Title 35 Mississippi State Tax Commission

Part IV Sales & Use

Sub Part 01 Administrative

Chapter 03 – Sales Tax Bonds

100 The Sales Tax Law provides that cash or surety bonds be filed in various instances where the revenue of the State of Mississippi must be protected and the payment of taxes assured Bonds are required in the following circumstances, however, the Commissioner does retain the authority to require a taxpayer to post a bond for other circumstances where the Commissioner feels it is necessary.

101 Any taxpayer operating a business from their home or from a temporary location (less than 90 day lease), shall be required to post a cash or surety bond prior to receiving a Sales Tax Permit to engage in business. The cash bond or approved surety bond shall be in an amount sufficient to cover the estimated tax liability for a six month period. The amount of the bond shall be set by the Commissioner and will be determined by the type of business in which the taxpayer is engaged but the bond will not be less than $100.00.

102 A temporary location includes, but is not limited to, an event held for a limited period of time that may include the issuance of a temporary beer license. Any taxpayer who can demonstrate that they operate a permanent business location in this State may be exempted from posting a bond for a temporary event.

103 On Any taxpayer operating a new or used mobile home dealership shall be required to post a cash or surety bond prior to receiving a Sales Tax Permit to engage in business. The amount of the bond shall be $25,000 for a dealer of new mobile homes and $10,000 for a dealer of used mobile homes, unless the taxpayer or Commissioner can show cause for another amount to be accepted.

104 Any manufactured home dealer who was issued a permit to engage in business prior to July 1, 2001 and who files delinquent tax returns for more than one period in a calendar year or who presents a check for payment of tax that is returned by the bank for insufficient funds, shall be required to post a bond equal to six months' tax liability. The six months' liability shall be determined by accumulating the past 12 months' liability (determined by returns file or audit results) and dividing by 2.

105 Any person who fails to comply with all the provisions of the sales tax law forfeits his right to do business in this state until such time as the person shall comply with all the provisions, post an adequate surety bond as established by the commissioner and pay all taxes legally due. A surety bond will be required for any person who:

1. Fails to obtain a sales tax permit before going into business;
2. Continues to operate a business after revocation of the sales tax permit;
3. Fails to keep adequate records and invoices as required by the sales tax laws;

4. Fails or refuses to permit inspection of records; or
5. Fails to pay any taxes due under the sales tax laws.

The surety bond shall be in an amount sufficient to cover the estimated tax liability for a six months' period and conditioned that all taxes accruing in the future will be paid when due.

106 A taxpayer petitioning for a hearing prior to sale of property which has been seized under a jeopardy warrant must execute a supersedeas surety bond with a surety company doing business in this State for double the amount of the assessment. The bond must be conditioned that any taxes, damages, interest and costs adjudged to be due after the hearing will be paid promptly upon order of the State Tax Commission.

107 Contractors performing contracts in excess of $75,000.00must post a bond, prior to beginning construction, on any taxable contracts performed in this State unless the tax is prepaid. The bonds shall be either a job bond which guarantees payment when due of the taxes resulting from performance of a specified job or activity regardless of date of completion or a blanket bond which guarantees payment when due of the taxes resulting from performance of all jobs or activities taxable under Miss. Code Ann. Section 27-65-21 begun during the time period covered by the bond regardless of the date of completion of the job. The bond must be sufficient to cover the liability for sales, use, income, withholding and motor fuel taxes. The bond must be approved by the Commissioner. When a bond is filed, the sales tax due under Miss. Code Ann. Section 27-65-21 must be paid on a monthly basis as compensation is received.

108 The surety on the tax bond is secondarily liable for all taxes due on the contract covered by the bond. When a contractor defaults in the execution of his contract and the bonding company acting as surety for the performance of the contract assumes completion of the contract, the bonding company becomes primarily liable for the payment of the sales, use, income, withholding and motor fuel taxes due on the unfinished portion of the contract which it completes.

109 (Reserved)