

## **Chapter 04 Photographers and Film Developers**

### Photographers and Videographers

- 100 Photographers and Videographers. Photographers and videographers are taxable at the regular retail rate of sales tax on retail sales to consumers of photographs, pictures, videos, diskettes and other tangible personal property and no tax is due on sales to licensed retailers for resale.
- 101 A photographer taking and selling pictures in Mississippi is subject to sales tax on his sales although his studio and photo finishing activities are in another state.
- 102 A photographer who creates digital images that are marketed via the internet through a third party that also prints the images as photographs and delivers them to purchasers is subject to sales tax as long as the photographer controls the sale of the images. The photographer may be considered to control the sale of the images if the website on which the images are posted appears to be the photographer's own site; the photographer is able to design or direct the appearance of the site from which the images are sold; the photographer sets the price for the images; the photographer determines how long the images will be offered on the website for sale; the photographer displays the website address on his marketing materials directing customers to the site to purchase his images; and/or the photographer otherwise exercises control over the marketing, sale or reproduction of the images he creates.
- 103 Amounts received from the sale of coupons must be included in gross income of the photographer even though the agent making the sale retains the full amount of the coupon as his commission for having obtained a customer. If the customer fails to redeem the coupon and the amount paid is not refunded, the income received is taxable.
- 104 When schools or other organizations are allowed a commission for handling the sales of a photographer or photo finisher, such commission must be included in the income of the business.
- 105 (Reserved)

### Film Making

- 200 Film Making. Income from the production of a film, such as commercials, promotional videos, advertisements, etc., is not considered the sale of tangible personal property and as such, is not subject to sales tax. If the producer or developer of such film produces multiple copies for sale, the activity then becomes taxable as the sale of tangible personal property.

201 Purchases of film or videotape for use in performing a service are taxable for sales or use tax. Purchases of film or videotape that are to be resold are exempt from sales or use tax.

202 (Reserved)

### Motion Picture Making

300 Motion Picture Making. Effective July 1, 2004, certain exemptions and a reduced rate are available for machinery, equipment and supplies used in the production of a motion picture in Mississippi. The term “motion picture” is defined to mean a nationally distributed feature-length film, video, television series or commercial made in Mississippi and does not include the production of television coverage of news and athletic events, or a film, video, television series or commercial that contains any material or performance defined in Section 97-29-103.

301 Machinery and equipment used in the production of motion pictures shall be defined as manufacturing machinery subject to the special reduced rate of 1 ½%. Equipment or machinery bought or leased outside of Mississippi for exclusive use on location in Mississippi will be subject to a use tax of 1 ½%. Manufacturing machinery that is used in the production of a motion picture is not limited to a plant site use. Items defined as manufacturing machinery include:

1. Audio Equipment
2. Camera Equipment
3. Computer Equipment (for animation, editing or special effects)
4. Editing Equipment
5. Lighting Equipment
6. Projection Equipment
7. Sound Equipment

302 (Reserved)

### Film Developing

400 Film Developing. Income received from developing, retouching, printing, tinting or other photo finishing activities is taxable at the regular retail rate of tax when performed for a consumer and no tax is due when performed for other licensed retailers for resale.

401 (Reserved)

### Purchases

500 Purchases by licensed retailers of merchandise for resale are exempt from sales or use tax.

- 501 Purchases of paper and film for use in making photographs are exempt from sales or use tax as raw materials and chemicals used in processing the same are likewise exempt. Machinery and machinery parts for studio use in developing film, photographs, prints or slides are taxable at the 1½% reduced rate of tax. Machinery or equipment provided for customer use to copy or reproduce photographs are subject to the 7% regular retail rate of tax.
- 502 (Reserved)