^1/_2$% special rate of sales or use tax. Purchases of raw materials to become a component part of the finished product for sale, industrial chemicals for use in the manufacturing process and lumber for use in crating monuments for shipment are exempt from sales or use tax.

105 Rental of machinery and other tangible personal property is taxed at the same rate as sales of the same property.

106 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

107 (Reserved)

35.IV.04.02 revised effective May 15, 2019

Chapter 03 Coin Operated and Vending Machines

100 Definitions

101 A “vending machine” is a coin, currency or credit card operated device that is used to sell tangible personal property without requiring the vendor’s attendance at the time of the sale.

102 "Full service vending machine operators" or "full line vendors" are persons in the business of placing vending machines and selling tangible personal property through the machines. A space rental fee is paid to the business owner of the property where the machine is placed. A person placing a vending machine on their own property is not a full line vendor.

103 (Reserved)

200 Business Owners

201 Sales of tangible personal property made through vending machines, owned by the business where the machines are located are taxable at the regular retail rate of tax on the gross proceeds of sales when the business owner controls the collection of receipts.

202 Persons in the business of selling tangible personal property through vending machines may make purchases of merchandise exempt from sales tax.

203 The owner of the premises shall keep records showing the gross receipts of each machine located on the premises.

204 (Reserved)

300 Full Line Vendors

301 Sales of merchandise, excluding sales of food or drink for human consumption, through vending machines serviced by full line vendors are subject to the seven percent (7%) regular retail rate of tax based on the gross proceeds of such sales.

302 Sales of food and drink for human consumption made through vending machines that only contain food and drink, and are serviced by full line vendors, are not taxable. Food and drink for human consumption withdrawn from inventory by full line vendors to be placed in full service vending machines is taxable at the 8% wholesale rate of tax based on the cost. The tax liability accrues to the full line vendor at the time of withdrawal and should be remitted to the State in the same manner as any other sales tax collected by the full line vendor on taxable sales.

303 The receipts from machines containing only food and drink for human consumption provided by full line vendors are exempt from the seven percent (7%) retail tax.

304 Sales of food or drink for human consumption and other merchandise when sold from the same vending machine are subject to the seven percent (7%) regular retail rate of tax based on the gross proceeds of such sales. The eight percent (8%) wholesale rate based on the cost of withdrawal of inventory of food and drink for human consumption does not apply.

305 All full line vendors must obtain a sales tax permit to engage in business. This permit is sufficient for all machines operated by one owner, regardless of location. This sales tax license or permit is in addition to all other city, county and state privilege licenses or permits that may be required.

306 Complete records must be kept by the full line vendor showing the location of each machine, date of installation, and date of removal from any location, and also the purchases and inventories of merchandise bought for all vending machines and gross receipts derived from the operations at each location.

307 (Reserved)

400 Amusement and Music Machines

401 Income received from the operations of amusement and music machines is exempt from sales tax. However, clear and adequate records must be maintained by the owner of the machines to substantiate their claims for exemption.

402 (Reserved)

500 Purchases of Equipment and Supplies

501 The owners of vending machines whether for vending, amusement or music are the users of such property and as such are required to pay the regular retail rate of sales or use tax

on all purchases of machines, machine parts, phonograph records, needles and other accessories or supplies.

502 (Reserved)

35.IV.4.03 revised effective December 1, 2019

Chapter 04 Photographers and Film Developers

100 Photographers and Videographers

101 Photographers and videographers are taxable at the regular retail rate of sales tax on retail sales to consumers of photographs, pictures, videos, disc, and other tangible personal property or specified digital products and no tax is due on sales to licensed retailers for resale.

102 A photographer taking and selling pictures in Mississippi is subject to sales tax on his sales even if his studio and photo finishing activities are in another state.

103 A photographer who creates digital images that are marketed via the internet through a third party that also prints the images as photographs and delivers them to purchasers is subject to sales tax as long as the photographer controls the sales of the images. The photographer will be considered to control the sale of the images if the website on which the images are posted appears to be the photographer's own site; the photographer is able to design or direct the appearance of the site from which the images are sold; the photographer sets the price for the images; the photographer determines how long the images will be offered on the website for sale; the photographer displays the website address on his marketing materials directing customers to the site to purchase his images; and/or the photographer otherwise exercises control over the marketing, sale or reproduction of the images he creates.

104 Amounts received from the sale of coupons must be included in gross income of the photographer even though the agent making the sale retains the full amount of the coupon as his commission for having obtained a customer. If the customer fails to redeem the coupon and the amount paid is not refunded, the income received is taxable.

105 When schools or other organizations are allowed a commission for handling the sales of a photographer or photo finisher, such commission must be included in the income of the business.

106 (Reserved)

200 Film Making

201 Income from the production of a film, such as commercials, promotional videos, advertisements, etc., is not considered the sale of tangible personal property or specified digital products and as such, is not subject to sales tax. If the producer or developer of such

film produces multiple copies for sale, the activity then becomes taxable as the sale of tangible personal property or specified digital products.

202 Purchases of film or videotape for use in performing a service are taxable for sales or use tax. Purchases of film or videotape that are to be resold are exempt from sales or use tax.

203 (Reserved)

300 Motion Picture Making

301 Certain exemptions and a reduced rate are available for machinery, equipment and supplies used in the production of a motion picture in Mississippi. The term "motion picture" is defined to mean a nationally distributed feature-length film, video, television series or commercial made in Mississippi and does not include the production of television coverage of news and athletic events, or a film, video, television series or commercial that contains any material or performance defined in Section 97-29-103.

302 Machinery and equipment used in the production of motion pictures shall be defined as manufacturing machinery subject to the special reduced rate of 1½%. Equipment or machinery bought or leased outside of Mississippi for exclusive use on location in Mississippi will be subject to a use tax of 1½%. Manufacturing machinery that is used in the production of a motion picture is not limited to a plant site use. Items defined as manufacturing machinery include:

1. Audio Equipment
2. Camera Equipment
3. Computer Equipment (for animation, editing or special effects)
4. Editing Equipment
5. Lighting Equipment
6. Projection Equipment
7. Sound Equipment

303 (Reserved)

400 Film Developing

401 Income received from developing, retouching, printing, tinting or other photo finishing activities is taxable at the regular retail rate of tax when performed for a consumer and no tax is due when performed for other licensed retailer for resale.

402 (Reserved)

500 Purchases

501 Purchases by licensed retailers of merchandise for resale are exempt from sales or use tax.

502 Purchases of paper and film for use in making photographs are exempt from sales or use tax as raw materials and chemicals used in processing the same are likewise exempt. Machinery and machinery parts for studio use in developing film, photographs, prints or slides are taxable at the 1½% reduced rate of tax. Machinery or equipment provided for customer use to copy or reproduce photographs are subject to the 7% regular rate of tax.

503 (Reserved)

35.IV.4.04 revised effective October 16, 2021

Chapter 05 – Printing Industry

100 General

101 The term "Printer" includes publisher and other producers or reproducers of lettering or images of any kind on paper, printing plates or other material. Providing copiers, printers or other machinery in the owner's place of business for use by customers who make their own printed material for a fee does not fall under the term "Printer".

102 Gross proceeds of sales by persons engaging in the printing business are taxable at the regular retail rate of tax on the total charge with the following exceptions:
1. Sales of printed matter or printing services to licensed dealers for resale at retail in the regular course of business are exempt from sales tax.
2. Where stamped envelopes or post cards are purchased and printed for the customers, the amount of the postage may be deducted from the total charge.
3. Sales of daily or weekly newspapers and periodicals or publications of scientific, literary or educational organizations which are exempt from Federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1954 as it existed as of March 31, 1975, are exempt from sales tax.
4. Printed products that are delivered outside of this state are exempt from sales tax.

103 Purchases by a printer of ink, printing stock, staples, stapling wire, binding twine, glue and other tangible personal property which become a component part of the printed matter, or are coated upon or impregnated therein, are purchases of raw materials and exempt from tax. Purchases of component materials which are used or consumed by the printer in the fabrication of plates incidental to a customer printing job are likewise deemed to be component materials and exempt from tax provided that title to such property passes to the customer.

104 Purchases of machinery, machine parts, computers, digital equipment, or software used directly in the printing or reproduction process are taxable at the 1 1/2% special rate of tax. Purchases of electric power or other fuels used directly in the printing or reproduction process are exempt from sales tax.

105 Purchases of other equipment and supplies are taxable at the regular retail rate of tax. Such other equipment includes but is not limited to inserters or mail sorting equipment.

Purchases of copiers and other equipment provided for use by customers who make their own printed material are taxable at the regular retail rate of tax.

106 Rental or lease of machinery and other tangible personal property is taxed at the same rate as sales of the same property.

107 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

108 (Reserved)

Chapter 06 Paper Products and Paper Dealers

100 Sales of paper products are classified according to the intended use of the product.

101 Paper products include, but are not limited to, brochures, manuals, cardboard boxes, wrapping paper, napkins, labels, tickets, memo pads, sticky notes, and advertising materials.

102 Sales of raw materials to manufacturers or custom processors are exempt. Paper products sold to manufacturers, custom processors or wholesalers as shipping materials to accompany goods sold are exempt from sales tax.

103 Paper products sold to licensed retailers for resale and containers used as shipping materials to accompany goods or services sold by the retailer are exempt.

104 Sales of materials for use by the purchaser for his own consumption, such as advertising, sales promotion materials, supplies, or materials furnished to merchants are taxable at the regular retail rate of tax.

105 The schedule below provides guidance in determining the correct tax treatment when paper dealers sell paper products:

		When Sold to:					
		Paper Products Retailers (For Resale)	Other Retailers- Grocery stores, restaurants, cafeterias, convenience stores, dept. stores, etc.	Consumer - Product used for individuals or businesses own use, including employees of seller, churches & religious institutions, private schools, colleges, & hospitals, offices, hotels, motels, professionals, etc.	Manufacturers & Processors	Laundries & Dry Cleaners	Government agencies, nonprofit private schools, public schools, nonprofit hospitals & public hospitals.
Type of Paper Product Sold:							
Advertising Materials - Including matches, brochures, leaflets, hand bills, manuals, signs, catalogs, etc.		Exempt	Regular Retail	Regular Retail	Regular Retail	Regular Retail	Exempt
Containers - Including bags, boxes, sacks, cartons, cases, wrapping paper, twine, tape, collar tabs, shirt boards, coat hangers, cups, plates, napkins, forks, spoons, straws, waxed paper, car lining paper, labels & other one time use containers.		Exempt	Exempt	Regular Retail	Exempt	Exempt	Exempt
Supplies - Including table cloths, towels, toilet tissue, confetti, party novelties, menus, sales pad, tickets, memo pads, prescription blanks, office supplies, etc.		Exempt	Regular Retail	Regular Retail	Regular Retail	Regular Retail	Exempt
Miscellaneous - Tags, manuals, data sheets, inspection slips, price lists, advertising materials, warranty slips and other items to accompany product mfg. for sale.		Exempt	Regular Retail	Regular Retail	Exempt	Regular Retail	Exempt

106 (Reserved)

35.IV.4.06 revised effective March 1, 2020

Chapter 07 Automotive Parts Jobbers

100 Sales of automotive parts to consumers are taxable at the regular retail rate of tax. Sales of automotive parts to licensed retail dealers, garages, automobile dealers or service stations who resell such parts on vehicles sold in the regular course of business, are wholesale sales and exempt from sales tax. "Wholesale sales" shall not include a transaction whereby property is delivered to and collection for same is made from a person that will consume the property rather than resell it even though the billing is to a licensed retailer.

101 Sales to licensed dealers of materials which become components of a product for sale or repair, such as paint, thinner, body solder, welding rods, flux, polish, rubber cement, etc., are exempt from sales tax.

102 Sales of supplies and equipment to be used by body shops, service stations, garages, dealers, etc., are taxable at the regular retail rate of sales tax. Examples: tools, cleaning materials, display and advertising equipment, sandpaper, oxygen and acetylene.

103 "Shade tree" mechanics that are not registered for sales tax as garages are classified as consumers, taxed at the regular retail rate of tax on purchases.

104 Copies of sales invoices and adequate records must be maintained to substantiate sales classifications.

105 (Reserved)

Chapter 08 Sales and Installations of Personal Property

100 General

101 Any person selling and installing personal property as a business activity is taxed by Miss. Code Ann. Section 27-65-17 on gross proceeds of sales, which include installation charges as defined by Miss. Code Ann. Section27-65-3. Persons not in the business of selling who only install the owner's personal property are not subject to tax on labor charged to the owner unless taxed as a service provided by Miss. Code Ann. Section 27-65-23.

102 (Reserved)

200 Definitions

201 "Business activity" includes any activity or act engaged in (personal or corporate) for benefit or advantage, either direct or indirect and does not require that an inventory of goods be maintained.

202 "Installation" means the application of tangible personal property to real or personal property regardless of whether it becomes a part of the real property or retains its personal property classification. Examples of installed sales, or sales of property set in place are:

1. Aluminum and plastic siding;
2. Appliances;
3. Awnings;
4. Carpets;
5. Carports;
6. Drapes;
7. Fences;
8. Floor coverings;
9. Gasoline pumps;
10. Glass;
11. Machinery;
12. Office and business equipment
13. Pipe organs
14. Roofing;
15. Store fixtures;
16. Tile
17. Tombstones;
18. Window air conditioning units;
19. Window guards; and
20. Similar property

203 “Installation” does not include general construction work and carpentry when the majority of the activity is the erection of the structure of a building or other real property.

204 (Reserved)

300 Tax Rates

301 Commercial contracts over $10,000 for the installation of personal property which qualify as an activity under Miss. Code Ann. Section 27-65-21 will be taxed at 3 ½% (see Title 35, Miss. Admin. Code, Part IV, Subpart 10, Chapter 1). Activities which may qualify under this section are roofing, siding, tile setting, glass, floor covering and fence installation.

302 Suppliers who contract for less than $ 10,000 primarily for the sale and installation of property listed in this regulation, which may include some incidental construction or carpentry services, are taxed on the full installed sales price of the job, to include labor and materials, at the regular retail rate of tax (for example, the sale and installation of roofing, tile, carpets, etc.)

303 Similar contracts for a noncommercial structure, in any amount, are also taxable on the full installed sales price, to include labor and materials, of the job at the regular retail rate of tax. Such noncommercial contracts do not qualify for the reduced rate of contractor’s tax provided by Miss. Code Ann. Section 27-65-21. No sales tax is due when sold for resale to and installed for another dealer in such property.

304 (Reserved)

400 Burglar and Fire Alarm Systems

401 When as the result of signing a monitoring contract, the alarm company provides and installs the alarm system for free or at reduced cost, the equipment is not taxed for use tax or treated as a withdrawal from inventory. Sales tax is due on the amount received from the customer. The monitoring service is taxable regardless of where the monitoring is taking place.

402 (Reserved)

500 Sales of Concrete and Asphalt

501 All sales of concrete and asphalt are taxable at the regular retail rate of tax unless the purchaser provides a valid exemption. A valid exemption means that the purchaser is an entity exempt from sales tax under Miss. Code Ann. Section 27-65-101 through 27-65-111; or that the purchaser holds an MPC number or direct pay permit issued under Miss. Code Ann. Section 27-65-21 or 27-65-93, respectively. Additional information on the treatment of concrete and asphalt sales may be found in Title 35, Mississippi Administrative Code, Part IV, Subpart 10, Chapter 01.

502 (Reserved)

35.IV.04.08 revised effective June 1, 2007

Chapter 09 Manufactured Housing

100 Manufactured home (mobile home) is defined as a structure that is transportable in one or more sections and is built on a permanent chassis. A manufactured home is designed for use as a dwelling or office with or without a permanent foundation when connected to required utilities. The sale or lease of manufactured homes is taxed at the reduced rate of 3%.

101 Items permanently attached to and becoming a component part of the manufactured home at the time of the sale are included in the purchase price that is taxable at 3%. Examples would be a built-in dishwasher and central heating and air conditioning. Appliances sold and shipped by the manufacturer with the home and included in the overall price of the home from the manufacturer are also considered part of the manufactured home taxable at the reduced rate of 3%. Other furniture and freestanding appliances purchased and resold by the manufactured home dealer are taxable at the 7% rate of tax. The sales price of the additional freestanding furniture and appliances should be separately stated from the sales price of the manufactured home. Likewise, the 7% sales tax should also be separately stated from the 3% sales tax.

102 Purchases of labor and parts for repair are exempt when purchased by a registered manufactured home dealer for reconditioning used manufactured homes to be resold. Sales of repairs, repair parts and replacement parts to owners of manufactured homes are taxable at the 7% rate of tax.

103 Amounts included in the sale of a manufactured home for "set up charges" are taxed at the same rate as the manufactured home. These charges are limited to the site built supporting parts upon which the manufactured home is placed. It includes all exterior materials required to physically screen or shield such supports including skirting and basic entry steps required for exterior doors. Charges by the manufactured home dealer to run the utilities to the site where the manufactured home will be set up are taxable at the 7% rate of tax. This includes running the utilities to the site and installing the electrical pole and or the water meter. The manufactured home dealer should provide their sales tax account number to the utility company, plumber or electrician to purchase these services exempt for resale.

104 Other charges for general home site preparation such as, but not limited to the grading of the home site, providing fill dirt or other fill materials for preparation of the home site, installation of a septic tank system or running utilities to the home site are not defined as set up charges. If the manufactured housing dealer provides these services to his customer, then the manufactured housing dealer is considered to be reselling such services and should provide his tax number to the vendor or contractor providing such services. The manufactured housing dealer is responsible for collecting and remitting 7% tax on all additional charges that are not "set up charges".

105 The manufactured home dealer should pay 7% sales tax on the cost of materials for any carpentry work performed for the customer at the manufactured home site. This includes onsite construction of decks and other similar structures. The manufactured home dealer should pay 7% sales tax on purchases of concrete from a mix plant or asphalt for use in construction of foundation runners, pilings, piers, driveways, patios or other similar structures. No sales tax should be charged to the customer for these construction services.

106 Any taxpayer operating a new or used mobile home dealership shall be required to post a cash or surety bond prior to receiving a Sales Tax Permit to engage in business. The amount of the bond shall be $25,000 for a new mobile home dealer and $10,000 for a used mobile home dealer, unless the taxpayer or Commissioner can show cause for another amount to be accepted.

107 Any manufactured home dealer who files delinquent tax returns for more than one period in a calendar year or who presents a check for payment of tax that is returned by the bank for insufficient funds, shall be required to post a bond equal to six months' tax liability. The six months' liability shall be determined by accumulating the past 12 months' liability (determined by returns filed or audit results) and dividing by 2.

108 (Reserved)

35.IV.04.09 revised effective April 1, 2018.

Chapter 10 Specified Digital Products

100 The sale, rental or lease of specified digital products is taxed at the regular retail rate when:
1. The sale, rental or lease is to an end user;
2. The seller coveys the right of permanent or less than permanent use of the products transferred electronically; or
3. The sale is conditioned or not conditioned on continued payment.

101 The sale of a digital code that allows the purchaser to obtain a specified digital product is taxed in the same manner as a specified digital product.

102 "Specified digital products" are electronically transferred digital audio-visual works, digital audio works and digital books. A person is in the business of selling, leasing or renting specified digital products in Mississippi if the product is electronically transferred to a purchaser located in Mississippi. A product is "electronically transferred" when it is obtained by the purchaser by some means other than tangible storage media, including, but not limited to, delivery via internet or network, or access via internet or network to a server where the product is stored, regardless of the location of the server.

103 Sales by a specified digital products provider to another specified digital products provider for resale are not subject to sales tax, if the provider purchasing the product holds a permit issued under Miss. Code Ann. Section 27-65-27.

104 Reserved

Chapter 11 Medical Cannabis Establishments

100 Definitions

101 "Cannabis" means all parts of the plant of the genus cannabis, the flower, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or its resin, including whole plant extracts. It does not mean cannabis derived from drug products approved by the federal Food and Drug Administration under Section 505 of the Food, Drug and Cosmetic Act.

102 "Cannabis products" means cannabis flower, concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes, without limitation, edible cannabis products, beverages, topical products, ointments, oils, tinctures and suppositories that contain tetrahydrocannabinol (THC) and/or cannabidiol (CBD) except those products excluded from control under Miss. Code Sections 41-29-113 and 41-29-136.

103 "Cardholder" is a registered qualifying patient or a registered designated caregiver who has been issued and possesses a valid registry identification card.

104 "Dispensary" is an entity licensed and registered with the Department of Revenue that acquires, possesses, stores, transfers, sells, supplies, or dispenses medical cannabis,

cannabis products, equipment used for medical cannabis, or related supplies and educational materials to cardholders.

105 “Equipment used for medical cannabis” includes pipes, bongs, rolling machines, grinders and similar products. Related supplies include rolling papers, bags, glass container jars, rolling trays and similar products.

106 "Medical cannabis establishment" means a cannabis cultivation facility, cannabis processing facility, cannabis testing facility, cannabis dispensary, cannabis transportation entity, cannabis disposal entity or cannabis research facility licensed and registered by the appropriate agency.

107 (Reserved)

200 Sales of Medical Cannabis

201 Medical cannabis cultivation facilities may only sell medical cannabis to medical cannabis cultivators, processors or dispensaries registered with the appropriate agencies. A valid resale number and ten-digit medical cannabis license number is required to substantiate a wholesale sale.

202 Medical cannabis cultivators or medical cannabis processors who transfer medical cannabis to a medical cannabis testing or research facility owe sales tax on the value or cost of the product transferred. The tax liability accrues at the time of transfer and should be remitted to the State with the same return and in the same manner as any other sales tax liability.

203 Medical cannabis processing facilities may only sell medical cannabis to other registered medical cannabis processors and dispensaries. A valid resale number and ten-digit medical cannabis license number is required to substantiate a wholesale sale.

204 Medical cannabis dispensaries may only sell medical cannabis, equipment used for medical cannabis, or related supplies and educational materials. Medical cannabis must be obtained from a medical cannabis cultivation facility or processing facility licensed by the Mississippi Department of Health or from another dispensary licensed by the Department of Revenue. These items may only be sold to cardholders or another dispensary licensed by the Department of Revenue. A valid resale number and ten-digit dispensary license is required as documentation of a wholesale sale. All other sales are taxable at the regular retail sales tax rate.

205 Items that are prohibited from being sold by dispensaries include, but are not limited to, clothing, food that does not contain cannabis, beverages that do not contain cannabis, propane, or vaping products that do not contain cannabis.

206 Medical cannabis is not subject to sales tax when transferred to a medical cannabis disposal entity licensed by the Mississippi Department of Health.

207 (Reserved)

300 Record Keeping

301 Each medical cannabis dispensary is required to use the statewide seed-to-sale tracking system maintained by the Mississippi Department of Health. Information entered in the seed-to-sale tracking system shall include each day's beginning inventory, harvests, acquisitions, sales, disbursements, remediations, disposals, transfers, ending inventory, and any other data necessary for inventory control records in the statewide seed-to-sale tracking system.

302 Adequate records must be maintained to substantiate tax classifications of sales. Adequate records shall include, but is not limited to, itemized invoices for cannabis products purchased, bank statements and cancelled checks, and any/all other sales and/or accounting records. Itemized purchase invoices and tickets shall bear the items purchased, the date of purchase, name of the seller and purchaser. Cash register tapes may not be used in lieu of itemized invoices for record purposes; however, all sales records shall be maintained.

303 (Reserved)

400 Payment

401 Electronic filing of returns will be required through use of the Department's TAP system. Electronic payment of sales tax will be required unless the medical cannabis establishment has written approval from the Department of Revenue to use another payment method.

402 (Reserved)

35.IV.04.11 effective June 16, 2022

Subpart 5 Services

Chapter 01 Hotels, Motels, and Mobile Home and Trailer Parks

100 Levy

101 Miss. Code Ann. Section 27-65-23 levies a tax on the gross income of hotels, motels, tourist courts or camps and trailer parks. Tax is due at the regular retail rate.

102 (Reserved)

200 Definitions

201 "Hotel" or "motel" is defined as any entity or individual engaged in the business of

furnishing one or more rooms, cottages, or cabins designed for dwelling, lodging, or sleeping purposes to transient persons and that is known to the trade as such. The terms "hotel" or "motel" also include all buildings, including single family dwellings or other structures, kept, used, maintained or advertised as, or held out to the public to be a place where sleeping accommodations are supplied for pay or other consideration regardless of the number of rooms, units, suites, or cabins available. Advertising for rent to the general public, whether by the owner of the property or a third party, qualifies as being "known to the trade as such." It is immaterial that cooking facilities may or may not be furnished. "Hotel" or "motel" includes any entity or individual furnishing bed and breakfast accommodations to transient persons. "Hotel" also includes third-party entities that facilitate, arrange, or broker transactions by listing or advertising the availability of accommodations for transient persons and, either directly or indirectly through agreements with third parties, collect payment from the customer and transmit such payment to the property owner or manager. It is immaterial whether the property owner or manager would have been required to collect and remit the taxes had the sale not been made through the third-party entity.

202 "Condominium" or "hotel condominium" is defined as a multi-unit facility where each unit is individually owned. Condominium owners may rent out the units when not in use by the owner. The units may be rented out by the owner or placed with a management company for rental. Rentals of condominiums or hotel condominiums are taxable when such rentals are to transient persons.

203 "Trailer park" is defined as a park established for the purpose of accommodating travel trailers pulled either by automobiles or other vehicles or self-propelled, which are in a travel or transient status and where utilities are connected in a temporary manner. For tax purposes, a trailer park is any one location where trailers, campers or other mobile units may be parked for a fee, either permanently or temporarily and irrespective of whether utility facilities are available.

204 "Mobile home park" is defined as a park established for the primary purpose of accommodating mobile homes that are permanently located, registered with the County Tax Assessor as provided by Miss. Code Ann. Section 27-53-5, hooked up to water, sewer, gas, or electric utilities with permanent meter connections that are not easily disconnected, and tied down according to regulations and other requirements. Such facilities are considered a home and place of permanent residence. Since Miss. Code Ann. Section 27-65-23 specifically denotes "hotels, motels, tourist courts or camps and trailer parks," the tax is applicable specifically to travel or transient accommodations and not to residents of mobile homes. Sales to mobile home residents of potable water, electricity, gas or other fuel for residential use are exempt from sales tax.

205 (Reserved)

300 Gross Income

301 Taxable gross income includes (but is not limited to) receipts from:

1. Admissions, minimum and cover charges for entertainment
2. Attrition fees
3. Auto storage – parking lots
4. Banquet meeting room revenue with or without meals
5. Cancellation fees
6. Coin lockers
7. Early departure or late departure fees
8. Guaranteed no show revenue
9. Laundry and valet services
10. Local telephone charges, including per call charges
11. Long distance telephone mark-ups or up-charges, or any excess charges over and above the carrier charge
12. Marina services
13. Packages (example: golf, honeymoon, casino)
14. Pet charges
15. Radios, televisions, and movies, including pay per view services
16. Refrigerator or safe charges
17. Roll away bed charges
18. Sales and rentals of tangible personal property
19. Service charges
20. Transient room revenue
21. Vending machine sales (except full-service vending machines)
22. Video game rentals

302 Non-taxable gross income includes receipts from:

1. Childcare charges (does not include admissions to areas of amusements where children are kept)
2. Coin operated amusement and music machines
3. Commissions included in gross income of other taxpayers
4. Re-billed carrier long distance telephone charges that have been taxed by the service provider
5. Rentals of stores, offices, or other commercial property to non-transient guests

303 Any hotel, motel, condominium, or trailer park may exclude the gross income from charges for non-transient guests.

304 For purposes of defining "non-transient guest," the guest must enter into a written contract or lease at the beginning of the stay for a period of at least three (3) consecutive complete months or for a minimum of ninety (90) consecutive days. Guests who do not enter into a written contract or other written agreement at the beginning of the stay but whose stay ends up exceeding ninety consecutive days are still considered transient guests because there is no agreement concerning the length of stay. Any guest who begins to rent a hotel, motel, condominium, or trailer park space on a daily or weekly basis after the expiration of a written contract or other written agreement and which has not been extended will become a transient guest and the gross income received from the daily or weekly rental will be taxable.

305 Hotel or motel guests qualify as non-transient guests only when they stay in a building(s) held exclusively for long-term rental that is owned by the hotel or motel and is set separate and apart from buildings used to accommodate transient guests. The building set aside for long-term rental must contain rooms with kitchen facilities.

306 (Reserved)

307 (Reserved)

400 Exempt Sales

401 As a prerequisite to claiming the governmental exemption, the sales of property or service must be sold to, billed directly to, and payment therefore made directly by the governmental entity and not to or through some contractor or quasi-governmental agency, and the title to the property or benefit from the service must pass to the government rather than to some beneficiary. Sales to government employees are taxable regardless of the fact that the employees may be reimbursed by the government for the expenses incurred.

402 (Reserved)

500 Purchases

501 Hotels, motels, condominiums, or condominium hotels must pay tax on purchases that are provided in a guest room as a part of the service of providing lodging. These purchases include items such as shampoo, soap, toilet paper, laundry bags, coffee, food, candy, or other amenities. Tax is also due on purchases of linens, towels, and in-room appliances. Purchases of food or beverage sold by the facility may be made exempt from tax as a wholesale sale. This also includes food or beverage provided to guests in common areas of the hotel that are provided to guests at no additional charge.

502 Purchases or rentals of supplies and equipment used in the operation of the facility,

such as furniture, televisions, radios, signs, janitor's supplies, office supplies, etc., are subject to the regular retail rate of sales or use tax.

503 (Reserved)

504 (Reserved)

600 Reporting Requirements

601 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

602 (Reserved)

700 Local and Private Levies

701 Additional local levies may be applicable to hotels and motels depending upon where they are located in this state. The local tax must be invoiced and collected as a separate levy and should be reported on a return using the appropriate rate code. Rate codes are assigned based on the percentage of tax due.

702 The local levy may be due on the same basis as the sales tax, or the basis may exclude specific items that are subject to the regular sales tax such as food, beverage, telephone, laundry, and room rentals for day meetings.

703 (Reserved)

35.IV.5.01 revised effective August 8, 2025

Chapter 02 Laundries, Dry Cleaners and Linen Rental Companies

100 Miss. Code Ann. Section 27-65-23, levies a tax at the regular retail rate on the gross income of persons operating a laundry, cleaning, dyeing or pressing shop. No deduction is allowable for commissions or fees paid to agents soliciting this business. Miss. Code Ann. Section 27-65-101(o) exempts the gross collections from self-service commercial laundering, drying, cleaning and pressing equipment.

101 Income received from renting linens, uniforms and other tangible personal property in Mississippi is taxable at the regular retail rate of tax. No sales or use tax is due on property purchased by licensed linen rental companies or laundries for rental.

102 Income received from laundering or cleaning services for out-of-state customers is exempt when the property on which the service was performed is delivered to the customer either by common carrier or in property owned by the vendor.

103 Charges for alteration services are taxable when they are performed as a part of a laundering or cleaning activity.

104 Services, such as fading or dyeing, performed for a licensed dealer on property for resale at retail are exempt from sales tax.

105 Purchases by or sales to licensed laundries, dry cleaners and linen rental companies of water, soap and bleach dispensers, coin changers, air conditioners, bulk heads, signs and advertising, office supplies, labels, tickets, etc., which are used or consumed in the rendering of the services are taxable at the regular retail rate of sales or use tax. Purchases of soaps, naphthas, dyes and cleaning fluids are considered process chemicals and are exempt from tax. Purchases of coat hangers, wrapping paper, bags, etc., are exempt from sales tax.

106 Sales of electric power or other fuels to laundries, dry cleaners and linen rental companies for plant use are exempt from sales tax. See Title 35 Miss. Admin. Code, Part IV, Subpart 6, Chapter 01 concerning the Affidavit for Utility Exemption. Sales of manufacturing or processing machinery or machine parts to these establishments are taxable at the 1½% special rate of tax.

107 Sales of processing machinery, machine parts, soaps, supplies, etc., to hotels, taxable hospitals, taxable rest homes, etc., for their own use are taxable at the regular retail rate of tax. All sales (equipment, power, supplies, etc.) to persons in the self-service laundering business are taxable at the regular retail rate of tax.

108 Rental or lease of tangible personal property is taxable at the same rate as sales of the same property.

109 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

110 (Reserved)

35.IV.5.02 revised effective August 3, 2019

Chapter 03 Renting or Leasing Tangible Personal Property

100 General

101 Miss. Code Ann. Section 27-65-23 taxes the gross income received from renting or leasing personal property used in this state. The tax due on the lease or rental is at the same rate as the sale of the property.

102 (Reserved)

200 Definitions

201 Rental or Lease means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Mississippi Code of 1972, or other provisions of the federal, state or local law.

202 Lease or rental does not include providing tangible personal property furnished with an operator or crew for its operation. An operator or crew must do more than maintain, inspect or set-up the property. Under these circumstances, a service is rendered other than leasing or renting of property.

203 Miss. Code Ann. Section 27-65-3 (i) defines gross income to include the total charge for service or the total receipts derived from the rental or lease of tangible personal property without any deduction for rebates, cost of property sold, cost of materials used, labor costs, interest paid, losses or any expense whatever. Gross income also includes any charges made to the lessee for damages to, loss of or excessive use of the property.

204 Charges to lessees which represent a recovery of expenses (repairs, transportation, hotel, meals, supplies, etc.) are in reality an allocation of the selling price to this cost of operation and cannot be excluded from the measure of tax imposed upon the gross income.

205 Rentals for re-rental by a lessor engaging in the renting or leasing business are wholesale sales and are not considered to be taxable income.

206 Motor Vehicle is defined as any self-propelled, wheeled conveyance that does not run on rails. The term includes all private carriers of passengers and any light carriers of property having a gross vehicle weight of 10,000 pounds or less.

207 (Reserved)

300 Purchases and Sales

301 Persons qualified to do business in this State of renting or leasing tangible personal property are considered retailers and may purchase property to be rented exempt from sales or use tax. The tax, likewise, shall not apply to repair and repair parts of such property.

302 Leasing companies may purchase tangible personal property from a customer to be leased back to the same customer as a financing tool to benefit the customer. However, if the condition of the property has been altered or if the customer has used the property since the time it was originally purchased by the customer, there will be no credit for sales or use tax paid by the customer when originally procured prior to the sale to the leasing company.

303 All purchases of tools, supplies, machinery and equipment which are purchased for use in operating the business and not for rental are taxable at the regular retail rate of sales or use tax.

304 Sales of property to consumers which has been rented or leased are considered to be retail sales and are taxable on the gross proceeds of such sales.

305 Owners or other persons receiving benefit from use of tangible personal property in this State are liable for use tax on the property.

306 (Reserved)

400 Tax on Motor Vehicle Rentals

401 In addition to the 5% sales tax due on the rental of motor vehicles, a 6% motor vehicle rental tax is due on the gross income from the short term rental of motor vehicles. Therefore, the total tax due on short term rentals of these motor vehicles is 11%. Short term rentals are defined as rental agreements with a term of 30 or less continuous days. The total tax due on the long term (rental agreements in excess of 30 continuous days) rental or leasing of motor vehicles is 5%.

402 Effective July 1, 2014, as provided by Miss. Code Ann. Section 27-65-101 (1)(ss), the income received from renting or leasing of truck-tractors and semi-trailers used in interstate commerce and registered under the International Registration Plan (IRP) or any similar reciprocity agreement or compact relating to the proportional registration of commercial vehicles, as provided by Miss. Code Ann. Section 27-19-143, is exempt . Similar vehicles not used in interstate commerce and not registered in such a plan are taxed at the special rate of 3% provided for truck-tractors and semi-trailers, under Miss. Code Ann. Section 27-65-17(1)(d).

403 The total amount charged for rental of “you-drive-it” or “you-haul-it” vehicles is taxable income to the lessor, even though the lessee may use the property in multiple cities in Mississippi or in other states, and even though the charge may be collected by or with another person. The tax rate on these vehicles is 3% for vehicles with a gross vehicle weight (GVW) in excess of 10,000 pounds. Vehicles with a GVW of 10,000 pounds or less are subject to tax at the rate of 5% for sales tax and the additional 6% motor vehicle rental tax.

404 Motor fuel charges are not considered to be taxable rental income when separately invoiced from the charge for rental or lease. Sales of motor fuel by lessor are not subject to sales tax.

405 Rental cars provided under a new car warranty either from a dealer’s own fleet or through a car rental agency are considered part of the warranty repair and not subject to sales tax or the motor vehicle rental tax.

406 (Reserved)

500 Reporting Requirements

501 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

502 Income received from the rental or lease of transportation equipment between cities and counties in this state is not subject to city diversion. Any business renting or leasing transportation equipment and other items of tangible personal property must report the income from these activities separately.

503 (Reserved)

Chapter 04 Termite and Pest Control Services

100 Every person engaged in the business of performing termite and pest control services is liable for the regular retail rate of sales tax on gross income as provided in Miss. Code Ann. Section 27-65-23.

101 Gross income received in connection with these services includes charges for the treatment or prevention of termites, insects, rodents or other pests. Gross income includes the replacement of flooring, sills or other damaged portions of a building resulting from an infestation. Gross income also includes additional fees charged on an annual, semi-annual or other basis and labeled in some instances as inspection fees or continuation charges.

102 The exemption provided in Miss. Code Ann. Section 27-65-103(a) ("Sales of…insecticides…used in growing and preparing agricultural products for market") does not apply to sales of termite or pest control services or to sales of insecticides, rat poison and other materials for the control or prevention of rodents, insects, and other pests encountered outside the field of agriculture. The regular retail sales tax applies unless such materials are actually used in growing agricultural products for market such as cotton poison for boll weevils. The fumigation of products (beans, grain, etc.), while in storage is a taxable pest control service.

103 Purchases of building materials (lumber, nails, etc.) to repair damaged portions of a building resulting from infestation and materials (insecticides, pesticides, poison, distillate used in preparing preventive compounds, etc.) for treating are exempt from sales tax when purchased by a termite or pest control business.

104 Supply items and tools and/or equipment such as, spray applicators, dispensers, animal traps, etc., used in, but not actually resold as a part of the treatment or repair work are taxable at the regular retail rate of tax at the time of purchase.

105 (Reserved)

35.IV.5.04 revised effective March 6, 2020

Chapter 05 Public Storage Warehouse

100 Storage Warehouses

101 A storage warehouse is a place where tangible personal property is kept and stored for a fee in the custody of a person operating a commercial business. The gross income received from such an activity is taxable at the regular retail rate of sales tax. Income received from storage and handling of perishable goods is exempt from tax. "Perishable goods" means frozen goods or goods that require refrigeration while stored in a public storage warehouse (example: meat, fish, poultry, vegetables, fruits, etc.). Perishable goods shall also include grain products that require aeration while stored in a public storage warehouse (example: soybeans, wheat, rice, oats, milo, etc.).

102 Income received from the temporary storage of tangible personal property in this state pending shipping or mailing of the property outside this state is exempt from tax. The exemption is available to all property whether or not the final determination of the property's destination can be made prior to storage. It is the responsibility of the owner of the storage facility to obtain a signed Affidavit of Temporary Storage from each customer annually. The Affidavit is completed by the customer to indicate what percentage of goods will be shipped out of state. The percentage should be based on prior year's shipments, however, a reasonable estimate may be used if there is an absence of prior year information. Any Affidavit accepted in good faith will be accepted as satisfactory documentation of exempt sales. Sales tax is due on any goods to be shipped within this state.

103 (Reserved)

200 Rental of Storage Facilities

201 Income received from the rental of storage facilities for the storage of tangible personal property is exempt when the lessee maintains exclusive access to and control of the storage facility. Example: mini storage facilities where the lessee uses their personal lock. Income received from common storage facilities are subject to sales tax when multiple lessees have access to the same area of the storage facility.

202 (Reserved)

300 Moving and Storage Companies

301 Purchases of equipment and supplies by a warehouse and drayage or moving business are taxable at the regular retail rate of sales or use tax. Persons engaged in the moving and storage business are considered to be consumers of packaging materials on which the customer's property is contained for storage or transportation.

302 (Reserved)

400 Fuel Terminals

401 Persons in the business of storing or warehousing fuel or other oil products for others are construed to be engaged in a taxable public warehouse activity. The method used in measuring charges and length of time that product remains in the terminal does not relieve such persons of the sales tax liability.

402 Income received from the temporary storage of fuel or other fuel products in this state pending shipping or mailing of the property outside this state is exempt from tax. The exemption is available whether or not the final determination of the property's destination can be made prior to storage. It is the responsibility of the owner of the fuel terminal to obtain a signed Affidavit of Temporary Storage from each customer annually. The Affidavit is completed by the customer to indicate what percentage of goods will be shipped out of state. The percentage should be based on prior year's shipments, however, a reasonable estimate may be used if there is an absence of prior year information. Any Affidavit accepted in good faith will be accepted as satisfactory documentation of exempt sales. Sales tax is due on any goods to be shipped within this state. The storage and handling of natural gas in underground salt domes, caverns, or other underground structures are exempt.

403 (Reserved)

35.IV.5.05 revised effective September 1, 2018

Chapter 06 Computer Equipment and Services

100 Computer Hardware

1. "Computer Hardware" includes the components, accessories, machinery and equipment which constitute the physical computer assembly and the internalized instruction code which controls the basic operations (i.e. arithmetic and logic) of the computer and which causes the computer to execute instructions contained in system programs.
2. Rate and Application of Tax
   Sales, leases, or rentals of computer hardware, parts, supplies, publications or other tangible personal property are taxable at the regular retail rate of sales or use tax unless otherwise exempt.

101 Computer Program and Software

1. a. "Computer Program" is a series of instructions that are coded for acceptance or use by a computer system which are designed to permit the computer system to process data and provide results and information. The series of instruction may be contained in or on magnetic tapes, printed instructions, or other tangible or electronic media or downloaded via the Internet. This definition includes computer

game cartridges which allow certain games to be played on a television set through interaction with a computer or on home computers.

b. "Computer Software" is a collection of computer programs which work in cooperation with one another to perform automated tasks.

2. Rate and Application of the Tax
   a. The gross income received from computer program or software sales and services is taxable at the regular retail rate of sales tax. Computer program license fees (one-time or annual) and/or maintenance contract income are taxable regardless of how billed. Taxable services also include the design and creation of a web page regardless of the location of the hosting server.
   b. The principal line of business of the seller is not material when determining the taxability of sales of computer programs or software. Any bank, savings and loan or other thrift institution, accounting firm, computer program developer, dealer or other person is deemed to be a retailer when selling computer programs or software at retail to the final user or consumer.

102 (Reserved)

Professional Services

200 Professional Services. Professional services directly related to the technical design and programming of computer software are taxable and are included in gross taxable income.

201 Taxable professional services include but are not limited to:
1. Charges for installing, configuring, debugging, modifying, testing, or troubleshooting computer hardware, networks, programs or software, are taxable regardless of how such charges are billed.
2. The recovery of damaged, deleted, or lost data or other services using ARCserve or Norton PC Tools or other similar computer programs or software.
3. The initial charges for the training of user personnel or telephone support connected with the sale of computer hardware, programs, or software, are taxable regardless of when or where the services are provided.

202 Non-Taxable professional services include but are not limited to:
1. Identifying management information needs.
2. Analyzing business policies and conceptual design of new procedures.
3. Accounting and legal services such as advice on tax matters, assets management, budgetary matters, quality control, information security, operational and financial statements, auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets or adjusts such material.
4. Feasibility studies including economic and technical analysis of existing or potential computer hardware or software needs and alternatives.
5. Word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, and other computerized data and information storage or manipulation services are not taxable. This also includes charges for computer time used in providing these services.

203 However, when any of these services or other professional services is incidental to the sale of computer hardware, software, or programs, the entire charge is taxable.

204 (Reserved)

Use Tax

300 Use Tax. Section 27-67-3(i), defines computer software programs as tangible personal property for use tax purposes. The regular rate of use tax is due and payable from every person using, storing, or consuming such property within this state, possession of which is acquired in any manner. However, software maintained on a server located outside the state and accessible for use only via the Internet is not taxable.

301 (Reserved)

Wholesale Sales

400 Wholesale Sales. Sales of tangible personal property and services to a licensed retailer for resale in the regular line of business are not taxable.

401 (Reserved)

Purchases

500 Purchases. Purchases or rental of equipment and purchases of supplies used by a vendor in providing services to a user are taxable.

501 (Reserved)

Reporting Requirements

600 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

601 (Reserved)

Chapter 07 Design, Engineering and Other Professional Services

100 Design, engineering and other professional services are exempt from tax when not related to sales of tangible personal property taxable by Miss. Code Ann. Section 27-65-17, services taxable by Miss. Code Ann. Section 27-65-23 or activities taxable by Miss. Code Ann. Sections 27-65-21 and 27-65-24.

101 Sales of tangible personal property are taxed by Miss. Code Ann. Section 27-65-17 on the total gross proceeds of sales. Sales of certain services are taxed by Miss. Code Ann.

Section 27-65-23 on gross income. Gross proceeds of sales include, but are not limited to, design, engineering and other professional services utilized in or related to the sale, manufacture and/or installation of tangible personal property when the service is billed by the seller, regardless of the method billed. Gross income also includes income received from design, engineering and other professional services utilized in or related to performing a taxable service under Miss. Code Ann. Section 27-65-23.

102 Contracts or activities subject to the tax levied by Miss. Code Ann. Sections 27-65-21 and 27-65-24 are taxable on the total contract price or compensation received from such contract or activity. However, if the contract price for a project exceeds the sum of one hundred million dollars ($100,000,000.00), the portion of the total contract price attributable to design or engineering services shall be excluded from the basis of the contract price for purposes of determining tax due.

103 For contracts or activities subject to the tax levied by Miss. Code Ann. Section 27-65-21, the portion of the contract for engineering services may be excluded from the total contract price if the engineering services are performed by a professional engineer as defined in Miss. Code Ann. Section 73-13-3, who is also the general or prime contractor on the contract.

104 If there is no written contract, the contract will be deemed to be entered into at the time work begins.

105 Records must be maintained to substantiate the exclusion of design or engineering services from contracts subject to contractor's tax.

106 (Reserved)

35.IV.5.07 revised effective March 6, 2020

Chapter 08 Grading, Ditching, Dredging or Landscaping

100 Levy

101 Pursuant to Miss. Code Ann. Section 27-65-23, persons engaged in the business of performing services of grading, excavating, ditching, dredging, or landscaping are liable for sales tax at the regular rate of tax on gross income except as otherwise provided.

102 The total compensation received from grading, excavating, ditching, dredging, or landscaping activities performed as a prime contractor, for commercial purposes and exceeding $10,000.00 is subject to the contractor's tax provided for in Miss. Code Ann. Section 27-65-21.

103 (Reserved)

200 Definitions

201 Grading means any activity where an improvement is made to a road, land surface, or other job site such as, but not limited to, the grading of streets, highways, foundation pads, commercial projects, and building lots. Grading also includes the terracing of land, land leveling and land forming for farm, commercial, industrial, or residential purposes. Grading does not include land clearing and grubbing services when these services are not performed in conjunction with any other taxable services such as those activities listed above.

202 Excavating means any activity where something is created through excavation such as, but not limited to, a swimming pool, basement for a building, pond, underground storage silo, or other similar or related facility.

203 Ditching embraces any activity where a trench, furrow, canal, dredge ditch, or irrigation canal is made or constructed for irrigation, drainage or a boundary line, but is not limited to these activities.

204 Dredging means any activity of constructing, repairing, improving, or removing sediment from any ditch, irrigation canal, navigation channel, trench, drainage ditch, or any other body of water.

205 Landscaping means any activity that modifies the grounds of any house, building or area of land by contouring, forming or functional alteration of the land and includes the planting of flowers, shrubs or trees and the establishment of lawns and gardens. Landscaping also includes the building of landforms, retaining walls, flower beds, water features and other similar structures. Landscaping does not include tree trimming, grass cutting, hedge trimming, or similar maintenance activities; nor does it include the planting or spreading of materials provided by the owner when the charges for the non-taxable activities are listed separately on the invoice given to the customer.

206 Agricultural or soil erosion activities include items such as terracing, land leveling for purposes of growing crops, preparation of pasture land, creation or deepening of farm ponds, irrigation or drainage ditches, and other similar activities where the purpose of such activity is to improve land where crops are grown or where livestock is allowed to roam or graze. Agricultural or soil erosion activities do not include activities which are part of a commercial construction activity such as the building or improving of poultry houses, barns, sheds, roads, foundation pads or other similar structures.

207 (Reserved)

300 Taxability

301 Sales tax is not due on contracts entered into with farmers for the clearing of trees and underbrush when the principle activity contracted for is for land clearing. Contracts that principally involve grading, excavating, ditching, dredging, or landscaping are subject to tax unless such activity is exempted under Miss. Code Ann. Section 27-65-103 (d).

302 Miss. Code Ann. Section 27-65-103 (d) exempts gross income from grading, excavating, ditching, dredging or landscaping activities performed for a farmer on a farm for agricultural or soil erosion purposes when such income does not exceed $10,000.00. Contracts in excess of $10,000.00 for grading, excavating, ditching, dredging or landscaping services are taxable even when the payment for such activities is paid for in full or in part by the United States, State of Mississippi, or other governmental entity, or when the landowner is reimbursed in full or in part by a governmental entity.

303 No sales tax is due on a contract to fill in a hole, trench, ditch or other cavity in the earth where the principle activity performed is the transportation of fill dirt to the job site, the service of compacting and leveling being an inconsequential element of the transaction, even though the total compensation received is in excess of $10,000.00. If, on the other hand, the principal activity performed is the grading or land forming of the job site with the service of removing excess dirt or placement of fill dirt being an inconsequential element of the transaction, sales tax or contractor's tax is due on the total compensation received.

304 Compensation received from the drilling and installation of the well for an irrigation system is taxable for contractor's tax when the income exceeds $10,000.00.

305 The activities of a person engaged in the stripping of top soil or the mining, loading, and hauling of a natural resource product are not grading or excavating within the scope of Miss. Code Ann. Section 27-65-23 and as such is not subject to sales or contractor's tax.

306 Contracts for remediation or excavation and removal of contaminated soil for environmental purposes are subject to sales or contractor's tax.

307 (Reserved)

35.IV.05.03 revised effective July 1, 2009

Chapter 09 Car Washes

Levy

100 Section 27-65-23 of the Mississippi sales tax law taxes car washing with an exemption provided in Section 27-65-111(x) for self-service, coin operated car washes and car washes performed using portable high pressure washing equipment when the service is performed on the premises of the customer.

101 Self service, coin operated car washes where the customer deposits money for the car wash are exempt. This includes self-service bays where the customer washes his own vehicle or where the vehicle is washed by automatic wash equipment. Automatic car wash bays located at facilities such as convenience stores, gas stations and oil change facilities are considered to be self-service, coin operated car washes and are exempt. In order for a car

wash facility to be exempt, the facilities' employees cannot provide any assistance in the washing, drying or detailing of the automobile. Manual car washes, detail shops, and those with a mixture of manual and automatic services are subject to tax at the regular retail rate.

102 (Reserved)

Purchases

200 Exempt car washes must pay tax on any supply items such as soap, wax, water, or any other items dispensed through the washing equipment. The car wash operator should also pay tax on the purchase of items sold through vending equipment located on the premises.

201 Car wash facilities whose services are taxable may buy items exempt from tax if they remain with the car, such as wax. Purchases of supplies that are used or consumed by the car wash in performing its service are taxable. These include items such as soap, water, tire cleaner, and rags.

202 (Reserved)

Sub Part 06 Utilities

Chapter 01 Electric Power, Light, Gas and Other Fuel Distributors

100 Levy

101 Pursuant to Miss. Code Ann. Section 27-65-19(1)(a), sales to consumers of electricity, natural gas, liquefied petroleum gas or other fuels and services related thereto by electric power associations, natural gas districts, municipalities, privately owned businesses or stock companies, or any other persons are taxable on the gross income of the business at the regular retail rate of sales tax, except as otherwise provided. These sales are exempt when sold for residential heating, lighting, or other residential, noncommercial, nonagricultural use.

102 Pursuant to Miss. Code Ann. Section 27-65-19(1)(b)(ii), sales of electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel sold to a producer of oil and gas for use directly in enhanced oil recovery using carbon dioxide and/or the permanent sequestration of carbon dioxide in a geological formation is taxable at the reduced 1 ½% rate.

103 (Reserved)

200 Residential Usage

201 In order to qualify for the residential exemption, the utilities must be sold to, billed to, and paid for by the homeowner or resident of the facility. Residential customers may include,

but are not limited to, privately owned hunting and fishing camps, summer homes, cabins, or apartments.

202 Hunting or fishing camps that provide hunts and/or accommodations for a fee are not allowed the residential exemption and are subject to the regular retail rate of tax. Vacant apartments with utilities being billed to the apartment complex or manager are not eligible for the residential exemption. Private homes or residences owned by a business or corporation that are used for commercial purposes and that may be used to provide overnight stay on a temporary or transient basis are subject to the regular retail rate of tax. Such common establishments include bed & breakfast facilities.

203 Apartments rented to non-transient customers where utilities are sold to, billed to and paid for by the apartment owner are eligible for the residential exemption as long as the utilities are separately metered between residential and commercial use.

204 Any apartment or home that has mixed usage (residential/commercial) must be taxed at the regular retail rate unless there is a separate meter for the business (ex. business shop, poultry farm, commercial barn, repair garage, etc.). This provision does not include homes that also contain a home office.

205 Charges billed to an apartment owner or homeowner's association for commercial use in common areas such as, but not limited to, street lighting, subdivision entrance lights, swimming pools, recreational facilities, leasing offices, clubhouses and irrigation sprinkler systems are not residential usage and are taxable at the regular retail rate of tax.

206 (Reserved)

300 Exemptions

301 Sales of electricity, natural gas, liquefied petroleum gas or other fuels and services are not subject to sales tax when sold to a qualified exempt organization described in Mississippi statute.

302 Pursuant to Miss. Code Ann. Section 27-65-19(1)(a)(ii), sales of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for heating, lighting, or other use, and sales of potable water to a church exempt from federal income taxation under 26 USCS Section 501(c)(3) shall be excluded from taxable gross income of the business if the exempt sales are utilized on property that is primarily used for religious or educational purposes. Any church purchasing the above utilities may sign an affidavit attesting to the fact that they are exempt from federal taxation and that they qualify to be exempt from sales tax. Utility providers can accept this affidavit or the 501(c)(3) certificate from the Internal Revenue Service as evidence that the church qualifies for the exemption.

303 Pursuant to Miss. Code Ann. Section 27-65-107(f), sales of fuel to a manufacturer, custom processor, public service company or technology intensive enterprise meeting the criteria

established by the Mississippi Development Authority provided for in Section 27-65-17(1)(f) when used for industrial purposes are exempt from the tax levy.

303.01 A manufacturer holding a valid direct pay permit must provide their direct pay permit to its utility providers. The manufacturer will not be charged any tax by the utility provider but will be responsible for remitting the correct retail rate of tax for any non-industrial usage directly to the Department of Revenue on their Use Tax return. The direct pay permit should be used for all utility purchases including electricity, gas, and water. Any business eligible for the exemption that does not hold a direct pay permit must complete the Affidavit for Utility Exemption found on the Department's website and provide a copy to the utility company. Utility companies must keep their customers direct pay permit or affidavit as documentation in order to sell fuel for non-residential purposes exempt.

303.02 The exemption is applicable to certain businesses, such as a manufacturer, but is also applicable to certain specific uses, such as cotton ginning. The following provides some examples of the types of businesses or the types of special usage that qualify for the exemption.

1. Commercial Bakeries
2. Shipbuilders
3. Soft drink bottlers
4. Poultry brooders, incubators and hatcheries
5. Cold storage processors
6. Commercial horticulturists and greenhouses
7. Pipeline compressor or pumping stations
8. Cotton compresses and gins
9. Creosoting and treating plants
10. Dairy barns
11. Electricity generating plants
12. Electric power sub-stations
13. Feed mixers and processors
14. Agricultural irrigation
15. Garment plants
16. Concrete and asphalt plants
17. Laundries and dry cleaners
18. Custom meat processors
19. Milk processors
20. Printing shops
21. Sawmills
22. Steel fabricators

304 The sales of fuel used in the production of electric power by a company primarily engaged in the business of producing, generating, or distributing electric power for sale are exempt from tax, pursuant to Miss. Code Ann. Section 27-65-107(e).

305 Pursuant to Miss. Code Ann. Sections 27-65-107(g) and (h) the exemption also applies to agricultural use which includes the sale of fuels to or used directly in:

1. Commercial fishermen
2. Shrimper or oystermen
3. The production of poultry or poultry products
4. The production of livestock and livestock products
5. The production of domesticated fish and domesticated fish products
6. The production of marine aquaculture products
7. The production of plants or food by commercial horticulturists
8. The processing of milk and milk products
9. The processing of poultry and livestock feed
10. The irrigation of farm crops.

306 (Reserved)

400 Natural and Byproduct Gases

401 Pursuant to Miss. Code Ann. Section 27-65-19(1)(b)(i) sales of carbon dioxide, either naturally occurring or man-made, are subject to a reduced 1½% rate when purchased for use in a carbon dioxide enhanced oil recovery operation or for permanent storage in the ground.

402 Miss. Code Ann. Section 27-65-101(1)(n) provides that the value of natural gas lawfully injected into the earth for cycling, repressuring or lifting of oil, or lawfully vented or flared in connection with the production of oil is exempt from sales tax. However, the sale of natural gas for non-industrial use, non-residential use, is taxable at the regular retail rate except as provided in Section 401.

403 (Reserved)

500 Taxability of Other Income

501 All receipts from customers which are not refundable, or which are not investments in a marketable equity are included in gross income, taxable at the appropriate rate applicable to the customer. Examples are:
1. Connection or reconnection charges
2. Contributions to line extensions or relocations (aid to construction)
3. Forfeited membership deposits
4. Membership fees and deposits (non-refundable)
5. Sales of electricity, gas and other fuel
6. Service calls on property of customer (meter test, etc.)

502 Contributions to line extensions or relocations (aid to construction) made during construction of a residence when billed to the contractor are taxable at the regular retail rate. All charges billed to the homeowner are residential and exempt. Utilities billed to a contractor for temporary use during construction are taxable at the regular retail rate.

503 Sales of appliances and the installation or servicing thereof, as well as sales of any other merchandise to residential consumers are taxable at the regular retail rate of tax. This includes accommodation sales and sales to employees.

504 All receipts for the use of electric charging stations including fees for electricity, charging time, idle time, and any other fees are taxable at the regular retail rate of sales tax. These fees are included in gross income related to the purchase of electricity pursuant to Miss. Code Ann. Section 27-65-19(1)(a)(i).

505 (Reserved)

600 Purchases

601 Purchases by utility companies are subject to tax as follows:

	Private or Public Utilities	Governmental Utilities	EPA's
Automobiles, trucks, etc. (10,000 pounds or less gross weight)	5%	0%	3%
Automobiles, trucks, etc. (over 10,000 pounds gross weight)	3%	0%	1%
Electricity or other fuel for use in operating the generating or distribution facility	0%	0%	0%
Manufacturing machinery and machine parts	1 ½%	0%	1%
Motor Fuel	0%	0%	0%
Office furniture and equipment	Regular retail rate	0%	1%
Other property for use in operating the generating or distribution system	Regular retail rate	0%	1%
Tangible personal property and services for resale in the regular course for business	0%	0%	0%
Telephone, lights and water	Regular retail rate	0%	Regular retail rate
Tools and equipment	Regular retail rate	0%	1%

602 Rental or lease by utility companies of tangible personal property is taxed at the same rates as sales of the same property.

603 Consumers who purchase electric power directly from the Tennessee Valley Authority are liable for use tax on the purchase price. The Use Tax Law applies the same rates as are levied under Sales Tax Law on similar transactions.

604 The use or consumption by the producer, manufacturer or distributor of the product or service produced, manufactured, or purchased wholesale is taxable at the rate applicable to the use of the product. The tax due is measured by the cost or value of the product or service.

605 (Reserved)

700 Filing Requirements

701 Any person rendering taxable utility services must complete the Distribution of Sales Tax by Cities Schedule as part of the sales tax return filing. The 2% tax discount does not apply to utility charges by utility service companies. Adequate records must be maintained to substantiate tax classification of sales and purchases.

702 (Reserved)

35.IV.06.01 revised effective August 3, 2024.

Chapter 02 Telecommunications

100 Definitions

101 Telecommunications Service means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point or between points. Telecommunications service also includes the transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added.

101.01 Telecommunications services do not include:

1. Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a customer whose primary purpose for the use of the service is to obtain the processed data or information.
2. Installation or maintenance of wiring or equipment on a customer's premises.
3. Tangible personal property.
4. Directory advertising and other advertising.
5. Billing and collection services provided to third parties.
6. Internet access service.
7. Radio and television audio and video programming services regardless of the medium of delivery, and the transmission, conveyance or routing of the service by the programming service provider.
8. Ancillary services.
9. Digital products delivered electronically, including but not limited to, software, music, video, reading materials or ring tones.

102 Ancillary services means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing, directory assistance, vertical service and voice mail service.

103 Bundled transaction means a transaction that consists of distinct and identifiable properties or services which are sold for a single non-itemized price but which are treated differently for tax purposes.

104 Call-by-call basis means any method of charging for telecommunications services where the price is measured by individual calls.

105 Communications channel. Communicating data from one location to another requires some form of pathway or medium. These pathways, called communication channels, use two types of media: cable (twisted-pair wire, cable, and fiber-optic cable) and broadcast (microwave, satellite, radio, and infrared).

106 Conference bridging means an ancillary service that links two (2) or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging does not include the telecommunication services used to reach the conference bridge.

107 Customer means the person or entity that contracts with the seller of telecommunications services or the end user of the services if the end user is not the contracting party. A reseller of telecommunications services is not considered a customer.

108 Detailed telecommunications billing service means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

109 Directory assistance means an ancillary service of providing telephone number information and/or address information.

110 End user means the person who utilizes the telecommunications service.

111 Home service provider means the facilities-based carrier or reseller with which the customer contracts to provide mobile telecommunication services.

112 International means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively.

113 Interstate means a telecommunications service that originates in one (1) United States state or United States territory or possession, and terminates in a different United States state or United States territory or possession.

114 Intrastate means a telecommunications service that originates in one (1) United States state or United States territory or possession, and terminates in the same United States state or United States territory or possession.

115 Mobile telecommunications service is a type of telecom service. Mississippi has adopted the definition of "mobile telecommunication service" as stated in Section 124(7) of Public Law 106-252 (Mobile Telecommunications Sourcing Act). Mobile telecom services

include, but are not limited to: mobile phone service, mobile radio service, two-way mobile radio service, radio repeater service, wireless communication service, satellite telephone service, mobile local and long distance service, paging service, cellular roaming charges and beeper service.

116 Place of primary use means the street address representative of where the customer's use of the telecommunications service primarily occurs, which will be either the residential street address or the primary business street address of the customer. The place of primary use must be within the licensed service area of the home service provider.

117 Prepaid calling service means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code and that is sold in predetermined units or dollars which the number declines with use in a known amount.

118 Prepaid wireless calling service means a telecommunications service that provides the right to utilize mobile wireless service as well as other non-telecommunications services such as the download of digital products which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.

119 Private communication service means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations and any other associated services that are provided in connection with the use of such channel or channels.

120 Service address means the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

121 Vertical service means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

122 Voice mail service means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

123 (Reserved)

200 Levy

201 Income received from all charges for intrastate telecommunications services is taxable at the regular retail rate of sales tax pursuant to the provisions of Miss. Code Ann. Section

27-65-19(d)(i)(1). When intrastate toll charges are split between two or more companies, the company doing the billing to and collecting from the customer will be responsible for collecting and remitting the applicable sales tax.

202 Income received from all charges for interstate telecommunications services is taxable at the regular retail rate of sales tax pursuant to the provisions of Miss. Code Ann. Section 27-65-19(d)(i)(2). A credit will be allowed for taxes paid to another state that are levied under the authority of that state and imposed on interstate telecommunications service. This credit will be limited to the smaller of the Mississippi retail tax due on the service or the tax properly paid to another state on the service.

203 Income received from all charges for international telecommunications services is taxable at the regular retail rate of sales tax pursuant to the provisions of Miss. Code Ann. Section 27-65-19(d)(i)(3).

204 Income received from all charges for ancillary services is taxable at the regular retail rate of sales tax pursuant to the provisions of Miss. Code Ann. Section 27-65-19(d)(i)(4).

205 Income received from all charges for products delivered electronically, including, but not limited to, software, music, games, reading materials or ring tones is subject to the regular retail rate of sales tax pursuant to the provisions of Miss. Code Ann. Section 27-65-19(d)(i)(5).

206 Income received from the sale, rental, installation, maintenance or repair of tangible personal property is taxable at the regular retail rate of sales tax pursuant to Miss. Code Ann. Sections 27-65-17 and 27-65-23. Any merchandise given away or sold at a reduced amount as the result of signing a service contract, are not subject to use tax and are not treated as a withdrawal from inventory. Sales tax is due on the amount received from the customer.

207 Income received from the sale of a prepaid calling service or prepaid wireless calling service is taxable at the regular retail rate of sales tax at the time of sale of the service.

208 The gross income received from telephone answering or paging services, whether by person or machine, is taxable at the regular retail rate of sales tax pursuant to Miss. Code Ann. Section 27-65-23.

209 The sale of a bundled transaction is taxable on the total cost of the bundled transaction unless the provider can reasonably identify the non-taxable portion from its books and records kept in the regular course of business as provided for in Miss. Code Ann. Section 27-65-19(d)(vii)(2).

210 (Reserved)

300 Sourcing Provisions

301 Sales of telecommunications sold on a call-by-call basis are sourced to Mississippi when the call either originates or terminates in Mississippi and is charged to a service address in Mississippi.

302 Sales of telecommunications services that are sold for a fixed or flat monthly amount and the customer is entitled to make an unlimited number of calls are sourced to Mississippi when billed to a customer's place of primary use in Mississippi.

303 Sales of mobile telecommunications services are sourced to Mississippi when the customer's place of primary use is in Mississippi.

304 Sales of private communications services where all of the customer channel termination points are located in Mississippi are intrastate services and are sourced to Mississippi.

305 Sales of private communications services with multiple customer channel termination points in multiple states are interstate or international services and are sourced to Mississippi on a prorated basis using the number of termination points in Mississippi to the total number of termination points.

306 Sales of prepaid calling services or prepaid wireless calling services are sourced to Mississippi when the customer physically purchases the service at the vendor's place of business in this state. If the customer does not physically purchase the service at a Mississippi business location, the sale is sourced to Mississippi if the customer's shipping address is in this state and the sale involves shipment; or if the customer's billing address is in Mississippi when the sale does not involve a shipment. In absence of any of the preceding, the sale of prepaid wireless calling services may be sourced based on the location associated with the mobile telephone number.

400 Mobile Telecommunications Provisions

401 A home service provider is responsible for obtaining and maintaining the customer's place of primary use. The home service provider, acting in good faith, is entitled to rely on the address supplied by each customer in determining place of primary use and may be held harmless from any additional tax liability resulting from a different determination of place of primary use. All customer addresses relating to service contracts are deemed that customer's place of primary use for the remaining term of the contract or agreement. The home service provider must obtain valid primary use addresses for extensions or renewals of such contracts or month-to-month services provided after the expiration of a contract.

402 If the address used by the home service provider is determined to be incorrect, the Department will give notice to the home service provider to change the place of primary use on a prospective basis effective with the date of the notice. However, any customer whose place of primary use is deemed incorrect shall have an opportunity to demonstrate that address is correct.

403 The Department has the right to collect any taxes due directly from the customer that has failed to provide an address that meets the definition of the term "place of primary use" which results in taxes being due.

404 (Reserved)

500 Wholesale Sales

501 Charges by one telecommunications provider to another telecommunications provider for services that are resold, including, but not limited to, access charges, are exempt provided that the purchaser holds a valid sales tax permit issued under Miss. Code Ann. Section 27-65-27 and the purchaser is either located in this state or is providing telecommunications services in this state.

502 (Reserved)

600 Sales to Direct Pay Permit Holders

601 Miss. Code Ann. Section 27-65-93 provides that taxes levied under Miss. Code Ann. Section 27-65-19 may be covered by the use of a direct pay permit. However, telecommunications services are not covered with the use of a direct pay permit due to the fact that interstate and intrastate charges must be reported separately by the telecommunications provider.

602 (Reserved)

700 Taxable and Non-Taxable Charges and Fees

701 Charges by a service supplier for county emergency telephone (E-911) services are county fees and are not subject to any sales or use tax, and are not considered revenue of the service supplier for any purpose (Miss. Code Ann. Section 19-5-313).

702 Telephone services are considered taxable telecommunications services. Telephone services that are subject to tax include, but are not limited to, Federal access charges, connection and disconnection charges, reconnection charges, Federal universal service fees, local telephone number portability charges, charges for establishing new services, minimum charges and telecommunications nonrecurring charges.

703 (Reserved)

800 Purchases

801 Pursuant to Miss. Code Ann Section 27-65-107(f) electricity or other fuel purchased by telephone companies to operate a transmission system is exempt from sales and use tax. Purchases by licensed retailers of appliances and other merchandise for resale in the regular course of business are exempt from sales and use tax. All other purchases are subject to the

regular retail rate of tax. All telecommunications providers, with certain exceptions, are required to obtain a Direct Pay Permit for purposes of reporting and paying to the Department of Revenue the sales and use tax applicable to purchases or rentals of tangible personal property and services in lieu of payment to the vendor.

802 (Reserved)

900 Reporting Requirements

901 Any person making taxable sales of telecommunications must complete the Distribution of Sales Tax by Cities Schedule, part of the sales tax return filing. The 2% tax discount does not apply to sales of telecommunications. Adequate records must be maintained to substantiate tax classifications.

902 All taxes due from Intrastate Long Distance charges and Local Service charges must be reported on the sales tax return separately from all taxes due from Interstate Long Distance using the appropriate tax code categories as specified in the instructions.

903 The tax due from the sale of components of bundled transactions must be reported separately by using the appropriate tax codes. The breakdown of actual charges should be used if available. The telecommunications provider must allocate the price among the services by either identifying the portion of the price attributable to each service from its books and records kept in the regular course of business or based on a reasonable allocation methodology approved by the Department.

904 (Reserved)

35.IV.06.02 revised effective April 1, 2018.

Chapter 03 Telegraph Services

Taxable Income

100 The gross income of a telegraph business is subject to the regular retail rate of sales tax on charges for transmitting messages between points within this State, with no deduction for any part of an intrastate rate charge because of routing across a state line. Rental of tangible personal property and any other miscellaneous income, such as charges made in connection with local pick-up and delivery service, are likewise taxable.

101 (Reserved)

Exemptions

200 Exemptions from tax arise from charges made for transmission of messages between this State and other state or foreign counties. Charges for transmission of messages for the

State of Mississippi, its counties and municipalities, and the Federal Government are exempt. Adequate records must be maintained to substantiate exempt sales

201 (Reserved)

Purchases

300 Purchases of all supplies and equipment are subject to the retail sales or use tax without any exemption due to the use of the equipment in interstate commerce.

301 Rental or lease of tangible personal property to telegraph companies is taxed at the same rate as sales of the same property

302 (Reserved)

Chapter 04 Water

100 Levy

101 Pursuant to Miss. Code Ann. Section 27-65-19(1)(a) sales to consumers of potable water and services related thereto by rural water associations, municipalities, privately owned businesses, stock companies or any other persons are taxable at the regular retail rate of sales tax, except as otherwise provided. These sales are exempt when sold for residential, noncommercial, nonagricultural use.

102 (Reserved)

200 Residential Usage

201 In order to qualify for the residential exemption, the water must be sold to, billed to, and paid for by the homeowner or resident of the facility. Residential customers may include, but are not limited to, privately owned hunting and fishing camps, summer homes, cabins, or apartments.

202 Hunting or fishing camps that provide hunts and/or accommodations for a fee are not allowed the residential exemption and are subject to the regular retail rate of tax. Vacant apartments with water being billed to the apartment complex or manager are not eligible for the residential exemption. Private homes or residences owned by a business or corporation that are used for commercial purposes and that may be used to provide overnight stay on a temporary or transient basis are subject to the regular retail rate of tax. Such common establishments include bed & breakfast facilities.

203 Apartments rented to non-transient customers where water is sold to, billed to and paid for by the apartment owner are eligible for the residential exemption as long as the water is separately metered between residential and commercial use.

204 Any apartment or home that has mixed usage (residential/commercial) must be taxed at the regular retail rate unless there is a separate meter for the business (ex. business shop, poultry farm, commercial barn, repair garage, etc.). This provision does not include homes that also contain a home office.

205 Charges billed to an apartment owner or homeowner's association for commercial use in common areas such as swimming pools, recreational facilities, leasing offices, clubhouses and irrigation sprinkler systems are not residential usage and are taxable at the regular retail rate of tax.

206 (Reserved)

300 Exemptions

301 Sales of water are not subject to sales tax when sold to a qualified exempt organization described in Mississippi statute.

302 Pursuant to Miss. Code Ann. Section 27-65-19(1)(a)(ii) sales of water to a church exempt from federal income taxation under 26 USCS Section 501(C)(3) shall be excluded from taxable gross income of the business if the exempt sales are utilized on property that is primarily used for religious or educational purposes. Any church purchasing water may sign an affidavit attesting to the fact that they are exempt from federal taxation and that they qualify to be exempt from sales tax. Utility providers can accept this affidavit or the 501(c)(3) certificate from the Internal Revenue Service as evidence that the church qualifies for the exemption.

303 Manufacturers holding a valid direct pay permit must provide their direct pay permit to its utility providers. The manufacturer will not be charged any tax by the utility provider but will be responsible for remitting the correct tax directly to the Department of Revenue. Utility companies must keep their customers direct pay permit or affidavit as documentation in order to sell water for non-residential purposes exempt.

304 (Reserved)

400 Taxability of Other Income

401 All receipts from customers, which are not refundable or which are not investments in marketable equities are considered to be gross income, taxable at the appropriate rate applicable to the customer. Examples are:

1. Charges for line extension
2. Charges for setting or installing meter
3. Connection or reconnection charges, including sterilization, inspection fees, tap on fees, etc.
4. Non-refundable membership fees
5. Plumbing services on customer's property

6. Water sales, including fire protection sprinkler charges

402 Any of the above charges made to a residential customer are exempt when billed by the utility company. Any charges for the above listed services performed by a plumber are taxable pursuant to Miss. Code Ann. Section 27-65-23. Any charges for line extensions or relocations made during construction of a residence are taxable at the regular retail rate of tax when billed to the contractor. Charges for water billed to the contractor for temporary use during construction is also taxable at the regular retail rate of tax.

403 Sales of appliances and the installation or servicing thereof, as well as sales of any other merchandise to residential consumers are taxable at the regular retail rate of tax. This includes accommodation sales and sales to employees.

404 Nontaxable Income:

1. Grants in Aid of Construction (Government, private foundations, or disinterested parties)
2. Investment income
3. Meter deposits (refundable)
4. Permit charges on plumbing installations
5. Real estate rentals
6. Refundable membership fees
7. Reimbursement for line relocation
8. Sales or exchanges of water between public utilities
9. Scrap sales
10. Sewage charges if separately itemized

405 (Reserved)

500 Purchases

501 Purchases of equipment, chemicals and other supplies by privately owned water systems are taxed at the regular retail rate of sales or use tax except that purchases of chlorine, sodium fluoride or other chemicals which, after being added, will remain in the water to the point of the sale for ultimate use are exempt from sales tax. Purchases of tangible personal property and services which are used in the ordinary and necessary operation of nonprofit water associations or corporations and municipally owned and operated systems are exempt from tax.

502 All other sales and purchases claimed as exempt must be substantiated by sales invoices or other records approved by the Commissioner.

503 (Reserved)

600 Filing Requirements

601 Any person making taxable sales of potable water must complete the Distribution of Sales Tax by Cities Schedule, part of the sales tax return filing. The 2% tax discount does not

apply to sales of potable water. Adequate records must be maintained to substantiate tax classifications.

602 (Reserved)

Chapter 05 TV Cable Systems and Similar Activities

Levy

100 Every person engaging or continuing in the business of TV cable systems, subscription TV services and other similar activities are liable for the regular retail rate of tax on gross income from such services including the basic fee, installation and connection fees, signal descrambling fees, equipment or rental fees, maintenance fees, sales of tangible personal property (program schedules, etc.) and any other related charges.

101 Sales of TV cable or subscription services for the private use of students, faculty members or any other person enrolled or domiciled at an "exempt" school, college or university are taxable at the regular retail rate of tax.

102 (Reserved)

Installation and Services

200 Persons performing contracts or providing services for TV cable or subscription companies are taxable as follows:

1. Hook-up, repair or any service on a TV cable transmission line, which is to be resold, is not subject to sales tax. Such sub services are taxable at the regular retail rate of tax when resold to a consumer.
2. Services or repairs on a TV cable transmission line, which are not for resale, are taxable at the regular retail rate of tax.
3. Contracts (on a project basis) in excess of $10,000 are taxable at the 3 ½% contractor's rate of tax levied by Section 27-65-21. This would include contracts for pre-wiring a building or complex, except for residential construction, when performed for an owner. Compensation received for work which is to be resold to a consumer (example: hook-up service for residences) should not be included in the total contract receipts when properly identified.
4. Subcontracts performed for general contractors on qualified jobs are not subject to sales tax.

201 (Reserved)

Purchases

300 Purchases of tangible personal property by licensed TV cable or subscription companies for resale or rental are exempt from sales tax. Purchases of other property or supplies

furnished the customer or used by the cable company in rendering the service are taxable at the regular retail rate of tax.

301 (Reserved)

Reporting Requirements

400 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

401 (Reserved)

Sub Part 07 Manufacturing and Production

Chapter 01 Reserved

35.IV.07.01 revised effective March 6, 2020

Chapter 02 Custom Creosoting and Treating, Planing and Sawing and Custom Meat Processing

100 Gross income received from custom creosoting and treating, custom planing, custom sawing and custom meat processing is taxable at the regular retail rate of sales tax. Gross taxable income includes all charges connected with the service. Services performed for a licensed retailer upon merchandise for resale in the regular line of his business are exempt from sales tax. Charges for custom creosoting and treating of track materials and the sale of track materials to a railroad whose rates are fixed by the I.C.C. are taxable at the 3% special rate of tax.

101 Purchases of raw materials which will become a component part of the product being processed are exempt. Purchases of electric power or other fuels used directly in custom processing are taxable at a 1 ½% special rate of sales or use tax. Purchases of manufacturing machinery or machine parts to be used directly and exclusively in custom processing are taxable at the 1 ½% special rate. All other purchases are subject to regular retail sales or use taxes.

102 Rental or lease of machinery and other tangible personal property is taxed at the same rates as sales of the same property.

103 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

104 (Reserved)

Chapter 03 Manufacturers and Custom Processors

100 General

101 Mississippi sales tax law provides for a reduced rate and certain exemptions for manufacturers and custom processors. The reduced rate of one-and-one-half percent (1½%) applies to the sale or rental of manufacturing machinery and machine parts that are used directly in the manufacturing process. Manufacturers and custom processors are also eligible for an exemption on purchases of electricity and natural gas used in the manufacturing process, as provided either by Miss. Code Ann. Section 27-65-107(f) or 27-65-111(n) when used in an engine. Sales of raw materials, catalysts, processing chemicals, welding gases or other industrial gases to a manufacturer for use directly in manufacturing or processing a product for sale or rental are exempt.

102 (Reserved)

200 Manufacturer, Custom Processor and Manufacturing Activities

201 A "manufacturer" is defined as a person who is exclusively or predominately engaged in the business of fabricating, compounding, or creating from his own raw materials or ingredients any tangible personal property through the application of skill and labor, either by hand or through the use of machinery, for sale or rental through the regular channels of trade.

202 “Manufacturing” refines, improves, changes the condition of raw materials, or converts the form of the materials into new, different, or more useful property and includes the fabrication or production of special made-to-order articles and the generation of electricity. A person who is engaged in manufacturing and non-manufacturing activities may be classified as a manufacturer provided that said manufacturing activities are operated as a separate business or division.

203 Persons performing work such as logging operations, cooking, and serving food by a restaurant, washing and screening sand and gravel, mining, severing or otherwise producing natural resource products, transporting raw materials from place of production to point of processing, etc., are not considered manufacturers. Neither are persons performing such activities as hatching and raising baby chicks for market considered to be manufacturers.

204 A "remanufacturer" is defined as a person who is engaged in performing activities of an industrial or commercial nature wherein labor or skill is applied by hand or machinery, to materials, a portion of which may belong to the customer, so that rebuilt articles of tangible personal property, comparable in quality to new articles of the same property, are created, a majority of the value of which is produced by the remanufacturing activity.

205 A "custom processor" is defined as any person who performs a manufacturing or remanufacturing service done or made to order upon the property of the customer and

includes laundering, cleaning, and pressing.

206 Remanufacturing or custom processing does not include repairs or maintenance which restores the property to a workable condition, and which does not constitute a majority of the value of the property repaired.

207 "Manufacturing plant" means the real and personal property owned or leased by a manufacturer which is assembled and used at a fixed location to perform activities defined as manufacturing.

208 “Manufacturing” begins at the point where the raw materials are transferred to the actual processing operation from storage or stockpile at the plant, and ends when the manufactured product leaves the assembly line for storage or shipment, and includes the processing of the by-product or waste materials to avoid air and water pollution.

209 (Reserved)

300 Manufacturing Machinery

301 “Manufacturing machinery” is the machinery that is used within a plant exclusively and directly in manufacturing a commodity for sale, rental or in custom processing for a fee. Motorized units and other conveyor systems serving a specific function within the line of process at the plant site will be classified as manufacturing machinery, as well as equipment used in the processing of waste materials to avoid air and water pollution.

302 Manufacturing machinery does not include machinery for use in the severance of timber, sand, gravel, oil, gas, or other natural resources produced or severed from the soil or water; maintenance or repair machinery; research laboratory machinery; storage facilities warehouse machinery; equipment for protection of the plant or comfort of the personnel or other equipment and supplies of like character. Equipment used in the treatment of water by a manufacturer qualifies for the reduced rate of tax of one-and-one-half percent (1½%). Equipment used in the treatment of water by a public or private water system or sewage system is not classified as manufacturing machinery and does not qualify for the reduced rate of tax. The term “manufacturing machinery" does not include foundations or materials for their construction, nor does it include portable equipment that is not assembled and used at a fixed location.

303 “Machine parts” are component parts of manufacturing machinery and do not include parts for service equipment, non-manufacturing machinery, fuels, lubricants, paints, or tools for maintenance.

304 (Reserved)

400 Pollution Control Equipment Used by Manufacturers and Custom Processors

401 Purchases of pollution control equipment by manufacturers and custom processors are

exempt from sales or use tax. The term "pollution control equipment" means equipment, devices, machinery, or systems used or acquired to prevent, control, monitor or reduce air, water, or ground water pollution, or solid or hazardous waste as required by federal or state law or regulation. The use of pollution control equipment for other purposes would not result in the exemption being disallowed.

402 The taxpayer will be required to substantiate that any equipment purchased for purposes of pollution control does qualify for the exemption. The taxpayer must provide certification from a professional engineer that the purchases do meet the requirements of the exemption regarding the prevention, control, monitoring, or reduction of air, water, or ground water pollution or solid or hazardous waste. The certification must provide a list of the purchases and a description of the use of such purchases. Certification may include:

1. Federal law, state law or regulation requiring use of certain equipment,
2. Federal permit documentation,
3. State permit documentation,
4. Engineering report,
5. Schematic reports including project data, equipment specifications and drawings, or
6. Other.

403 Replacement and/or repair parts for pollution control equipment are exempt from tax if the initial purchase of the equipment to be repaired or refurbished was or would have been exempt. The exemption would also apply to the repair labor.

404 (Reserved)

500 Sales and Purchases Made by Manufacturers and Custom Processors

501 Exempt sales by manufacturers include sales of component materials to contractors with a valid material purchase certificate number, sales to other manufacturers for further processing, sales to licensed dealers or retailers for resale through the regular course of business, or sales to exempt customers (city, governmental agencies, etc.). Sales of manufacturing machinery or machine parts to other manufacturers are taxable at the one-and-one-half percent (1½%) reduced rate of sales tax. Sales to other consumers or users are subject to the regular retail rate of tax.

502 Sales of tangible personal property by the manufacturer or custom processor are exempt on the gross proceeds of sale when shipped, transported, or exported from the State and first use occurs in another state or country, whether such shipment is made by the seller, purchaser, or any third party. The activities of providing instructions, training, or allowing an inspection of the property between the seller and the buyer prior to the shipment of property does not establish a first use in the State of Mississippi.

503 Purchases of machinery, tools or repair parts or replacements, fuel or supplies used directly in manufacturing, converting, or repairing ships of three thousand (3,000) tons load displacement and over are exempt from sales or use tax. However, purchases of office and plant supplies or other equipment not directly used on the ship being built, converted, or

repaired are subject to the regular retail rate of sales or use tax.

504 Purchases by manufacturers of raw materials which become a component part of the finished product, containers for sale with the finished product, or catalysts, chemicals or gases used directly in processing are exempt from sales or use tax. Purchases of electric power or other fuel used directly in the manufacturing process are exempt as provided by Miss. Code Ann. Section 27-65-107(f) or 27-65-111(n). Purchases of machinery or machine parts used directly in the manufacturing process are taxable at the one-and-one-half percent (1½%) reduced rate of sales or use tax. Purchases of all other equipment, utilities, and supplies (furniture, fixtures, cleaning materials, etc.) are taxable at the regular retail rate of tax. Pursuant to 27-65-21(1)(a)(ii), amounts included in commercial construction contracts with manufacturers representing the sale of manufacturing machinery shall be taxed at the one-and-one-half percent (1½%) reduced rate of tax in lieu of the three-and-one-half percent (3½%) contractor's sales tax.

505 Delivery charges are subject to sales tax when billed by vendors even though such amounts are separately stated on the seller's invoice apart from the sales price of the property.

506 Owners or other persons receiving benefit from use of tangible personal property in this state are liable for use tax on such property.

507 Charges for labor on repairs rendered at out-of-state locations are exempt where specifically identifiable.

508 Rental or lease of machinery and other tangible personal property by a manufacturer is taxed at the same rates as sales of the same property. However, manufacturing machinery rented to a manufacturer or custom processor for use in the manufacture of wood containers for sale is exempt from tax.

509 Adequate records must be maintained to substantiate the tax classification of sales and purchase transactions.

510 (Reserved)

600 Methods of Reporting and Paying of Sales and Use Tax

601 All manufacturers and custom processors, with certain exceptions, are required to obtain a Direct Pay Permit for purposes of reporting and remitting the sales and use tax applicable to purchases or rentals of tangible personal property, utilities, with the exception of telecommunications, and services to the Department of Revenue in lieu of paying the applicable tax to the vendor. If a permit holder continues to pay sales tax to the vendor rather than remit directly to the Department, then the permit holder will be required to contact the vendor for a credit or refund of any overpayment of tax; this will be required in all instances, even if the overpayment is discovered during a sales or use tax audit where an assessment of additional tax has been made. No refunds or overpayments will be allowed beyond the Statute of Limitations as provided for in Miss. Code Ann. Section 27-65-42.

602 Any sales or use tax due from purchases made by manufacturers and custom processors must be reported and remitted under the company's use tax account number. All sales tax due from sales to consumers must be reported and remitted under the company's sales tax account number.

603 (Reserved)

35.IV.7.03 revised effective August 3, 2026

Sub Part 08 Agriculture

Chapter 01 Florists and Nurserymen

100 Retail sales of flowers, potted plants, shrubbery, nursery stock, wreaths, bouquets and similar items and rental of tangible personal property by florists or nurserymen are taxable at the regular retail rate of tax.

101 When a nurseryman, florist or other person makes retail sales of shrubbery and similar items, and as a part of the transaction agrees to transplant them on the land of the purchaser, the tax applies to the total charge, including when installation is billed separately. The service of landscaping is taxable at the regular retail rate of tax.

102 Sales of livestock feed, poultry feed, fish feed, seed, vegetable seedlings and fertilizer to anyone are exempt from sales tax. Sales of defoliants, insecticides, fungicides, and herbicides are exempt when they are to be used in growing agricultural and forestry products for market. When sold for use on lawns or home gardens, such sales are taxed at the regular retail rate of tax.

103 When florists sell through a telecommunication delivery association, the following will apply:

1. On all orders taken by a Mississippi florist and communicated to a second florist for delivery, the florist accepting the order is liable for sales tax on the amount collected from the customer.
2. When a Mississippi florist receives instructions from another florist for delivery, the Mississippi florist receiving such instructions is not liable for sales tax on receipts from the transaction.
3. Charges for telecommunicated messages are exempt when billed separately to the customer.

104 Sales by producers of Christmas trees, hay, straw, fresh cut flowers and similar products are exempt when the product is grown in Mississippi, cut, severed or otherwise removed from the farm, grove, garden or other place of production and first sold from such place of production in the original state or condition of preparation of sale.

105 Sales of electricity, gas and other fuels to commercial horticulturists for use on a farm or in a greenhouse for growing vegetables or ornamental plants are exempt from sales tax. See Title 35 Miss. Admin. Code, Part IV, Subpart 6, Chapter 01 concerning the Affidavit for Utility Exemption. Such sales to non-producers selling vegetables and cut flowers are taxable at the regular retail rate of tax.

106 Sales of potting soil, mulch, or other soil amendments used in growing ornamental plants which bear no fruit of commercial value when sold to commercial plant nurseries that operate exclusively at wholesale and where no retail sales can be made are exempt.

107 Purchases by florists and nurserymen of supplies and equipment, such as tools, machinery, refrigeration equipment, delivery equipment, etc., for use or consumption in the trade are taxable at the regular retail rate of tax. Purchases by licensed florists and nurserymen of merchandise for resale or rental in the regular course of business are exempt from sales or use tax.

108 Adequate records must be maintained to substantiate tax classifications of sales or purchases.

109 (Reserved)

35.IV.8.01 revised effective December 1, 2020

Chapter 02 Agricultural

100 Definitions

101 Agricultural products include field crops, truck and horticultural products, livestock and livestock products, poultry and poultry products and any other product of the soil or water produced on a commercial scale for market.

102 Agricultural purpose means the predominant or exclusive growing or raising of agricultural products on a farmer's own land or land leased by the farmer for growing or raising agricultural products for market.

103 Dairy producer means any person engaged in the production of milk for commercial use.

104 Farmer means an individual or company who grows agricultural products for market on land owned or leased by such individual or company.

105 Farm Implement means a complete unit that performs a specialized mechanical function and which is identifiable as a specific piece of equipment that is ordinary and customarily used on a farm. The trade term whole goods is not synonymous with the tax term farm implements.

106 Farm Tractor is limited to self-propelled equipment which performs no farm function within itself other than to move, draw or furnish power to other implements which may be

attached. The term farm tractor does not include self-powered units which perform specialized functions such as combines, cotton pickers, hay balers, sprayers, dusters and stationary power units.

107 Livestock is defined to mean horses, cattle, swine, sheep, goats, mules, donkeys, poultry, and ratite. All other animals usually found on farms that are raised for commercial profit or commercial uses are also considered livestock. Livestock does not include dogs, cats, or any other domestic animals kept as pets.

108 A professional logger is a person, corporation, limited liability company or other entity, or an agent thereof, who possesses a professional logger's permit issued by the Mississippi Department of Revenue.

109 (Reserved)

200 Levy

201 Sales of farm tractors to farmers for agricultural purposes are taxable at the reduced rate of 1½%. Sales of tractors to anyone other than a farmer are taxable at the regular retail rate of tax.

202 The sales of farm implements to farmers for use directly in the production of poultry, ratite, domesticated fish as defined in Miss. Code Ann. Section 69-7-501, livestock, livestock products, agricultural crops or ornamental plant crops or used for other agricultural purposes when used on the farm are taxable at the reduced rate of 1½%.

203 Parts and labor used to maintain and/or repair farm tractors or farm implements which would be taxed at the reduced rate of 1½% are also subject to the reduced rate of 1½%.

204 Sales of three wheelers, four wheelers or other all-terrain vehicles (ATVs) are taxable at the regular retail rate unless the unit has a power takeoff and such power take-off is used to power an attached piece of farm machinery and is used exclusively for agricultural purposes. If the unit meets these requirements and is approved by the Commissioner, then it will be subject to tax as a self-propelled farm implement.

205 All purchases of tools, supplies, machinery and equipment which are bought for use in operation of farm implement businesses and not for resale, or which do not become an integral part of equipment being repaired are taxable at the regular rate of sales or use tax.

206 All purchases of farm machinery, parts and other merchandise for resale are exempt from sales or use tax.

207 Farm implements that qualify for the reduced 1½% rate of tax when sold to farmers for agricultural purposes include, but are not limited to:

1. Bush hogs
2. Combines

3. Combine headers
4. Cotton pickers
5. Dozers
6. Track hoes
7. Fertilizer spreaders
8 Self-propelled sprayers
9. Cotton trailers – used only in the field (not tagged for highway use)
10. Above ground irrigation equipment including center pivot systems, pumps, motors and pipe

208 Items that do not qualify for the reduced 1½% rate of tax when sold to farmers include, but are not limited to:

1. Garden Tractor
2. Rotary Tiller
3. Power Saw
4. Lawn Mower
5. String Trimmer
6. Storage Bin which provides no function other than storage
7. Hand Tools
8. Manual Posthole Digger
9. Trailers for Highway use or any other vehicles which require a tag

209 The 1½% rate of tax also applies to sales to professional loggers on all equipment used in logging, pulpwood operations or tree farming which is either self-propelled or which is mounted so that it is permanently attached to other equipment which is self-propelled or permanently attached to other equipment drawn by a vehicle which is self-propelled. Parts and labor used to maintain and/or repair such equipment are also subject to the reduced rate of 1½%. Loggers have to be certified according to Sustainable Forestry Initiative guidelines in order to qualify for the professional logger's permit.

210 Equipment and parts that qualify for the reduced 1½% rate of tax when sold to loggers include, but are not limited to:

1. Cutter
2. Chipper
3. Mulcher
4. Skidder
5. Forwarder
6. Loader and/or bucking saw attachment
7. Delimber (powered or non-powered)
8. Cables and chockers used on dozers and skidders
9. Equipment mounted on trucks or trailers used directly in logging
10. Dozer used to pull trucks, make roads, and site preparation for planting
11. Hydraulic fluid, Freon, oil, grease and filters used in the above equipment
12. Tires and repair parts for the above equipment

211 Items sold to loggers that do not qualify for the reduced 1½% rate of tax include, but are not limited to:

1. Trucks
2. Trailers
3. Hand held power saws (chain saws)
4. Welding machines
5. Generator
6. Air compressors
7. Pressure washers
8. Hand tools
9. Equipment used to repair or maintain logging equipment
10. Tires and other parts used on trailers and trucks

212 Sales of aerators to domestic fish farmers for use in the raising of domesticated fish as defined in Miss. Code Ann. Section 69-7-501 are taxed at the reduced 1½% rate.

213 Sales of materials to a dairy producer used in the repair, renovation, addition to, expansion and/or improvement of buildings and related facilities used by a dairy producer will be taxed at the rate of 3½%.

214 Rental or lease of machinery and other tangible personal property is taxed at the same rates as sales of the same property.

215 (Reserved)

300 Affidavit of Farmer Purchasing Tractors, Farm Implements and/or Parts and Labor

301 Any person purchasing at the reduced 1½% rate of sales tax farm tractors and farm implements and/or parts and labor used in the maintenance or repair of farm tractors and/or farm implements is required to sign an affidavit attesting to the fact that they meet the requirements for the reduced rate of tax. The Affidavit of Farmer Purchasing Tractors, Farm Implements and/or Parts and Labor can be found on the Department's website.

302 Vendors can accept this affidavit as evidence that the farmer qualifies for the reduced rate. This affidavit expires annually. Once the affidavit expires, vendors must obtain a new one to ensure the farmer is still eligible for the reduced rate.

303 In any case of misuse of the affidavit, the difference in the reduced rate of tax and the regular retail rate will be due to the Department of Revenue along with the applicable rate of interest per month, which will be from the date of purchase until the deficiency is paid. When it is determined by the Commissioner that there has been intentional disregard of the law or an intent to defraud, there will also be added a fifty percent (50%) penalty to the deficiency.

304 (Reserved)

400 Trade-ins, Warranty sales, Internal Sales, and Repossession

401 When a trade-in is taken as part payment, the tax applies on the difference received between the selling price and the amount allowed for a trade-in. A trade-in is limited to property of the same kind and character as that normally carried in inventory for sale.

402 When a sale is made involving different rates of tax, the amount allowed for a trade-in should be deducted from the selling price of property taxed at the same rate as the trade-in item.

403 When an item subject to the regular retail rate such as a trailer for highway use is traded as part payment on a tractor or other item subject to the reduced 1½% rate, the net difference is taxable at the reduced 1½% rate and the subsequent sale of the trailer for highway use is taxable at the regular retail rate.

404 Sales under a warranty agreement with the manufacturer are exempt on that part charged to the factory. Any part of the charge made to the customer is taxable at the appropriate rate.

405 Purchases or sales of parts and labor that are necessary to repair farm equipment in inventory for resale are exempt, since the tax will apply on the sale of the repaired equipment.

406 Repossessed property will be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported. The subsequent sale of the repossessed item will be taxable on the same basis as the sale of new merchandise.

407 (Reserved)

500 Exemptions

501 Retail sales of lint cotton, seed cotton, baled cotton, whether compressed or not, and cottonseed and soybeans in their original condition are exempt.

502 Sales of seed, vegetable seedlings, livestock feed, poultry feed, fish feed and fertilizer are exempt when sold to anyone and in any amount.

503 Livestock, fish and poultry feed, which includes hay, silage, beet or citrus pulp, cotton seed hulls, grain, shorts, chops, bran, mash, cottonseed meal or cake, black strap molasses, stock salt (but not table salt), oyster shells, grit and any other feed additive that stimulates growth, is exempt when sold to be used as food for livestock, fish and poultry. Sales of food for dogs, cats, or other pets and deer or wildlife are taxable at the regular retail rate of tax (examples: deer corn, bird feed, etc.).

504 Sales of defoliants, insecticides, fungicides, herbicides and baby chicks are exempt when they are to be used in growing agricultural and forestry products for market. When sold for use on lawns or home gardens, such retail sales are taxed at the regular retail rate.

505 Sales of bagging and ties for baling cotton, hay baling wire and twine, boxes, crates, bags and cans are exempt from tax when made to persons for use in growing or preparing agricultural products for market when possession thereof passes to the customer at the time of sale of the product contained therein.

506 Sales of ice to commercial fishermen purchased for use in the preservation of seafood or to producers for use in the refrigeration of vegetables for market are exempt. This does include the sale of dry ice.

507 Sales of farm products (other than ornamental plants which bear no fruit of commercial value) by the producer, except when sold by the producer through an established place of business are exempt. This includes Christmas trees, hay, straw, fresh cut flowers and similar products when grown in Mississippi and cut, severed or otherwise removed from the farm, grove, garden or other place of production and first sold from such place of production in the original state or condition of preparation of sale.

508 A sale of ingredients to a manufacturer of livestock or poultry feed for sale is exempt.

509 Retail sales of mules, horses, honey bees and other livestock are exempt.

510 Sales of all antibiotics, hormones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock, honey bees and poultry by whomever sold is exempt. Such exemption will be in addition to the exemption provided for feed for fish, livestock, honey bees and poultry.

511 Sales of food products and honey that are grown, made or processed in Mississippi and sold from farmers' markets that have been certified by the Mississippi Department of Agriculture and Commerce are exempt.

512 (Reserved)

600 Cooperatives

601 Cooperative Associations are liable for sales tax on the same basis as other taxpayers, except that sales of agricultural products produced by members that have not been subjected to any manufacturing process are exempt. Sales of ice cream, pasteurized milk, butter and the like are therefore taxable at the regular retail rate of tax.

602 Sales tax also applies on gross income from compressing and storing cotton, custom meat processing and other services as listed under Miss. Code Ann. Section 27-65-23.

603 Purchases by agricultural cooperatives for their own use are taxable at the regular retail rate of sales or use tax. Purchases of merchandise for resale by licensed retail agricultural cooperatives are exempt from sales or use tax. Purchases of manufacturing or processing machinery and machine parts for use in manufacturing a commodity for sale or rental are taxable at the 1½% reduced rate of tax.

604 (Reserved)

700 Cotton Gins

701 Sales and Barter. The exchange of cottonseed meal and hulls for cottonseed is considered an exempt sale of livestock feed. Sales of any other property, unless specifically exempt, are taxable at the regular retail rate of tax.

702 Sales or purchases of machinery and machine parts which are to be used directly in the ginning process are taxable at the reduced 1½% rate of tax. Forklift trucks used directly in the ginning process are considered to be manufacturing machinery.

703 Purchases of electricity and other fuels for operation of cotton gins are exempt from sales tax. Bagging and ties for baling cotton are exempt from sales or use tax. Other purchases of materials and services are taxable at the regular retail rate of tax.

704 (Reserved)

800 Cotton Compresses

801 The regular retail rate of sales tax applies on the following income accounts of cotton compresses (only if service is performed at cotton compresses and is not a pass through charge from cotton gins): compression, flat delivery, storage, weighing, lining, sampling, patching, branding or markings handling, cotton sold for charges and insurance. If the insurance charge is shown, then the corresponding insurance expense is a deductible item.

802 The following income accounts are exempt from sales tax: bagging, band, loose cotton and sweepings, patches and financial income such as interest on investments. Charges made directly to agencies of the United States Government or the State of Mississippi for storage of property owned by them may also be excluded from taxable gross income.

803 Purchases of permanent bale tags by cotton compresses are exempt from sales tax. Purchases of marking figures and strips, rivets and twine are likewise exempt when used as bagging and ties.

804 Purchases of electricity and other fuels for operation of cotton compresses are exempt from sales tax.

805 Purchases of manufacturing machinery, repairs and parts (band cutters, band slicers, band rollers, lift trucks, riveting machines and other processing machines) used directly in the processing operation are taxable at the reduced 1½% rate of sales or use tax.

806 Purchases of all other equipment and supplies (building materials, car door openers, car loaders, conveyors, cotton hooks, fire extinguishers, hand trucks, janitorial supplies, office supplies, cotton receipts, sampling machines, scales, trailers, oil, graphite, etc.) are taxable at the regular retail rate of sales or use tax.

807 (Reserved)

900 Records

901 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

902 (Reserved)

35.IV.08.02 revised effective April 1, 2018.

Subpart 9 Food and Beverage

Chapter 01 Soft Drinks

100 "Soft Drinks" and "Syrup" include:

1. All beverages that are enclosed or sealed in glass, metal or any other type of container, such as Coca Cola, Sprite, Dr. Pepper, 7-Up, R C Cola, ginger ale, Canada Dry, Shasta, soda water, carbonated water, Capri Sun, Gatorade, Hi C, Hawaiian Punch, limeade, lemonade, orangeade, artificial fruit juice, tea, chocolate drink and similar items.
2. Syrup of Coca Cola, Pepsi Cola, Chocolate, Dr. Pepper, Tab and other syrup preparations for use in making soft drinks by the seller.

101 Retail sales of canned or bottled beverages are taxable at the five percent (5%) rate of sales tax, effective July 1, 2025. Items purchased with Supplemental Nutrition Assistance Program (SNAP) benefits will continue to remain exempt from sales tax. Items that are not eligible to be purchased with SNAP benefits include, but are not limited to, fountain drinks, hot coffee, and other beverages for immediate consumption, which will remain taxable at seven percent (7%). No tax is due on bottle deposits.

102 Soft drinks and syrup withdrawn by a manufacturer for sale at retail and food and drink withdrawn by a manufacturer or wholesaler to be sold through full-service vending machines are defined as wholesale sales.

103 "Value" is determined by adding all costs, expenses and a reasonable profit of the merchandise at the time the merchandise is withdrawn from inventory. Value must include direct labor and energy, apportioned administrative expenses and any other cost incurred

in manufacturing the product for sale. In no instance shall value be less than the least selling price of like merchandise.

104 As compensation for the timely filing of returns and payment of the tax, a 2% vendor discount may be claimed on retail tax. No discount is authorized on any other wholesale rates of tax.

105 The sale or rental of soft drink vending machines will not be taxed when an offsetting sales or use tax has been paid on the cost of the property by the owner.

106 Sales of soft drinks through vending machines under a "full-service sales" agreement are exempt from sales tax. "Full-service sales" are those that are made through vending machines in which the vendor places the drinks, takes the money and pays the location owner a space rental fee. Bottlers, wholesalers, distributors, etc. withdrawing soft drinks and syrup from inventory for sale through full-service vending machines must remit an eight percent (8%) wholesale tax on total value when placed into the vending machine for sale. The gross proceeds of retail sales made through such vending machines are exempt from sales tax. The tax liability accrues to the wholesaler at the time of withdrawal and should be remitted to the State with the same report and in the same manner as any other sales tax liability.

107 Purchases by bottlers of raw materials (carbon dioxide gas, syrups, acids, flavoring, water softeners) that become components of drinks are exempt from sales or use tax. Purchases of containers, packaging and shipping materials to accompany goods sold (bottles, cans, crowns, cartons, cases) are likewise exempt from sales and use tax. Electric power or other fuel, bottling machinery and machinery parts used directly in the bottling process are taxable at the reduced one-and-one-half percent (1½%) rate of tax. Purchases of cleaning materials and supplies (acid for cleaning soakers, anhydrous ammonia and refrigerants, calcium chloride, caustic soda, soaps, sulfuric acid, chlorine and disinfectants, stationery, etc.) are taxable at the regular retail rate of tax. Purchases of all other equipment and supplies (advertising and sales promotion materials, signs, case conveyors, coolers and parts, hand trucks, lift trucks, skids, uniforms, vending machines etc.) are likewise taxable at the regular retail rate of tax.

108 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

109 Rental or lease of tangible personal property to bottlers is taxed at the same rates as sales of the same property.

110 Use tax is payable monthly directly to the Department of Revenue, if not collected by the seller. In computing the use tax liability, all charges made by the seller related to the purchase must be added to the cost of the property. The taxpayer discount applies for timely payments.

111 (Reserved)

Chapter 02 Beverage and Food Businesses

100 General

101 The gross proceeds of sales by restaurants, cafes, cafeterias, snack bars, drive-ins, beer parlors, lounges, night clubs, concessions, caterers or other vendors of beverages and food products are taxable at the regular retail rate of tax.

102 Retail sales of groceries are taxable at the five percent (5%) rate of sales tax, effective July 1, 2025. The term "groceries" refers to food or drink for human consumption that is eligible to be purchased with Supplemental Nutrition Assistance Program (SNAP) benefits. Groceries do not include hot or heated food items such as rotisserie chicken, plate lunches, and other hot or cold prepared foods for immediate consumption, which will remain taxable at seven percent (7%). Items purchased with SNAP benefits will continue to remain exempt from sales tax.

103 (Reserved)

200 Gross Proceeds of Sales

201 Taxable gross proceeds include receipts from**:**

1. Admissions, minimum and cover charges for entertainment;
2. Sales of tangible personal property;
3. Service charges; and
4. Vending machine sales (except full-service vending machines)

202 Gratuities or tips specifically added as such on the ticket to the cost of the meal, with the entire proceeds of the indicated gratuity going to the employee of the restaurant, shall be considered in the same light as gratuities paid directly to the employee and are not considered to be taxable income subject to sales tax.

203 The value of merchandise withdrawn from stock for consumption or any other use by the owner shall be included in gross proceeds of sales taxable at the regular retail rate.

204 The value of employee meals prepared by a restaurant and provided at no charge to employees of the restaurant is not included in the restaurant's taxable gross proceeds of sales. Restaurants that are operated as a part of a hotel, casino, hospital or other place of business cannot include employee meals provided to employees working in other areas of the operation.

205 The value of meals prepared by a restaurant and donated to a charitable organization

exempt from federal income tax under IRC Section 501(c) (3) that regularly provides food to the needy and the indigent is not included in the restaurants' taxable gross proceeds of sales as provided for in Miss. Code Ann. Section 27-65-3(h).

206 Food service companies who operate restaurants or cafeterias are to include any underwriting, management or other fees paid by the client. Clients, who underwrite or discount meals to their employees and for whom the food service company serves as an agent for food service operations, may obtain a business license for the food service operation and pay the regular retail sales tax on the greater of (a) the meal charges to employees or (b) the cost to the employer of all purchases utilized in the food service operation, with employer costs for food preparation or food service management being expressly excluded from the computation of purchases. This sales tax treatment shall apply regardless of who is the food service operator as long as an agency relationship exists between the client/employers and the food service operator.

207 Food sold to schools or students as regular student meals is exempt from sales tax pursuant to Miss. Code Ann. Section 27-65-9(2)(a) and (b). Food served at banquets and luncheons for student groups is exempt from sales tax when the meal is paid for directly by the exempt entity. Food sold by or through school cafeterias and dining halls to non-students such as faculty members, employees, visitors and the public is subject to sales tax. Additional information concerning food sales at schools, colleges and universities can be found in Title 35, Part IV, Subpart 13, Chapter 2 of the Mississippi Administrative Code.

208 (Reserved)

300 Purchases

301 Purchases of equipment, fixtures, supplies and advertising materials that are used or consumed in the operation of the business are taxable at the regular retail rate of sales or use tax. Examples include soap, washroom supplies, cleaning materials, reusable napkins or dishes, etc.

302 Purchases of merchandise that become a part of products resold are exempt from sales tax. Examples include salt, pepper, flour, shortening, cooking oil, etc.

303 Purchases of non-reusable products that accompany food or beverage products sold are exempt from sales tax. Examples include paper or plastic napkins, plates, cups, knives, forks, spoons, wrapping paper, boxes, etc.

304 (Reserved)

400 Reporting Requirements

401 Adequate records must be maintained to substantiate tax classifications of sales and

purchases.

402 (Reserved)

500 Local and Private Levies

501 Additional local levies may be applicable to sales by restaurants depending on where the restaurants are located in this state. The local tax shall be invoiced and collected as a separate levy.

502 The local levy is due on the same basis as the sales tax and is levied on the sale of prepared foods. Additionally, some local levies may also include the sale of beer and/or alcoholic beverages.

503 Restaurants are defined as any place where prepared food and beverages are sold for consumption, whether the food and beverages are consumed on the premises or not. Restaurants do not include any school, hospital, convalescent or nursing home, or any restaurant-like facility operated by or in connection with a school, hospital, medical clinic, or convalescent or nursing home providing food for students, patients, visitors or their families.

504 The term "prepared food" includes:

1. Food made to order upon the customer's request;
2. Food sold in a heated state or heated by the seller;
3. Two or more food ingredients mixed or combined by the seller for sale as a single item, but not including food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration to prevent food borne illnesses: and
4. Food sold with eating utensils "provided by the seller," including plates, knives, forks, spoons, glasses, cups, napkins, or straws. Eating utensils provided at no charge to a customer with the purchase of a food item that remains in its original container packaged by the manufacturer is not considered prepared food. This includes items such as a cup of yogurt provided with a spoon.

505 Any person who holds a valid direct pay permit cannot use such permit to cover any local levy. All taxes due from any of the local levies must be paid at the time of purchase and cannot be remitted on a use tax return through the use of a direct pay permit.

506 (Reserved)

35.IV.9.02 revised effective August 8, 2025

Chapter 03 Ice Sales and Ice Manufacturers

100 Sales

101 The gross proceeds of sales of bagged or block ice are taxable at the five percent (5%) rate of sales tax; however, sales of ice made to a licensed retailer for resale are wholesale sales and not subject to sales tax.

102 Sales of ice to be used as a refrigerant in grocery stores, service stations, hotels (except hotel restaurants), creameries, and beer parlors are taxable at the regular retail rate of tax. Sales of ice to railroad and trucking companies for the purpose of icing interstate or intrastate shipments, or sales to industrial users are considered as sales for consumption and are taxable at the regular retail rate.

103 Sales of ice to commercial fishermen purchased for use in the preservation of seafood are exempt from sales tax pursuant to Miss. Code Ann. Section 27-65-103(a).

104 Sales of ice to manufacturers, retailers or processors for use in packing a product for preservation or shipment or when used directly in processing are exempt from sales tax pursuant to Miss. Code Ann. Sections 27-65-5(3) and 27-65-101(a) and (b). Examples of such usage would be ice used by meat packers in making sausage or in processing chickens or by a bakery in making bread. Sales of ice to producers for use in the refrigeration of vegetables for market are also exempt.

105 Sales of other tangible personal property by ice plants such as ice boxes, fruits, vegetables, produce or any other commodities are taxable at the regular retail rate with no deductions allowed for delivery charges or expenses. Sales of these items to licensed retailers for resale are wholesale sales and are not subject to the sales tax.

106 Sales of ice vending machines, ice makers and other similar equipment to cafes, hotels, motels, service stations, etc., are taxable at the regular retail rate of sales or use tax.

107 Charges for public storage are taxable at the regular retail rate pursuant to Miss. Code Ann. Section 27-65-23. Charges for public storage of goods that are temporarily stored in this state pending shipping or mailing of the property to another state are exempt from tax.

108 (Reserved)

200 Purchases

201 Ice manufacturers are required, with certain exceptions, to obtain a direct pay permit as provided by Miss. Code Ann. Section 27-65-93. The direct pay permit shall be used to report and remit the applicable sales and use tax due on all purchases of tangible personal property, utilities and services directly to the state in lieu of payment to the vendor.

202 Owners of self-contained ice manufacturing/dispensing houses will not be issued a direct pay permit. The ice house owner may apply to the Department for a letter authorizing water utility companies to sell water used as a raw material exempt from sales tax and authorizing electricity utility companies to sell electricity used in the ice house exempt.

203 Purchases by ice manufacturers of shipping materials (bags, twine, etc.) to accompany goods sold where possession passes to the customer are exempt from sales or use tax pursuant to Miss. Code Ann. Section 27-65-101(a).

204 Raw materials (water) and processing chemicals (ammonia) used in manufacturing ice are exempt from tax pursuant to Miss. Code Ann. Section 27-65-101(b). Water must be separately metered from any other usage.

205 Purchases of electrical power or other fuels used directly in the manufacturing process are exempt while manufacturing machinery or machine parts used directly in the manufacturing process are taxable at the reduced one-and-one-half percent (1½%) rate of tax.

206 Purchases of self-contained ice manufacturing/dispensing houses are taxable at the reduced one-and-one-half percent (1½%) rate of tax only on that portion of the purchase price that is directly involved in the manufacturing of the ice. The remaining portion of the purchase price will be taxable at the regular retail rate of tax. Adequate records must be maintained to substantiate the portion of the purchase price that is related to the manufacturing components of the ice house.

207 Purchases of all other equipment and supplies (ice picks, hooks, delivery bags not sold with ice, etc.) are taxable at the regular retail rate of tax.

208 Rental or lease by ice manufacturers of tangible personal property is taxed at the same rates as sales of the same property.

209 (Reserved)

35.IV.9.03 revised effective August 8, 2025

Chapter 04 Milk Products

100 "Dairy Producer" means any person engaged in the production of milk for commercial use.

101 Sales of milk or milk products to consumers are taxable at the regular retail rate of tax.

102 The following types of sales are exempt from sales tax:

1. Sales of raw milk, skimmed milk or cream by a dairy producer before the products are subjected to any other process. Sales tax is due when such products are sold at an established store.
2. Sales of raw milk, skimmed milk or cream by an agricultural cooperative, when such products are produced by its members, and before the products are subjected to any other process.
3. Sales to licensed dealers or retailers for resale or to manufacturers for further processing.

103 Dairy producers are liable for regular retail sales or use tax on the purchase price of all equipment, machines and supplies. Purchases of containers such as milk bottles, cartons, wax for cartons and caps are exempt as containers when preparing agricultural products for market when possession passes to the customer at the time of sale of the product contained therein. Mechanical milking machines, milk tanks and coolers are taxed at the 1.5% special rate of tax as farm implements. All other taxable items are taxed at the regular retail rate.

104 Sales of materials to a dairy producer used in the repair, renovation or addition to, expansion and/or improvement of buildings or related facilities shall be taxed at the 3.5% special rate.

105 Producers who pasteurize milk or manufacturers of milk products are exempt on purchases of containers that will be sold with the milk or manufactured product. Purchases of manufacturing machinery or parts that will be used directly in manufacturing or processing milk products for sale are subject to the 1.5% special rate of sales or use tax. Purchases of electric power or other fuel used in manufacturing or processing milk products for sale are exempt. See Title 35 Miss. Admin. Code, Part IV, Subpart 6, Chapter 01 concerning the Affidavit for Utility Exemption. All other purchases of equipment, machinery or supplies are subject to the regular retail rate of sales or use tax.

106 Rental or lease of machinery and other tangible personal property is taxed at the same rate as sales of the same property.

107 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

108 (Reserved)

35.IV.9.04 revised effective December 1, 2020

Chapter 05 Bakeries

100 Bakeries doing primarily a wholesale business are considered as manufacturers. Bakery activities carried on by a retailer in connection with a catering service, cafe, delicatessen or pastry shop, are not in this manufacturing class, but are subject to the tax and any special tax levy as applicable to food and beverage business.

101 Sales by bakeries to consumers are retail transactions taxable at the regular retail rate of tax. Sales to other manufacturers, wholesalers or licensed retailers for resale are exempt.

102 Sales of manufacturing machinery or machine parts to bakeries for use directly and exclusively in manufacturing bakery products are taxable at the 1½% special rate of tax. Sales of raw materials and packaging materials used to package bakery products for sale are exempt from tax. Sales of electric power or other fuels to bakeries for use directly in the manufacturing process are exempt from sales tax. See Title 35 Miss. Admin. Code, Part IV, Subpart 6, Chapter 01 concerning the Affidavit for Utility Exemption.

103 Sales of other supplies and equipment to a baker for use and consumption, such as the following, are taxable at the regular retail rate of sales or use tax:

1. Advertising materials and signs
2. Bread trays
3. Display equipment
4. Fans and ventilating equipment
5. Furniture and fixtures
6. Garbage disposal equipment
7. Janitorial supplies and equipment
8. Office supplies and equipment
9. Shelves and buns
10. Trade books
11. Uniforms, aprons, caps, etc.
12. Utensil racks
13. Vending carts and trucks
14. Washroom supplies

104 Adequate records must be maintained to substantiate tax classification of sales and purchases.

105 (Reserved)

35.IV.09.05 revised effective March 6, 2020

Sub Part 10 Construction and Oil Field

Chapter 01 Construction Contractors

100 Definitions.

101 The terms “contractor” and “prime contractor” mean a person entering into an agreement, either verbal or written, with the owner of a project to perform such work as is described in the following paragraphs. A person may not contract with himself.

102 A “subcontractor” is a person entering into an agreement with a prime contractor or other subcontractor to perform work required under the prime contract.

103 A person entering into an agreement, or “management contract”, on a fee basis is not considered a prime contractor when such person acts as a liaison between the owner of the project and the various contractors who are hired and paid directly by the owner.

104 (Reserved)

200 Qualification and Payment of Tax.

201 A contractor, other than an oil or a gas well driller, taxable under Miss. Code Ann. Section 27-65-21 shall apply to the Commissioner for a Material Purchase Certificate (MPC) identifying the specific contract before work is begun. Contracts for residential construction are not taxable under Miss. Code Ann. Section 27-65-21 and do not qualify for an MPC.

202 The contractor's tax, together with any use tax due, must be paid before work is begun on any contract exceeding $75,000, unless a bond is filed with the Department of Revenue. Bond forms are made available on request.

203 On taxable contracts between $10,000 and $75,000, or when a bond is required to be filed, the tax must be paid on a monthly basis as compensation is received regardless of a contractor’s sales tax filing status. Any use tax due on equipment shall be paid on or before the 20th day of the month following the month in which the property is brought into Mississippi.

204 Persons or firms without a permanent place of business within Mississippi are required to qualify and pay the 3½% contractor's tax and any use tax due on the total contract amount before work is begun, unless a bond is filed as provided by Miss. Code Ann. Section 27-65-27 in an amount sufficient to cover these taxes.

205 The tax is levied upon the prime contractor. Subcontractors who perform work on a qualified prime contract owe no tax on the subcontract price or gross income unless the prime contractor fails to pay the tax due. A subcontractor may want to request a copy of the MPC from the prime contractor. Should the prime contractor fail to qualify the contract and pay the amount of tax due, the subcontractor is liable for the contractor's tax on that portion of the work sublet to him.

206 The 2% taxpayer discount is not allowed on sales tax imposed and levied by Miss. Code Ann. Section 27-65-21 (contractor's tax).

207 Failure to comply with the requirements to obtain an MPC before work begins, prepay contractor’s and use taxes or obtain a bond shall result in the contractor being prohibited from performing the contract until such requirements are met.

208 A ten percent (10%) penalty is due on all deficiencies. Deficiencies include failure to post a bond or prepay the tax in full on all contracts requiring the posting of a bond or prepayment of tax before work has begun. This penalty is based on the total amount of tax due on the total contract price. A ten percent (10%) penalty is also due on the tax applicable to monthly compensation not reported timely on subsequent returns.

209 There will not be a 10% penalty on the same deficiency more than once. Any portion of tax related to compensation that was penalized as a failure to post a bond or prepay the tax in full on contracts before the work was begun will not also be subject to a 10% penalty on the late remittance of monthly returns. Any portion of tax related to the late remittance of monthly returns that was penalized will not also be subject to a 10% penalty for failure to post a bond or prepay the tax of a contract.

210 In the instance a contractor or subcontractor incorrectly uses an MPC number to purchase non-component materials or services, and it is determined by the Commissioner that there is intentional disregard of the law or done with intent to defraud, there will be a fifty percent (50%) penalty assessed. This penalty will be used when the contractor or subcontractor misuses an MPC number or when an audit of taxpayer records reveals an attempt to disguise or hide the misuse of an MPC number. This penalty will not be assessed if the taxpayer can prove reasonable cause for failure to comply.

211 (Reserved)

300 Activities Taxed and Application of Rates.

301 A tax of 3½% is levied on the total contract amount or compensation received from all contracts, except contracts for residential construction, that exceed $10,000 when the work to be performed is constructing, building, erecting, repairing, grading, excavating, drilling, exploring, testing or adding to any of the following:

1. Air conditioning system
2. Bridge
3. Building
4. Culvert
5. Dam
6. Dock
7. Drainage or dredging system
8. Electrical system
9. Heating system
10. Highway
11. Irrigation or water system
12. Levee or levee system
13. Oil or gas well
14. Pipeline
15. Power plant
16. Railway
17. Reservoir
18. Sewer

19. Sidewalk
20. Storage tank
21. Street
22. Tower
23. Transmission line
24. Water well
25. Wharf
26. Wiring for communication or information systems
27. Any other improvement or structure or any part thereof (fences, etc.)

302 The tax is levied on contracts with the United States Government, the State of Mississippi and its political subdivisions and any other exempt agency, without any deduction for amounts paid to subcontractors, architects, engineers, landscapers or for any other costs or expenses (including the 3½% contractor's tax) incurred by the contractor. Liquidated damages that are withheld by the owner are not to be included in taxable contract receipts.

303 The portion of the total contract price attributable to design or engineering services is excluded from the contractor's tax if the total contract price for the project exceeds $100,000,000; or if the engineering services are performed by a professional engineer, as defined in the Miss. Code Ann. Section 73-13-3, who is the general or prime contractor.

304 A person taxable under Miss. Code Ann. Section 27-65-23 who performs any of the activities listed in section 301 as a prime contractor for compensation in excess of $10,000 shall qualify and pay tax as a contractor in lieu of the tax levied by Miss. Code Ann. Section 27-65-23. Activities so taxed under Miss Code Ann. Section 27-65-23 are:
1. Air conditioning installation or repairs;
2. Electrical work, wiring, and all repairs or installations of electrical equipment;
3. Elevator or escalator installation or repairs;
4. Grading, excavating, ditching, dredging or landscaping;
5. Insulating services or repairs;
6. Plumbing or pipe fitting;
7. Tin and sheet metal work;
8. Welding, etc.

305 Persons performing any services taxed under Miss. Code Ann. Section 27-65-23 for contracts of $10,000 or less owe the regular retail rate of sales tax on gross income. Persons performing contracts of $10,000 or less that do not include services taxed under Miss. Code Ann. Section 27-65-23 owe no tax on gross income but are required to pay the regular retail rate of sales or use tax on all taxable purchases.

306 Continuous contracts on projects embracing activities taxable under Miss. Code Ann. Section 27-65-21, which are to be carried on for a definite period of time and a definite amount, will be qualified and taxed at 3½%. Otherwise, the determination of whether a contract is subject to tax under Miss. Code Ann. Section 27-65-21 will be made from purchase orders, work orders or invoices. Purchase orders, work orders or invoices that are a continuation of prior purchase orders, work orders or invoices will be considered part

of one project. Generally, work on a project takes place in the same, adjacent or adjoining area. Transmission lines (gas, water, sewage, power, telephone, etc.) are considered a project. Amounts included in the contract for non-taxable activities (grass cutting, tree trimming, etc.) may be excluded from the taxable amount of the contract.

307 Individual contracts for the construction of several buildings, streets, etc., or parts thereof, may together be qualifiable as a prime contract despite the fact that the compensation for each separate part of the project is less than $10,000. In order to determine whether such contracts are qualifiable, consideration must be given to the types of activities involved.

308 Contracts for the performance of work upon personal property, such as shipbuilding or ship repairing, or activities that consist of demolishing or razing old property or clearing land, are not subject to the provisions of Miss. Code Ann. Section 27-65-21. However, where land clearing or building razing activities are incidental to the primary purpose of the contract, such as highway or building construction, the total contract is taxable. No separation of incidental activity will be allowed even though it may be subcontracted.

309 Contractor's tax does not apply to the contract price or compensation received to restore, repair, or replace a utility distribution or transmission system (electric, gas, water, sewage, telephone, etc.) damaged by an ice storm, hurricane, flood, tornado, wind, earthquake or other natural disaster if the entity performing the restoration, repair or replacement is reimbursed for its cost only.

310 The portion of the contract price or compensation received from the sale and installation of manufacturing or processing machinery that loses its identity as tangible personal property to a manufacturer or a customer processor is to be taxed at the special sales tax rate of 1 ½%.

311 (Reserved)

400 Floating Structures.

401 A 3½% tax is levied on the gross proceeds or gross receipts from the sale of any tangible personal property that becomes a component part of any floating structure, or on the performance of any construction activity upon any floating structure (not limited to casinos). These floating structures are located within the waters of the State of Mississippi and are normally moored and not normally engaged in the business of transporting people or property. This tax does not apply to tangible personal property that does not become a component part of the structure. If one contractor is doing both land-based and floating structure construction, this tax may be paid by the contractor; otherwise, the owner of floating structure is responsible for the tax. The owner of a floating structure subject to the 3½% tax will be issued a Casino Construction Project Certificate. The owner will provide the CCPC number to the prime contractors and sub-contractors performing work on the structure. This will allow the component materials and parts used in the construction activities to be purchased exempt from sales tax.

402 The owner of a floating structure will also be issued a direct pay number. With the use of the CCPC number and this direct pay number, tax is accrued on the owner's use tax return and not paid to vendors.

403 The contractor will be allowed to qualify those contracts involving both land-based and water-based structures that cannot be easily separated, as long as the land-based portion of the contract is in excess of $10,000.

404 (Reserved)

500 Material Purchase Certificates and Component Materials.

501 A Material Purchase Certificate is a certificate issued by the Department upon application by a construction contractor with a qualifying contract. Each MPC is assigned an identifying number which relates to a specific contract. Application to the Commissioner for an MPC number is required before work is begun to cover all qualifying commercial, non-residential construction. The MPC number allows the contractor and his subcontractors to make tax-free purchases of materials and services that become a component part of the structure covered by the qualified contract. The MPC number is not applicable to other contracts and expires upon completion of the contract.

502 The contractor and his subcontractors shall provide their vendors with the MPC number when purchasing component materials. The vendors shall list the MPC number on each sales invoice as a prerequisite to claiming the exemption. Contractors and subcontractors incorrectly using an MPC number to purchase non-component materials or services will be held liable for the applicable sales tax due on their purchases. See Mississippi Department of Revenue vs Hotel and Restaurant Supply 192 So.3d 942. Vendors who incorrectly accept an MPC number to exempt the sale of consumables or services such as rental of construction and related equipment will be liable for the applicable sales tax due.

503 Component materials are all materials that become an integral part of the structure being erected. Certain taxable services provided under Miss. Code Ann. Section 27-65-23 are also considered to be component to the structure. Component materials may include built-in furniture, fixtures, appliances and similar personal property. For personal property to become real property, it must be permanently attached to real property. To be considered permanently attached, the property must lose its identity as personal property and one or more of the following criteria must be met:

1. The property or equipment must be attached to building walls, floors, and/or ceilings in such way as to require design or structural alterations to the real property to which it is being attached; or
2. The property cannot be removed intact or its removal would result in the alteration or destruction of the structure or property; or
3. The property must become an independent structure, itself (real property).

504 Non-component material is property that retains its identity as tangible personal property. Free-standing furniture, fixtures, appliances and similar personal property are non-

component materials. Non-component property may be excluded from the measure of the contractor's tax.

505 Items that are considered to be non-component materials include, but are not limited to, the following:

1. Awnings
2. Building signage (channel letters, etch)
3. Cellular telephone tower addition (antennas, radio equipment, platforms, etc.)
4. Conveyor system, non-integrated
5. Digital billboard screens
6. Fuel dispensers
7. Generators
8. Gutters
9. Irrigation systems, above the ground
10. Motors
11. Movable bleachers or stadium seating
12. Playground equipment
13. Removable/replaceable pumps
14. Solar panels
15. Walk-in cooler/freezer
16. Water treatment clarifiers, descales and water conditioning/filtration equipment, etc.

506 The purchase price or sales price of non-component materials is taxed as a withdrawal of stock at the regular seven percent (7%) retail rate and any applicable special tax levy when these items are purchased exempt with an MPC. The sales tax on purchases of non-component materials should be reported on the contractor's or subcontractor's Sales Tax return. Any special tax levy should be reported by the contractor or subcontractor on their sales tax return at the applicable rate.

507 Free-standing personal property sold under a contract with the United States Government, the State of Mississippi and its political subdivisions or any other exempt agency that has been qualified can be purchased tax free. The contractor must apply to the Department for a letter granting the authority to purchase free-standing personal property exempt from tax.

508 When records and invoices are not kept to substantiate the exemption, sales made to the contractor or subcontractor will be considered retail sales, taxable at the regular retail rate. Contractors with contracts taxable under Miss. Code Ann. Section 27-65-21 who have paid retail sales tax on purchases of materials and services in the state that become a component part of a structure being erected or repaired may take a credit against their sales tax liabilities for the sales tax paid on these purchase after obtaining the MPC for the related project.

509 A valid MPC number or direct pay permit is required to make an exempt purchase of concrete or asphalt for use in any commercial construction job that is required to be qualified under Miss. Code Ann. Section 27-65-21. All purchases of asphalt or concrete

for commercial construction jobs less than $10,000 are taxable at the regular retail rate of tax at the time of purchase, unless the purchaser is an exempt entity or provides the seller with a direct pay permit. An exempt entity is one that is exempt from sales tax as provided in Miss. Code Ann. Sections 27-65-101 through 27-65-111. Direct pay permits are issued to taxpayers under the provisions of Miss. Code Ann. Section 27-65-93.

510 A person with a valid sales tax number who is purchasing concrete to use in the performance of a taxable service is considered the consumer of the concrete and must pay tax to the vendor at the time of purchase. Contractors who mix concrete or asphalt for use in the performance of a job owe sales tax on the value of the concrete or asphalt. Any person purchasing concrete or asphalt from an out-of-state vendor for delivery and use in this state will be liable for remitting use tax on the purchase price of the concrete or asphalt. Any person who mixes concrete or asphalt out of state for delivery and use in this state will be liable for remitting use tax on the value of the concrete or asphalt. The term "vendor", as used in this section, means the person who is manufacturing or producing the concrete or asphalt from raw materials either at a fixed plant site location, a portable plant or through ready-mix trucks. Materials used to form concrete are not considered component materials and may not be covered by the use of an MPC number.

511 (Reserved)

600 Bond Requirement.

601 A bond must be filed on taxable contracts exceeding $75,000 that are performed in this State, unless the tax is prepaid. Persons or firms without a permanent place of business within Mississippi must file a bond on any taxable contract in excess of $10,000, unless the tax is prepaid.

602 Such bonds shall be either (a) job bonds which guarantee the payment of taxes resulting from the performance of a specified job or activity regardless of date of completion; or (b) blanket bonds which guarantee the payment of taxes resulting from the performance of all jobs or activities taxable under Miss. Code Ann. Section 27-65-21 that are begun during a specified period, regardless of the date of completion. The bond must be sufficient to cover the liability for sales, use, income, withholding and motor fuel taxes and must be approved by the Commissioner.

603 In lieu of a job or blanket bond, a tax rider, with a copy of a performance and/or payment bond, may be accepted. In order for the tax rider to be accepted, a copy of the performance and/or payment bond for which the tax rider is executed must be on file with the Department.

604 It is in the discretion of the Department to require that a job bond be filed when making application to the Commissioner for an MPC for continuous and/or maintenance projects. This request must be updated annually along with the submission of proof of continued bonding coverage.

605 Where a contractor prepaid the sales tax, but a use, income, withholding or motor fuel tax bond is still required, the contractor will be notified of the bond requirement after an application for a Material Purchase Certificate has been received.

606 When a contractor defaults ~~i~~on the execution of his contract and the bonding company acting as surety for the performance of the contract assumes completion of the contract, the bonding company becomes liable for the payment of the sales, use, income, withholding and motor fuel tax accruing as a result of its activities. The contractor's MPC number becomes void at the time of default. The surety company shall make application to the Commissioner for an MPC covering the remaining/unfinished portion of the contract. The application must include proper bonding and/or prepayment of tax.

607 (Reserved)

700 Owner Construction.

701 A person constructing buildings on property he owns is not a contractor and is liable for the retail sales or use tax on all materials or services purchased even though the person may enter into a contract to sell the building and lot (real property) before construction is completed.

702 (Reserved)

800 Residential Construction.

801 The contract price or compensation received for constructing, building, erecting, repairing~~,~~ or adding to any building, electrical system, heating system or any other improvement or structure that is used for or primarily in connection with a residence or dwelling place for human beings is excluded from the 3½% contractor's tax provided by Miss. Code Ann. Section 27-65-21.

802 Sales of materials and services for use in residential construction activities are taxed at the regular retail rate of tax provided by Miss. Code Ann. Sections 27-65-17, 27-65-23 and 27-67-5. Such residences shall include homes, mobile homes, summer cottages, fishing and hunting camp buildings and similar buildings, but shall not include hotels, motels, hospitals, apartments, condominiums, nursing or retirement homes, tourist cottages, military barracks, school dormitories, sorority and fraternity houses, churches or other commercial establishments. An "apartment" is a collection of four or more dwellings on continuous land with kitchen facilities and common ownership that are rented to tenants rather than transient guests. Groups of single family homes do not constitute apartments. A "nursing home", as the term is used in this section, is any complex that provides any type of assisted living. The caregivers can be either medical or non-medical personnel.

803 It is in the discretion of the Department to separate out residential housing from a construction contract for nonresidential construction.

804 All purchases of concrete and asphalt for residential use are taxable at the regular retail rate of sales tax at the time such materials are purchased from the vendor, unless the purchaser is an exempt entity or provides the seller with a direct pay permit. An exempt entity is one that is exempt from sales tax as provided in Miss. Code Ann. Sections 27-65-101 through 27-65-111. Direct pay permits are issued to taxpayers under the provisions of Miss. Code Ann. Section 27-65-93. A direct pay permit relieves the seller of the responsibility for collecting tax and requires the holder to remit any taxes due on the purchase directly to the state.

805 A person with a valid sales tax number who is purchasing concrete to use in the performance of a taxable service is considered the consumer of the concrete and must pay tax to the vendor at the time of purchase. Contractors who mix concrete or asphalt for use in the performance of a job owe sales tax on the value of the concrete or asphalt. Any person purchasing concrete or asphalt from an out-of-state vendor for delivery and use in this state will be liable for remitting use tax on the purchase price of the concrete or asphalt. Any person who mixes concrete or asphalt out of state for delivery and use in this state will be liable for remitting use tax on the value of the concrete or asphalt. The term "vendor", as used in this section, means a person who is mixing concrete or asphalt from raw materials either at a fixed plant site location, a portable plant or through ready-mix trucks.

806 (Reserved)

900 Equipment and Supplies.

901 Purchases by contractors and subcontractors of work equipment, tools, building forms, repair parts for work equipment and similar items of tangible personal property that do not become component parts of the structure being erected are taxed at the regular retail rate of sales or use tax and any applicable special tax. When property of this type has been previously used in another state and is imported into this State for use, the use tax is due on the fair market value of the property at the time of importation. At no time shall the value be less than 20% of original cost. Credit for sales or use tax paid to another state in which the property was acquired or used may be taken in computing the amount of use tax due this State. The credit must be computed by applying the rate of sales or use tax paid to another state to the value of the property at the time it enters Mississippi.

902 Owners or other persons receiving benefit from the use of tangible property in this State are liable for use tax on such property.

903 The rental or lease of equipment and other tangible personal property is taxed at the same rates as a sale of the same property.

904 (Reserved)

1000 Persons or Firms Domiciled Outside the State

1001 Persons or firms domiciled outside Mississippi who perform contracts in Mississippi are construed to be doing business within the State and are subject to the various provisions of the Sales and Use Tax Laws, the Income and Withholding Tax Laws, the Franchise Tax Laws and the Motor Fuel Tax Laws in the same manner as are resident taxpayers.

1002 (Reserved)

35.IV.10.01 revised effective April 1, 2018.

Chapter 02 Drilling Contractors (Oil and Gas Wells)

Definitions

100 Definitions. Certain words, terms and phrases used in this regulation have meanings ascribed to them as follows:

1. Interest Well. When the driller owns a portion of the lease and one or more other persons own the remaining portion upon which a well is drilled, such a joint leasehold is known as an "interest well".
2. Ownership Well. When a drilling contractor owns 100% of a lease and drills a well on it, he has no taxable income.
3. Operator. One who holds all or a fraction of the working or operating rights in an oil or gas lease, and is obligated for the costs of production either as a fee owner or under a lease or any other form of contract creating working or operating rights.
4. Bottom-Hole Contribution. Money or property given to an operator for his use in the drilling of a well on property in which the payor has no interest. The contribution is payable whether the well is productive or nonproductive.
5. Dry-Hole Contribution. Money or property given to an operator for his use in the drilling of a well on property in which the payor has no interest. Such contribution is payable only in the event the well is found to be nonproductive.
6. Total Contract Price or Compensation Received. Amounts received as compensation for performing a drilling contract, including assignments of dry-hole or bottom-hole contributions and anything else of value. When the kind and amount of compensation received by the contractor is contingent upon production, the compensation received shall be the total compensation receivable in the event the well is a dry-hole.
7. a. Taxable Compensation. In determining "taxable compensation", certain items are deductible from the "compensation received" when the regular retail tax or, if applicable, the contractor's tax (road construction, site preparation, etc.) has been paid by the contractor to the person making the sale or rendering the service and as enumerated below:
    i. Additives
    ii. Casing
    iii. Cement
    iv. Coring
    v. Directional Drilling
    vi. Fishing tool rentals
    vii. Logging

viii. Mud
ix. Perforation
x. Road Construction
xi. Site preparation
xii. Testing
xiii. Water

b. No other expenses or cost incurred by the driller in the drilling operation is excludable in determining "taxable compensation".

101 (Reserved)

Qualifications and Payment of Tax

200 Qualifications and Payment of Tax. A drilling contractor taxable under Section 27-65-21 on a specified contract exceeding $10,000 shall qualify with the State Tax Commission to identify the specific contract before work is begun.

201 The contractor's tax together with any use tax due must be paid before work is begun on contracts exceeding $75,000 unless a surety bond is filed with the State Tax Commission for these taxes (Section 27-65-21). (See "Bond Requirement".)

202 On taxable contracts of $75,000 or less, or when a bond is filed, the tax due under Section 27-65-21 must be paid on a monthly basis as compensation is received. Any use tax on equipment shall be payable on or before the twentieth (20th) day of the month following the month in which the property is brought into Mississippi.

203 The 2% vendor's discount does not apply to the tax levied under Section 27-65-21.

204 (Reserved)

Tax Rates and Activities Taxed

300 Tax Rates and Activities Taxed. A tax of 3½% is levied on the "taxable compensation" received when the contract price exceeds $10,000 for drilling, redrilling, directional drilling or working over a gas well, oil well or salt water disposal well. This tax applies also to interest well contracts on the "taxable compensation" received from the other owners. Drilling, redrilling, directional drilling or working over a gas well, oil well or salt water disposal well performed as sub work for a prime contractor is not subject to tax when the prime contractor has paid the 3½% tax on the total "taxable compensation".

301 Contracts of $10,000 or less and oil field services involving activities other than those listed in the preceding paragraph are taxed at the regular retail rate of tax on the gross income of the business as provided by Section 27-65-23 of the Sales Tax Law.

302 (Reserved)

Bond Requirement

400 Bond Requirement. A surety bond must be filed on taxable contracts exceeding $75,000 performed in this state unless the tax is prepaid. Such bonds shall be either (a) "job bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of a specified job or activity regardless of date of completion; or (b) "blanket bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of all jobs or activities taxable under Section 27-65-21 begun during the period specified therein, regardless of the date of completion. The bond must be sufficient to cover the liability for sales, use, income and withholding taxes and must be approved by the Commissioner.

401 (Reserved)

Sales or Use Tax on Purchases

500 Sales or Use Tax on Purchases. Drilling contractors and operators are required to pay retail sales or use tax on the purchase of all equipment, materials or supplies. Material Purchase Certificates are not issued to drilling contractors.

501 Directional drilling is subject to the regular retail rate of tax unless it is performed by the drilling contractor. If the directional drilling is performed by the drilling contractor, it is subject to the contractor's tax as a part of the drilling contract.

502 A truck (chassis, motor, etc.) used to haul specialized equipment is taxed at the special 3% rate of sales or use tax and the specialized equipment mounted thereon is taxed at the regular retail rate of tax (example: drilling or workover rigs).

503 When property has not been use in another state and is imported into this State for use, the taxable basis is the value of the property at the time of importation. Credit for sales or use tax paid to another state in which the property was acquired or used may be taken in computing the amount of use tax due this State, but such credit must be computed by applying the rate of sales or use tax paid to another state of the value of the property at the time it enters Mississippi.

504 Owners or other persons receiving benefit from use of tangible personal property in this State are liable for use tax on such property.

505 (Reserved)

Rentals

600 Rentals. Rental or lease of equipment and other tangible personal property is taxed at the same rates as sales of the same property. The lessor is primarily liable for this tax but is required to add tax to his invoice and to collect the amount of tax due from the lessee.

601 Adequate records must be maintained to substantiate classifications of income and purchases.

602 (Reserved)

Chapter 03 Construction Equipment - Dealers

Tax Rates

100 Tax Rates. Sales of all construction equipment, attachments, parts, labor and services are taxable at the regular retail rate of sales tax.

101 Sales under a warranty agreement with the manufacturer are not taxable on that part charged to the factory. Any part of the charge made to the customer is taxable at the regular retail rate.

102 Internal sales of parts and labor that are necessary to repair construction equipment in inventory of the dealers are not taxable because the tax will apply on the sale of the repaired equipment.

103 "Sales price" or "purchase price" means the full amount received from the sale of property, including carrying charges when a dealer carries his own paper, delivery charges, manufacturers excise tax and any other additions to the selling price. No distinction is made between sales of new, used or trade-in equipment for tax purposes, all being taxed on the differences in the sales price and the amount allowed for a trade-in.

104 (Reserved)

Repossessions

200 Repossessions. Repossessions shall be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported. The subsequent sale of the repossessed item will be taxable on the same basis as the sale of new merchandise.

201 (Reserved)

Rentals

300 Rentals. Income from renting or leasing tangible personal property is taxed at the same rates as sales of the same property.

301 Licensed dealers owe no tax on the cost of property withdrawn from inventory for lease or rental. Subsequent sales of property that has been rented or leased are taxed on the full sales price with no deduction allowed as a result of tax paid on rental or lease income.

302 (Reserved)

Out of State Sales

400 Out-of-state-sales. All sales of equipment by Mississippi dealers are presumed to have been made in this State unless the dealer can provide factual evidence that the equipment was delivered to the customer outside of this State for first use in another state.

401 (Reserved)

Use Tax

500 Use Tax. Persons who buy equipment in other states are liable for the payment of a use tax at the same rate and on the same basis as the sales tax, with proper credit allowed for another state's tax.

501 Purchases of property for resale are wholesale sales and exempt from sales or use tax

502 (Reserved)

Chapter 04 Oil Field Services

Levy

100 Every person engaging in the business of performing services in connection with geophysical surveying, exploring, developing, drilling, producing, distributing or testing of oil, gas, water and other mineral resources is liable for the regular retail rate of tax on gross income received except as otherwise provided. This includes persons acting as operators or performing management services for a fee in connection with developing, producing or distributing mineral resources. Consultants, supervisors and engineers whose presence is required at the well site or inside the oil field on a permanent or continuing basis are considered to be engaged in an oil field service and are liable for sales tax. Where the operator owns an interest in a well under his management, he is liable for tax on compensation received from the other owners.

101 (Reserved)

Gross Income

200 Any business which performs taxable services incurs business expenses which of necessity must be recovered through charges for its services. Such expenses include meals and lodging for employees, mileage, equipment rental and supplies such as chemicals, swab cups and explosives which are used or consumed in the performance of services. The term "gross income" includes charges made for recovery of these expenses and are taxable irrespective of the fact that they may be itemized or that the goods or services have borne a retail tax at the time of purchase.

201 Charges for transportation, outside an oil or gas field, in connection with rigging up or rigging down are not includable in taxable receipts. Companies which rig up or down a derrick in connection with hauling said derrick are deemed to be in the transportation business and are subject to tax only on the portion of the service performed in the oil or gas field. Transportation from one location in a field to another location in the same field is considered an oil field service taxable at the regular retail rate of sales tax.

202 Services such as salt water disposal, but not limited thereto, are considered oil field services taxable at the regular retail rate of sales tax on the gross income received from such service. Any transportation charges in connection with such services are considered an expense of performing the service and are not excludable from gross income.

203 "Gross income" from gathering and interpreting data within and without this State may be apportioned between the states if adequate records are maintained. "Gross income" does not include receipts which constitute reimbursement by clients for cost of easements to cross or enter land of property owners for property damage payments. In addition to services ordinarily rendered, the operator of a management company may also act as agent for well owners in arranging for other services. In such cases, the operator is not liable for tax on receipts which represent rebilling to the owners of payments made to vendors by the operator for property purchased and services performed for owners on which the regular retail rate of tax has been paid to the vendors.

204 The gross income from oil field services performed in Mississippi is taxable at the regular retail rate of sales tax with the following exceptions:

1. Compensation received from a contract in excess of $10,000 to drill, redrill or work over an oil well or a gas well is taxable at the 31/2% contractor's rate of tax.
2. No sales tax is due when service is performed for another licensed dealer in the same service.

205 Adequate records must be maintained to substantiate exempt sales.

206 (Reserved)

Equipment

300 Equipment purchases or rentals and purchases of supplies are taxable at the regular retail rate of sales or use tax.

301 Manufactured or produced products withdrawn for use or consumption are taxable at the regular retail rate of tax, measured by the cost or value when converted to use. In no instance shall value be less than the selling price of similar products.

302 (Reserved)

Sub Part 11 Transportation

Chapter 01 Railroad Companies

100 All railroad companies are required to have direct pay permits for purposes of reporting and paying to the Commissioner the sales and use tax applicable to purchases of tangible personal property and services in lieu of payment of the tax to the vendor. The direct pay permit does not relieve the vendor of the liability for the contractor's tax levied by Miss. Code Ann. Sections 27-65-21. Railroads will file and pay all tax due on property purchased, used or consumed within the State of Mississippi.

101 The following purchases by railroad companies are classified according to the applicable sales or use tax due:

1. Exempt
    a. Locomotives and rail rolling stock, including all units that move on rails and materials for their repair.
    b. Locomotive fuel
    c. Locomotive water
    d. Sales of electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel to operate railroad locomotives. See Title 35 Miss. Admin. Code, Part IV, Subpart 6, Chapter 01 concerning the Affidavit for Utility Exemption.
2. Regular retail rate
    a. Supplies and materials for right of way maintenance
3. Special 3% rate
    a. Creosoting and treating of track and bridge materials
    b. Culverts, drainpipes and ballast for use in the roadway
    c. Equipment and materials for use in signals and interlockers
    d. Ties, piling, timber and lumber, when used in track or track structures.

102 Any other purchases will be taxed at the rates provided by law. Adequate records must be maintained to substantiate tax classifications of sales and purchases.

103 Rental or lease of tangible personal property to railroad companies is taxed at the same rates as sales of the same property.

104 (Reserved)

35.IV.11.01 revised effective December 1, 2020

Chapter 02 Automobile, Truck and Truck-Tractor Dealers

100 Terms and Definitions

101 Automobiles, trucks and truck-tractors shall include only vehicles which are commonly known to the trade as such. The term includes motor homes (self-propelled) but does not include mobile homes, campers, trailers, semi-trailers, motorcycles, warehouse trucks, draglines, golf carts and similar vehicles.

102 Semi-trailer for tax purposes is one that is attached to and moved by a truck-tractor.

103 Sales price or purchase price for tax purposes means the full amount received from the sale of property, including delivery charges, manufacturers excise tax and any other additions to the selling price, unless specifically excluded by statute. The Federal Retailers Excise Tax on truck chassis and bodies and on truck-trailer and semi-trailer chassis and bodies is exempt from sales tax. No distinction is made between sales of new, used or trade-in vehicles for sales and use tax purposes, all being taxed on the difference in the sales price and the amount allowed for a trade-in. A trade-in is limited to property of the same kind and character as that normally carried in inventory for sale.

104 (Reserved)

200 Rate and Application of Tax

201 The special rate of tax on sales and rentals of automobiles and trucks with a gross weight of 10,000 lbs. or less is 5%. Motor homes are also taxed at the special rate of 5% as private carriers of passengers under Miss. Code Ann. Section 27-65-17. Motorcycles are taxed at the regular retail rate of tax. Truck-tractors and semi-trailers are taxed at the special rate of 3%. Effective July 1, 2014, Miss. Code Ann. Section 27-65-101(1)(ss) provides an exemption for truck-tractors and semi-trailers used in interstate commerce and registered under the International Registration Plan (IRP) or any similar reciprocity agreement or compact relating to the proportional registration of commercial vehicles as provided for in Miss. Code Ann. Section 27-19-143. Retail sales or rental of other tangible personal property are taxable at the regular retail rate of tax.

202 Special equipment already mounted on a truck, the function of which is to transport persons or property, is taxable at the applicable rate of tax as the truck when sold as a complete unit. If sold separately, the regular retail rate of tax will be applicable. (Example: bus bodies, concrete mixing equipment, tanks for transportation of liquids and the like.)

203 Equipment mounted on a vehicle so that it can be transported from place to place for the performance of a special function while stationary is taxable at the regular retail rate of tax whether sold as a complete unit or separately. (Example: seismographic equipment, oil well work-over rigs, cherry pickers and the like.)

204 Electric Power Associations (EPAs) purchasing automobiles or trucks with a gross weight of 10,000 lbs. or less, are taxed at the reduced rate of 1% plus the additional 2% tax levied by Miss. Code Ann. Section 27-65-17. Direct pay permits may not be used to self-accrue this tax.

205 Accessories permanently attached to a vehicle at the time of sale, such as overdrive, heater and radio, are taxable at the same rate as that of the vehicle. Accessories that are not permanently attached are taxable at the regular retail rate of tax.

206 Sales between licensed new or used car dealers of merchandise (parts & accessories) for resale at retail are exempt from sales tax. Sales of new motor vehicles to used car dealers

are taxable. Sales of merchandise to licensed leasing and rental companies for subsequent lease or rental are likewise exempt from sales tax.

207 The sales of accessories, equipment, labor, parts and services are taxable at the regular retail rate of tax when sold to a consumer and exempt when sold to other licensed retail dealers for resale. Income received from the repair (labor and parts) of vehicles for another licensed dealer where the vehicle will be placed in stock for sale is exempt.

208 Internal sales of parts and labor that are necessary to repair a vehicle in inventory are exempt because the tax will apply on the sale of the repaired vehicle. However, merchandise such as tires for wreckers and similar withdrawals from stock for business use are taxable at the regular retail rate.

209 Dealers titling a vehicle for wholesaler will be required to report 5% sales tax based on the NADA value of the vehicle, absent any valid sales invoice from the wholesaler.

210 (Reserved)

300 Service Contracts

301 The sale of a contract to provide for maintenance and/or repairs of a motor vehicle is exempt from sales tax when sold either with the vehicle or separate from the sale of the vehicle. These contracts are known in the industry as either a service contract, extended warranty or other similar names and are separate from the original new car warranty as provided by the manufacturer. Income received from the subsequent repair work performed by the dealer under the provisions of these contracts is taxed at the regular retail rate of tax.

302 The income received and retained by an automobile dealer derived from the sale of maintenance and/or repair agreements to cover work performed at a specific dealership(s), is treated as the prepayment of maintenance and repairs. The income received from such sale is taxed at the regular retail rate of tax as any other automobile repairs.

303 (Reserved)

400 Wrecker and Towing Service

401 Charges for wrecker or towing services where no other taxable services (repairs, storage or other similar service) are provided are exempt from sales tax. When wrecker or towing services are provided in connection with other services that are taxable, the total amount is subject to the regular retail rate of tax. The separate invoicing of the wrecker or towing services would not affect the taxability of the charges. The taxability of wrecker and towing services is determined for each instance that includes this service and not for the business as a whole.

402 (Reserved)

500 Warranty Repairs

501 Repairs to a vehicle under the original new vehicle manufacturers' warranty where payment or credit is directly from the manufacturer are exempt. Rental cars provided under the new car warranty, either from the dealer's own fleet or through a car rental agency, are considered part of the warranty repair and not subject to sales tax or the motor vehicle rental tax. Any part of the charge for repairs or service billed to or paid by the customer is taxable at the regular retail rate of tax.

502 (Reserved)

600 Rebates

601 A rebate given by the dealer is considered to be a discount deductible from the sales price when shown on the sales invoice and is exempt.

602 Rebates made directly by the manufacturer that are assigned to the dealer are taxable under Miss. Code Ann. Section 27-65-3.

603 Incentive awards paid to the dealer by the manufacturer which do not affect the selling price to the customer are considered to be a reduction in cost to the dealer and are not taxable.

604 (Reserved)

700 Cars furnished by Dealers

701 A vehicle furnished free of charge or at less than an arms-length charge is taxable to the dealer on the value of the vehicle when withdrawn from stock. This includes cars used by owners, salesmen, dealership employees, or any other individual whom the dealership has given a car for use. The value of the vehicle shall be determined by computing the annual lease value of the vehicle based on its fair market value (FMV) as of the first date the auto is made available for personal use. The FMV is determined to be the manufacturers invoice price. This figure should then be used to determine the annual lease value assigned by the Internal Revenue Service in absence of any other method of determination provided by the Department. Tax at the rate of 5% should be paid on the total lease value of all vehicles provided to individuals for personal use. No credit for tax paid on the use of the vehicle will be allowed against the tax due once the vehicle is sold. The total tax due should be computed on December 31st of each year and reported on the December sales tax return due by January 20th.

702 (Reserved)

800 Rentals

801 Income from renting or leasing tangible personal property is taxed at the same rates as sales of the same property.

802 Dealers owe no tax on the cost of property when withdrawn from inventory for lease or rental. Sales of property that has been rented or leased are taxable on the full sales price with no deduction allowed as a result of tax paid on rental or lease income.

803 (Reserved)

900 Repossessions

901 Repossessions shall be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported and taxed. The subsequent sale of the repossessed car will be taxable on the same basis as the sale of any other car.

902 Repossessions by out-of-state dealers do not cancel or void use tax liabilities which accrue to the purchaser simultaneously with the first use or registration of the vehicle in Mississippi.

903 (Reserved)

1000 Out-of-State Sales

1001 Sales of automobiles, trucks, truck-tractors, semi-trailers, trailers, boats, travel trailers, motorcycles and all-terrain cycles which are exported from this state within forty-eight (48) hours and registered and first used in another state are exempt from sales tax. A properly executed Certificate of Interstate Sale must be maintained to substantiate sales of boats, all-terrain cycles or other equipment not required to be registered for highway use. A golf cart is not an all-terrain cycle and would be taxable at the seven percent (7%) regular rate of tax at the time of purchase regardless of its intended use or modifications made for multi-purpose use.

1002 (Reserved)

1100 Isolated, Casual or Occasional Sales

1101 The 5% rate of sales or use tax is due on motor vehicles purchased by any person, firm or corporation from another person, firm or corporation which is not a licensed dealer. "Motor vehicle" includes private carriers of passengers, school buses, church buses, taxicabs, ambulances, hearses, motorcycles, private carriers of property, and private commercial carriers of property and drays of a gross weight of ten thousand (10,000) pounds or less. Sales or use taxes on such purchases are to be paid to the County Tax Collector at the time the motor vehicle is registered or licensed. The 5% sales or use tax is based on the true value of the vehicle using the most current official motor vehicle assessment schedule as supplied by the Department as provided by Miss. Code Ann. Section 27-65-201. Purchases

of other non-business motor vehicles or property are not taxable when purchased as isolated, casual or occasional sales.

1102 (Reserved)

1200 Purchases

1201 All purchases of tools, supplies, machinery and equipment which are bought for use in operating the business and not for resale, or which do not become an integral part of vehicles being repaired are taxable at the regular retail rate of sales or use tax.

1202 Purchases of vehicles, parts and other merchandise for resale are exempt from sales or use tax.

1203 (Reserved)

1300 Records

1301 Adequate records must be maintained to substantiate tax classifications on sales and purchases.

1302 (Reserved)

1400 Use Tax

1401 Persons who purchase vehicles, which will be registered and used in this state, from dealers located in other states are liable for the payment of use tax at the same rate and on the same basis as sales tax. The Mississippi use tax is payable to the County Tax Collector if not previously paid to an authorized out-of-state dealer, registered with the Mississippi Department of Revenue, at the time of purchase. Credit for the amount of sales tax paid to the dealer in the other state, that retains the tax collected on the sale, is not allowed against the Mississippi use tax due on automobiles, motor homes, trucks, truck-tractors and semi-trailers, trailers, boats, travel trailers, motorcycles and all-terrain cycles. Any tax credit allowed must be evidenced by proof of payment.

1402 Persons who purchase motor vehicles, which are classified as isolated, casual or occasional sales, are liable for the payment of use tax at the same rate and on the same basis as sales tax (see Isolated, Casual or Occasional Sales in this Rule).

1403 (Reserved)

35.IV.11.02 revised effective December 1, 2018

Chapter 03 Aircraft

100 General

101 Retail sales of aircraft are taxable at the special rate of 3%.

102 Retail sales of repair parts are taxable at the 7% retail rate of tax. All charges for repairs and servicing to aircraft are exempt from sales tax.

103 Any facility operating as a repair/service center and aircraft parts dealer will be required to collect and remit Mississippi sales tax at the rate of 7% on all sales from parts and remit sales tax at the rate of 7% on the cost of parts withdrawn from inventory for use in the performance of a repair or service. Tax will not be due on the repair or service charge, including the provided parts, billed to the consumer.

104 Accessories permanently attached to an aircraft at the time of sale, such as radios, lights, instruments, etc., are taxable at the same rate as that of the aircraft. Accessories sold at a later date are taxed at the 7% retail rate.

105 Sales price means the full amount received from the sale of property, including delivery charges, manufacturers excise tax and any other additions to the selling price. No distinction is made between sales of new, used or trade-in property for tax purposes, all being taxed on the difference in the sales price and the amount allowed for a trade-in.

106 Sales of aircraft made or facilitated by a person regularly engaged in the sale or facilitation of aircraft, such as a broker, are subject to tax at the rate of 3%. The purchaser is liable for the tax if the facilitator fails to collect the Mississippi tax. The tax due by the purchaser should be remitted directly to the Department.

107 A trade-in is limited to property of the same kind and character as that normally carried in inventory for sale in the regular line of business.

108 Sales under a warranty agreement with the manufacturer are not taxable on that part charged to the factory. Any part of the charge made to the customer is taxable at the regular retail rate.

109 (Reserved)

200 Exemptions

201 The gross income from the stripping and painting of commercial aircraft engaged in foreign or interstate transportation business is exempt from sales tax.

202 Sales of parts used in the repair and servicing of aircraft not registered in Mississippi engaged exclusively in the business of foreign or interstate transportation to businesses engaged in aircraft repair and maintenance are exempt from sales tax.

203 The gross proceeds from the sale of rotary-wing aircraft if exported from this state within forty-eight (48) hours and registered and first used in another state are exempt from sales

tax.

204 The gross proceeds of sales of aircraft when used predominately to transport passengers or property to or from offshore oil or natural gas exploration or production platforms or vessels, and engines, accessories and spare parts for such aircraft are exempt from sales tax

205 Sales, leases, or other retail transfers of fixed-wing aircraft to, or to be used by, certified common carriers that transport people or property within and outside of the State, as well as engines, accessories and spare parts for such aircraft are exempt from sales tax.

206 Sales of aircraft, accessories, repair parts and labor to licensed retailers for resale or rental in the regular course of business are exempt from sales and use tax.

207 Income from inside or outside storage charges is exempt from sales tax.

208 (Reserved)

300 Demonstrations and Rentals

301 Aircraft used as demonstrators where the aircraft remains in the dealer's inventory is not subject to sales tax. Supplies or other tangible personal property withdrawn and used by the dealer for demonstration of aircraft, or any other purpose are taxable at the regular retail rate of tax.

302 Income from renting or leasing tangible personal property is taxed at the same rates as sales of the same property. An aircraft is not rented when an instructor accompanies a student for purposes of instruction.

303 Rebilling or pass through fuel charges are not considered to be taxable rental income when separately invoiced from the charge for rental or lease. Sales of fuel by lessors are not subject to sales tax. Income from inside or outside storage charges is exempt from sales tax.

304 Dealers owe no tax on cost of property when withdrawn from inventory for lease or rental. Sales of property that has been rented or leased are taxable on the full sales price with no deduction allowed as a result of tax paid on rental or lease income.

305 (Reserved)

400 Repossessions

401 Repossessions shall be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported and taxed. The subsequent sale of the repossessed equipment will be taxable on the same basis as the sale of any other property.

402 (Reserved)

500 Out-of-state Sales

501 All sales of aircraft by Mississippi dealers are presumed to have been made in this State unless the dealer can provide factual evidence that the aircraft was delivered to the customer outside of this State for first use in another state.

502 (Reserved)

600 Purchases

601 All purchases of tools, supplies, machinery and equipment that are bought for use in operating an aircraft business and not for resale are taxable at the regular retail rate of sales or use tax.

602 Persons who buy aircraft or parts to repair aircraft from dealers in other states for use in Mississippi are liable for the payment of a use tax at the same rate and on the same basis as sales tax. Credit for the amount of sales tax paid to the dealer in the other state is allowed against the Mississippi use tax due on such purchases. Any tax credit allowed must be evidenced by proof of payment.

603 (Reserved)

700 Records

701 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

702 (Reserved)

35.IV.11.03 revised effective October 17, 2024

Chapter 04 Boats, Barges, Vessels and Marine Commerce

100 Sales of vessels or barges of fifty (50) tons load displacement and over by the manufacturer or builder are exempt. The gross proceeds of sales of dry docks and offshore drilling equipment for use in oil exploitation or production are exempt. The Federal Luxury Tax, effective January 1, 1991, is in the form of a Federal Retailers Excise Tax, and is therefore excluded from taxable gross proceeds of sales when computing the Mississippi sales or use tax due on sales of boats with a sales price over $100,000.00. Sales of equipment subsequent to original sale and not otherwise exempt are taxable at the regular retail rate.

101 Sales to commercial fishermen of commercial fishing boats of over five (5) tons load displacement and not more than (50) tons load displacement as registered with the United

States Coast Guard and licensed by the Mississippi Marine Conservation Commission are exempt. Fishing gear with which the boat is permanently equipped is considered part of the boat.

102 1. Charter boats which have been licensed and authorized as such by the United States Coast Guard pursuant to 46 CFR 24-26 and 46 CFR 175-187 or
2. Seafood boats licensed by the Mississippi Marine Conservation Commission for use within and without the territorial waters of Mississippi and:
   a. subject to the regulations, jurisdiction and authority of the Mississippi Marine Conservation Commission,
   b. subject to a license or fee imposed by the Mississippi Marine Conservation Commission,
   c. used in waters of other states and required by such other states to pay a license or fee shall, upon issuance of such license, be deemed to be in the business of interstate transportation (Section 49-15-15(o)).

103 Sales of ice to commercial fishermen purchased for use in the preservation of seafood are exempt from tax.

104 Sales of motor fuel are exempt from sales tax. Motor fuel means gasoline, butane, diesel or any other fuel used to propel or power motor vehicles, vessels, barges or stationary engines.

105 The gross income from repairs to vessels and barges engaged in foreign trade or interstate transportation are exempt. "Gross income from repairs" means income from the sale of repair or replacement parts as well as income from repair services. Additional equipment and the installation thereof are taxable at the regular retail rate. Repairs to other vessels are taxable.

106 Machinery or tools or repair parts therefore or replacements thereof, fuel or supplies used directly in manufacturing, converting or repairing ships of three thousand (3,000) tons load displacement and over are exempt from sales or use tax. Office and plant supplies or other equipment not directly used on the ship being built, converted or repaired are subject to the regular retail rate of tax.

107 Sales of petroleum products to vessels or barges for consumption in marine international commerce or interstate transportation businesses are exempt. Geophysical vessels used in the collection of data and/or information while operating in international waters are considered to be in international commerce. Sales of petroleum products, other than motor fuel, to vessels and barges performing seismographic work and operations other than that of a transportation business, such as dredges, oil rig supply boats and pleasure boats, are taxed at the regular retail rate of tax.

108 Sales of tangible personal property to persons operating ships in international commerce for use or consumption on board such ships are exempt from sales tax. This exemption shall be limited to cases in which procedures satisfactory to the Commissioner, insuring

against use in this State other than on such ships, are established. This exemption does not apply to the purchase of property to be resold within this state.

109 Sales of lumber, dunnage, strapping, packing containers and other shipping material sold to ship owners, stevedoring companies or any other person for use in ships engaged in international commerce are exempt from sales tax.

110 Sales of property delivered by the seller to the dock side for immediate export to a foreign country are exempt. Copies of purchase orders from or for overseas customers, marine bills of lading or other documentation must be retained by the seller with the sales invoice in support of this exemption.

111 Income received from storage and handling of perishable goods by a public storage warehouse is exempt from tax. "Perishable goods" means frozen goods or goods that require refrigeration while stored in a public storage warehouse (example: meat, fish, poultry, vegetables, fruits, etc.). Perishable goods shall also include grain products which require aeration while stored in a public warehouse (example: soybeans, wheat, rice, oats, milo, etc.)

112 When the export exemption is claimed for merchandise purchased for a ship's crew, the chandler must have a purchase order from the ship's captain for each item of property and delivered the property to the ship in the same manner as the other supplies. All sales of personal property to ship's personnel who buy and accept its delivery in person from the seller are taxable at the regular retail rate of tax.

113 Stevedoring charges for loading or unloading vessels engaged in foreign or interstate commerce are exempt.

114 Sales of machinery, machine parts and/or equipment to an operator or lessee of any structures, facilities and lands acquired and operated or leased pursuant to any of the provisions of Chapter 9, Title 59, Mississippi Code of 1972, which machinery, machine parts and/or equipment is to be located on and used exclusively and directly in the operation of such structures, facilities and lands are taxable at the 11/2% rate of tax.

115 Sales of equipment and supplies (hardware, canvas, lines, sheets, paint, clothing, linens, lumber, cleaning materials, etc.) to any boat are taxable at the regular retail rate of tax, unless otherwise exempt.

116 (Reserved)

Sub Part 12 Medical

Chapter 01 Optometrists and Ophthalmologists

Professional Services

100 Optometrists and ophthalmologists primarily rendering professional services are not construed as retailers by the Sales Tax Law, but are regarded as the users or consumers of all tangible personal property purchased either to be consumed or used by them or delivered to their customers in connection with the professional services rendered. Optometrists and ophthalmologists who manufacture glasses pursuant to their own examinations and prescriptions are also considered the users of all ophthalmic goods and related products purchased and are treated the same as non-manufacturing optometrists or ophthalmologists. Sales to or purchase by optometrists or ophthalmologists, in this instance, are taxable at the regular retail rate of sales or use tax which should be charged and collected by the seller at the time of sale. If the use tax is not charged and collected by the out-of-state seller at the time of sale, the purchaser is required to file a use tax return, Form 72-110, covering the tax applicable to such out-of-state purchases.

101 (Reserved)

Retail Sales

200 Optometrists who maintain and operate a retail establishment such as a jewelry store, optical supply house, etc., or who are associated with a retail establishment, are construed as retailers and are liable for a sales tax on their Mississippi sales. Purchases of merchandise by a licensed retailer for resale at retail are exempt from sales or use tax.

201 Opticians, optical dispensaries, and optical supply houses, or any other person selling tangible personal property and not primarily rendering professional services as optometrists and ophthalmologists, as outlined in the first paragraph above, are likewise construed as retailers or wholesalers and are required to file Mississippi sales or use tax returns. A licensed retail establishment employing an examiner may exclude the examination charge from the gross proceeds of sales; provided this fee is a separate charge and records are kept to substantiate it.

202 (Reserved)

Chapter 02 Hospitals, Infirmaries and Sanatoriums

100 Gross income received from the operation of a nursing home, hospital or similar institution is exempt from sales tax. Gross income from rental of tangible personal property or the operation of a drug store, cafeteria, gift shop or other business open to the public is subject to sales tax in the same manner as a similar independent business. Sales of non-prescription drugs and medicines or other property to out-patient or employees are likewise taxable at the regular retail sales tax rate. Sales of prescription drugs (legend drugs) and insulin are exempt from sales tax.

101 Home health care agencies, hospices or similar institutions, which operate as a separate legal entity (whether profit or non-profit) and not as a division or department of the exempt entity, are not exempt, and cannot be covered under the exemption provided to an affiliated exempt corporation. These agencies are subject to tax on purchases that are used or

consumed by the institutions in the regular course of their business. Items, for the patient use, that are rebilled to the patient by the institution, are also subject to sales tax. This sales tax should be computed on the price billed to patients and/or their insurance provider.

102 Any department or division of an exempt entity, whether located on site or off-site, which performs services that are ordinary and necessary to the operation of the exempt entity, including but not limited to home health care, hospice, outpatient cancer, dialysis, cardiology, catheterization lab, diagnostic, lithotripsy, magnetic resonance imaging, rehabilitation, surgery, teleradiology, are exempt from sales tax.

103 Any department or division of an exempt entity, whether located on site or off-site, which is not ordinary and necessary to the operation of the exempt entity, is not covered under the exemption granted and is subject to the tax on its purchases. This includes, but is not limited to, wellness centers, physician's offices, and clinics.

104 Hospital, under Section 41-9-3, is defined not to include convalescent or boarding homes, children's homes, homes for the aged or other like establishments where room and board only are provided, nor does it include offices or clinics where patients are not regularly kept as bed patients.

105 Infirmaries are defined as a facility where overnight care can be provided.

106 Meals furnished or sold to employees of an institution are exempt where the eating facility is not open to the public or guest of the institution. Where eating facilities of an institution are open to the public, sales tax is due on the gross income, including sales of meals to employees and meals served to guests in patient's rooms.

107 Institutions are consumers of products furnished to patients or used in services rendered. The amount subject to tax shall be the full price paid by the institution on all items, including meals, furnished by all for-profit hospitals, nursing homes, infirmaries or other similar institutions. This amount includes any overhead charge, preparation charge or any other charge paid for the item, even if it is separately stated or separately billed.

108 Gross receipts from the sale or rental of tangible personal property, and services rendered to institutions owned and operated by the Federal Government, or the State of Mississippi, its counties, cities and corporations or associations, whose earnings do not inure to the benefit of any individual, group or shareholder, are exempt from sales tax. This exemption as applied to non-profit institutions is limited to purchases for use in the ordinary and necessary operation of the institution. This exemption does not apply to contractors performing services subject to the contractor's tax.

109 Sales and rentals to exempt institutions must be substantiated by sales invoices and other records. Sales and rentals to all other institutions are subject to the regular retail sales or use tax. From and after July 1, 1999, the portion of sales and rentals paid by Medicare and Medicaid are exempt from sales or use tax. From and after July 1, 2009, the entire sale or

rental, when payment for such is made in part or in whole by Medicare or Medicaid, is exempt from sales or use tax.

110 (Reserved)

35.IV.12.02 revised effective July 1, 2009

Chapter 03 Dental Laboratories and Dental Supply Houses

Dentists

100 Dentists. The gross income received by dentists in the performance of their professional services is not subject to the provisions of the Sales Tax Law. Dentists are considered as the users and consumers of all materials, supplies and equipment purchased by them for use in their dental practice. Therefore, all sales made to dentists are retail transactions taxable at the regular retail rate of sales or use tax.

101 (Reserved)

Dental Laboratories

200 Dental Laboratories. The gross income of dental laboratories derived from repair work performed for dentists or other customers, as well as from the sales of tangible personal property is taxable at the regular retail rate.

201 (Reserved)

Dental Supply Houses

300 Dental Supply Houses. Sales of raw materials to licensed dental laboratories that become an integral part of a manufactured product are exempt. Sales of manufacturing machinery or machine parts to licensed dental laboratories for use exclusively and directly in the manufacturing process are taxed at the 1 ½% special rate of tax. The regular retail rate of sales or use tax applies on equipment, tools or supplies sold to dental laboratories and others for use.

301 Purchases for resale by licensed dental supply houses are exempt from sales or use tax.

302 (Reserved)

Equipment Rentals

400 Equipment Rentals. Rental or lease of tangible personal property is taxed at the same rates as sales of the same property.

401 (Reserved)

Records

500 Records. Adequate records must be maintained to substantiate tax classifications of sales and purchases.

501 (Reserved)

Sub Part 13 General

Chapter 01 Affiliated Corporations

100 Each separately organized corporation is a "person" within the meaning of the law, not withstanding its affiliation with or relation to any other corporation through stock ownership by a parent corporation or by the same group of individuals.

101 Each corporation shall file a separate return and include therein the tax liability accruing to such corporation. This applies to each corporation in an affiliated group, as the law makes no provision for filing of consolidated returns by affiliated corporations.

102 Transactions where title to taxable property is transferred from one corporation to an affiliated corporation, partnership, or stockowner constitute taxable events, and these inter-company transactions may not be eliminated from the measure of tax imposed.

103 (Reserved)

Chapter 02 Sales Made By and To Schools, Colleges and Universities

Junior Colleges, Community Colleges, Colleges and Universities

100 General

101 Miss. Code Ann. Section 27-65-105(a) and (b) exempt sales of property and services when sold to, billed to, and paid for directly by Mississippi's public colleges and universities. Sales to nonprofit private colleges and universities are exempt pursuant to Miss. Code Ann. Section 27-65-111(g). The exemptions under 27-65-105(b) and 27-65-111(g) do not apply to items that are not used in the ordinary operation of the school and do not apply to items resold to students.

102 Junior colleges, community colleges, colleges and universities undertake many activities that require the school to collect and remit sales tax. Miss. Code Ann. Section 27-65-9 provides that exempt organizations or political entities are in "business" for sales tax purposes when any of the activities carried on by those organizations are in competition with privately owned businesses that are subject to sales tax.

103 For the purposes of this rule, students are defined as persons receiving a course of instruction at the school and will include those taking short specialized courses and those attending camps.

104 In those instances where the school has contracted with a third party vendor to operate facilities on campus, such as a bookstore or cafeteria, the vendor will be responsible for collecting and remitting the tax. The school will remain liable for the tax when the vendor is merely acting as an agent for and on behalf of the school.

105 Miss. Code Ann. Section 27-65-75(1)(b) provides that eighteen and one-half percent (18½%) of the tax collected from business activities on the campus of any state institution of higher learning or community or junior college shall be paid to the school when the business location is not located within the corporate limits of a municipality. Such payments are made on or before the 15th of the month following the collection of the tax by the Department of Revenue.

106 (Reserved)

200 Book Stores

201 Sales of school textbooks to students are exempt from tax pursuant to Miss. Code Ann. Section 27-65-105(c). A textbook is defined as a book with instructional content on a particular subject matter required by the instructor of a class to be used by a student. Textbooks must have an ISBN (International Standard Book Number), and does not include page copies. The exemption also applies to a charge to access digital eBook textbooks required by an instructor. A novel is not considered to be a textbook. All other sales are taxable, including, but not limited to, items such as paper, notebooks, ink, pencils, laboratory supplies, clothing, food or drink.

202 Interdepartmental sales, sales delivered out-of-state and sales to tax-exempt entities are not taxable.

203 (Reserved)

300 Cafeterias, Dining Halls and Other On Campus Food Sales

301 Sales tax is due on all sales to students with the exception of regular on-campus meals provided as a part of a prepaid student meal plan pursuant to Miss. Code Ann. Section 27-65-9(2)(a) and (c). Prepaid student meal plans are those plans that provide the student with a specific number of meals or meals for a specific period of time, and also include all meals paid for through the use of a prepaid declining balance account or similar instrument or account issued by the school that may only be used to purchase on-campus prepared meals. Eligible declining balance accounts may commonly be referred to as flexible spending accounts, flex dollars, bonus bucks or dining dollars and are all accounts in which money is deposited for the use of the student and the balance in the account declines based upon the price of the food or drink purchased. Any declining balance account that may be used

to purchase books, apparel, supplies or other services such as copying or laundering services may not be used to purchase prepared meals exempt from sales tax.

302 Sales tax is due on all sales of meals to nonstudents such as faculty, employees, visitors and the public. Sales tax is also due on purchases of all prepared meals paid for with cash, checks, bank debit cards or credit cards, regardless of who is purchasing the meal.

303 Banquets and catering for student groups are exempt when the meal is paid for directly by the exempt entity. Banquets and catering for nonstudent groups are taxable unless billed to another department of the school. Sales rebilled by the school to a private individual or organization are taxable.

304 Meals provided as a part of camp activities, such as summer athletic camps, are exempt from tax when payment for such meals is a part of the charge made by the school for the camp. This includes camps for students of the college and camps for students visiting from other colleges, universities or grade schools.

305 Meals provided to employees of an exempt school at no cost are not taxable to the school pursuant to Miss. Code Ann. Sections 27-65-105(a) or 27-65-111(g).

306 All sales of food made through vending machines owned by the school are taxable at the regular retail rate of tax. Vendors are liable for tax on sales made through "full service" vending machine sales (see Title 35 Mississippi Administrative Code, Part IV, Subpart 04, Chapter 03).

307 Sales of food through concession stands at athletic events or entertainment events are taxable.

308 (Reserved)

400 Athletics, Admissions Charges and Special Events

401 Miss. Code Ann. Section 27-65-22 levies a tax on the gross income received from charges for admission to any and all forms of entertainment, amusement, diversion, sport, recreation, pastime, shows, exhibitions, contests, displays and games. The tax is levied at the regular retail rate of tax; however, there is a special reduced rate that applies to admission charges to publicly owned, enclosed coliseums and auditoriums, and there are special exemptions that may apply. This special rate does not apply to admission charges to athletic contests between colleges and universities.

402 Sales of tickets for all athletic games held at a location in Mississippi are taxable at the regular retail rate of tax, except any games for university or community college conference, state, regional or national playoffs or championships as provided for in Miss. Code Ann. Section 27-65-22(3)(h). Tickets sold by visiting teams for games in Mississippi are also taxable even if the proceeds of those ticket sales are deducted from the guaranty owed to the opposing team.

403 Sales of programs, t-shirts, hats, stadium cushions, etc., are taxable at the regular retail rate of tax. Rentals are also taxable under Miss. Code Ann. Section 27-65-23.

404 Tickets to athletic events are not taxable when given away free of charge. Tickets given in payment for services rendered, such as advertising, are taxable upon the customary charge or face value for such admission.

405 Miss. Code Ann. Section 27-65-22(3)(i) exempts admission charges or participation fees to any county or municipally owned and operated swimming pool, golf course or tennis court. This exemption applies to such facilities owned and operated by state-supported colleges and universities.

406 Sales and rentals of tangible personal property, such as golf carts, concessions and sporting equipment, are taxable at the regular retail rate of tax. Rentals of lockers are taxable at the regular retail rate of tax when such fees are retained by the schools. Fees for usage of lockers are not taxable when such fees are used as a damage deposit and are returned to the student at the end of the term.

407 Entry or participation fees for tournaments, such as golf tournaments or tennis tournaments, are taxable except for that portion of the charge which represents the normal admission charge exempted by Miss. Code Ann. Section 27-65-22(3)(i).

408 Admission charges for temporary amusements or special events are taxable. The promoter of the amusement or event is responsible for collecting and remitting the tax; however, the school may be held liable for any tax due from amusements held at the school should the promoter fail to remit the proper tax (Miss. Code Ann. Section 27-65-22(2)).

409 The gross income received from all charges made for parking at athletic and special events is subject to tax at the regular retail rate of tax pursuant to Miss. Code Ann. Section 27-65-23.

410 (Reserved)

500 Printing and Photocopying Services

501 All sales of printed materials and photocopies are taxable at the regular retail rate of tax with the exception of interdepartmental sales, sales made to tax-exempt organizations and sales for resale to a licensed retailer.

502 (Reserved)

600 Departmental Sales and Services

601 All sales of tangible personal property and taxable services sold by departments are subject to tax at the regular retail rate of tax. Such services include, but are not limited to,

automobile repair, plumbing, heating and air, electrical work and custom meat processing. For a complete list of taxable services, see Miss. Code Ann. Section 27-65-23.

602 (Reserved)

700 Miscellaneous Sales and Rentals

701 Income received from room rentals and property sales by alumni and/or visitor houses is taxable at the regular retail rate of tax pursuant to Miss. Code Ann. Section 27-65-23.

702 Rentals of refrigerators and other dorm appliances and all other rentals of equipment are subject to tax at the regular retail rate of tax pursuant to Miss. Code Ann. Section 27-65-23.

703 All sales of laundry services or dry cleaning services to students or nonstudents are taxable at the regular retail rate of tax pursuant to Miss. Code Ann. Section 27-65-23.

704 Sales of annuals, awards, articles of clothing or jewelry given in recognition of accomplishments and rentals of caps and gowns are exempt from tax when sold directly to, billed directly to and paid for directly by the exempt entity. Sales of such merchandise are taxable when the vendor sells to and receives payment directly from the individual student.

705 Sales of invitations, class rings, pins and pictures for the benefit of individual students or student organizations are taxable at the regular retail rate of tax when sold to the student even if billed to an exempt school.

706 Sales to public and nonprofit private schools for resale, rather than use by the school, are taxable at the regular retail rate of tax unless the school is registered for sales tax purposes. This includes fundraising materials.

707 (Reserved)

800 Utilities

801 Sales of telephone, cable or subscription television services for the private use of students, faculty members or any other persons enrolled or domiciled at an “exempt” school, college or university are taxable at the regular retail rate of tax. The school will be considered the seller of these services when separate charges are made and will be responsible for remitting the tax on all private use of such services pursuant to Miss. Code Ann. Section 27-65-19. No tax will be due on these services when the charge for such services is included in the cost for registration, tuition or dormitory. Charges for such services used in common areas such as student union buildings, media centers, libraries, etc., are exempt when sold directly to, billed directly to and paid for directly by the school.

802 Charges for internet access are not subject to sales tax.

803 (Reserved)

Elementary and Secondary Grade Schools

900 General

901 Miss. Code Ann. Section 27-65-105(a) and (b) exempt sales of property and services when sold to, billed to, and paid for directly by Mississippi's public schools and school districts. Sales to nonprofit schools are exempt pursuant to Miss. Code Ann. Section 27-65-111(g). The exemptions under 27-65-105(b) and 27-65-111(g) do not apply to items that are not used in the ordinary operation of the school and do not apply to items resold to students or the public, unless considered to be fundraising materials.

902 Sales of student meals are exempt from sales tax pursuant to Miss. Code Ann. Section 27-65-9(2)(b). This exemption also applies to third party vendors who operate a cafeteria at an exempt school or who provide regular student meals at an exempt school. The exemption does not apply to those vendors who may sell additional food items at a school where the student may choose to purchase such food in lieu of the regular meals provided by the school. The tax on such sales is due regardless of whether the vendor collects the money directly from the students or is paid by the school from money the school has collected from the students.

903 Parent Teacher Associations (PTAs), Parent Teacher Organizations (PTOs), athletic and band boosters and other similar support organizations are not exempt from sales tax even on purchases that will be given to the school. However, purchases for resale that are for the sole purpose of raising funds for the school or an affiliated organization are exempt. The Affidavit for Purchase of Fundraising Materials should be provided to their supplier in association with that purchase.

904 Admission charges for athletic games and contests between elementary and secondary schools are exempt from sales tax pursuant to Miss. Code Ann. Section 27-65-22(3)(c).

905 Sales of annuals, awards, articles of clothing or jewelry given in recognition of accomplishments and rentals of caps and gowns are exempt from tax when sold directly to, billed directly to and paid for directly by the exempt entity. Sales of such merchandise are taxable when the vendor sells to and receives payment directly from the individual student.

906 Sales of invitations, class rings, pins and pictures for the benefit of individual students or student organizations are taxable at the regular retail rate of tax when sold to the student even if billed to an exempt school.

907 (Reserved)

1000 Fundraising

1001 An exemption from Sales and Use Tax is provided under Miss. Code Ann. Section 27-65-111 (cc) for purchases made for the sole purpose of raising funds for a school or organization affiliated with a school.

1002 When purchasing tangible personal property used solely for raising funds it is the responsibility of the purchaser to sign The Affidavit for Purchase of Fundraising Materials. Upon signing the affidavit the purchaser attests that they meet the requirements for exemption under Miss. Code Ann. Section 27-65-111(cc) and that they assume responsibility for payment of the tax if the requirements for exemption are not met. A representative of the school or affiliated organization must also sign the affidavit attesting that they are to be the beneficiary of any funds raised. This affidavit can be found on the Department of Revenue website.

1005 (Reserved)

35.IV.13.02 revised effective April 1, 2008
35.IV.13.02 revised effective July 1, 2009
35.IV.13.02 revised effective July 13, 2012
35.IV.13.02 revised effective April 27, 2017

Chapter 03 Burial of Human Bodies

100 Pursuant to Miss. Code Ann. Section 27-65-111(c) sales of coffins, caskets, vaults, urns, clothing, embalming aids and appliances, burial pouches and other materials used in the preparation of human bodies for burial or buried with the human body are exempt from sales tax.

101 Material as used in this rule means any tangible personal property consumed directly in the preparation of a human body for burial and property buried with the body; however, material does not include any property that may be reused.

102 Cemetery equipment and supplies including but not limited to grave markers and nameplates are taxable at the regular retail rate of tax.

103 Embalming chemicals, cosmetics, wound filler, restorative wax, ligating and suturing threads and other materials remaining in or on the body are exempt from tax.

104 Chemicals or materials used to clean the body are exempt from tax, however, chemicals or materials used in the cleaning of equipment, tools and the embalming area are taxable at the regular retail rate of tax.

105 Disposable items such as gloves, gowns, aprons, needles, scalpels and other property used directly in the preparation of the body for burial are exempt from tax. All property that may be reused is taxable at the regular retail rate of tax.

106 Books and other property given to the family of the deceased are taxable to the funeral home at the regular retail rate of tax on the purchase price.

107 (Reserved)

35.IV.13.03 revised effective January 15, 2019

Chapter 04 Disposal of Waste Tires

100 Definitions

101 "Motor vehicle" means an automobile, motorcycle, motor home, truck, trailer, semi-trailer, truck tractor and semi-trailer combination, farm equipment, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, earth movers, graders, loading and other similar construction equipment requiring oversized tires, any vehicles which run only upon a track, bicycles, or mopeds. Motor vehicle does not include equipment such as bulldozers, motor graders, backhoes, front end loaders or any other equipment not used to transport persons or property upon the roads of this state.

102 "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle whether mounted on or carried in the motor vehicle.

103 "Retail sales" shall mean and include all sales of new motor vehicle tires to consumers of the tires. Retail sales shall include the value of any tangible personal property manufactured or purchased at wholesale which is withdrawn from the business or stock in trade and is used or consumed within this state in the business or by the owner or by any other person, whether or not in the regular course of business or trade. Retail sale shall also include a sale invoiced to a retailer but delivered to another person who pays for the merchandise upon taking possession.

104 "Retailer" shall apply to a person making retail sales of new motor vehicle tires.

105 For purposes of this rule, "motor vehicle leasing dealers" are considered consumers of tires purchased for use on rental or lease motor vehicles.

106 “Wholesale sale” shall mean sales of new motor vehicle tires to a tire retailer or a tire wholesaler for resale.

107 “Wholesaler” shall apply to a person making wholesale sales of new motor vehicle tires.

108 (Reserved)

200 Levy

201 Under Miss. Code Ann. Section 17-17-423, a waste tire fee of one dollar ($1.00) is imposed on each new motor vehicle tire sold with a rim diameter of less than twenty-four (24) inches, and two dollars ($2.00) on each new tire sold with a rim diameter of twenty-four (24) inches or greater. The fee shall be charged by the tire wholesaler to a tire retailer who purchases a motor vehicle tire for resale. Such fee shall be separately stated on the sales invoice to the tire retailer. Tire wholesalers making retail sales of new tires should accrue the one dollar ($1.00) waste tire fee or two dollar ($2.00) waste tire fee on each new tire sold at retail. Tire retailers should accrue the one dollar ($1.00) or two dollar ($2.00) waste tire fee on each new motor vehicle tire purchased from an out of state wholesaler who does not charge the waste tire fee. The tax is to be charged on the last wholesale sale of the tire.

202 Sales by a tire wholesaler selling tires to a used car dealer is considered a retail sale per paragraph 103, above. The applicable tire fee would be charged to the used car dealer; however the regular retail rate of tax would not apply as the sale is considered a wholesale sale for sales tax purposes.

203 Tire wholesalers will be provided a resale permit to allow the wholesaler to purchase tires for resale exempt from the waste tire fee.

204 The waste tire fee shall not be charged on the retail sale to the end customer; however, the seller may recoup the waste tire fee by including the cost of the fee in the selling price of the tires, or by listing the cost of the fee as a, “Reimbursement of waste tire fee” on the sales invoice. The amount recouped by the seller is subject to sales tax as part of the gross proceeds of the sale of new tires.

205 (Reserved)

300 Filing Requirements

301 The fee imposed, less five percent (5%) of fees collected or accrued, which shall be retained by the tire wholesaler as collection costs, shall be reported and paid to the Department of Revenue electronically through TAP using the Tire Disposal Fee return. The return with remittance is due and payable on or before the twentieth day of the month next succeeding the close of the period in which the fee accrues. This fee is not to be reported on the sales tax return.

302 (Reserved)

400 Exemptions

401 No fee is due on new tires already mounted on new or used motor vehicles held by motor vehicle dealers for retail sale.

402 No fee is due on the sale of recaps, retreads or any other used motor vehicle tire.

403 The exemptions or exceptions contained in the Sales Tax Law do not apply to the waste tire fee.

404 (Reserved)

35.IV.13.04 revised effective October 16, 2021

Chapter 05 Auctions, Flea Markets, Antique Malls and Other Similar Establishments

100 Auctions

101 An Auctioneer is a person who owns tangible personal property or to whom tangible personal property has been consigned and who offers tangible personal property for sale at auction.

102 For the purpose of an auction, gross proceeds of sales are the total amount received without any deductions for commissions.

103 Auctioneers either operating from an established place of business or regularly engaged in auctions or licensed as an auctioneer with the State of Mississippi or any other state are considered to be in the business of selling tangible personal property. Sales tax is due on the gross receipts from such sales regardless of how such tangible personal property may have been acquired, or by whom it may be owned.

104 Persons or entities operating from an established place of business or regularly engaged in operating Estate Sales are considered to be in the business of selling tangible personal property. Sales tax is due on the gross receipts from such Estate Sales regardless of how such tangible personal property may have been acquired, or by whom it may be owned.

105 In cases where inventory items held for sale are auctioned at the closure of a business, sales taxes due from the sales of such items are reported through the sales tax account of the business and not by the auctioneer.

106 An auctioneer, unless meeting the requirements for a dealer and Designated Agent, will not be responsible for collecting sales tax on motor vehicles sold through the auction. Under Miss. Code Ann. Section 27-65-201, motor vehicles sold between non-dealers are subject to a 5% casual sales tax. The county tax collector for the county, in which the motor vehicle will be registered, is responsible for collecting this tax unless a dealer is involved in the transaction. If a dealer is involved in the transaction, the dealer is responsible for collecting and remitting the appropriate sales tax.

107 (Reserved)

200 Flea Markets, Antiques Malls and Promoted Events

201 Flea Markets and Antiques Malls are businesses where nonpermanent spaces are rented to participants for the sale or exchange of secondhand articles, antiques and crafts. The participants may rent these nonpermanent spaces on a daily, weekly or monthly basis. A fee may or may not be charged to prospective buyers for admission to the area where such property is offered or displayed for sale or exchange.

202 Promoted Events include, but are not limited to, community festivals, craft shows, seasonal shows, music festivals, and other similar events. These events may include multiple vendors selling tangible personal property, including food or drink.

203 The owner/promoter/operator of a flea market, antique mall or promoted event is the seller and is responsible for collecting and remitting the sales tax collected by dealers, salespersons or individuals selling at such events. Any vendor who holds a retail sales tax permit should not report tax from an event under his/her number. All taxes collected from these establishments or events must be reported by the owner/promoter/operator.

204 (Reserved)

300 Consignment or Broker Sales

301 The consignee or broker (licensed retailer or wholesaler) is liable for the sales tax on sales of tangible personal property that was consigned, delivered or entrusted to him regardless if the broker or consignee acquires possession or if the consignor retains title or not.

302 (Reserved)

35.IV.13.05 revised effective August 15, 2008