

ARKANSAS REGISTER

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91 APR 19 PM 1:26

Transmittal Sheet



W.J. "BILL" McCuen
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS

BY _____

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Secretary of State
State Capitol
Little Rock, Arkansas 72201-1094

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Name of Agency Dept. of Finance and Administration

Department Division of Revenue

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Date

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After Filing

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☐ Other

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Adopted by State Agency 5/1/91

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance With Act 434 of 1967 As Amended.

Cora L. Gentry
SIGNATURE
Revenue Legal Counsel

April 19, 1991
TITLE
DATE

1991-2
EMERGENCY REGULATION

SALE OF AIRCRAFT

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SECRETARY OF STATE
LITTLE ROCK, ARKANSAS

A. GENERAL INFORMATION

1. Sales of new and used airplanes are subject to sales or use tax. If gross receipts, sales, compensating (use) or other similar tax has been legally paid by the taxpayer to another state, then the taxpayer is entitled to credit for that tax. The taxpayer shall provide sufficient proof of such tax payment before credit is allowed.

2. If the total gross receipts or gross proceeds for the sale of new or used aircraft is less than \$2,000.00, then sales or use tax is not due.

B. DEFINITIONS

The term "gross receipts" or "gross proceeds" means the total amount of consideration for the sale of the airplane whether the consideration is in money or otherwise, without any deduction therefor on account of the cost of the property sold, labor service performed, interest paid by the retailer, losses or any expenses whatsoever. The term "gross receipts" or "gross proceeds" includes the value of any property taken in lieu of or in addition to money as consideration for a sale.

C. CALCULATION OF TAX DUE

If the seller takes used aircraft in trade as credit or part payment of a sale of a new or used aircraft, tax shall be paid on the difference between the total gross receipts or gross proceeds for the aircraft sold and credit given for the traded-in aircraft. No trade-in credit will be allowed if an item other than a used aircraft is taken in trade.

D. SALES TAX REPORTS

Every seller of an airplane is required to obtain a sales tax permit and to collect tax from the purchaser. The seller is to report the sale as any other taxpayer subject to the Arkansas Gross Receipts Tax laws. The seller is to provide the Commissioner with the following information along with the seller's regular sales tax report:

1. Purchaser's name and address.

2. Make, model, serial number and gross sales price of each aircraft sold.

3. Make, model, serial number and value assigned to any aircraft taken in trade as part payment on the sale of a new or used aircraft.

4. Amount of state and local tax collected from the purchaser.

5. Copies of invoices, sales tickets or bills of sale concerning each aircraft sold and taken in trade. (If the invoice, sales ticket or bill of sale contains the information required by ale must accompany the sales tax report.)

E. RECORDS

The seller shall retain records reflecting the total gross receipts or gross proceeds and description of each aircraft sold along with the value and description of each aircraft taken in trade. If the seller's records are inadequate or incomplete, the Commissioner may utilize any of the following for purposes of determining sales tax liability:

1. Affidavit signed by the seller and purchaser attesting to the sales price or trade-in value of the aircraft.

2. Aircraft valuation schedules prepared by the Assessment Coordination Division of the Arkansas Public Service Commission.

3. Any national trade publication generally accepted by aircraft dealers as accurately reflecting current aircraft market value.

4. The higher of two appraisals prepared by other aircraft dealers.

F. AIRCRAFT RENTAL

1. Any person engaged in the business of selling aircraft in Arkansas who holds aircraft for resale in stock, may rent or use the aircraft in a charter service operated by that person for a period of one year from the date of purchase of the aircraft without remitting the tax on the aircraft so used. When the aircraft is eventually sold, however, the tax must be remitted at the time of sale. If the aircraft is sold within the one year period, the tax shall be computed on the actual sale price of such aircraft or the price paid for the aircraft by the seller, whichever is greater. If a year passes and the rented or chartered aircraft has not been sold, then the tax must be remitted by the person engaged in the business of selling aircraft in Arkansas on his purchase price.

2. If an aircraft is rented by an aircraft charter service with a pilot's service included, the rental of aircraft and pilot

service is a non-taxable service. If, however, the aircraft alone is rented, then the tax must be collected and remitted upon the rental charges unless the Arkansas tax was paid on the purchase price of the aircraft. Short term rental tax is also due if the rental period is less than 30 days.

G. NEWLY MANUFACTURED AIRCRAFT


On and after June 17, 1981, the gross receipts or gross proceeds derived from the sale of new aircraft manufactured or substantially completed within the State of Arkansas shall not be subject to the gross receipts tax when sold by the manufacturer or substantial completer to a purchaser for use exclusively outside this state notwithstanding the fact that possession may be taken in this state for the sole power of removing the aircraft from this state under its own power.


H. EFFECTIVE DATES

1. For purposes of determining whether a sale occurred before the effective date of Act 3 of 1991, the date on the bill of sale, contract, or other documents provided by the taxpayer controls.

2. This regulation will be effective on May 1, 1991.

Executed this 19th day of April, 1991.


Jim Pledger, Director
Arkansas Department of Finance
and Administration


Tim Leathers
Commissioner of Revenues
Arkansas Department of Finance
and Administration

FINDING OF IMMINENT PERIL
AND STATEMENT OF REASONS

Act 3 of 1991 was signed by the Governor of the State of Arkansas on January 25, 1991, and will be in full force and effect from and after May 1, 1991. The Act provides for the application of the Arkansas Gross Receipts Tax and Arkansas Compensating Use Tax on sales of all new and used motor vehicles, trailers, mobile homes and airplanes. The Act also provides for a deduction for trade-ins and an exemption from tax for these items sold for less than \$2,000.00.

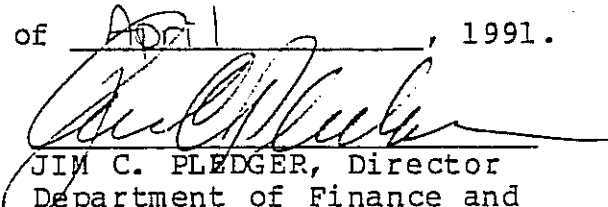
Section 4 of Act 401 of 1979, as amended, provides that the Commissioner of Revenues shall administer and enforce the provisions of every state tax law, including the Arkansas Gross Receipts Tax and the Arkansas Compensating Use Tax, and shall promulgate rules and regulations necessary for the enforcement thereof.

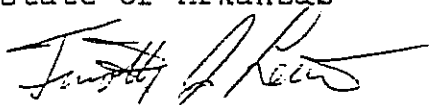
The current rules and regulations regarding the taxation of new and used motor vehicles, trailers, mobile homes and airplanes do not address the changes in tax law created by Act 3 of 1991.

To ensure understanding of and compliance with Act 3 of 1991 and to prescribe procedures for the implementation of the law, emergency regulations as authorized by Section 3 of Act 434 of 1967 (Ark. Code Ann. § 25-15-204) to be effective immediately upon filing thereof with the Secretary of State, are necessary.

For the above reasons, it is found that there exists an imminent peril to the welfare of the State of Arkansas and the attached emergency regulations, regarding the application of the Arkansas Gross Receipts Tax and the Arkansas Compensating Use Tax to new and used motor vehicles, trailers, mobile homes and airplanes, are necessary.

Executed this 19th day of April, 1991.


JIM C. PLEDGER, Director
Department of Finance and
Administration
State of Arkansas


TIMOTHY J. LEATHERS
Commissioner of Revenues
Department of Finance and
Administration
State of Arkansas