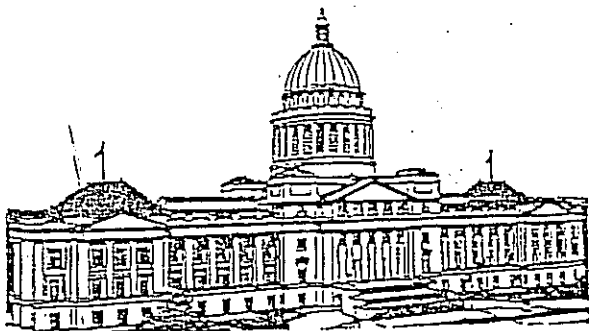


ARKANSAS REGISTER

Transmittal Sheet



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

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Use Only:

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Department Revenue Division

Contact Person Don Zern Phone 682-7751

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Adopted by State Agency 3/24/98

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

682-7751

Phone Number

Information Officer

Title

March 25, 1998

Date

FILED
AR. REGISTER DIV.
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SHARON P. PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

Arkansas Gross Receipts Tax Regulation GR-53. EXEMPTIONS FROM TAX-SALES FOR RESALE--MANUFACTURERS, COMPOUNDERS AND PROCESSORS (AMENDED 1997):

Gross Receipts Tax Regulation GR-53(A) is hereby amended to read as follows:

"The gross receipts or gross proceeds derived from sales for resale to persons regularly engaged in the business of reselling the articles or services purchased whether purchased within or without the State are exempt from the tax; provided, however, that such sales within the state are made to persons to whom sales tax permits have been issued as provided in Ark. Code Ann. §26-52-201 et seq. and regulation number GR-72. (See also GR-74.)"

Gross Receipts Tax Regulation GR-53(B) is hereby amended to read as follows:

"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 or services 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 or services purchased. Failure to so certify, or to falsely certify with the knowledge that the items or services 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 by furnishing a certification letter to the seller which contain 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 or services purchased;
- (4) a statement that the articles or services 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 or services) 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 or services) 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."

Gross Receipts Tax Regulation GR-53(C) is hereby amended to read as follows:

"If a retail permit holder purchases goods, services, 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 or services to 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."

Gross Receipts Tax Regulation GR-53(D) is hereby amended to read as follows:

"D. SELLER OF GOODS OR SERVICES - LIABILITY FOR TAX

(1) The seller of items or services 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 or services.

(2) If the seller of items or services 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 or services 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 services 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."

Gross Receipts Tax Regulation GR-53(E) is hereby amended to read as follows:

"(1) Goods, services, wares, merchandise and property sold for use in manufacturing, compounding, processing, assembling or preparing for sale, can be classified as having been sold for resale purposes only in the event such goods, services, wares, merchandise or property becomes a recognizable integral part of the manufactured, compounded, processed, assembled or prepared products. Sales of goods, services, wares, merchandise, and property not conforming to this requirement are classified as being

for consumption or use of the purchaser thereof and are taxable. For purposes of this Section, the following definitions shall apply:

(a) The term 'recognizable' means capable of being recognized in the finished product. The capability to recognize the effect of goods, wares, merchandise, or property upon the finished product is insufficient to establish that the goods, wares, merchandise or property has been resold.

(b) The term 'integral' means essential to the completeness of the finished product.

(2) Services shall be considered a 'recognizable' and 'integral' part of a finished product if:

(a) The services were actually performed on the items or articles being sold; and

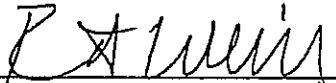
(b) The services enhance the value of the items being sold.

Other services performed for the business engaged in manufacturing, compounding, processing, assembling, or preparing items for sale shall not be entitled to the sale for resale exemption."


Gross Receipts Tax Regulation GR-53 is amended to add a new subsection (J) to read as follows:

"(J) New and used car dealers shall be entitled to purchase services performed on dealer-owned vehicles exempt as a sale for resale if the dealer is purchasing the services solely and exclusively to prepare the vehicle for sale and the service enhances the value of the vehicle. For example, the repairing of windshields, dents, scratches, radiators, engines and car detailing would be exempt as a sale for resale if the service enhances the value of the vehicle. The sale for resale exemption is available only for services performed on the vehicles held for resale. All other services performed for the dealership will remain taxable."

APPROVED:



RICHARD A. WEISS, Director
Department of Finance and Administration



TIMOTHY J. LEATHERS,
Deputy Director/Commissioner
of Revenue

FILED
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BY _____
STATE OF ARKANSAS