

ARKANSAS REGISTER

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Transmittal Sheet



SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

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Secretary of State
State Capitol Rm. 010
Little Rock, Arkansas 72201-1094

For Office
Use Only:

Effective Date 11/15/95 Code Number 006-05.95--005

Name of Agency Department of Finance & Administration

Department Revenue Division

Contact Person Don Zern

Statutory Authority for Promulgating Rules Act 387 of 1995

Intended Effective Date	Date
<input type="checkbox"/> Emergency	Legal Notice Published <u>09-20-95</u>
<input checked="" type="checkbox"/> ¹⁰ 20 Days After Filing	Final Date for Public Comment <u>10-24-95</u>
<input type="checkbox"/> Other	Filed With Legislative Council <u>10-05-95</u>
	Reviewed by Legislative Council _____
	Adopted by State Agency <u>11-06-95</u>

CERTIFICATION OF AUTHORIZED OFFICER

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

Don Zern
Signature
Revenue Taxpayer Information Officer

Title

November 6, 1995

Date

006.05.95-- 005

GROSS RECEIPTS REGULATION GR-21.1 (1995)

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This regulation is promulgated in order to administer and enforce Act 387 of 1995 which became effective on February 20, 1995.

SECRETARY OF STATE
STATE OF ARKANSAS

GR-21.1 PURCHASES BY CONTRACTORS - INCREASE IN SALES AND USE TAX RATES:

A. Materials purchased for use in construction contracts that become recognizable components of the completed project are subject to state and local sales and use tax. In accordance with Act 387 of 1995, these materials are exempt from certain increases in state or local sales and use taxes if the following conditions are satisfied:

1. The materials must be used in a construction contract entered into before the effective date of the tax increase.

2. The materials must be purchased prior to the expiration of five (5) years from the effective date of the tax increase.

3. The construction contractor shall complete and sign the "Certificate of Proof for Contractor's Entitlement to Exemption from Sales and Use Tax Increase", a copy of which follows this regulation and which is available from the Sales and Use Tax Section, Revenue Division of the Department of Finance and Administration. The construction contractor shall furnish a completed copy of the form to each seller of exempt property for each contract and shall retain a copy of the Certificate with his purchase records.

4. The seller must keep adequate records to identify all exempt materials sold. The seller must retain the completed

Certificate described in paragraph (3) above. The seller's invoices or other sales documents must contain a statement that the seller has received the Certificate which is retained in his records.

EXAMPLE A: Pulaski County local sales and use tax is increased by 1 % effective October 1, 1995. Purchases of materials used in completing construction contracts entered into prior to October 1, 1995 will be exempt from the additional 1% tax until September 30, 2000.

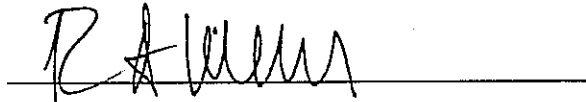
EXAMPLE B: On November 1, 1995, a construction contractor purchases a hammer and 50 pounds of nails for use in framing an apartment building. The construction contractor furnishes all necessary information required by this regulation to the seller. The construction contract was signed prior to the October 1, 1995 tax increase. The additional tax increase is due on the sale of the hammer because the hammer will not become a recognizable part of the building. The nails are exempt from the tax increase because the nails, although they can't be seen, are a recognizable part of the building.

B. Consumer use tax reports: Some construction contractors report the use tax due on materials purchased from out of state sellers directly to the Revenue Division of the Department of Finance and Administration. When such a construction contractor claims the exemption granted by Act 387 of 1995, the construction contractor shall keep all records required by this regulation including maintaining copies of purchase invoices and the contracts for which the exemption is claimed.

C. Burden of Proof: The burden of proving entitlement to an exemption is on the taxpayer. In the case of an audit of a seller's business, the burden is on the seller to keep records adequate to prove the validity of the claimed exemptions. In the case of an audit of a construction contractor's business, the burden is on the construction contractor to keep records adequate to prove the validity of the claimed exemptions. Failure to do so

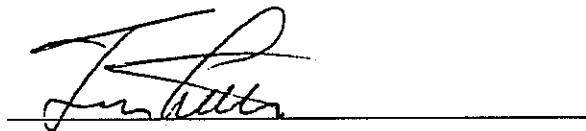
will result in the exemptions being disallowed and applicable tax,
penalty and interest being assessed to the taxpayer.

Signed this 6th day of NOVEMBER, 1995

A handwritten signature in dark ink, appearing to read 'R. A. Weiss', is written over a horizontal line.

Richard A. Weiss

Director, Department of Finance
and Administration

A handwritten signature in dark ink, appearing to read 'Timothy J. Leathers', is written over a horizontal line.

Timothy J. Leathers

Commissioner of Revenue

CERTIFICATE OF PROOF FOR CONTRACTOR'S ENTITLEMENT TO EXEMPTION FROM SALES AND USE TAX INCREASE

Act 387 of 1995 exempts certain materials used in construction contracts from increases in state or local sales and use taxes for five (5) years from the effective date of the tax increase. Before the exemption may be claimed, the following conditions must be met:

1. There must be a written contract for the construction or substantial modification of a building or other improvement or structure affixed to real property.
2. The materials purchased must be used in a construction contract signed prior to the effective date of the tax increase.
3. The materials must be purchased within five (5) years of the effective date of the tax increase.
4. The materials must become a recognizable part of the completed structure or improvement to real property.
5. The invoice or other sales documents must state that the seller has received a signed copy of this certificate which is retained in the seller's records.
6. This exemption does not apply to cost plus contracts or to any other contract where the contractor has the right to pass any additional tax on to the principal as a part of the contractor's cost.

SELLER: _____

SELLER'S ADDRESS, INCLUDING CITY AND COUNTY: _____

CONTRACTOR: _____

CONTRACTOR'S ADDRESS, INCLUDING CITY AND COUNTY: _____

Tax increase: ____ State ____ City (_____) ____ County(_____)

Amount of increase: _____ % Effective date of increase: _____

Contract No. _____ Date of Contract: _____ (must be prior to effective date of increase).

Contractor certifies to Seller that the materials purchased for this contract qualify for the exemption from the tax increase described above. Contractor understands that a false statement on this form is punishable as a Class A misdemeanor.

CONTRACTOR

DATE: _____

NOTICE TO SELLER: In order to claim this exemption on your sales and use tax report, you must retain a copy of this certificate in your records along with the material sales invoice. Failure to maintain adequate records may result in your liability for the tax increase.