

Chapter 11 Sales and Use Tax Exemption for Bond Financing

100 General

101 A sales and/or use tax exemption for construction or expansion is available for an eligible business that has obtained bond financing through the Mississippi Business Finance Corporation (MBFC). The type of eligible businesses depends upon the type of bond issued.

102 The Mississippi Development Authority (MDA) and the MBFC determines whether a business qualifies for financing under these programs and the MDOR determines how the exemption is applied.

103 The bonds that qualify for the exemptions are authorized by:

1. Sections 57-10-1 et seq., Miss. Code Ann., and is known by the short title of "Small Business Assistance".
2. Sections 57-61-1 et seq., Miss. Code Ann., and is known by the short title of the "Mississippi Business Investment Act".
3. Sections 57-71-1 et seq., Miss. Code Ann., and is known by the short title of the "Mississippi Small Enterprise Development Finance Act".

104 All bonds must be issued within eighteen (18) months from the inducement date or an extension must be requested by the business addressed to the MDOR. If bonds do not remain outstanding for at least one (1) year the purchase is not considered to be made with bond proceeds and would not be exempt from sales or use tax. A full accounting of the draws and expenditures associated with bond proceeds is required.

105 (Reserved)

200 Small Business Assistance

201 The Small Business Assistance program is administered by the Mississippi Business Finance Corporation. The sales and use tax exemption is for all purchases, including leases, necessary to establish the enterprise that are made with bond funds. This program consists of two types of bonds, Industrial Revenue Development Bonds and Rural Economic Development Bonds.

202 The Industrial Revenue Development Bonds are issued to for-profit companies and in very limited circumstances, non-profit companies will qualify. Only businesses engaged in manufacturing or processing may qualify for the tax-exempt bonds. The following businesses may qualify for taxable bonds:

1. Companies that manufacture, process, store, warehouse, assemble or distribute agricultural, mining or industrial products.
2. Research and development enterprises.
3. Offices used to manage, supervise or service a manufacturing operation
4. Any commercial enterprise.

- 203 The Rural Economic Development Bonds are issued to manufacturing or processing companies, certain warehouse and distribution centers, certain telecommunication and data processing companies, multi-state national or regional headquarters, certain research and development and technology intensive enterprises.
- 204 (Reserved)
- 300 Mississippi Business Investment Program
- 301 The Mississippi Business Investment Program, administered by the MDA, is designed for making low interest loans to counties and incorporated cities or towns (Local Sponsors) to finance improvements necessary to complement investments by private companies that create and maintain new full-time jobs. The bonds issued are general obligations bonds of the State of Mississippi. The sales and use tax exemption is for all purchases of tangible personal property and services to establish the facility that are made with bond funds.
- 302 Eligibility for the assistance provided by the Mississippi Business Investment Program is determined by the MDA and is limited to the following types of projects: Agricultural, industrial, manufacturing, aquacultural or maricultural, tourism, service, regional shopping malls and research and development projects.
- 303 Temporary borrowings in anticipation of the issuance of the bonds authorized by this program will mirror the exemption of the bonds. A promissory note from the Local Sponsor to the State evidences these borrowings. If the project agreement is unfulfilled, the State can require the Local Sponsor and/or the private company to repay the unpaid loan principal with interest and penalties. If necessary, a portion of the Local Sponsor's sales tax and/or homestead exemption reimbursement may be withheld in an amount that is sufficient to repay the obligation.
- 304 (Reserved)
- 400 Mississippi Small Enterprise Development Finance Program
- 401 The Mississippi Small Enterprise Development Finance Program, administered by the MBFC, is designed for making loans to qualified private companies that will increase employment and investment in the state. The sales and use tax exemption is for all purchases of tangible personal property and services to establish the facility that are made with bond funds.
- 402 The loan may not be in excess of ninety percent (90%) of the market value of the financed assets and the loan may not be used to refinance existing debt. The aggregate amount loaned to one borrower may not exceed four million dollars (\$4,000,000) and the term shall not exceed twenty (20) years. The project must create a minimum of ten (10) new jobs.
- 403 (Reserved)

500 Purchases

501 The purchases must be sold directly to, billed directly to and paid for directly by the entity induced by MBFC. The exemption does not cover tagged vehicles or ongoing expenses and supply items that are not purchases required to establish the facility.

502 Bond financing exemptions do not apply to the three and one-half percent (3½%) or the one and one-half (1½%) contractor's tax levied in Miss. Code Ann. Section 27-65-21. The contractor's tax is levied directly on the contractor for the privilege of performing contracts exceeding \$10,000 for the construction, repair or renovation of non-residential real property. The contractor's tax is levied on the contractor's gross receipts from the construction contract regardless of any exemptions the project owner may have. Purchases of component materials for a construction project made by the contractor and reimbursed by the project owner are considered part of the contractor's gross receipts subject to the three and one-half percent (3½%) contractor's tax. Miss. Code Ann. Section 27-65-21(1)(a)ii provides that amounts included in commercial construction contracts with manufacturers representing the sale of manufacturing machinery shall be taxed at the 1 ½% reduced rate of tax in lieu of the 3 ½% contractors' sales tax. However, the owner's exemption will apply on the sale by the construction contractor to the project owner of manufacturing machinery that retains its identity as tangible personal property.

503 (Reserved)

600 Applying for the Exemption

601 For detailed instructions concerning the application process or claiming the credits see the Mississippi Tax Incentives, Exemptions and Credits Book.

602 (Reserved)

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