

Title 35, Part IV
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 or 27-65-25 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 The value of soft drinks and syrup withdrawn from the business by a manufacturer for sale at retail and food or drink withdrawn by a manufacturer or wholesaler to be sold through full-service vending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. Sales of beer and alcoholic beverages to a retailer for resale at retail are subject to wholesale sales tax. The rate is the same as the regular retail rate and the tax paid may be used as a credit against the retailer's liability for retail sales tax.
2. 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.
3. 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 or not 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 Miss. Admin. Code 35.I.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. Wholesale dealers and distributors of beer are further required to file detailed monthly reports with the Commissioner. These reports must show the number of retailers issued retail beer permits in legally wet counties.

301 (Reserved)

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