

## **REGULATION 2004-5**

This regulation is promulgated by the Director of the Arkansas Department of Finance and Administration pursuant to the authority granted in Ark. Code Ann. 26-18-301 and Ark. Code Ann. 26-52-105 and is adopted in accordance with the provisions of Ark. Code Ann. 25-15-201 et seq.

### **EXEMPTIONS FROM TAX – TEXTBOOKS AND OTHER INSTRUCTIONAL MATERIALS**

- A. The gross receipts or gross proceeds derived from the sale of textbooks, library books, and other instructional materials are exempt from tax if purchased by:
  - 1. An Arkansas school district or Arkansas public school that receives state funding; or
  - 2. The State of Arkansas for free distribution to Arkansas school districts or Arkansas public schools.
- B. The exemption will not apply unless the instructional materials are to be provided to the students free of charge. Private schools and public libraries are not entitled to the exemption.
- C. For purposes of the exemption, “instructional materials” means and includes the following:
  - 1. Traditional books and trade books in printed and bound forms;
  - 2. Activity-oriented educational programs that may include manipulatives;
    - a. “Activity-oriented educational programs” are academic programs that incorporate hands-on learning strategies to enhance learning.
    - b. “Manipulatives” are tools used in conjunction with an educational activity that allow the student to explore and learn through direct manipulation of physical objects. In order to be entitled to the exemption, the manipulative must be purchased in conjunction with the activity-oriented educational program.
  - 3. Hand-held calculators or other hands-on educational materials;

- a. "Other hands-on educational materials" are educational materials provided to students to facilitate or enhance the students understanding of the subject matter. Items of equipment which belong to the school and which are used by the school for instructional purposes on a continuing basis from one class to the next are not hands-on materials.
  - b. Examples of items that are not exempt as hands-on materials include: Bunsen burners, microscopes, maps, video tapes, balls and mats for gymnastics, athletic uniforms, band instruments, and sheet music for choir and band. Nor does hands-on educational materials include supplies or furnishings used or consumed by the school.
4. Technology-based educational materials that require the use of electronic equipment in order to be used in the learning process, e.g. software and software licenses.
- a. "Technology-based educational materials" does not include the equipment required to make use of these materials, e.g. computer hardware. Computer hardware is taxable.
  - b. Only software actually used in the learning process qualifies for the exemption. Other software, such as word processing software, does not qualify for the exemption.
- D. "Instructional materials" does not include disposable or consumable supplies; computer supplies; general use equipment and supplies, including photographic or audio visual equipment; or ordinary school supplies such as paper, pencils, etc., even if these supplies are distributed free of charge to the students.

Dated this \_\_\_\_\_ day of July, 2004.

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Richard A. Weiss, Director  
Arkansas Department of Finance and  
Administration

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Tim Leathers, Deputy Director  
and Commissioner of Revenue

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS**  
**WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

<b>DEPARTMENT/AGENCY</b>	Department of Finance and Administration
<b>DIVISION</b>	Revenue Division
<b>DIVISION DIRECTOR</b>	Richard Weiss, Director
<b>CONTACT PERSON</b>	Martha G. Hunt, Chief Legal Counsel
<b>ADDRESS</b>	P. O. Box 1272, Room 2380, Ledbetter Building, Little Rock, AR 72203
<b>PHONE NUMBER</b>	501-682-7030
<b>FAX NO.</b>	501-682-7599
<b>E-MAIL</b>	Martha.hunt@rev.state.ar.us

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.
- D. Submit two (2) copies of this questionnaire attached to the front of two (2) copies of your proposed rule and mail or deliver to:

**Donna K. Davis**  
**Subcommittee on Administrative Rules and Regulations**  
**Arkansas Legislative Research**  
**Bureau of Legislative Research**  
**Room 315, State Capitol**  
**Little Rock, AR 72201**

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1. What is the short title of this rule?

Regulation 2004-5: Exemptions from Tax—Textbooks and Other Instructional Material

2. What is the subject of the proposed rule?

Textbooks and other instructional materials which are exempt from tax

3. Is this rule required to comply with federal statute or regulations? Yes  No

If yes, please provide the federal regulation and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No

If yes, what is the effective date of the emergency rule?

When does the emergency rule expire?

Will this emergency rule be promulgated under the regular provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No  If yes, please provide a brief summary explaining the regulation.

See attached Summary Statement.

Does this repeal an existing rule? Yes  No  If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes  No  If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up should be clearly labeled "mark-up".

6. Cite the state law that grants the authority for this proposed rule. If codified, please give Arkansas Code citation.

Ark. Code Ann. §§ 26-18-301, 26-52-105, 25-15-201 *et seq.*

7. What is the purpose of this proposed rule? Why is it necessary?

The purpose of this proposed rule explains in detail the textbooks and other instructional materials that are tax exempt.

8. Will a public hearing be held on this proposed rule? Yes  No

If yes, please complete the following:

Date: August 24, 2004

Time: 1:00 P.M.

Place: Ledbetter Bldg., 1800 W. 7<sup>th</sup> St., Conference Room 2330, Little Rock, AR 72201

9. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
September 1, 2004

10. What is the proposed effective date of this proposed rule? (Must provide a date.)  
September 15, 2004

11. Do you expect this rule to be controversial? Yes  No  If yes, please explain.

12. Please give the names of persons, groups, or organizations that you expect to comment on these rules. Please provide their position (for or against) if known.

Names	Category	For	Against
		<input type="checkbox"/>	<input type="checkbox"/>



\$0.00	\$0.00
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