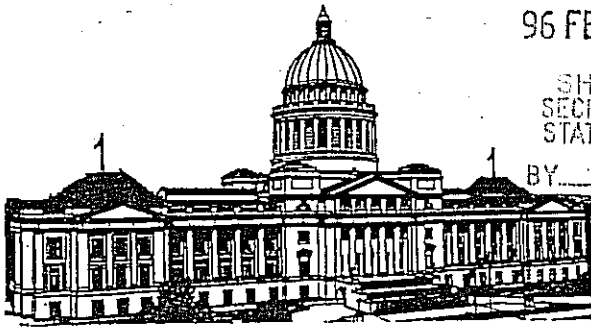


# ARKANSAS REGISTER

AR. REGISTER DIV.

96 FEB 12 PM 2:4

## Transmittal Sheet



SHARON PRIEST  
SECRETARY OF STATE  
STATE OF ARKANSAS

BY

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

For Office

Use Only:

Effective Date 2/21/96

Code Number 006.05.96--002

Name of Agency Department of Finance & Administration

Department Revenue Division

Contact Person Don Zern

Statutory Authority for Promulgating Rules Ark. Code Ann. 25-15-201 et seq (1987)

Intended Effective Date	Act 835 of 1995	Date
<input type="checkbox"/> Emergency	Legal Notice Published . . . . .	<u>12/27/95</u>
<input type="checkbox"/> 20 Days After Filing	Final Date for Public Comment . . . . .	<u>2/02/96</u>
<input type="checkbox"/> Other	Filed With Legislative Council . . . . .	<u>12/11/95</u>
	Reviewed by Legislative Council . . . . .	<u>2/1/96</u>
	Adopted by State Agency . . . . .	<u>2/12/96</u>

### CERTIFICATION OF AUTHORIZED OFFICER

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

Lisa C. Triplett  
Signature

Lisa C. Triplett, Problem Resolution Officer  
Title

February 12, 1996  
Date

AMENDMENT TO GROSS RECEIPTS REGULATION GR-21

FILED  
AR. REGISTER DIV.  
95 FEB 12 2:44 PM '95

This amendment is necessary in order to enforce and administer ARS 835 of 1995.

Gross Receipts Regulation GR-21 is amended to read as follows

SHARON PRIEST  
SECRETARY OF STATE  
BY \_\_\_\_\_

GR-21. PERSONS REQUIRED TO COLLECT AND REMIT TAX--SPECIFIC  
BUSINESSES--CONTRACTORS:

A. DEFINITIONS

1. "Consumer" or "user" means the person to whom the taxable sale is made or to whom the taxable services are furnished. All contractors are deemed to be consumers or users of all tangible personal property including materials, supplies, and equipment used or consumed by them in performing any contract, and the sales of all such property to contractors are taxable sales.

2. "Contract" means any agreement or undertaking to construct, manage or supervise the construction, erection, alteration or repair of any building or other improvement or structure affixed to real estate, including any of their component parts.

3. "Contractor" means any person who contracts or undertakes to construct, manage or supervise the construction, erection, alteration or repair of any building or other improvement or structure affixed to real estate, including any of their component parts.

B. NON-TAXABLE SERVICES AND SALES. The following represents services which are not subject to sales tax:

1. The alteration, addition, cleaning [with exceptions noted in paragraph C(1)], refinishing, replacement, or repair of nonmechanical, passive or manually operated components of buildings or other improvements or structures affixed to real estate, including but not limited to the following: walls, floors, ceilings, doors, locks, windows, glass, heat and air ducts, roofs, wiring, breakers, breaker boxes, electrical switches and receptacles, light fixtures, pipes, plumbing fixtures, fire and security alarms, intercoms, sprinkler systems, parking lots, fences, gates, fireplaces, and similar components which become a part of real estate after installation, are not taxable services.

This means, generally, that services performed on non-mechanical components or fixtures within or on a building or other improvement to real estate are not taxable.

2. First-time installation of mechanical or electrical equipment into a building or other improvement to real estate is not a taxable service. For example, labor charges for the first-time installation of heating and air conditioning machinery and heating and air ducts into a building are not taxable. See paragraph D for tax liability on materials.

3. First-time installation of carpeting into a building or other improvement to real estate is not a taxable service. See paragraph D for tax liability on materials.

#### C. TAXABLE SERVICES (See GR-9 for additional taxable services.)

1. The services enumerated in Ark. Code Ann. §26-52-301(3)(E)

including the service of providing cleaning or janitorial work are taxable. The cleaning of the interior or exterior of any building or structure, including vents, ducts, windows, walls, ceilings, or floors, is a taxable service.

2. The alteration, addition, cleaning, refinishing, replacement and repair of motors, electrical appliances, machines, and other mechanical items are taxable. For example, the repair or replacement of dishwashers, stoves, ovens, refrigerators, heating and air conditioning units, garbage disposals, water heaters, ceiling fans, garage door motors, electric signs, washing machines, and dryers is taxable.

3. The alteration, addition, cleaning, refinishing, replacement and repair of carpet and rugs remains taxable.

4. The replacement or repair of elevators is a taxable service.

#### D. TAXATION OF MATERIALS

1. Permitted Business. A business holding a sales tax permit should purchase all materials used in its construction, repair, and retail business exempt from sales tax as sales for resale. Any materials used in the performance of non-taxable services are not taxed to the customer; however, the business must self-assess, report, and pay sales tax as a withdrawal from inventory (stock) on the purchase price of the materials. The business must collect sales tax from its customers on retail sales of materials. Sales tax on materials used in performing taxable services is to be collected from the customer along with the labor charges.

2. Non-permitted Business. A business which is not required to hold a sales tax permit must pay tax on all purchases of materials. Use tax is required to be reported and paid on the purchase of materials from out-of-state sellers.

#### E. SPECIFIC BUSINESSES

##### 1. Heating and Air Contractors.

a. The original installation of heat and air ductwork and heating and cooling units is not a taxable service. The contractor must either pay tax to the supplier on the materials and equipment used in the installation, or self-assess tax as a withdrawal from inventory (stock) on the purchase price of all materials including the heating and air units.

b. Subsequent repairs to or the replacement of the mechanical components of the system, e.g. the heating and air units or components, are taxable services. Any materials or parts used in the repairs or replacement are also taxable to the consumer.

c. Replacement or repair of heating and air ductwork is not a taxable service. The contractor must either pay tax to the supplier on the materials used in the work, or self-assess tax as a withdrawal from inventory (stock) on the purchase price of the materials used.

d. If the contractor repairs or replaces ductwork and repairs or replaces heating or air units, then unless the ductwork labor and material charges are separated from the heating or air unit labor and material charges, the entire charge for the work

plus the cost of all materials will be taxable.

2. Plumbing. The installation, replacement or repair of pipes and non-mechanical plumbing fixtures are not taxable services. The plumbing contractor is to pay tax to the vendor on plumbing materials used in these services, or self-assess tax as a withdrawal from inventory (stock) on the purchase price of the materials used. No tax will be collected from the customer.

3. Electrical Contractors.

a. The installation, repair or replacement of non-mechanical materials which become a part of a structure, such as wiring, breakers, and light fixtures, is not a taxable service. The contractor must either pay tax to the supplier on the materials used in the work, or self-assess tax as a withdrawal from inventory (stock) on the purchase price of the materials used.

b. The repair or replacement of mechanical components, such as a ceiling fan, is a taxable service. Any parts used in the service are also taxable to the customer.

4. Carpeting Installation.

a. Carpeting does not become a component of a building or other improvement to real estate. The first-time installation of carpet into a building is not a taxable service. The retail charges for the carpet and other associated materials are taxable. If the installation charges are not separately stated from the material charges, the entire cost of installing the carpeting will be taxable.


b. The replacement or repair of carpet is a taxable

service. Sales tax is to be collected from the customer on all charges for labor and materials.

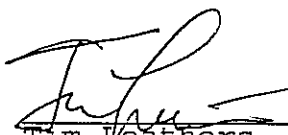
c. Carpet installers may purchase carpet and associated materials exempt from tax as a sale for resale and must collect tax from the customer on all materials used in all installations. This applies to new commercial construction as well as new residential construction. If the carpet installer has contracted with a general contractor and not the owner, the installer must collect tax from the general contractor or otherwise include tax in the bid or contract.

#### F. REQUIREMENT OF SALES TAX PERMIT

If a business performs both taxable and non-taxable services, or if a business sells tangible personal property at retail, then the business is required to obtain a sales tax permit. If no taxable services are performed and no retail sales are made by the business, then a sales tax permit is not required.

  
\_\_\_\_\_  
Richard A. Weiss  
Director, Department of Finance  
and Administration

1-25-96  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Tim Leathers  
Commissioner of Revenue

1-25-96  
\_\_\_\_\_  
Date

DEPARTMENT: Finance & Administration  
DIVISION: Revenue  
PERSON COMPLETING THIS STATEMENT: Ed Hicks  
TELEPHONE NO.: 501-682-7200 FAX NO.: 501-682-7900

FINANCIAL IMPACT STATEMENT

To comply with Act 884 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE:

**Amendment To GR-21  
Contractor Definitions**

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?  
Yes:   X   No:

Original act (Act 835 of 1995) and this regulation results in a minimal revenue loss.

2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

1995-96 Fiscal Year

General Revenue: \_\_\_\_\_  
Federal Funds: \_\_\_\_\_  
Cash Funds: \_\_\_\_\_  
Special Revenue: \_\_\_\_\_  
Other: \_\_\_\_\_  
Total: \_\_\_\_\_

1996-97 Fiscal Year

General Revenue: \_\_\_\_\_  
Federal Funds: \_\_\_\_\_  
Cash Funds: \_\_\_\_\_  
Special Revenue: \_\_\_\_\_  
Other: \_\_\_\_\_  
Total: \_\_\_\_\_

4. What is the total estimated cost by fiscal year to any party subject to the, proposed, amended, or repealed rule or regulation?

1995-96 Fiscal Year

Unknown

1996-97 Fiscal Year

Unknown

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

1995-96 Fiscal Year

1996-97 Fiscal Year