Title 35

Part IV Sales & Use

Subpart 11 Transportation

Chapter 02 Automobile, Truck and Truck-Tractor Dealers

100 Terms and Definitions

101 Automobiles, trucks and truck-tractors shall include only vehicles which are commonly known to the trade as such. The term includes motor homes (self-propelled) but does not include mobile homes, campers, trailers, semi-trailers, motorcycles, warehouse trucks, drag lines, golf carts and similar vehicles.

102 Semi-trailer for tax purposes is one that is attached to and moved by a truck-tractor.

103 Sales price or purchase price for tax purposes means the full amount received from the sale of property, including carrying, finance, or interest charges when a dealer carries his own paper, delivery charges, manufacturers excise tax and any other additions to the selling price. The Federal Retailers Excise Tax on truck chassis and bodies and on truck-trailer and semi-trailer chassis and bodies is exempt from sales tax. No distinction is made between sales of new, used or trade-in vehicles for sales and use tax purposes, all being taxed on the difference in the sales price and the amount allowed for a trade-in. A trade-in is limited to property of the same kind and character as that normally carried in inventory for sale.

104 (Reserved)

200 Rate and Application of Tax

201 The special rate of tax on sales and rentals of automobiles and trucks with a gross weight of 10,000 lbs. or less is 5%. Motor homes are also taxed at the special rate of 5% as private carriers of passengers under Miss. Code Ann. Section 27-65-17. Truck-tractors and semi-trailers are taxed at the special rate of 3%. Retail sales or rental of other tangible personal property are taxable at the regular retail rate of tax.

202 Special equipment already mounted on a truck, the function of which is to transport persons or property, is taxable at the applicable rate of tax as the truck when sold as a complete unit. If sold separately, the regular retail rate of tax will be applicable. (Example: bus bodies, concrete mixing equipment, tanks for transportation of liquids and the like.)

203 Equipment mounted on a vehicle so that it can be transported from place to place for the performance of a special function while stationary is taxable at the regular retail rate of tax whether sold as a complete unit or separately. (Example: seismographic equipment, oil well work-over rigs, cherry pickers and the like.)

204 Electric Power Associations (EPAs) purchasing automobiles or trucks with a gross weight of 10,000 lbs. or less, are taxed at the reduced rate of 1% plus the additional 2% tax levied by Miss. Code Ann. Section 27-65-17. Direct pay permits may not be used to self accrue this tax.

205 Accessories permanently attached to a vehicle at the time of sale, such as overdrive, heater and radio, are taxable at the same rate as that of the vehicle. Accessories that are not permanently attached are taxable at the regular retail rate of tax.

206 Sales between licensed new or used car dealers of merchandise (parts & accessories) for resale at retail are exempt from sales tax. Sales of new motor vehicles to used car dealers are taxable. Sales of merchandise to licensed leasing and rental companies for subsequent lease or rental are likewise exempt from sales tax.

207 The sales of accessories, equipment, labor, parts and services are taxable at the regular retail rate of tax when sold to a consumer and exempt when sold to other licensed retail dealers for resale. Income received from the repair (labor and parts) of vehicles for another licensed dealer where the vehicle will be placed in stock for sale is exempt.

208 Internal sales of parts and labor that are necessary to repair a vehicle in inventory are exempt because the tax will apply on the sale of the repaired vehicle. However, merchandise such as tires for wreckers and similar withdrawals from stock for business use are taxable at the regular retail rate.

209 (Reserved)

300 Service Contracts

301 The sale of a contract to provide for maintenance and/or repairs of a motor vehicle is exempt from sales tax when sold either with the vehicle or separate from the sale of the vehicle. These contracts are known in the industry as either a service contract, extended warranty or other similar names and are separate from the original new car warranty as provided by the manufacturer. Income received from the subsequent repair work performed by the dealer under the provisions of these contracts is taxed at the regular retail rate of tax.

302 The income received and retained by an automobile dealer derived from the sale of maintenance and/or repair agreements to cover work performed at a specific

dealership(s), is treated as the prepayment of maintenance and repairs. The income received from such sale is taxed at the regular retail rate of tax as any other automobile repairs.

303 (Reserved)

400 Wrecker and Towing Service. Charges for wrecker or towing services where no other taxable services (repairs, storage or other similar service) are provided are exempt from sales tax. When wrecker or towing services are provided in connection with other services that are taxable, the total amount is subject to the regular retail rate of tax. The separate invoicing of the wrecker or towing services would not affect the taxability of the charges. The taxability of wrecker and towing services is determined for each instance that includes this service and not for the business as a whole.

401 (Reserved)

500 Warranty Repairs. Repairs to a vehicle under the original new vehicle manufacturers' warranty where payment or credit is directly from the manufacturer are exempt. Rental cars provided under the new car warranty, either from the dealer's own fleet or through a car rental agency, are considered part of the warranty repair and not subject to sales tax or the motor vehicle rental tax. Any part of the charge for repairs or service billed to or paid by the customer is taxable at the regular retail rate of tax.

501 (Reserved)

600 Rebates

601 A rebate given by the dealer is considered to be a discount deductible from the sales price when shown on the sales invoice and is exempt.

602 Rebates made directly by the manufacturer that are assigned to the dealer are taxable under Miss. Code Ann. Section 27-65-3.

603 Incentive awards paid to the dealer by the manufacturer which do not affect the selling price to the customer are considered to be a reduction in cost to the dealer and are not taxable.

604 (Reserved)

700 Cars furnished by Dealers. A vehicle furnished free of charge or at less than an arms-length charge is taxable to the dealer on the value of the vehicle when withdrawn from stock. This includes cars used by owners, salesmen, dealership employees, or any other individual whom the dealership has given a car for use. The value of the vehicle shall be determined by computing the annual lease value

of the vehicle based on its fair market value (FMV) as of the first date the auto is made available for personal use. The FMV is determined to be the manufacturers invoice price. This figure should then be used to determine the annual lease value assigned by the Internal Revenue Service in absence of any other method of determination provided by the Commission. Tax at the rate of 5% should be paid on the total lease value of all vehicles provided to individuals for personal use. No credit for tax paid on the use of the vehicle will be allowed against the tax due once the vehicle is sold. The total tax due should be computed on December 31st of each year and reported on the December sales tax return due by January 20th.

701 (Reserved)

800 Rentals

801 Income from renting or leasing tangible personal property is taxed at the same rates as sales of the same property.

802 Dealers owe no tax on the cost of property when withdrawn from inventory for lease or rental. Sales of property that has been rented or leased are taxable on the full sales price with no deduction allowed as a result of tax paid on rental or lease income.

803 (Reserved)

900 Repossessions

901 Repossessions shall be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported and taxed. The subsequent sale of the repossessed car will be taxable on the same basis as the sale of any other car.

902 Repossessions by out-of-state dealers do not cancel or void use tax liabilities which accrue to the purchaser simultaneously with the first use or registration of the vehicle in Mississippi.

903 (Reserved)

1000 Safety Inspection Fees. Charges for inspection of automobiles as required by the Mississippi Motor Vehicle Safety Inspection Act are exempt from sales tax.

1001 (Reserved)

1100 Out-of-state Sales. Sales of automobiles, trucks, truck-tractors, semi-trailers, trailers, boats, travel trailers, motorcycles and all-terrain cycles which are exported from this State within forty-eight (48) hours and registered and first used in another state are exempt from sales tax. A properly executed Certificate of

Interstate Sale (Form 61-127) must be maintained to substantiate sales of boats, all-terrain cycles or other equipment not required to be registered for highway use.

1101 (Reserved)

1200 Isolated Casual or Occasional Sales. The 5% rate of sales or use tax is due on motor vehicles purchased by any person, firm or corporation from another person, firm or corporation which is not a licensed dealer. "Motor vehicle" includes private carriers of passengers, school buses, church buses, taxicabs, ambulances, hearses, motorcycles, private carriers of property, and private commercial carriers of property and drays of a gross weight of ten thousand (10,000) pounds or less. Sales or use taxes on such purchases are to be paid to the County Tax Collector at the time the motor vehicle is registered or licensed. Purchases of other non-business motor vehicles or property are not taxable when purchased as isolated, casual or occasional sales.

1201 (Reserved)

1300 Purchases

1301 All purchases of tools, supplies, machinery and equipment which are bought for use in operating the business and not for resale, or which do not become an integral part of vehicles being repaired are taxable at the regular retail rate of sales or use tax.

1302 Purchases of vehicles, parts and other merchandise for resale are exempt from sales or use tax.

1303 (Reserved)

Records

1400 Records. Adequate records must be maintained to substantiate tax classifications on sales and purchases.

1401 (Reserved)

1500 Use Tax

1501 Persons who purchase vehicles, which will be registered and used in this State, from dealers located in other states are liable for the payment of use tax at the same rate and on the same basis as sales tax. The Mississippi use tax is payable to the County Tax Collector if not previously paid to an authorized out-of-state dealer at the time of purchase. Credit for the amount of sales tax paid to the dealer in the other state is not allowed against the Mississippi use tax due on

automobiles, motor homes, trucks, truck-tractors and semi-trailers, trailers, boats, travel trailers, motorcycles and all-terrain cycles. Any tax credit allowed must be evidenced by proof of payment.

1502 Persons who purchase motor vehicles, which are classified as isolated, casual or occasional sales, are liable for the payment of use tax at the same rate and on the same basis as sales tax (see Isolated, Casual or Occasional Sales in this Rule).

1503 (Reserved)