

ARKANSAS REGISTER

Transmittal Sheet



Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

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Name of Agency Department of Finance & Administration

Department Revenue Division

Contact Person Beth Carson, Chief Counsel Phone 682-7030

Statutory Authority for Promulgating Rules Act 358 of 1995

Intended Effective Date

Legal Notice Published 4/14/96

☐ Emergency

Final Date for Public Comment 5/20/96

☒ 10 Days After Filing

Filed With Legislative Council 4/29/96

☐ Other

Reviewed by Legislative Council Yes

Adopted by State Agency Yes

By SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS
Date 5/20/96
Time PM 2:06
FILED

CERTIFICATION OF AUTHORIZED OFFICER

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

Donald J. Zu
Signature

682-7751
Phone Number

Taxpayer Information Officer
Title

May 21, 1996
Date

AMENDMENT TO GROSS RECEIPTS REGULATION GR-53

This amendment is necessary in order to implement and enforce Act 358 of 1995. Gross Receipts Regulation GR-53(B), (C) and (D) are amended to read as follows:

- B. It is necessary that the person claiming the benefits of this sale for resale exemption prove to the seller that he is engaged in the business of reselling the articles purchased by him. The purchaser must provide the seller with the purchaser's retail permit number if the sale is made within Arkansas. In addition to furnishing his retail permit number to the seller, the purchaser must certify in writing to the seller that he (the purchaser) is engaged in the business of reselling the articles purchased. Failure to so certify, or to falsely certify with the knowledge that the items purchased are not for resale, shall be sufficient grounds upon which the Commissioner may cause the purchaser's retail permit to be canceled. Certification may be made on the bill, invoice or sales slip retained by the seller or by furnishing a certification letter to the seller which contains the following:

- (1) the name and address of the purchaser;
- (2) the retail permit number of the permit issued to the purchaser;
- (3) a statement that the purchaser is engaged in the business of reselling the articles purchased;
- (4) a statement that the articles purchased are purchased for resale;
- (5) the signature of the purchaser or a person authorized to legally bind the purchaser.

If certification is made directly on the bill, sales slip or invoice, the purchaser need only note his retail permit number and write the following statement (or a reasonable approximation thereof): "I, (name, position, business name, hereby certify that the materials listed on the (bill, invoice or sales slip) are purchased for resale and that I am regularly engaged in the business of reselling the items noted on this (bill, invoice or sales slip)." The purchaser or his authorized agent must then sign the bill, invoice or sales slip and return a copy thereof to the seller for his records.

Alternatively, certification may be made in compliance with this regulation by completing the Resale Certificate printed as Exhibit "A" following this regulation.

- C. If a retail permit holder purchases goods, wares, and merchandise from a seller on a regular basis, then the permit holder may furnish the Resale Certificate or

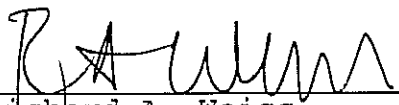
certification letter described in Section (B) of this regulation to the seller and the seller may subsequently make sales of tangible personal property to the retail permit holder without requiring a certification letter or certification statement for each subsequent sale. The retail permit holder must notify the seller of all purchases which are not for resale and remit the applicable amount of tax thereon. If the retail permit holder fails to so notify the seller of purchases not intended for resale, then sufficient grounds shall exist for the Commissioner to cancel the retail permit of the retail permit holder who failed to so notify the seller.


NOTE: For special rules affecting contractors, see Gross Receipt Regulation GR-21.

D. SELLER OF GOODS - LIABILITY FOR TAX

1. The seller of items intended for resale must satisfy the requirements of Section (B) or (C) of this regulation. If the seller does not require the purchaser to perform the requirements listed in Section (B) or (C) and the sale was otherwise taxable, then the seller shall be liable for the tax upon the gross receipts or gross proceeds derived from the sale of the items.

2. If the seller of items intended for resale accepts a certification or completed Resale Certificate in good faith, then the seller shall not be liable for tax on the gross receipts from the sale of goods regardless of the subsequent taxable use of the goods by the purchaser. A seller takes a Resale Certificate in good faith if he has no actual knowledge at the time of the sale that the purchaser is not entitled to the resale exemption. Actual knowledge may be implied from a previous course of dealing, knowledge of the purchaser's business, knowledge of the purchaser's intended use for the goods, or other facts and circumstances which should cause a reasonable person to refuse to accept the Resale Certificate as a basis for exempting the transaction from sales tax.


Richard A. Weiss
Director, Department of Finance
and Administration


Tim Leathers
Commissioner of Revenue

5-20-96

Date

RESALE CERTIFICATE
(Act 358 of 1995)

I hereby certify that I either hold or am the authorized representative of the holder of Arkansas Sales/Use Tax Permit Number _____, or that I am a nonresident purchaser or the authorized representative thereof and hold a similar permit issued by the State of _____, Number _____; that this is a current and valid permit number; and that I am regularly engaged in the business of reselling the tangible personal property that I purchase from _____.

I further certify that if any tangible personal property purchased exempt under this certificate is withdrawn from stock or otherwise used and not resold, that I will report the tax due under Arkansas Sales/Use Tax Law and Regulations.

Description of the merchandise to be purchased: (Please give a specific identification of items purchased. If needed an additional statement may be attached hereto.)

Purchaser's Business: _____

Purchaser's signature

Purchaser's Business Name (as stated on permit)

Title/Position with company

Address

City, State, Zip

Date

NOTICE TO VENDOR: THIS RESALE CERTIFICATE MUST BE ACCEPTED BY YOU IN GOOD FAITH. THIS MEANS THAT YOU CANNOT ACCEPT THIS CERTIFICATE AS A BASIS FOR ALLOWING THE PURCHASER TO BUY ITEMS TAX-FREE IF YOU HAVE ACTUAL KNOWLEDGE THAT THE PURCHASER IS NOT REGULARLY ENGAGED IN SELLING THE ITEMS PURCHASED OR IF THERE IS OTHER INFORMATION THAT WOULD SUGGEST THAT THE PURCHASER IS NOT ENTITLED TO CLAIM THE SALE FOR RESALE EXEMPTION. IF YOU DO NOT ACCEPT THIS CERTIFICATE IN GOOD FAITH, YOU MAY BE HELD LIABLE FOR SALES TAX ON THE SALE OF THE ITEMS.

DEPARTMENT: Department of Finance and Administration

DIVISION: Revenue Division

PERSON COMPLETING

THIS STATEMENT: Ed Hicks, Excise Tax Administrator

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: Gross Receipts Tax Regulation GR-53 (Amended) — Sale for Resale Exemption.

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes: No: **XX**
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. **Does Not Apply**

1995-96 Fiscal Year

1996-97 Fiscal Year

General Revenue: _____
Federal Funds: _____
Cash Funds: _____
Special Revenue: _____
Other: _____
Total: _____

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? **Does Not Apply**

1995-96 Fiscal Year

1996-97 Fiscal Year

Does Not Apply

Does Not Apply

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

Does Not Apply

Does Not Apply