

**Title 35 Mississippi Department of Revenue
Part IV Sales and Use Tax**

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Subpart 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 that 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, except for drilling contractors, taxable under Miss. Code Ann. Section 27-65-21 must 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 seventy-five thousand dollars (\$75,000) unless a bond is filed with the Department of Revenue. Bond forms are made available on request.

- 203 On taxable contracts between ten thousand dollars (\$10,000) and seventy-five thousand dollars (\$75,000), or when a bond is required to be filed, the tax must be paid monthly 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 twentieth (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 three and one-half percent 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 contractor's 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 the portion of the work sublet to him.
- 206 The two percent 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 ten percent (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 be subject to a ten percent (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 ten percent (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 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 three and one-half percent is levied on the total contract amount or compensation received from all contracts, except contracts for residential construction, that exceed ten thousand dollars (\$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. Pipeline
 14. Power plant
 15. Railway
 16. Reservoir
 17. Sewer
 18. Sidewalk
 19. Storage tank
 20. Street
 21. Tower
 22. Transmission line
 23. Water well
 24. Wharf
 25. Wiring for communication or information systems
 26. 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 three and one-half percent 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 one hundred million dollars (\$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 ten thousand dollars (\$10,000) shall qualify and pay tax as a contractor instead of the seven percent retail rate. Activities subject to the seven percent tax rate 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 ten thousand dollars (\$10,000) or less owes the seven percent retail rate of sales tax on gross income. A person performing contracts of ten thousand dollars (\$10,000) or less that do not include services taxed under Miss. Code Ann. Section 27-65-23 owes no tax on gross income but is 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 the three-and-one-half percent rate. 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 ten thousand dollars (\$10,000) or less. 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 one-and-one-half percent.
- 311 Drilling contractors 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.
- 312 Directional drilling, for purposes other than oil or gas production, is subject to the seven percent retail rate of tax for contracts equal to or less than ten thousand dollars (\$10,000). Directional drilling jobs, for purposes other than oil or gas production, exceeding ten thousand dollars (\$10,000) are subject to the three and one-half percent contractor's tax.
- 313 A truck (chassis, motor, etc.) used to haul specialized equipment is taxed at the special three percent rate of sales or use tax and the specialized equipment mounted thereon is taxed at the applicable rate of sales or use tax that applies to the equipment.
- 314 Persons using business property in this state which has been used by them in other states shall be entitled to a credit for sales and/or use tax paid to other states equal to the aggregate of all such state rates multiplied by the value of the property at the time it was imported into this state. The value of the property at the time it is imported into this state may not be less than twenty percent (20%) of the original cost of the property. Credit for sales or use tax paid to other states requires invoices clearly showing the tax as a separate item, and no credit is allowed otherwise. The credit allowed may not exceed the Mississippi use tax due.
- 315 Persons using business property in this state which was acquired from another person who used it in other states is allowed a credit equal to the applicable rate in the state where the property was last used by the previous owner multiplied by the value of the property at the time it was imported into this state. The value of the property at the time it is imported into this state may not be less than twenty percent (20%) of the original cost of the property. The credit allowed may not exceed the Mississippi use tax due.
- 316 Owners or other persons receiving benefits from the use of tangible personal property in this state are liable for use tax on such property.
- 317 (Reserved)

400 Floating Structures.

401 A three-and-one-half percent 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 a floating structure is responsible for the tax. The owner of a floating structure subject to the three-and-one-half percent tax will be issued a Casino Construction Project Certificate. The owner will provide the CCPC number to the prime contractors and subcontractors 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 ten thousand dollars (\$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 that 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 does not apply to other contracts and expires upon completion of the contract.

502 The contractor and his subcontractors must 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 (Miss. 2016). Vendors who incorrectly accept an MPC number to exempt the sale of consumables or

services such as the 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 of 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 a 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, etc.);
 3. Cellular telephone tower additions (antennas, radio equipment, platforms, etc.);
 4. Conveyor systems, 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, and
 17. Catwalks or raised walkways that are not permanently attached to real property.
- 506 The purchase price or sales price of non-component materials is taxed as a withdrawal of stock at the seven percent 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 seven percent 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 purchases 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 of ten thousand dollars (\$10,000) or less are taxable at the seven percent 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 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 seventy-five thousand dollars (\$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 ten thousand dollars (\$10,000) unless the tax is prepaid.
- 602 Such bonds must 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 an 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 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 an 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 three and one-half percent 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 seven percent 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.
- 902 Owners or other persons receiving benefits 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 resident taxpayers.
- 1002 (Reserved)

35.IV.10.01 revised effective December 22, 2024

Chapter 02 Construction Equipment – Dealers

- 100 Tax Rates
- 101 Sales of all construction equipment, attachments, parts, labor, and services are taxable at the applicable retail rate of sales tax.
- 102 Sales under a warranty agreement with a manufacturer are not taxable on that part charged to the manufacturer under the warranty agreement. Any part of the charge made to the customer is taxable at the applicable retail rate.
- 103 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.
- 104 “Sales price” or “purchase price” means the full amount received from the sale of property delivery charges, manufacturers excise tax, and any other additions to the selling price. Finance charges, carrying charges, or any other addition to the selling price as a result of deferred payments by the purchaser are excluded from the sales price or purchase price and are not subject to sales or use tax. 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.

- 105 (Reserved)
- 200 Repossessions
- 201 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.
- 202 (Reserved)
- 300 Rentals
- 301 Income from renting or leasing tangible personal property is taxed at the same rates as sales of the same property.
- 302 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.
- 303 (Reserved)
- 400 Out of State Sales
- 401 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.
- 402 (Reserved)
- 500 Use Tax
- 501 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.
- 502 Purchases of property for resale are wholesale sales and exempt from sales or use tax.
- 503 (Reserved)

35.IV.10.02 revised effective December 22, 2024

Chapter 03 Oil Field Services

- 100 Levy
- 101 Persons involved in the business of providing services related to geophysical surveying, exploring, developing, drilling, producing, distributing, or testing of oil, gas, and other mineral resources are subject to a four-and-one-half percent retail sales tax on their gross income. Services connected to geophysical surveying, exploring, developing, drilling, producing, distributing, or testing of water resources that are not linked to the development of oil, gas, and other mineral resources are subject to a seven percent retail sales tax rate.
- 102 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.
- 103 Well operators that rebill services to nonoperating working interest owners on behalf of the joint account through the joint interest billing (JIB), where the sales tax has been paid or accrued by the operator shall not be charged a sales tax on the JIB as services income.
- 104 For this chapter, an “operator” 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.
- 105 (Reserved)
- 200 Gross Income
- 201 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.
- 202 Charges for transportation, outside an oil or gas field, in connection with rigging up or rigging down are not includable in taxable receipts. Companies that 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 four and one-half percent retail rate of sales tax.
- 203 Services such as saltwater disposal, but not limited thereto, are considered oil field services taxable at the four and one-half percent 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.

- 204 "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 the 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 an 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.
- 205 The gross income from oil field services performed in Mississippi is taxable at the four and one-half percent rate of sales tax however, no sales tax is due when service is performed for another licensed dealer in the same service.
- 206 Adequate records must be maintained to substantiate exempt sales.
- 207 (Reserved)
- 300 Equipment
- 301 Purchase or rentals of equipment and materials used in connection with geophysical surveying, exploring, developing, drilling, re-drilling, completing, working over, producing, distributing, or testing of oil, gas, and other mineral resources shall be taxed at the rate of four and one-half percent.
- 302 Manufactured or produced products withdrawn for use or consumption are taxable at the four-and-one-half percent rate of tax, measured by the cost or value when converted to use. In no instance shall the value be less than the selling price of similar products.
- 303 A truck (chassis, motor, etc.) used to haul specialized equipment is taxed at the special three percent rate of sales or use tax and the specialized equipment mounted thereon is taxed at the four and one-half percent retail rate of tax when the equipment is used in connection with geophysical surveying, exploring, developing, drilling, producing, distributing, or testing of oil, gas, and other mineral resources.
- 400 Permit Requirements
- 401 Businesses working in oil and gas fields may apply for a permit that will allow them to rent or purchase equipment and materials to be used in the oil or gas field at the reduced four and one-half percent rate. Operators will be able to present the permit to vendors to be eligible for the reduced rate.

402 Operators may apply for this permit on the Taxpayer Access Point (TAP) on the Department's website.

403 Each permit will be issued for 4 years.

35.IV.10.03 revised effective December 22, 2024

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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 [that 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, [except for drilling](#) contractors, taxable under Miss. Code Ann. Section 27-65-21 [mustshall](#) 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 seventy-five thousand dollars (\$75,000); unless a bond is filed with the Department of Revenue. -Bond forms are made available on request.
- 203 On taxable contracts between ten thousand dollars (\$10,000) and seventy-five thousand dollars (\$75,000), or when a bond is required to be filed, the tax must be paid on a monthly basis monthly as compensation is received regardless received regardless of a contractor's sales tax filing status. -Any use tax due on equipment shall be paid on or before the twentieth (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 the three and one-half percent 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 contractor's 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 the that portion of the work sublet to him.
- 206 The two percent 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 ten percent -(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 ten percent (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 ten percent (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 ~~three and one-half percent~~ 3½% is levied on the total contract amount or compensation received from all contracts, except contracts for residential construction, that exceed ten thousand dollars (\$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~~
- ~~13~~4. Pipeline
- ~~14~~5. Power plant
- ~~15~~6. Railway
- ~~16~~7. Reservoir
- ~~17~~8. Sewer
- ~~18~~9. Sidewalk
- ~~19~~20. Storage tank
- ~~20~~1. Street
- ~~21~~2. Tower
- ~~22~~3. Transmission line
- ~~23~~4. Water well
- ~~24~~5. Wharf
- ~~25~~6. Wiring for communication or information systems
- ~~26~~7. 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~~ the three and one-half percent (3½%) ~~(3½%)~~ 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 one hundred million dollars- (\$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 ten thousand dollars (\$10,000) shall qualify and pay tax as a contractor in lieu of instead of the seven percent (7%) retail rate tax levied by Miss. Code Ann. Section 27-65-23. ~~Activities subject to the seven percent (7%) tax rate so taxed under Miss Code Ann. Section 27-65-23~~ are:
1. Air conditioning installation or repairs; repairs.
 2. Electrical work, wiring, and all repairs or installations of electrical equipment; equipment.
 3. Elevator or escalator installation or repairs; repairs.
 4. Grading, excavating, ditching, dredging, or landscaping; landscaping.
 5. Insulating services or repairs; repairs.
 6. Plumbing or pipe fitting; fitting.
 7. Tin and sheet metal work; work.
 8. Welding, etc.
- 305 Persons performing any services taxed under Miss. Code Ann. Section 27-65-23 for contracts of ten thousand dollars (\$10,000) or less owes the regular seven percent (7%) retail rate of sales tax on gross income. ~~—A person performing contracts of ten thousand dollars (\$10,000) or less that do not include services taxed under Miss. Code Ann. Section 27-65-23~~ owes no tax on gross income but are is 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 the three and one-half percent 3½% rate. ~~—~~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 ten thousand dollars (\$10,000)~~ or less. ~~In order to~~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 one and one-half percent~~1½%~~.
- 311 ~~(Reserved)~~ Drilling contractors 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.
- 312 Directional drilling, for purposes other than oil or gas production, is subject to the seven percent (7%) 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 for contracts equal to or less than ten thousand dollars (\$10,000). Directional drilling jobs, for purposes other than oil or gas production, exceeding ten thousand dollars (\$10,000) are subject to the three and one-half percent (3½%) contractor's tax.
- 313 A truck (chassis, motor, etc.) used to haul specialized equipment is taxed at the special three percent rate of sales or use tax and the specialized equipment mounted thereon is taxed at the seven percent retail rate of tax (example: drilling or workover rigs); the applicable rate of sales or use tax that applies to the equipment.
- 314 When property has not been used 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. Persons using business property in this state which has been used by them in other states shall be entitled to a credit for sales and/or use tax paid to other states equal to the aggregate of all such state rates multiplied by the value of the property at the time it was imported into this state. The value of the property at the time it is imported into this state may not be less than twenty percent (20%) of the original cost of the property. Credit for sales or use tax paid

to other states requires invoices clearly showing the tax as a separate item, and no credit is allowed otherwise. The credit allowed may not exceed the Mississippi use tax due.

315 Persons using business property in this state which was acquired from another person who used it in other states is allowed credit equal to the applicable rate in the state where the property was last used by the previous owner multiplied by the value of the property at the time it was imported into this state. The value of the property at the time it is imported into this state may not be less than twenty percent (20%) of the original cost of the property. The credit allowed may not exceed the Mississippi use tax due.

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.

315316 Owners or other persons receiving benefits from the use of tangible personal property in this state are liable for use tax on such property.

316317 (Reserved)

400 Floating Structures.

401 A three and one-half percent~~3 1/2%~~ 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 a floating structure is responsible for the tax. -The owner of a floating structure subject to the three and one-half percent~~3 1/2%~~ 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 ten thousand dollars (\$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~~that 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~~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~~does not apply to other contracts and expires upon completion of the contract.
- 502 The contractor and his subcontractors ~~must~~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 (Miss. 2016). Vendors who incorrectly accept ~~aan~~ MPC number to exempt the sale of consumables or services such as the 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 of 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 a 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~~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~~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, etc. h);
 3. Cellular telephone tower additions_s (antennas, radio equipment, platforms, etc.);
 4. Conveyor systems_s, 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. and-
17. Catwalks or raised walkways that are not permanently attached to real property.

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 seven percent 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 purchases s 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 of less than ten thousand dollars (\$10,000) or less are taxable at the seven percent 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 seventy-five thousand dollars (\$75,000) that are performed in this ~~s~~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 ten thousand dollars (\$10,000) unless the tax is prepaid.
- 602 Such bonds must ~~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 an 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 in 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 an 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 the three and one-half percent~~ 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~~ 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 seven percent ~~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 sState 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 twenty percent (20%) of the 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 sState. 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 benefits from the use of tangible property in this sState 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.

Chapter 02 Drilling Contractors (Oil and Gas Wells) Deleted

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 benefits 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 02 Construction Equipment – Dealers

100 Tax Rates

~~1010~~ ~~Tax Rates.~~ Sales of all construction equipment, attachments, parts, labor, and services are taxable at the ~~seven percent regular~~applicable retail rate of sales tax.

~~1012~~ Sales under a warranty agreement with ~~a the~~ manufacturer are not taxable on that part charged to the ~~factory~~manufacturer under the warranty agreement. Any part of the charge made to the customer is taxable at the ~~seven percent regular~~applicable retail rate.

~~1023~~ 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.

~~1034~~ “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. Finance charges, carrying charges or any other addition to the selling price as a result of deferred payments by the purchaser are excluded from the sales price or purchase price and are not subject to sales or use tax. 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.

~~104105~~ ———(Reserved)

200 Repossessions

~~200201~~ ———~~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.

~~201202~~ (Reserved)

300 Rentals

~~300301~~ ~~Rentals.~~ Income from renting or leasing tangible personal property is taxed at the same rates as sales of the same property.

~~301302~~ 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.

302303 (Reserved)

400 Out of State Sales

400401 ~~Out of state sales.~~ All sales of equipment by Mississippi dealers are presumed to have been made in this ~~s~~State unless the dealer can provide factual evidence that the equipment was delivered to the customer outside of this ~~s~~State for first use in another state.

401402 (Reserved)

500 Use Tax

500501 ~~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.

501502 Purchases of property for resale are wholesale sales and exempt from sales or use tax.

502503 (Reserved)

35.IV.10.02 revised effective December 21, 2024

Chapter 03 Oil Field Services

100 Levy

101 ~~Persons involved in the business of providing services related to geophysical surveying, exploring, developing, drilling, producing, distributing, or testing of oil, gas, water, and other mineral resources are subject to a four-and-one-half percent (4½%) retail sales tax on their gross income unless stated otherwise. Services connected to geophysical surveying, exploring, developing, drilling, producing, distributing, or testing of water resources that are not linked to the development of oil, gas, and other mineral resources development are subject to a seven percent retail sales tax rate. 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.~~

102 ~~This Persons performing services in connection with geophysical surveying, exploring, drilling, producing, distributing, or testing of water resources not related to the~~

~~development of oil, gas, and other mineral resources 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 ~~manage-~~mentmanagement, he is liable for tax on compensation received from the other owners.

103 Well operators that rebill services to nonoperating working interest owners on behalf of the joint account through the joint interest billing (JIB), where the sales tax has been paid or accrued by the operator shall not be charged a sales tax on the JIB as services income.

104 For this chapter, ~~aAn Operator~~ “operator” 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.

1045 (Reserved)

200 Gross Income

2010 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.

2021 Charges for transportation, outside an oil or gas field, in connection with rigging up or rigging down are not includable in taxable receipts. Companies that 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 four and one-half percent regular retail rate of sales tax.

2032 Services such as ~~salt waters~~saltwater disposal, but not limited thereto, are considered oil field services taxable at the four and one-half percent 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.

2043 "Gross income" from gathering and interpreting data within and without this ~~s~~SState may be apportioned between the states if adequate records are maintained. "Gross income" does not include receipts which constitute reimbursement by clients for the 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 an agent for well owners in arranging for other ~~services~~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.

~~204205~~ ——— The gross income from oil field services performed in Mississippi is taxable at the ~~regular retail~~ four and one-half percent^{1/2} rate of sales tax ~~with the following exceptions: however,~~

- ~~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 3 1/2% contractor's rate of tax.~~
- ~~2. No sales tax is due when service is performed for another licensed dealer in the same service.~~

~~2065~~ Adequate records must be maintained to substantiate exempt sales.

~~2076~~ (Reserved)

300 Equipment

~~3010~~ Equipment purchases or rentals and purchases of supplies are taxable at the regular retail rate of sales or use tax. Purchase or rentals of equipment and materials used in connection with geophysical surveying, exploring, developing, drilling, redrilling, completing, working over, producing, distributing, or testing of oil, gas, and other mineral resources shall be taxed at the rate of four and one-half percent.

~~3012~~ Manufactured or produced products withdrawn for use or consumption are taxable at the ~~regular retail~~ four and one-half percent rate of tax, measured by the cost or value when converted to use. In no instance shall the value be less than the selling price of similar products.

~~3023~~ ~~(Reserved)~~ A truck (chassis, motor, etc.) used to haul specialized equipment is taxed at the special ——— three percent rate of sales or use tax and the specialized equipment mounted thereon is ——— taxed at the four and one-half percent retail rare of tax when the equipment is used in ——— connection with geophysical surveying, exploring, developing, drilling, producing, ——— distributing, or testing of oil, gas, ~~water,~~ and other mineral resources.

400 Permit Requirements

401 Businesses working in oil and gas fields may apply for a permit that will allow them to rent or purchase equipment and materials to be used in the oil or gas field at the reduced four and one-half percent rate. Operators will be able to present the permit to vendors to be eligible for the reduced rate.

402 Operators may apply for this permit on the Taxpayer Access Point (TAP) on the Department's website.

403 Each permit will be issued for 4 years.

| *35.IV.10.03 revised effective -December 21, 2024*

