

## Sales and Use Tax Guide for Construction Contractors

The following provides a brief summary of Sales and Use Tax information for construction contractors. The Sales Tax Law levies a 3 1/2% contractor's tax on all non-residential construction activities when the total contract price or compensation received exceeds \$10,000.00.

### Material Purchase Certificate (MPC)

Prior to beginning work, the prime contractor(s) is required to apply for a MPC for the contract. You may apply for a MPC on [TAP](#). For non-residential contracts exceeding \$75,000.00, the contractor's tax and any use tax due must be paid before work begins. An exception to paying the taxes due requires that a surety bond is filed with the DOR to guarantee payment of the taxes. All contractors without a physical location in Mississippi are required to prepay the taxes due or bond all contracts over \$10,000. Contractors with a physical location in Mississippi are required to bond or prepay the taxes due on all contracts over \$75,000.

The 3 1/2% contractor's tax is imposed against the prime contractor and is due on all non-residential, commercial contracts regardless of whether or not the owner is a governmental, exempt, or non-profit entity. As example construction contracts for the U.S. Government, the State of Mississippi, a non-profit hospital, or a church are subject to the tax.

Residential construction (not including apartments or condominiums) is excluded from the 3 1/2% contractor's tax, but is subject to retail sales taxes.

Additional information regarding Sales and Use Tax is available through [notices and technical bulletins](#), the Mississippi Administrative Code [Title 35 Part IV](#) (Sub-part 10, Chapter 1) and the Mississippi Code, [Title 27, Chapter 65 and Chapter 67](#).

[Main page for Sales and Use Tax](#)

### Bidding Formula

The 3 1/2% contractor's tax is levied on the total contract amount or total compensation received. The following formula may be used to compute the total tax that will be due on a particular project:

Total Contract Before x 1.0362694 = Total Contract Amount

3 1/2% Tax Including 3 1/2% Tax

Example: All items including labor, material, profit, overhead, etc., before computing the 3 1/2% contractors tax is \$100,000.00. Multiply this amount by the factor (1.0362694) to compute the amount of the total contract that includes the 3 1/2% contractor's tax.

$$\$100,000.00 \times 1.0362694 = \$103,626.94$$

The total amount of \$103,626.94 should be the amount of the bid and the amount to qualify the contract with the DOR.

Calculation of the tax due:

$$\$103,626.94 \times 3 \frac{1}{2}\% = \$3,626.94$$

### **Contractor's Bond**

The prime contractor on all non-residential construction contracts exceeding \$75,000.00 and taxable under Section 27-65-21 of the Sales Tax Law is required to furnish a bond guaranteeing the payment of sales, use, income, franchise, withholding and other motor fuel (diesel fuel) taxes due on the contract, or pay the sales and use taxes before commencing work. A prime contractor domiciled outside Mississippi must either file a surety bond or prepay the sales and use tax on contracts exceeding \$10,000.00.

A Tax Rider, [Form 72-440](#), with a copy of a performance and/or payment bond for either public or private construction contracts is acceptable. You must have filed a copy of the performance and/or payment bond for which the Tax Rider is executed with the DOR..

A Job Bond, [Form 72-441](#), may be executed for each contract and filed with the DOR..

No limitation (contract amount, tax amount, etc.) should be included on the face of either the tax rider or the job bond. Any rider or job bond having such an amount will not be accepted.

A Blanket Bond, [Form 72-442](#), may be filed provided it is of sufficient amount (use a factor of at least 4%) to cover the aggregate tax liability on the total amount of all contracts that will be outstanding at any one time. The amount would have to be based on an estimate made by the contractor and would be subject to adjustment. The bond must be sufficient to cover the liability for sales, use, income, franchise, withholding and other motor fuel (diesel fuel) taxes. The effective date of a blanket bond must be prior to the estimated starting date of the contracts which it covers.

On all the above bonds, the agent's signature must be legible, or the bond will be returned. His name should be printed or typed below his signature. The bond must have the original seal of the bonding company.

### **Use Tax Requirements for Construction Contractors**

Rentals and purchases of work equipment, tools, building forms, repair parts for work equipment and similar tangible personal property (or non-component materials and supplies) to be used in the performance of construction work are subject to the regular retail rate of sales or use tax. An

out-of-state contractor or subcontractor incurs a use tax liability when property of this type is imported into Mississippi for use.

If the property has been used in another state, the regular retail Mississippi Use Tax is due on the fair market or net book value of the property at the time of importation. Automobiles and trucks (10,000 pounds and less) without special-mounted equipment, are subject to the special 5% Use Tax. Automobiles and trucks over 10,000 pounds are taxable at the 3% tax rate. (Net book value is to be computed by using straight-line depreciation only and shall not be less than 20% of original cost.)

Except for automobiles and trucks first used in this state, credit for Sales or Use Tax paid another state in which the property was acquired or used may be taken in computing the amount of Use Tax due Mississippi. Such credit must be computed by applying the rate of Sales or Use tax paid to another state to the value of the property at the time it enters Mississippi.

Any use tax due is reported on [TAP](#) on the Use Tax return in the table labeled Schedule of Equipment for Use in Mississippi.

You will be required to file use tax returns periodically while you are engaging in business in this State. Non-taxable returns should be filed when there is no tax liability. Use tax must be filed separately from your sales tax on the Use Tax return.

### **Sales Tax Registration Requirements**

Prior to any person continuing or engaging in any of the activities described in this Web Page a Sales Tax Permit must be obtained. A Registration Application must be completed in order to procure a Sales Tax Permit for each business location. Register online using [TAP](#).

No person shall be issued a Sales Tax Permit or be allowed to conduct any business activity within this state until such time as all requirements of the Mississippi Sales Tax Law have been met.

### **Filing Returns**

Sales tax returns are due and payable on or before the 20th day of the month following the period in which the tax accrues. As example, sales taxes due on sales occurring in May must be filed online, or postmarked by June 20. Returns and payment must be filed online or postmarked by the due date in order to be considered timely filed. When the due date falls on a weekend or holiday, returns and payments must be filed online or postmarked by the first working day following the due date to be considered timely filed.

Sales tax returns should be filed for all appropriate periods even though no taxes may be due. Failure to file returns as required may result in assessments against the taxpayer until such time as all delinquent returns are filed and all taxes due are paid.

Penalties are due on late payment of sales taxes and /or for failure to file Material Purchase Certificate (MPC) applications as required. There are more severe penalties for continued failure to comply with the provisions of the Mississippi Sales Tax Law.