ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE

CHAPTER 810-6-1
GROSS PROCEEDS OF SALES; GROSS RECEIPTS; WHOLESALE SALES; SALES AT WHOLESALE; RETAIL SALES, SALES AT RETAIL; AUTOMOTIVE VEHICLES

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810-6-1-.01 **Accountants.**

Accountants use books, supplies and equipment which are taxable to them at the time of purchase. Accountants also subscribe to and receive tax reporting services which are not subject to tax, the property received in such tax reporting services being incidental to the service received. Note, however, that books and other publications sold by the tax service companies, which become the permanent property of the accountants, are subject to the tax §40-23-1(10).

Author:

Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.

History:

810-6-1-.02 **Advertising Agencies.**

Advertising agencies perform a service in formulating ideas and programs for advertising purposes. All materials purchased by an advertising agency including, but not limited to, brochures, drawing supplies, photographic supplies, and office supplies are consumed by the agency in performing the service and are subject to tax at the time of purchase. The subsequent transfers of brochures and other materials to the agency's clients are not classed as retail sales subject to tax. (State of Alabama v. Douglas M. Harrison, d/b/a Douglas M. Harrison Advertising)
Author: Michele Mayberry
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83; 386 So. 2d 460 (1980) State of Alabama v. Douglas M. Harrison, d\b\a Douglas M. Harrison Advertising.
History: Amended: Published October 31, 2019; effective December 15, 2019.

810-6-1-.03 **Air Bag Materials Used By Tire Manufacturers.**

Raw rubber and other materials withdrawn from stock by a tire manufacturer for use in manufacturing air bags or water bags to be used by the manufacturer are to be included in the gross proceeds of sales of the manufacturer.
Author: Michele Mayberry
Statutory Authority: Code of Ala. 1975, §§§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-1(a)(10), 40-23-31, 40-23-83.
History: Amended: Published November 29, 2019; effective January 13, 2020.

810-6-1-.04 **Radio And Television Antennas And Television Satellite Dishes.**

(1) Retail Sales. Retail sales of radio and television antennas, television satellite dishes, and their parts and attachments are subject to sales or use tax

(a) When antennas and satellite dishes, along with their parts and attachments are sold for a lump sum amount that includes both the antenna or satellite dish and the cost of erection or installation, the lump sum must be used as the measure of the tax to be paid to the state. When separate contracts are made for the sale of the tangible personal property and for the erection or installation, the tax should be measured by the sales price. The billing to the customer

and the books of the seller must clearly show the receipts from sales and from erection and installation separately.

(b) The sale of antennas or satellite dishes and parts and attachments are wholesale sales when made by vendors to dealers who do not furnish or install, but hire an outside supplier to furnish and install for them. The dealer in these instances must collect and remit tax to the state as described in subparagraph (a).

(c) When dealers and suppliers make over-the-counter sales of antennas or satellite dishes and parts and attachments to consumers, the sales to consumers are subject to sales tax that must be collected by the seller and paid to the state.

(d) The dealers and suppliers making the sales described in subparagraphs (a), (b), and (c) purchase at wholesale, tax free, the antennas or satellite dishes and parts and attachments resold by them. (§40-23-1(a)(10))

(2) Machine Rate. Sales of radio and television antennas, television satellite dishes, and parts and attachments, qualify for the machine rate of sales or use tax, when sold to radio and television stations or broadcasting companies for use in their business of producing and propagating radio or television signals. (Kline Iron & Steel Corp. v. State of Alabama Circuit Court of Montgomery County, Civil Action Nos. CV-78-1250-P and CV-78-1251-P, April 26, 1979)
Author: Dan DeVaughn, Leslie Michaud
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-2(3), 40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982. §40-23-2(3). **Amended:** Filed August 28, 1987. **Amended:** Published November 30, 2021; effective January 14, 2022.

810-6-1-.05 Taxability Of Property Sold By Auctioneer.

(1) Retail sales of an auctioneer's own tangible personal property or the consigned tangible personal property of others are subject to Sales Tax.

(2) For the purposes of this rule auctioneers are deemed to have tangible personal property on consignment when they receive payment for the tangible personal property sold, issue the bill of sale or invoice, and pay the owner for the tangible personal property sold with the auctioneer's check or other remittance. Where the owner of the tangible personal property is licensed under the Sales Tax Law and commissions the auctioneer to sell the property in the name of the owner, the auctioneer is not liable for sales tax on the sale of the property.

(3) Sales Tax is due on the gross receipts derived from sales of all tangible personal property sold by persons regularly engaged in conducting auction sales, regardless of how the tangible personal property may have been acquired or by whom it may be owned, except the sale of tangible personal property that normally would not be subject to tax such as a wholesale sale. (§40-23-1(a)(6)).

Author: Michele Mayberry
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-31, 40-23-83.
History: Adopted March 9, 1961. **Amended:** June 2, 1961. **Amended:** Filed August 16, 1974. **Amended:** Published November 29, 2019; effective January 13, 2020.

810-6-1-.06 Taxability Of Automotive Vehicle Painting Services And Supplies.

(1) The painting of an automotive vehicle is a service by the painter that is not taxable.

(2) The paint and other supplies used or consumed by the painter are taxable at the time of purchase.

Refer to Rule 810-6-1-.116 entitled Parts and Materials Used to Repair or Recondition Dealers' Automotive Vehicle regarding painting of automotive vehicles of dealers, that are part of dealers' stock in trade for sale.

Author: Michele Mayberry
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83; Rule 810-6-1-.116.
History: Adopted March 9, 1961. **Amended:** November 1, 1963. **Amended:** Published November 29, 2019; effective January 13, 2020.

810-6-1-.07 Sales Of Automotive Vehicle Parts By Automotive Vehicle Repairman, Repair Shops And Garages.

(1) Parts used in making repairs to the customer's automotive vehicle or sold to the customer for use that are passed substantially intact as purchased by the repairman are sold at retail to the customer. Examples of such parts are pistons, piston rings, fan belts, gears, batteries, and tires. The full amount of an invoice will be subject to sales or use tax when it does not separately state the parts from the labor.

(2) Other materials and supplies, such as paints or lubricants are consumed and purchased at retail by the repairman. These items are furnished incidental to rendering a service. Materials and supplies, also tools and machinery, used or consumed by automotive

vehicle repair shops and garages in rendering services that are not resold as merchandise are subject to the sales or use tax when purchased by the repairman from the supply dealer. If the supply dealer is not required to collect the sales or use tax, the automotive vehicle repair shop or garage must pay the use tax directly to the Department. (Doby v. State, 174 So. 233, Merriwether v. State, 42 So. 2d. 465)

(3) Labor, installation and service charges not separately stated on the invoice to the customer are taxable. If the labor, installation, and service charges are separately stated from the sale of parts, the labor, installation, and service charges are not taxable.

(4) Books must be kept in a manner that clearly reflects the separation of the charges for the tangible items sold and the charges for the labor or installation charges.

(5) Refer to the Rule 810-6-1-.116 entitled Parts and Materials Used To Repair Or Recondition Dealers' Automotive Vehicles regarding parts used by repairmen on automotive vehicles of dealers, that are part of the dealers' stock in trade for sale.
Author: Michele Mayberry
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83; Rule 810-6-1-.116; Doby v. State Tax Commission 234 Ala. 150 (Ala. 1937). Merriwether v. State, 252 Ala. 590, 42 So. 2d 465, 11 A.L.R.2d 918.
History: Adopted March 9, 1961. **Amended:** November 1, 1963. **Amended:** Published November 29, 2019; effective January 13, 2020.

810-6-1-.08 Automobile Repair Shops (Repealed 1/13/20).

(REPEALED)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted March 9, 1961. **Amended:** November 1, 1963. **Repealed:** Published November 29, 2019; effective January 13, 2020.

810-6-1-.08.01 Automobile Supply Jobbers, Sales By.

(1) Automotive supply jobbers must comply with Title 40 by maintaining the records necessary to determine the amount of their sales or use taxes liability. Title 40 includes the requirement that their records show the gross proceeds of wholesale sales and the gross proceeds of retail sales separately. Automotive supply jobbers must also comply with Rule 810-6-4-.10 entitled Keeping Records Of Sales For Resale.

(2) Automotive supply jobbers must collect sales or use tax on sales to all customers who do not have a valid Sales Tax License Number or Certificate of Exemption Number. Invoices made out to "cash" that do not show the purchaser's name will be considered to be retail sales invoices.

(3) The automotive supply jobber may sell to the purchaser tax exempt when the purchaser has a sales tax license and is buying the items for resale. The automotive supply jobber is not relieved of the responsibility of collecting tax on the items the licensed purchaser uses. The automotive supply jobber's responsibility is to know the nature of the customer's business and when to collect tax on items purchased for use.

(4) Sales of automotive parts to licensed automotive vehicle dealers with repair shops or service departments are at wholesale and tax-free. Sales of automotive parts to licensed automotive vehicle dealers without repair shops or service departments are taxable unless the dealer qualified for the exemption contained in §40-23-1(a)(9) for parts purchased for use in repairing or reconditioning automobiles that are a part of the dealer's stock of goods for sale. See Rule 810-6-1-.116 entitled Parts And Materials Used To Repair Or Recondition Dealer's Automotive Vehicles.

(5) Sales of materials to licensed automotive vehicle dealers are taxable unless the dealer qualifies for the exemption contained in §40-23-1(a)(9) for materials purchased for use in repairing or reconditioning automotive vehicles that are a part of the dealer's stock of goods for sale. See Rule 810-6-1-.116 entitled Parts And Materials Used To Repair Or Recondition Dealers' Automotive Vehicles. The term "materials" as used in this section includes paint, solder, flux, body lead, wax, underseal, and tire blacking that become a part of the reconditioned automotive vehicle. The term "materials" as used in this section does not include items that do not become a part of the reconditioned automotive vehicle such as sandpaper, thinner used for cleaning purposes, masking tape, rags, brushes, tools, and soap.

(6) The automotive supply jobber must collect sales or use tax on sales of supplies unless the customer is purchasing the supplies for resale. Supplies include but are not limited to cleaning compounds, chamois, rags, drill bits, shop files, welding gases and supplies, metal bars and rods, masking tape, fire extinguisher fluid, hydraulic jack oil, friction tape, signs, white sidewall cleaner, brooms, mops, window cleaner, rivets, tacks, cotter pins, repair parts for shop equipment, degreaser, bolts, nuts, washers, screws, oil measures, wiping cloths, drop light cords, auto body soap, hand soap, vixen files, light bulbs, rubbing compound, floor oil absorbent compounds, brushes of all kinds, tar remover, and polishing cloths.

(7) The automotive supply jobber must collect sales or use tax on sales of power tools, heavy tools, and equipment and replacement parts unless the customer is purchasing the tools, equipment, or replacement parts for resale. Power tools, heavy tools, and equipment and replacement parts include but are not limited to floor jacks, air compressors and parts, washing equipment and parts, painting equipment and parts, electric sanders, air hose and chucks, drop cords, and welding equipment and parts.

(8) The automotive supply jobber must collect sales or use tax on sales of hand tools unless the customer is purchasing the tools, equipment, or replacement parts for resale. Sales of hand tools to licensed resellers who do not stock such tools for resale are taxable.

(9) The automotive supply jobber must collect sales or use tax on sales to automobile painters or repair shops of items that lose their identity, such as paint, solder, and solvents.

(10) The measure of sales or use tax due on taxable sales of any new, used, or rebuilt automotive parts, except batteries, is the net trade difference, that is the selling price less credit for the used part taken in trade. The measure of sales or use tax due on taxable sales of batteries is the total sales price of the battery without deduction or credit for the value of the used taken in trade (See Rules 810-6-1-.12 entitled Automotive Vehicles and 810-6-1-.180 entitled Truck Trailers And Semitrailers for definitions of automotive vehicle and trailer).

(11) If automotive supply jobbers perform labor in connection with a sale of repair parts, invoices covering the transaction must clearly show the amounts charged for each part and amounts charged for labor. For invoices not showing parts and labor separately, sales tax is due on the total amount of the invoice.

(12) If automotive supply jobbers provide tire recapping service to a customer, they must collect sales or use tax from the customer measured by the total amount billed for the recapping service. Materials used by the automotive supply jobber in performing the recapping service are not taxable when purchased or withdrawn by the automotive supply jobber. The machines used directly in the recapping process by the automotive supply jobber are taxable at the reduced machine rate when purchased or withdrawn by the automotive supply jobber. Machines and equipment not used directly in the recapping process and all materials and supplies that do not become a component part of the finished product are taxable at the general rate when purchased or withdrawn by the automotive supply jobber.
Author: Dan DeVaughn, Leslie Michaud
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9), 40-23-2(1), 40-23-9, 40-23-26, 40-23-31, 40-23-67, 40-23-83.

History: **New Rule:** Filed February 3, 1998; effective March 10, 1998. **Amended:** Published December 31, 2019; effective February 14, 2020.

810-6-1-.09 **Reporting And Notice Requirements For Facilitators Of The Lease Or Rental Of Automobile Vehicles (Repealed 10/15/2026).**

(Repealed)
Author: Cameran L. Clark
Statutory Authority: Code of Ala. 1975, §§40-2-11, 40-2A-7(a)(5), 40-2A-11, 40-23-1, Article 2 of Chapter 6 of Title 32, and Article 4 of Chapter 12 of Title 40.
History: **Repealed:** Published November 29, 2019; effective January 13, 2020. **New Rule:** Published February 26, 2021; effective April 12, 2021. **Repealed:** Published August 31, 2026; effective October 15, 2026.

810-6-1-.10 **Services Rendered By Upholsterer.**

(1) An upholsterer renders a service and sells tangible personal property. Materials used or consumed by the upholsterer that are not passed to the customer are considered supplies and are taxable at the time of purchase by the upholsterer. Materials passed to the customer that either lose their identity or are inconsequential to the product are also taxable at the time of purchase by the upholsterer. Examples of these materials include but are not limited to:

(a) Tacks

(b) Glue

(c) Thread

(d) Binding Twine

(e) Webbing

(f) Glimp Tape

(g) Welting

(h) Padding

(i) Stain

(j) Varnish

(2) Materials passed to the customer that are a substantial part of the product and do not lose their identity are considered taxable retail sales made by the upholsterer. Custom items fabricated and sold are subject to Sales Tax on the full sales price of the item without any deduction for labor or service unless the installation fee is separately stated. Examples of these materials include but are not limited to:

(a) Cloth

(b) Leather

(c) Vinyl

(d) Foam rubber

(e) Springs

(f) Covers for cars, boats, and furniture

(3) Separate agreements to sell the materials and perform the labor and service require tax to be collected and remitted on the price of the materials only, if the records and invoices clearly show separation of the amount received from the sale of the materials and the act of rendering the service. If there is no clear separation of the materials and services, then tax is due on both the sales and services rendered.
Author: Leslie Michaud
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1-(a)(10), 40-23-31, 40-23-83.
History: Adopted March 9, 1961. **Amended:** November 1, 1963; November 3, 1980; February 10, 1982. **Repealed and New Rule:** Published September 30, 2021; effective November 14, 2021.

810-6-1-.11 **Automotive Supply Jobbers, The Sales Tax License Number, And Sales Made Which Are Classified As Exempt Provided The Jobber Is Engaged In The Business Of Reselling Automotive Parts And Accessories (Repealed 3/10/98).**

(Repealed)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: **Repealed:** February 3, 1998; effective March 10, 1998.

810-6-1-.12 Automotive Vehicles.

1. The term "automotive vehicles" as used in the Sales and Use Tax laws shall mean and include, but shall not be limited to, automobiles, trucks, buses, tractors (crawler and pneumatic tired types), motorcycles, motorscooters, automotive industrial trucks, Ross Carriers, lift trucks, locomotive cranes, airplanes, tugs, motorboats with built-in motors, boats with outboard type motors attached thereto by attachments intended to be permanent rather than readily removable and which motors are controlled with remote controls built on or into the hull of said boat.

(2) In addition to the vehicles listed above, Code of Ala. 1975, §§40-23-1(a)12 and 40-23-60(12), "automotive vehicles" to include power shovels, drag lines, crawler cranes, ditchers and similar machines which are self-propelled, but which are not primarily used as instruments of conveyance. Equipment of this class is to be considered as falling within the automotive vehicle class treated for sales or use tax purposes the same as automobiles, trucks, buses, or tractors; provided, however, self-propelled machines which qualify as farm machines (see Rule 810-6-4-.07 Farm Machines, Machinery, and Equipment) or mining machines (see Rule 810-6-2-.43 Machines Used in Mining, Quarrying, Manufacturing, Compounding, and Processing) are taxed at the rate of tax prescribed for equipment in those respective classes. §§40-23-1(a)12, 40-23-60(12), 40-23-2(4), and 40-23-61(c)
Author: Fred Kennedy
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted March 9, 1961. **Amended:** November 14, 1966. Readopted through APA effective October 1, 1982. Filed July 20, 1990; November 1, 1990.

810-6-1-.12.01 Courtesy Deliveries Of Automotive Vehicles By Alabama Dealers For Out-Of-State Dealers.

(1) A courtesy delivery for an out-of-state automotive vehicle dealer occurs when:

(a) The out-of-state dealer sells an automotive vehicle to a customer and arranges for the vehicle to be shipped to an in-state dealer for delivery to a designated person in Alabama.

(b) The in-state dealer performs the customary dealer preparation on the vehicle and receives reimbursement for these services.

(c) The out-of-state dealer, not the in-state dealer, invoices the customer for the sale of the vehicle.

(2) The out-of-state dealer for whom a courtesy delivery is made by an Alabama dealer is the seller of the automotive vehicle.

(3) An Alabama dealer who makes a courtesy delivery of an automotive vehicle in Alabama for an out-of-state dealer is not the seller of the vehicle and is not liable for Alabama Sales Tax on the transaction. Such courtesy deliveries should not be included in the measure of sales tax reported by the Alabama dealer.

(4) The out-of-state dealer making a courtesy delivery is not liable to collect and remit Sellers Use Tax on sales of automotive vehicles required to be registered or licensed with the local licensing official of any county in Alabama. Instead, the purchaser of the automotive vehicle must remit the tax levied in §40-23-102, Code of Ala. 1975, to the local licensing official in accordance with §40-23-104, Code of Ala. 1975.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83, 40-23-102, 40-23-104.
History: Filed March 22, 1989; adopted May 9, 1989; filed June 2, 1989. **Amended:** Filed October 1, 1996; effective November 5, 1996. **Amended:** Published November 29, 2019; effective January 13, 2020.

810-6-1-.13 Awnings.

(1) Generally an awning attached to a building as a permanent fixture is a part of the building and comes within the provisions of the building materials provision of §40-23-1(a)(10).

(2) A metal or other permanent type of awning attached to a building with screws or bolts or otherwise securely attached becomes a part of the building. The materials from which such awnings are made come within the building materials class. When the materials are purchased prefabricated, tax is due to the supplier by the person making the installation, or direct to the state as use tax, if purchased out-of-state from a seller not registered.

(3) The manufacturing contractor provision of the Sales Tax Law does not apply when a contractor manufactures an item to specifications for a special job. To come within §40-23-1(b) the item manufactured must be standard, that is, it can be used on any job. (See: Rule 810-6-1-.29 Building Materials Manufactured By Contractors)

(4) Lightly attached cloth awnings do not fall into the building materials category and are to be taxed at the sale from the awning dealer to the property owner.
Author: Michele Mayberry

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-31, 40-23-83.
History: **Amended:** Published October 31, 2019; effective December 15, 2019.

810-6-1-.14 Awnings, Metal (Repealed 12/15/19).

(REPEALED)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-83, 40-23-31.
History: **Amended:** August 16, 1974. **Repealed:** Published October 31, 2019; effective December 15, 2019.

810-6-1-.15 Bagging And Ties (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Act No. 162, Special Session 1962, effective July 16, 1962. Adopted November 1, 1963. §40-23-1(9g). **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.16 Bags, Cotton (Returnable Containers) (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Adopted March 9, 1961. Readopted through APA effective October 1, 1982. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.17 Bags Sold To Nurserymen (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.18 Bags Used As Furnished Containers For Agricultural Products (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.19 Bags Used As Furnished Containers Of Crushed Stone (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-1(9c),.40-23-31, 40-23-83.
History: Adopted March 9, 1961. Readopted through APA effective October 1, 1982. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.20 Bailing Ties For Hay (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-1(9c),.40-23-31, 40-23-83.
History: Adopted March 9, 1961. Readopted through APA effective October 1, 1982. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.20.02 Banks, Sales By (Repealed 6/9/99).

(Repealed)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83.
History: Adopted November 1, 1963. **Repealed:** Filed May 5, 1999; effective June 9, 1999.

810-6-1-.21 Barrels (Repealed 7/30/98).

(Repealed)

Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.22 The Measure Of Sales And Use Tax On The Barter, Exchange, Or Trade-In Of Tangible Personal Property.

(1) The money value allowed for tangible personal property received and exchanged for other tangible personal property constitutes payment or partial payment of the purchase price and must be included in the measure of the Sales or Use Tax, unless the agreed upon value or transaction is one of the following.

(a) The agreed value placed on automotive vehicles, truck trailers, semitrailers, or house trailers taken in trade on sales of other automotive vehicles, truck trailers, semitrailers, or house trailers. On so called "trade-ups" this allowance cannot exceed the sales price of the vehicles sold by the dealer. (§§40-23-2(4) and 40-23-61(c), Code of Ala. 1975).

(b) The exchange of cottonseed for cottonseed meal at or by gins. (§§40-23-4(a)(6) and 40-23-62(3), Code of Ala. 1975).

(c) The agreed value placed on any used part including tires of an automotive vehicle, truck trailer, semitrailer, or house trailer taken in trade as a credit or part payment on the sale of a new, used or rebuilt part or tire, for an automotive vehicle, truck trailer, semitrailer or house trailer; provided, however, this provision does not include batteries. (§40-23-2(1), Code of Ala. 1975).

(d) The agreed value placed on any machine, machinery, or equipment used in planting, cultivating, and harvesting farm products or used in connection with the production of agricultural produce or products, livestock or poultry on farms taken in trade on the sale of other farm machines, machinery, or equipment. (§40-23-37 Code of Ala. 1975).

(3) Tangible personal property received as a "trade-in" or received in barter or exchange for other tangible personal property is subject to sales or use tax, when resold, at full resale price.
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7-(a)(5), 40-23-2(1), 40-23-2(4), 40-23-4(a)(6), 40-23-31, 40-23-37, 40-23-61(c), 40-23-62(3), 40-23-83.
History: **Amended:** June 12, 1978. **Amended:** August 8, 1982, readopted through APA effective October 1, 1982. **Amended:** Filed

February 26, 1987. **Amended:** Filed June 4, 1998; effective July 9, 1998. **Amended:** Published February 26, 2021; effective April 12, 2021.

810-6-1-.23 Beer Tax.

State, county, and municipal excise taxes on beer must be included in the measure of Sales or Use Tax.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)98), 40-23-31, 40-23-83.
History: Adopted August 15, 1974. **Amended:** October 29, 1976; June 12, 1978; August 10, 1982. Readopted through APA effective October 1, 1982. **Amended:** Filed February 26, 1987. Filed January 15, 1993; April 15, 1993. **Amended:** Published February 26, 2021; effective April 12, 2021.

810-6-1-.24 Bingo Parlor.

(1) A bingo parlor is defined as a place of amusement; therefore, the gross receipts derived therefrom are subject to sales tax. [State of Alabama v. Roosevelt Crayton, d/b/a Jody's Sporting Goods, 344 So. 2d 771 (Ala. Civ. App.), cert. denied, 344 So. 2d 775 (Ala. 1977).]

(2) Effective June 1, 1990, Code of Ala. 1975, §40-23-4(a)(43), exempts certain bingo games and operations from the sales tax levied in §40-23-2(2). This exemption, however, does not apply to any gross receipts from sales of tangible personal property such as concessions, novelties, food, or beverages.

(3) The exemption referenced in paragraph (2) above only applies in those counties which have duly enacted constitutional amendments legalizing bingo games and operations. Said exemption is further limited to bingo games and operations conducted by organizations which have qualified for exemption under the provisions of 26 USC Section 501(c)(3), (4), (7), (8), (10), or (19) or which are defined in 26 USC §501(d).

(4) To qualify for the exemption contained in §40-23-4(a)(43) an organization must comply with the distribution requirements of applicable local laws including any threshold limits with respect to charitable donations from bingo receipts.

(5) Organizations claiming to qualify for the exemption referenced in paragraph (2) above must provide the Revenue Department with documented evidence that they qualify for exemption with the Internal Revenue Service and that they are in compliance with the

distribution requirements of applicable local laws. (Adopted June 12, 1978. Readopted through APA effective October 1, 1982.)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Filed July 20, 1990; November 1, 1990.

810-6-1-.25 Bottles, Boxes, And Other Containers For Prescriptions (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.26 Bottle Crowns (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.27 Building Materials.

(1) Building Materials.

(a) The term "building materials," as used in the Alabama Sales and Use Tax laws, means all tangible personal property, including any device or appliance used by builders, contractors, or landowners in making improvements, additions, alterations or repairs to real property in a way that the tangible personal property becomes identified with a part of realty.

(b) Includes any tangible personal property used in making repairs, alterations, or additions to real property such as lumber, timber, nails, screws, bolts, structural steel, reinforcing steel, cement, lime, sand, gravel, slag, stone, telephone poles, fencing, wire, electric cable, brick, tile, glass, plumbing supplies, plumbing fixtures, pipe, pipe fittings, electrical fixtures, built-in cabinets, sheet metal, paint, roofing materials, road building materials, sprinkler systems, air conditioning systems, built-in fans, heating systems, flooring, floor furnaces, crane ways, crossties, railroad rails, railroad track accessories, tanks, builders hardware, doors, door frames, windows, window frames, water

meters, gas meters, well pumps and any and all other tangible personal property that becomes a part of real property.

(2) Builders, Contractors, and Landowners. “Builders”, “contractors”, and “landowners” mean and include any person, firm, association, or corporation making repairs, alterations, or additions to real property.

(3) Taxable Transactions. Sales of building materials to contractors and builders that do not sell the building materials they use are taxable under Sales and Use Tax laws. Building materials purchased by builders, contractors, or landowners for use in adding to, repairing, or altering real property are subject to either Sales or Use Tax at the time of purchase. The courts have stated:

(a) "It would seem that the business done by building contractors generally has been considered to, be rendering service rather than selling materials at retail to the owner of the building or land. As to what amounts to a sale at retail within sales tax acts the statutes and the courts seem to endeavor to lay the tax on the last sale before the use or consumption of the goods or articles sold." (State Board of Equalization v. Stanolind Oil and Gas Company, Wyoming.)

(b) "A contractor who buys building material is not one who buys and sells - a trader. He is not a dealer, or one who habitually and constantly, as a business, deals in and sells any given commodity. He does not sell lime and cement and nails and lumber. Sales to contractors are sales to consumers." (State v. J. Watts Kearny & Sons, Louisiana.)

(c) "Under the contracts before us in the case, plaintiffs agreed to build sewers and buildings requiring the use of sand, gravel, cement and steel. They were the persons using these materials, even though after their metamorphosis they became part of a structure whose title vested in the Sanitary District of Chicago. Under these circumstances it would be unreasonable to characterize the transfer of the materials incorporated in the completed structures as a sale." (Herlihy Mid-Continent Company v. Nudelman, Illinois.)

(4) A device or appliance becomes a fixture and a part of the real property to which it is connected when it is built into or attached to a structure in a way that its removal would substantially damage or deface the structure.

Where the removal of the device or appliance would not substantially damage or deface the structure to which it is connected the following factors must be considered:

(a) Actual Connection with or Attachment to Real Property. To become a part of real property, the device or appliance must

have some physical connections such as: bolts, screws, nails, cement piping, cable; or by contact.

1. Contact can be by reason of great weight or bulk, no additional attachment is required.

2. Where the device or appliance is necessary to make complete or useable something which is real property.

3. By attachment to another device or appliance which has become a part of the real property.

(b) Appropriateness to the Use or Purpose of the Real Property to Which Connected. The use or purpose of the device or appliance must become an element of the use or purpose of the real property to which it is connected.

(5) Exceptions. This rule is not intended to apply to cook stoves, refrigerators, washing machines, and portable heaters, acquired for the personal use of householders or tenants which may be removed without material damage to the buildings in which they are used. §40-23-1, Code of Ala.1975.

(6) Application of Machine Rate. Tangible personal property designated as "building materials" are not classified as machines or parts or attachments for machines unless items can be identified at the time of purchase as a part or an attachment for a machine used in manufacturing, designed and manufactured for such use, customarily so used, and necessary to the operation of the completed machine.

(a) Bulk items such as lumber, random or stock length structural steel, brick, paint, and common nails do not come within the classification.

(b) Prefabricated processing tanks, steam boilers, and steel when purchased prefabricated to special design for a machine part do come within the machine rate. When the landowner or contractor purchases the materials to make a boiler or tank, tax must be paid either directly to the seller or the department. (Lone Star Cement Corporation v. State, 175 So. 399; Layne Central Company v. Curry, 8 So. 2d 829; State v. Wilputte Coke Oven Corporation, 37 So. 2d 197.) §40-23-1, Code of Ala. 1975.

Author: Lee Ann Rouse
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1, 40-23-31, 40-23-83.
History: Repealed and New Rule: Published November 30, 2021; effective January 14, 2022.

810-6-1-.28 Building Materials Defined (Repealed 1/14/22).

(REPEALED)
Author: Michele Mayberry
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Repealed: Published November 30, 2021; effective January 14, 2022.

810-6-1-.29 Building Materials Manufactured By Contractors.

(1) §40-23-1(b) provides that the use of building materials in the performance of a contract by a person who manufactures them is equivalent to making a retail sale of such materials and that such use must be reported by such person as subject to sales tax to be measured by the reasonable and fair market value at the time and place where used.

(2) Where the contractor-manufacturer also sells the same kind of materials to others for installation by them, the reasonable and fair market value would be the same as the sales price. Where no such sales are made by the contractor-manufacturer, the sales price of the same kind of materials when sold by other manufacturers during the same period and under the same circumstances would be the reasonable and fair market value.

(3) Where no sales price can be found to be used as the measure of the tax, the following formula should be used:

(a) Manufactured cost of materials, plus transportation to job site, plus proportionate part of general overhead, selling cost, and profit equals reasonable and fair market value of materials.

(4) §40-23-1(b) applies to fabricated or manufactured items of tangible personal property permanently attached to real property when the components are prefabricated into a standard item at the shop, plant, or mill of the manufacturing contractor. This subsection does not apply when the materials are cut and fitted on the job site for attachment as construction progresses or to items prefabricated to job specifications at the shop, plant, or mill of the manufacturing contractor.

(5) The courts of this state have held that the manufacturing contractor provision of the Sales Tax Law does not apply when a contractor manufactures an item to specifications for a special job. To come within §40-23-1(b), the item manufactured must be

standard, that is, it can be used on any job. (Amended August 16, 1974.) §40-23-1(b).

(6) Where the contractor is the manufacturer or compounder of ready-mix concrete or asphalt plant mix used in the performance of a contract, whether the ready-mix concrete or asphalt plant mix is manufactured or compounded at the job site or at a fixed or permanent plant location, the tax applies only to the cost of the ingredients that become a component part of the ready-mix concrete or the asphalt plant mix. §40-23-1(b).
Author: Dan DeVaughn.
Statutory Authority: Code of Ala. 1975, §40-23-31, as amended.
History: **Amended:** August 16, 1974. Readopted through APA effective October 1, 1982. **Amended:** February 8, 1989; filed March 22, 1989; adopted May 9, 1989; filed June 2, 1989.

810-6-1-.30 Carpeting And Other Floor Coverings.

(1) The term "floor coverings" as used in this rule shall include carpet, carpet tile, rugs, mats, carpet padding, linoleum and vinyl roll floor covering, linoleum tile, vinyl tile, and similar materials. Floor coverings may be installed as the initial finished floor covering in new construction or as an addition to, or a replacement for, an existing floor covering. Floor coverings may be installed in a manner so as to become a permanent attachment to realty or may be laid on finished floors in a manner that it remains tangible personal property.

(2) Persons who contract to furnish and install floor coverings, which are shaped to fit a particular room or area and which are attached to the supporting floor with cement, tacks, or by some other method making a permanent attachment to real property, are contractors and the floor coverings they use in performing the contract are considered to be building materials. Sales of floor coverings to persons who use them in performing contracts to make additions or improvements to realty are retail sales subject to sales or use tax. See Rule 810-6-1-.46 entitled Contractor's Liability (Sections 40-23-1(a)(10) and 40-23-60(5), Code of Ala. 1975).

(3) Persons who are both selling floor coverings which they do not attach to realty as well as contracting with customers to furnish and install floor coverings that become a part of realty shall purchase all floor coverings at wholesale and thereafter collect and remit sales or use tax to the Department of Revenue on their retail sales of floor coverings which they do not attach to realty for the customer and compute and pay sales tax to the Department of Revenue on the floor coverings which they withdraw from inventory for use in performing "furnish and install" contracts. State and local sales taxes are due on withdrawals at the time and place of the withdrawal of the materials from inventory and shall

be computed on the cost of the materials to the person making the withdrawal. Sales tax is due on withdrawals from instate inventory regardless of whether the floor covering materials are withdrawn for use in performing contracts inside or outside Alabama. The sales taxes applicable to withdrawals are those taxes applicable in the jurisdiction where the withdrawal occurs not where the materials are attached to realty. See Rule 810-6-1-.56 entitled Dual Business and Rule 810-6-1-.196 entitled Withdrawals from Inventory. (Sections 40-23-1(a)(10) and 40-23-60(5), Code of Ala. 1975).

(4) Sales of floor coverings to the federal government, the State of Alabama, counties and municipalities of the State of Alabama, their instrumentalities, or other exempt entities are not taxable when the floor covering sold to the exempt entity is installed by the exempt entity or by someone other than the seller who is hired by the exempt entity. See Rule 810-6-1-.46 entitled Contractor's Liability regarding the application of sales or use tax to floor coverings both sold and installed by the seller. (Sections 40-23-4(a)(11), 40-23-4(a)(15), 40-23-4(a)(17), 40-23-62(2), 40-23-62(13), and 40-23-62(16), Code of Ala. 1975).

(5) Sales of floor coverings which are not attached to realty but which are simply laid on finished floors are retail sales to the building owner or occupant. The seller shall collect sales or use tax on retail sales to nonexempt entities measured by the total gross proceeds of the sale without any deduction for services incidental to the sale such as trimming, joining, binding, or delivering. (Sections 40-23-1(a)(6), 40-23-1(a)(8), 40-23-26, 40-23-60(10), and 40-23-67, Code of Ala. 1975).

(6) Floor covering samples sold to dealers to be used by the dealer for demonstration or display purposes, and not for resale in the regular course of business, are retail sales subject to sales or use tax. All samples bound in sample books and all samples having holes with metal fasteners inserted shall be considered "not purchased for resale" by the dealer unless the dealer is in the business of reselling floor covering samples. Dealers who do purchase floor covering samples for resale in the regular course of business may purchase the samples tax-free and use them for demonstration or display purposes prior to selling them. (Sections 40-23-1(a)(10) and 40-23-60(5), Code of Ala. 1975).

Author: Ernest Broadhead
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-1-(a)(8), 40-23-1-(a0(11), 40-23-4(a)(15), 40-23-4-(a)(17), 40-23-26, 40-23-31, 40-23-60(5), 40-23-60(10), 40-23-62(2), 40-23-62(13), 40-23-62(16), 40-23-67, 40-23-83.
History: Adopted May 26, 1961. Amended June 12, 1978. **Amended:** Filed November 23, 1998; effective December 28, 1998. **Amended:** Filed February 20, 2001; effective March 27, 2001.

810-6-1-.31 Carrying Charges, Finance Charges.

(1) When the seller has an established price for the goods he sells, that price is the amount to be included in gross proceeds of sales even though the established price may include an amount to cover a carrying charge.

(2) When the seller has an established cash price, and when selling on an extended payment basis as a separate charge for financing, the additional charge is not included in the gross proceeds of sales.

(3) In no event may finance or carrying charges be deducted from gross proceeds of sales when not shown as a separate item in the seller's billing to his customer. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.32 Casings Sold To Meat Processors.

The terms "wholesale sale" or "sale at wholesale" shall include a sale to meat packers, manufacturers, compounders or processors of meat products of all casings used in molding or forming wieners and Vienna sausages even though such casings may be recovered for reuse.
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Effective September 9, 1966, Act No. 275, Special Session 1966. Adopted September 26, 1966. §40-23-1(9h).

810-6-1-.33 Taxation Of Casual Sales Transactions.

(1) Casual Sale Transactions Subject to Tax.

(a) The casual sale of automotive vehicles, motorboats, truck trailers, trailers, semitrailers, travel trailers, and manufactured homes are subject to sales or use taxes pursuant to the provisions of §40-23-100, et seq., Code of Ala. 1975. See Sales and Use Tax Rule 810-6-5-.11.05.

(b) The sale of used property by a person engaged in the business of selling is subject to sales tax.

(2) Casual Sale Transactions Not Subject to Tax.

(a) The casual or isolated sale by a person not engaged in the business of selling is not required to be reported to the department by the provisions of the Sales Tax Law.

(b) Tangible personal property purchased outside Alabama from a person not engaged in the business of selling is not subject to use tax when brought into this state for use, storage, or consumption.

Author: Lee Ann Rouse
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83, 40-23-100, et seq. and Administrative Rule 810-6-5-.11-.05.
History: Filed January 19, 1988. **Amended:** Filed September 27, 1993; effective November 1, 1993. **Amended:** Filed August 30, 1994; effective October 4, 1994. Repealed **New Rule:** Published November 30, 2021; effective January 14, 2022.

810-6-1-.33.01 Application Of Casual Sales Tax And Use Tax To Automotive Vehicles, Motorboats, Truck Trailers, Trailers, Semitrailers, Travel Trailers, And Manufactured Homes Purchased From The U.S. Government, The State Of Alabama, Or Counties Or Incorporated Municipalities Of The State Of Alabama.

(1) The definition of the term "manufactured home" set forth in Code of Ala. 1975, Section 40-12-255(n) is incorporated by reference herein.

(2) The definitions of terms set forth in Code of Ala. 1975, Section 40-23-100, are incorporated by reference herein.

(3) The casual sales taxes and the use taxes levied in Sections 40-23-101(a) and 40-23-102(a), respectively, are applicable to automotive vehicles, motorboats, truck trailers, trailers, semitrailers, and travel trailers purchased directly from the U.S. Government, the State of Alabama, or counties and incorporated municipalities of the State of Alabama. These taxes must be collected from the purchaser by the county licensing official before the automotive vehicle, motorboat, or trailer is registered or licensed. (Sections 40-23-101(a), 40-23-102(a), and 40-23-104)

(4) The casual sales taxes and the use taxes levied in Sections 40-23-101(b) and 40-23-102(b), respectively, are applicable to manufactured homes purchased directly from the U.S. Government, the State of Alabama, or counties and incorporated municipalities of the State of Alabama. These taxes must be collected from the purchaser by the county licensing official before the decal, which is provided for in Section 40-7-1, is issued to evidence payment of ad valorem tax due and before any homestead exemption

is granted for a manufactured home. In those instances where an annual registration fee is due in lieu of ad valorem tax, the county licensing official must collect any sales or use tax due before the decal, which is provided for in Section 40-12-255(a), is issued to evidence payment of the annual registration fee. (Sections 40-23-101(b), 40-23-102(b), and 40-23-104)

(5) Manufactured homes which constitute real property are not subject to the taxes levied in Sections 40-23-101(b) and 40-23-102(b) when purchased from the U.S. Government, the State of Alabama, counties or incorporated municipalities of the State of Alabama, or anyone else. (Adopted through APA effective February 19, 1993) (Sections 40-23-101, 40-23-102 and 10-23-104)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83, Section 10 of Act No. 94-622.
History: Filed August 17, 1992; January 15, 1993. **Amended:** Filed August 30, 1994; effective October 4, 1994.

810-6-1-.33.02 State Casual Sales And Use Tax Returns..

(1) The term "Department" as used in this regulation shall mean the Department of Revenue of the State of Alabama.

(2) The definition of the term "licensing official" contained in Code of Ala. 1975, Section 40-23-100(2) is incorporated by reference herein.

(3) The term "state casual sales and use tax" as used in this regulation shall mean the state taxes levied in Sections 40-23-101 and 40-23-102, Code of Ala. 1975.

(4) State casual sales and use tax collected by licensing officials shall be remitted to the Department in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax is collected. Every licensing official liable to collect and remit the state casual sales and use tax shall prepare and forward to the Department, within the time prescribed by law, a state casual sales and use tax return for each calendar month using forms furnished by the Department and shall pay to the Department the amount of tax shown to be due. Casual Sales and Use Tax returns shall require the following information:

(a) Licensing official's tax account number, name, and complete address,

(b) Period covered by the return,

(c) Amount of casual sales and use tax collected on automobile vehicles, truck trailers, trailers, semitrailers, travel trailers, and manufactured homes,

(d) Administrative fee for timely payment,

(e) Penalties and interest due, if applicable,

(f) Net amount after deducting administrative fee from or adding applicable penalties and interest to Item (c),

(g) Amount of casual sales and use tax collected on motor boats,

(h) Administrative fee for timely payment,

(i) Penalties and interest due, if applicable,

(j) Net amount after deducting administrative fee from or adding applicable penalties and interest to Item (g),

(k) Total amount remitted,

(l) An indication if payment of tax is made through electronic funds transfer (EFT), and

(m) Signature of the licensing official and the date signed.

Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-111.
History: **New Rule:** Filed February 26, 1996; effective April 1, 1996.

810-6-1-.34 Caterers..

(1) The total gross proceeds of sales by caterers of food and drinks are subject to sales tax without any deduction because of the cost of preparing and serving food and drinks and without any deduction because of the cost of the ingredients thereof.

(2) There is not, however, any sales tax due with respect to the receipts of a caterer from preparing and serving food and drinks the ingredients of which are not furnished by him.

Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.35 Chemicals Used In Treating Crude Oil.

Subject to the criteria outlined in Sales and Use Tax Rule 810-6-1-.80 entitled Ingredient or Component of Product Manufactured or Compounded for Sale, chemicals used in treating crude oil which become an integral part thereof and are sold therewith, are purchased at wholesale, tax free, for such purposes.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83, 40-23-1(a)(9)b, 40-23-60-(4)(b).
History: Readopted through APA effective October 1, 1982.
Amended: Filed November 5, 1997; effective December 10, 1997.

810-6-1-.36 Commercial Fish Feed.

(1) Sales of commercial fish feed including concentrates, supplements and other feed ingredients when such substances are used as ingredients in mixing and preparing feed for fish raised to be sold on a commercial basis are exempt from the sales and use taxes. (§40-23-4(a)(21))

(2) The gross proceeds of the sales of all antibiotics, hormones, and hormone preparations, drugs, medicines, and other medications including serums and vaccines, vitamins, minerals, or other nutrients for use in the production and growing of fish by whomsoever sold are exempt from sales and use taxes. (§§40-23-4(a)(29) and 40-23-62(29))
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-4(a)(29), 40-23-31, 40-23-62(29), 40-23-83.
History: Adopted December 15, 1969. **Amended:** Filed March 18, 1970. **Amended:** Filed February 26, 1987. **Amended:** Filed June 4, 1998; effective July 9, 1998.

810-6-1-.37 Computer Hardware And Software.

(1) Computers and related equipment, also known as computer hardware, consist of components and accessories that make up the physical computer assembly. The retail sale of computer hardware is subject to Sales Tax or Use Tax. The rental of computer hardware is subject to Rental Tax.

(2) The term “computer software” is defined as:

(a) A sequence of automatic data-processing equipment instructions necessary to solve a problem, and includes both system and application programs and subdivisions, such as assemblers, compilers, routines, generators and utilities.

(b) Software programs prepared, held, or existing for general or repeated use, including software programs developed in-house and subsequently held or offered for sale or lease.

(3) The term "licensure" includes the rental or leasing of computer software.

(4) Computer software is tangible personal property. The retail sale or licensure of computer software is subject to Sales Tax, Use Tax, or Rental Tax, whether the transaction is affected by a transfer of title, possession, or a license to use or consume. Unless specifically stated otherwise, the licensing of computer software is considered a retail sale, and not a rental, and is subject to Sales Tax or Use Tax regardless of its function or form of transmission to the purchaser or licensee. Sales Tax, Use Tax, or Rental Tax is computed on the total amount received from the sale or licensure of computer software to the customer.

(5) The term "software programming" includes services for the development and modification of software applications specific to the needs of the customer. It does not include any software sold or licensed to the customer as part of the development or modification. The cost of the software programing should be separately stated on the invoice to the customer apart from the cost of the purchased or licensed software. When separately stated, the software programming is not subject to tax regardless of the manner or medium of transfer to the customer since the charge for the software programming is a separately stated charge for professional services. The manner or medium of transfer is considered incidental to the sale of the service.

(6) The provider of software programming owes Sales Tax or Use Tax on the cost of the tangible medium for transferring the software programming to the customer. Tangible mediums includes any tangible personal property used in transferring software programming to the customer.

(7) The term "software maintenance agreement/ contract" means contracts sold in connection with the sale or licensure of software and includes any, all, or a combination of the following: technical consultation (support) services, corrections of errors or malfunctions (bugs) in the software, provisions for enhancements (software upgrades) to the software, revisions to operating manuals for the software, and training services. If the maintenance contract is required as a condition of the sale or licensure of software, the gross sales price or gross rental price is subject to tax whether the charge for the maintenance contract is separately stated from the charge for the software. If the

maintenance contract is optional to the purchaser of the software, then the portion of the contract fee representing enhancements or upgrades and new operating manuals is subject to tax. The fees for consultation or support services, error corrections, and training services that are separately stated are not subject to tax, provided that a separate statement is not used as a means of avoiding imposition of tax upon the actual gross receipts from the furnishing of upgrades or manuals. If these fees are not separately stated, the entire charge for the maintenance contract is subject to Sales Tax, Use Tax, or Rental Tax.

(8) Maintenance contracts sold in connection with software programming, whether required or optional, are not subject to Sales Tax, Use Tax, or Rental Tax. The provider of the software programming is the consumer of any tangible personal property used in producing operating manuals and owes Sales Tax or Use Tax on the cost of these items.

(9) This rule shall be applied prospectively from its effective date.
Author: Donna Joyner, Ginger Buchanan
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a), 40-12-224, 40-23-2(1), 40-23-31, 40-23-83. Wal-Mart Stores, Inc. v. City of Mobile 696 So. 2d 290 (1996) Ex parte Russell County Community Hospital, LLC, d/b/a Jack Hughston Memorial Hospital v. Alabama Department of Revenue, No. 1180204 (Ala. S.Ct. May 17, 2019).
History: Filed August 22, 1989; December 22, 1989. **Amended:** Filed January 17, 1997; effective February 21, 1997. **Amended:** Filed July 17, 1997; effective August 21, 1997. **Amended:** Published November 29, 2019; effective January 13, 2020.

810-6-1-.38 Consigned Property.

Sellers of property held on consignment are required to include the gross proceeds of sales of such property in sales tax returns filed under the Sales Tax Law. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.39 Containers And Packaging Materials Used By Brokers And Retailers In Preparing Agricultural Products For Market (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-1(9c),.40-23-31.

History: Adopted March 9, 1961. **Amended:** November 1, 1963. Readopted through APA effective October 1, 1982. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.40 Containers, Fiber Boxes (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.41 Containers, Furnished (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.42 Containers Used By Butchers And Meat Processors (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed : Filed June 25, 1998; effective July 30, 1998.

810-6-1-.43 Containers Used for Packaging Worms For Sale (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.44 Containers Used In Shipping Bees (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes

Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.45 **Contractors Furnishing And Erecting Building Materials Under Contract With The United States.**

(1) Sections 40-23-4(a)(17) and 40-23-62(2) specifically exempt the United States government from paying sales or use tax on its purchases of tangible personal property. These exemptions, however, do not apply to purchases by a contractor where the contractor has a construction contract with the United States government to furnish all materials and labor for use in the performance of the contract. The contractor is the consumer of all the materials which the contractor purchases and uses in the performance of the construction contract and which become a part of real property. The United States Supreme Court in State of Alabama v. King & Boozer, 314 U.S. 1, 62 S.Ct. 43 (1941), and in Curry v. U.S., et al., 314 U.S. 1, 62 S.Ct. 48, held that the Alabama sales and use taxes on building materials used by building contractors for the United States government were due by such contractors even though the costs of such taxes were passed on to the United States government. The court held that these taxes were levied on the contractors and not on the United States. Sections 40-23-1(a)(10) and 40-23-60(5))
Author: Traci Floyd, Ginger L. Buchanan
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a(5), 40-23-1(a)(10), 40-23-4(a)(17), 40-23-31, 40-23-60(5), 40-23-62(2), 40-23-83, Act 2013-205.
History: Readopted through APA effective October 1, 1982.
Amended: Filed February 20, 2001, effective March 27, 2001.
Amended: Filed May 6, 2005; effective June 10, 2005. **Amended:** Filed November 20, 2013; effective December 25, 2013.

810-6-1-.46 **Contractor's Liability.**

(1) Contractors or builders must pay either to the seller or directly to the department sales or use tax on the following:

(a) All of the materials, equipment, tools, and supplies which they use or consume in the operation of their business.

(b) All building materials attached by them to real property except property qualifying for a specific exemption. See Rule 810-6-1-.27.

(2) Prior to January 1, 2014, contractors or builders may not claim any immunity or exemption from the sales or use tax laws on

account of property purchased and used in connection with contracts with the state, county, or city governments. (Lone Star Cement Corporation v. State, Curry v. U.S. et al., 314 U.S. 1, 62 S.Ct. 48 and State v. King & Boozer, 314 U.S. 1, 62 S.Ct. 43 (1941)). (§§40-23-1(a)(10) and 40-23-60(5))

(3) On and after January 1, 2014, the sale to, or the storage, use, or consumption by, any contractor or subcontractor of any tangible personal property to be incorporated into realty pursuant to a contract awarded on or after January 1, 2014, with a governmental entity, as defined in Rule 810-6-3-.77, is exempt from all state, county, and municipal sales and use taxes provided the contractor or subcontractor has complied with all provisions of said rule.

(4) The contractor provision provided in §40-23-1(a)(10), Code of Ala. 1975, applies if all of the following criteria are met:

(a) The taxpayer must be a contractor.

(b) The materials must be building materials.

(c) The materials must become a part of the real estate.

Author: Traci Floyd, Ginger L. Buchanan, Christy Vandevender
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83, 40-23-1, 40-23-60, 40-9-14.1. Department of Revenue v. James A. Head & Co., 306 So.2d 5 (Ala. Civ. App. 19740, cert. denied 306 So.2d 12 (1975). Lone Star Cement Corporation v. State, Curry v. U.S. et al., 314 U.S. 1, 62 S.Ct. 48 and State v. King & Boozer, 314 U.S. 1, 62 S.Ct. 43 (1941)).
History: Adopted through APA effective January 27, 1998. **Amended:** Filed February 20, 2001, effective March 27, 2001. **Amended:** Filed May 6, 2005; effective June 10, 2005. **Amended:** Filed November 20, 2013; effective December 25, 2013. **Amended:** Filed January 6, 2016; effective February 10, 2016. **Amended:** Published February 28, 2022, effective April 14, 2022.

810-6-1-.46.01 Bleacher Systems, Lockers, Backstops, And Other Fixtures Installed In Gymnasiums.

(1) Materials or fixtures which are purchased by contractors and are intended to become permanently affixed or attached to gymnasiums, or other realty, are "building materials" and are taxable at the time of purchase by the contractor. (See Rule 810-6-1-.27 and 810-6-1-.28) (Section 40-23-1(a)(10) and 40-23-60(5)).

(a) Prior to January 1, 2014, these purchases are taxable even when the materials are used by the contractor in furnish and install contracts with tax-exempt governmental entities and tax-exempt educational institutions. A contractor that sells

the materials to a tax-exempt entity under one contract and affixes the materials to realty under a second contract with the same tax-exempt entity is liable for sales or use tax; the fact that the materials are sold and installed under separate contracts does not qualify the contractor's purchase of materials for the sales or use tax exemption found in Sections 40-23-4(a)(11), 40-23-4(a)(15), 40-23-4(a)(17), 40-23-62(2), 40-23-62(13), and 40-23-62(16). (State of Alabama v. Algernon Blair Industrial Contractors, Inc., 362 So. 2d 248 (Ala. Civ. App. 1978) and Alabama Precast Products, Inc. v. Charles A. Boswell, 357 So. 2d 985 (Ala. 1978)). On and after January 1, 2014, however, purchases by contractors which do not qualify for the exemptions in Sections 40-23-4(a)(11), 40-23-4(a)(15), 40-23-4(a)(17), 40-23-62(2), 40-23-62(13), and 40-23-62(16) may qualify for the sales and use tax exemption outlined in paragraph (1)(b) below. (See Rules 810-6-3-69.02).

(b) On and after January 1, 2014, the sale of materials or fixtures to, or the storage, use, or consumption of materials or fixtures by, any contractor or subcontractor to be permanently affixed or attached to gymnasiums or other realty pursuant to a contract awarded on or after January 1, 2014, with a governmental entity, as defined in Rule 810-6-3-.77 entitled Exemption of Certain Purchases by Contractors and Subcontractors in Conjunction with Construction Contracts with Certain Governmental Entities, is exempt from state, county, and municipal sales and use taxes provided the contractor or subcontractor has complied with all provisions of said rule.

(2) Criteria used in determining whether materials furnished and installed in gymnasiums, or other realty, become additions to real property include but are not limited to the following: the materials are physically attached to the realty with bolts; the materials when attached are intended to be permanent and are easily identified with a part of the realty; and the materials are appropriate to the realty to which they are attached - that is the materials or fixtures perform a function appropriate to the real property and such function is necessary or convenient to the normal and appropriate uses of the real property. Examples of these items include but are not limited to the following: wall-attached telescopic bleacher systems, reverse-fold telescopic bleacher systems, lockers, and basketball backstops.

(3) Materials which (i) are not intended to become permanently affixed or attached to gymnasiums, or other realty, (ii) are intended to be mobile, and (iii) do, in fact, retain their identity as tangible personal property; qualify for the sales or use tax exemption found in Sections 40-23-4(a)(11), 40-23-4(a)(15), 40-23-4(a)(17), 40-23-62(2), 40-23-62(13), and 40-23-62(16) when sold to tax-exempt governmental entities or tax-exempt educational institutions. These items are subject to sales or use tax when sold to nonexempt entities. Criteria used in determining whether materials remain tangible personal property include but

are not limited to the following: the materials are not intended to become permanently affixed to realty; the materials can be easily moved from one location to another, and can even be stored out of sight or moved from building to building. An example of an item of this nature includes, but is not limited to, a mobile telescopic bleacher system.
Author: Traci Floyd, Ginger L. Buchanan
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-31, 40-23-60(5), 40-23-83, Act 2013-205.
History: **New Rule:** Filed December 23, 1997; effective January 27, 1998. **Amended:** Filed February 20, 2001; effective March 27, 2001. **Amended:** Filed May 6, 2005; effective June 10, 2005. **Amended:** Filed November 20, 2013; effective December 25, 2013.

810-6-1-.47 Coupons, Receipts From Redemption.

A retail dealer's total receipts in cash, goods, or by credit from the redemption of coupons issued by manufacturers or distributors are to be included in the measure of tax to be paid where the coupons are accepted by him in exchange for, or as part payment for tangible personal property. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.48 Cross Ties, Timbers, Etc. (Repealed 10/20/98).

(Repealed)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: **Repealed:** Filed September 15, 1998; effective October 20, 1998.

810-6-1-.49 Demonstrator Automotive Vehicles, Withdrawal From Stock Of Dealer And Use By Salesmen (Repealed).

Repealed
Author:
Statutory Authority:
History: January 29, 1990. Adopted March 9, 1961. Amended November 1, 1963; August 16, 1974; June 12, 1978; October 16, 1978. Repealed filed December 22, 1989.

810-6-1-.50 Dentists, Dental Laboratories, And Dental Supply Houses.

(1) Dentists or dental laboratories primarily render professional services and incidentally use tangible personal property in connection therewith. The courts have ruled that dentists are not selling dentures and other prosthetic devices when they transfer such items to their patients, and in-state or out-of-state dental laboratories are not making retail sales when they transfer the finished dental appliances to dentists. Consequently, gross receipts of dentist or dental laboratories derived from these sources are not subject to the sales tax. Rather, dentists and dental laboratories are using or consuming the items incidental to performing their professional services, and are required to pay state and local sales or use tax at the time of purchase on all tangible personal property purchased at retail for use in the practice of their profession. Dentists and dental laboratories purchasing machinery, equipment, fixtures, supplies and other tangible personal property from out-of-state dental supply houses and other vendors who fail to collect and remit Alabama tax on such items sold at retail, would subsequently owe use tax when they use or consume the personal property in Alabama as part of their professional services. (Haden v. McCarty, 152 So. 2d 141 (Ala. 1963), and Hamm v. Proctor, 198 So. 2d 782 (Ala. 1967)).

(2) Dental supply houses within or without Alabama engaged in the business of selling tangible personal property such as platinum, gold, silver or cement for fillings, artificial teeth or other such materials to dentists or dental laboratories for use in the performance of such professional services are making sales at retail within the Sales and Use Tax. This is true whether dental supply houses sell materials to a dentist whose services are rendered directly to a patient, or to a dental laboratory that uses them in producing plates, bridge-work, artificial teeth or prosthetic devices on prescription of a dentist, who then uses the latter items in connection with rendering dental services. Dental supply houses likewise make retail sales of dental chairs, motors, instruments, drilling machines, fixtures and other such items of tangible personal property for use by dentists or dental laboratories. Dental supply houses within Alabama and those located outside Alabama that have nexus with Alabama and its municipalities and counties are required to collect and remit the state and local sales or use tax on their retail sales.

Author: Donna Joyner
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted May 18, 1967. Readopted under APA October 31, 1982. **Amended:** December 5, 1984; effective January 10, 1985. **Amended:** Filed April 2, 1997; effective May 7, 1997. **Amended:** Filed August 22, 2006; effective September 26, 2006.

810-6-1-.51 Deposit On Bottles.

(1) Where a retailer sells bottled drinks and the sales price includes the deposit on the bottles and sales tax is charged on the total sales price, the amount of the deposit which is refunded on the return of the empty bottles is not subject to sales tax and may be deducted from the gross proceeds of sales where the retailer refunds the deposit on the bottles and also refunds the sales tax previously collected on the deposit for the bottles.

(2) Where such retailer refunds the deposit on the bottles and at the same time does not refund the sales tax previously collected on the deposit for the bottles, he may not deduct from the gross proceeds of sales the amount of the deposit so refunded and the full sales price of the bottled drinks is to be included in the gross proceeds of sales and the tax collected must be remitted to the state.

Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted July 31, 1963.

810-6-1-.52 Direct Mail Advertising, Printer's Liability.

(1) Alabama sales or use tax is due as follows on sales of printed matter by printers who are required, as part of the sales agreement, to mail the printed matter to address located within Alabama that appear on a list furnished to or provided by the printer:

(a) The printer is located outside Alabama. The mailing list contains addresses located within Alabama and addresses located outside Alabama. Use tax is due on the printed matter sent to addresses within Alabama.

(b) The printer is located within Alabama. The mailing list contains addresses located within Alabama and addresses located outside Alabama. Sales tax is due on the printed matter sent to addresses within Alabama. Sales tax is not due of the printed matter addressed to locations outside Alabama since these sales qualify for exemption as sales in interstate commerce.

(2) The postage paid by the printer to the U.S. Postal Service would not be included in the measure of tax if billed by the printer to the customer as a separate charge and paid by the customer.

Author: Ginger Buchanan
Statutory Authority: Code of Ala. 1975, §40-23-31.

History: Adopted June 12, 1978. Readopted through APA effective October 1, 1982. **Amended:** January 10, 1985; April 3, 1987. §40-23-2(4) and 40-23-1(a)(5). Filed August 22, 1989; December 22, 1989. **Amended:** Filed October 30, 2014; effective December 4, 2014.

810-6-1-.53 Cash Discounts.

Cash discounts when allowed and taken are not to be included in gross proceeds of sales. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.54 Discounts Based On Volume Sales.

Discounts allowed and claimed on the basis of volume sales are deductible from gross sales for sales tax purposes. Such discounts are allowable either on sales as they are made or on accumulated sales totals. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.55 Doctors, Medical.

(1) Medical doctors are the consumers of supplies, office furniture, office fixtures and special tools and equipment which they use in the practice of their profession. Sales of these items to doctors are taxable retail sales. §40-23-1(10).

(2) Drugs as defined in Code of Ala. 1975, §40-23-4.1(a), are exempt when sold to or by medical doctors. (Readopted through APA effective October 1, 1982.)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Filed August 22, 1989; December 22, 1989.

810-6-1-.56 Dual Business.

(1) The term "dual business" as used in this rule shall mean a business which both makes retail sales of tangible personal property to the public on a recurring basis and withdraws tangible personal property for use from the same stock of goods.

(2) Dual businesses in Alabama shall obtain a sales tax license and purchase all of the items they sell and withdraw for use at wholesale, tax-exempt. These businesses shall collect sales tax on their retail sales to nonexempt customers and compute sales tax on items which they withdraw from stock for use. The taxes collected on their sales to nonexempt customers and the taxes computed on their withdrawals shall be reported on their sales tax returns and remitted to the Department of Revenue. State and local sales taxes are due on withdrawals at the time and place of the withdrawal from inventory and shall be computed on the cost of the property to the business making the withdrawal. The sales taxes applicable to withdrawals are those taxes applicable in the jurisdiction where the withdrawal occurs. (Sections 40-23-1(a)(9), 40-23-1(a)(10), and 40-23-6, Code of Ala. 1975).

(3) To qualify as a dual business, the business must have a substantial number of retail sales. Contractors, plumbers, repairmen, and others who make isolated or accommodation sales and who have not set themselves up as being engaged in selling do not qualify as a dual business. Where only isolated sales are made, tax should be paid on all of the taxable property purchased with no sales tax return being required of the seller making such isolated or "accommodation" sales. (Section 40-23-1(a)(10), Code of Ala. 1975).

(4) A dual business operation shall maintain records sufficient to allow a determination of the proper sales taxes due on sales and withdrawals. (Sections 40-2A-7(a)(1) and 40-23-9, Code of Ala. 1975)

Author: Patricia A. Estes, Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-2A-7(a)(1), 40-23-1(a)(9), 40-23-1(a)(10), 40-23-6, 40-23-31, 40-23-9.
History: **Amended:** Filed November 23, 1998; effective December 28, 1998.

810-6-1-.57 Egg Crates, Egg Cartons And Baby Chick Boxes (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.58 Electrical Supplies And Equipment Sold To Contractors And Manufacturers.

(1) Electrical supplies including wire, cable, clamps, outlet fixtures, conduit, and switches are building materials which come under the building materials provisions of Sections 40-23-1(a)(10) and 40-23-60(5). Except as outlined in paragraph (2), electrical supplies are taxable at the general rate of sales or use tax up on the sale to, or use by, the person affixing them to real property, whether that person is a contractor, builder, manufacturer, or any other property owner. (Sections 40-23-1(a)(10), 40-23-2(1), 40-23-60(5), and 40-23-61(a)).

(2) Whether sold to a contractor or directly to the manufacturer, electrical equipment used by manufacturers is taxable at the reduced machine rate of sales or use tax when it is (i) made or manufactured for use on, (ii) necessary to the operation of, and (iii) customarily used as a part of or an attachment to a machine used in manufacturing.

(a) The expressions "made or manufactured for use on," "necessary to the operation of," and "customarily used" are understood to mean that the part or attachment must be purchased substantially in the form in which it will be used by the manufacturer except for the usual and customary adjustments; that it is a standard part or attachment customarily used; and, further, that the machine or machinery on which it is used would not do the work for which designed if it were not so used. This includes all parts and attachments without which the machine would not do any work. In addition, it includes parts and attachments designed to increase the efficiency of the machine.

(b) Items of electrical equipment including starters, switches, and circuit breakers which become a part of or an attachment to a machine used in manufacturing are taxed at the reduced machine rate of sales or use tax. This equipment must either be attached directly to the machine or be immediately adjacent to the machine in order to qualify for the reduced machine rate. (Sections 40-23-2(3) and 40-23-61(b)).

(3) Switchboards, control boards and cabinets controlling the general electrical supply system are not considered to be parts or attachments of machines used in manufacturing. The general rule is that the switch which is the direct control for the machine takes the machine rate and all equipment to that point is taxable at the general rate. (Sections 40-23-2(1), 40-23-61(a)).
Author: Dan DeVaughn

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-2(1), 40-23-2(3), 40-23-31; 40-23-60(5); 40-23-61(a), 40-23-61(b), 40-23-83.
History: Amended: Filed February 3, 1998; effective March 10, 1998.

810-6-1-.59 Welding Rods And Fluxes.

(1) Subject to the criteria outlined in Sales and Use Tax Rule 810-6-1-.80 entitled Ingredient or Component of Product Manufactured or Compounded for Sale. Welding rods and fluxes which are purchased by manufacturers and compounders and which become a component part of the product manufactured or compounded for sale may be purchased at wholesale, tax free. The fluxes must be of the type that have alloying elements that are picked up in the molten pool of metal weld deposit, so that the materials in the flux become a part of the welded structure. (Sections 40-23-1(a)(9)b and 40-23-60(4)(b).

(2) The purchase of welding rods and fluxes for repair work or construction work is subject to the 4 percent sales and/or use taxes whichever may apply.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted September 18, 1964. Readopted under APA October 31, 1982. **Amended:** December 5, 1984. **Amended:** Filed November 5, 1997; effective December 10, 1997.

810-6-1-.60 Opticians, Optometrists, And Ophthalmologists.

(1) The dispensing or transferring of ophthalmic materials, including lenses, frames, eyeglasses, contact lenses, and other therapeutic optic devices, by opticians, optometrists, or ophthalmologists are retail sales subject to sales tax. Such sales are taxable when sold to the ultimate consumer regardless of whether the optician, optometrist or ophthalmologist manufactured the materials for sale or purchased them for resale.

(2) When a licensed optometrist or ophthalmologist exercises professional skills in examining the eyes of a patient and prescribes eyeglasses, contact lenses, or some other ophthalmic material which the optometrist or ophthalmologist dispenses or transfers to that patient, the optometrist or ophthalmologist may separately state the charges for the ophthalmic materials and the charges for the professional services, including dispensing fees or fitting fees, on the invoice to the patient and collect sales tax only on the separately stated charges for the ophthalmic materials which were dispensed or transferred to the patient, provided the optometrist or ophthalmologist also maintains records

which clearly reflect the separate sources of receipts. In the absence of separately stated charges for materials and professional services on the invoices to patients and the maintenance of documentation in the records of the business, the tax shall apply to the total amount billed to the patient. (Section 40-23-1(d))

(3) When the ophthalmic materials are purchased by a consumer covered by a third-party benefit plan, including Medicare, the sales tax shall be applicable to the amount that the ophthalmologist, optometrist, or optician is reimbursed by the third-party benefit plan plus the amount that the consumer pays to the ophthalmologist, optometrist, or optician at the time of the sale. (Section 40-23-1(d))
Author: Ginger Buchanan
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted November 5, 1959. **Amended:** June 12, 1978; April 1, 1981; August 10, 1982. Readopted through APA effective October 1, 1982. **Amended:** Filed February 26, 1987. **Amended:** Filed November 5, 1996; effective December 10, 1996. **Amended:** Filed October 30, 2014; effective December 4, 2014.

810-6-1-.61 Engravers, Sales Of Materials Are At Wholesale, Tax Free, When Such Materials Become A Component Of The Engraving.

Sales of materials to engravers are at wholesale, tax free, when such materials become a component of the engraving, etc., produced for sale. The machine used by the engraver manufacturing the engravings, etc., is taxable at the machine rate. The supplies, materials, and equipment not becoming a component of the product sold or not constituting machines used in manufacturing are subject to the sales or use tax, whichever may apply.
Author: Michele Mayberry
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9)b, 40-23-1(a)(10), 40-23-2(3), 40-23-31, 40-23-83.
History: **Amended:** Filed April 9, 2018; effective May 24, 2018.

810-6-1-.62 Engravers, Sales Of Materials Are At Wholesale, Tax Free When Such Materials Become A Component Of The Engraving (Repealed 5/24/18).

(REPEALED)
Author:
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9)b, 40-23-1(a)(10), 40-23-31, 40-23-83.
History: **Repealed:** Filed April 9, 2018; effective May 24, 2018.

810-6-1-.63 Federal Admission Taxes.

The federal taxes required to be paid on single admissions, season tickets, and rental of boxes are not to be included in the measure of Alabama sales tax where such federal taxes are shown as a separate item properly identified on the tickets or receipts given to the person paying such admissions or rentals or purchasing such tickets.
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.64 Federal Excise Taxes, Manufacturers.

(1) A manufacturer's federal excise tax may not be excluded from the measure of sales or use tax.

(2) Manufacturer's federal excise taxes become another overhead business expense to the retailer which he can take into consideration, together with other business expenses, in determining his selling price.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-1(a)(6), 40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982. Amended October 3, 1987. **Amended:** Filed August 28, 1987; January 15, 1993; April 15, 1993.

810-6-1-.65 Federal Excise Taxes, Retailers.

(1) A federal excise tax which a retailer must collect from his customer as a tax and remit directly to the federal government may be excluded from the measure of sales or use tax only if it is measured by the value of the articles sold at retail and it is billed to the customer as a separate item. AGO Evans, July 31, 1992.

(2) If the retailer bills his customer a lump sum price, including the retail federal excise tax, the sales or use tax applies to the total selling price. (Readopted through APA effective October 1, 1982. Amended October 3, 1987.) §§40-23-1(a)(6) and 40-23-1(a)(8).
Author: Dan DeVaughn.
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982, §40-23-1(a)(6). **Amended:** Filed August 28, 1987. Filed January 15, 1993; April 15, 1993.

810-6-1-.66 **Fencing.**

(1) Fencing materials of all kinds including fence posts, fence wire, and fence accessories are building materials, the sales of which are at retail and subject to tax when made to the person who will attach the fencing materials to real property. Where the person who makes the installation is the manufacturer of the materials used, such manufacturer owes sales tax to be measured by the fair market value of the materials laid down at the job site. The manufacturer is required by the sales tax law to report his use of such materials and pay tax thereon as if he had made a retail sale of the materials. Any fencing materials installed by the manufacturer not manufactured by him are taxed in the usual manner.

(2) In case a vendor or manufacturer of fencing materials is both selling such materials to others for installation by them and furnishing and installing the materials under contract all purchases of fencing materials are at wholesale, tax free. Thereafter both sales to others and withdrawals for use under installation contracts are to be reported as taxable sales to the Department of Revenue.
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Adopted: May 26, 1961. §40-23-1(10).

810-6-1-.67 **Florists, Telegraphic Orders.**

When florists sell through a telegraphic delivery association the following rules will apply:

(a) Alabama florists are liable for sales tax measured by total receipts resulting from orders taken by them for transmittal to a second florist who makes delivery either within or without Alabama. Any expense of making the sale is to be included in the measure of the tax regardless of whether or not the expense is billed as a separate item.

(b) Sales tax does not apply to amounts received by Alabama florists who make deliveries in this state pursuant to telegraphed or telephoned instructions received from florists either within or without Alabama.
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83.
History: Adopted March 9, 1961. **Amended:** July 30, 1962. **Amended:** Filed June 4, 1998; effective July 9, 1998.

810-6-1-.68 Food Trays, Paper Plates And Other One-Time-Use Containers (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.69 Containers, Components Of Containers, Labels, Pallets, And Shipping Supplies.

(1) The term "label" as used in Sections 40-23-1(a)(9)b, 40-23-1(a)(9)c, 40-23-60(4)b, and 40-23-60(4)c, Code of Ala. 1975, and in this rule shall mean a tag or sticker of any material imprinted with information. The term "label" includes price stickers, address stickers, and shipping tags as well as those tags or stickers which identify or describe the property to which they are attached.

(2) The term "components of containers" as used in this rule shall include partitions, cellophane, tissue paper, excelsior, gummed tape, scotch tape, glue, steel straps, twine, string, wire staples, wax paper, and wrapping paper which are used in and on containers to shape, form, preserve, stabilize, or protect the contents of the containers and which accompany the container and the container's contents upon shipment and delivery to the customer.

(3) The term "container" as used in this rule shall mean articles in or on which tangible personal property is placed for shipment and delivery to the purchaser. Containers include bags, barrels, baskets, bottles, boxes, cans, cartons, cores, crates, cups, cylinders, drums, kegs, pails, plates, reels, sacks, and spools.

(4) Containers purchased by manufacturers or compounders for use in packaging products manufactured or compounded by them for sale, including the components of the containers, are not subject to sales or use tax where such containers are passed on to the purchaser of the products contained therein with no intention on the part of either the purchaser or the seller to return the containers or have them returned for reuse. (Sections 40-23-1(a)(9)b and 40-23-60(4)b).

(a) This exclusion for manufacturers and compounders may apply to both inner and outer containers. Accordingly, when manufacturers or compounders place their manufactured or compounded products in cans or bottles and place the cans or

bottles in fiber boxes for shipment to the customer; the cans or bottles and the fiber box qualify for the exclusion if both are intended for one-time use. Alabama-Georgia Syrup Co. v. State, 253 Ala. 49, 42 So. 2d 796 (1949).

(b) Containers, when purchased by manufacturers or compounders for use in purchasing and storing product ingredients prior to using them as ingredients in the manufacturing or compounding process and not purchased for use as one-time-use containers for shipping the manufactured or compounded product to customers, do not qualify for the exclusion. Alabama-Georgia Syrup Co. v. State, 253 Ala. 49, 42 So. 2d 796 (1949).

(5) Containers purchased by retailers for use in packaging products for sale, including the components of the containers, are not subject to sales or use tax where the containers are passed on to the purchaser of the products contained therein with no intention on the part of either the purchaser or the seller to return the containers or have them returned for reuse. (Sections 40-23-1(a)(9)c and 40-23-60(4)c).

(6) Containers and other packaging materials or supplies which are used or consumed in rendering nontaxable services are taxable when purchased by the person who performs the service even when the containers, materials, or supplies are transferred to the purchaser's customer. For example, the operator of a laundry or dry-cleaning establishment is the user or consumer of laundry bags, garment bags, and other packaging materials or supplies and must remit sales or use tax on purchases of these items even though the bags, materials, or supplies may be transferred to the operator's customer.

(7) Unless excluded by statute, containers, including the components of the containers, which are intended to be returned or repurchased for reuse are subject to sales or use tax. Sales of the following items are specifically excluded from sales or use tax regardless of whether there is an intent on the part of the purchaser or the purchaser's customer to return the containers or have them returned for reuse:

(a) Sales of containers to persons engaged in selling, supplying, or furnishing baby chicks to growers where the containers are for use in the delivery of the baby chicks to the grower. (Sections 40-23-1(a)(9)f and 40-23-60(4)f).

(b) Sales of egg crates and egg cartons to egg producers for use in the delivery of eggs to distributors or packers. (Sections 40-23-1(a)(9)f and 40-23-60(4)f).

(c) Sales of bagging and ties for use in preparing cotton for market. (Sections 40-23-1(a)(9)g and 40-23-60(4)g).

(d) Sales of wrapping paper and other wrapping materials to producers, processors, packers, or wholesale or retail sellers of poultry or poultry products for use in preparing poultry or poultry products for delivery, shipment, or sale. This exemption includes (i) pallets used in shipping poultry and eggs, (ii) paper, and (iii) other materials used to line boxes or other containers in which poultry or poultry products are packed together with any other materials including ice placed in the containers for the delivery, shipment, or sale of poultry or poultry products. (Sections 40-23-4(a)(20) and 40-23-62(21)).

(8) Labels are purchased at wholesale, tax-free when (i) the label is purchased by a manufacturer or compounder and affixed to the tangible personal property or product which the manufacturer or compounder manufacturers of compounds for sale or to the furnished container thereof or (ii) the label is purchased to be affixed to one-time-use containers that are purchased without contents and sold or furnished to the purchaser's customer along with the contents placed therein or thereon for sale. (Sections 40-23-1(a)(9)b, 40-23-1(a)9c, 40-23-60(4)b, and 40-23-60(4)c).

(9) Pallets purchased without contents by persons who sell or furnish the pallets along with the contents placed on the pallets for sale are excluded from sales or use tax where the pallets are passed on to the purchaser of the products contained thereon with no intention on the part of either the purchaser or the seller to return the pallets or have them returned for reuse. (Sections 40-23-1(a)(9)d and 40-23-60(4)d).

(10) Crowns, caps, and tops sold to manufacturers or compounders for use upon containers in which the manufacturer or compounder markets its products are excluded from sales or use tax when the crowns, caps, or tops are intended for one-time use only. (Sections 40-23-1(a)(9)e and 40-23-60(4)e).

(11) Except for supplies which qualify for the exemptions contained in Section 40-23-4(a)(10), 40-23-4(a)(40), 40-23-4(a)(42)c, 40-23-62(12), 40-23-62(32), and 40-23-62(34)c, shipping supplies such as nails, lumber, metal straps, dunnage, and plates which are used for fastening or securing manufactured or compounded products into railroad cars, trucks, aircraft, or vessels for shipment are taxable at the time of purchased.

(12) Purchases by retailers, wholesalers, and others of sales tickets, cash register receipt paper, invoice forms, bill of lading forms, and other forms for use in receipting, billing, invoicing, or shipping are taxable.

(13) The following are examples of items sold by suppliers to certain retailers or service providers with notations as to whether the item qualifies as a nontaxable one-time-use container:

(a) RETAIL FOOD STORES (GROCERY & MEAT MARKETS):

Adding Machine Tape	T	Meat Interleaver	NT
Bags and Sacks	NT	Paper Cans	NT
Bag Holders	T	Paper Cutters	T
Brooms - Use	T	Parchment	NT
Broom Holders & Display Racks	T	Patty Paper	NT
Butcher Paper	NT	Plastic Film	NT
Cashier Pads	T	Pork Loin Wrap	NT
Cellophane Bags	NT	Prepackaging Trays	NT
Cellophane, Sheets or Roll	NT	Pressure Sensitive Tape	NT
Cellophane Cutters	T	Price Markers	T
Egg Cartons	NT	Produce Bags	NT
Food Pails and Tubs	NT	Roll Paper	NT
Greaseproof Paper	NT	Sausage Boxes and Liners	NT
Grocery Bags	NT	Signboard	T
Gum Tape	NT	Skewer	
T(1)			
Gum Tape Dispensers	T	Steak Interleaver	NT
Heat Sealing Equipment	T	Sugar Bags	NT
Ice Cream Bags	NT	Sweeping Compound	T
Labels	NT	Ti-Paks and Twisters	NT
Locker Paper	NT	Trays	NT
Marking Pencils	T	Twine	NT
Meat Boards	NT	Window Display Bags	NT

(1) Nontaxable only if accompanies sale and cannot be reused.

(b) FOOD AND BEVERAGE SERVERS: (Restaurants, Drive-ins, Cafeterias, Concession Stands, Bars, Lounges and Night Clubs)

Adding Machine Tape	T	Paper Cans and Pails	NT
Aluminum Foil	T	Paper Plates	NT
Aluminum Plates	NT	Paper Trays	NT
Barbeque Bags	NT	Paper Linen Caps	T
Bibs	NT(2)		NT

		Paper Liners for Food Trays	
Burger Cups	NT	Patty Paper	NT
Burger Cup Holders	T	Place Mats	
	NT(1)		
Butter Chips	NT	Printing Charge on Special Print Orders	T
Chop holders	T	Sandwich Bags	NT
Coasters	T	Sandwich and Drink Trays	NT
Cocktail Forks and Spoons	T(1)	Skewers	T
Coffee Stirrers	NT(2)	Soufflé Cups	NT
Crab Shells	NT(1)	Steak Markers	
	NT(1)		
Creamer Caps	NT	Straws	
	NT(2)		
Cups and Lids	NT	Sundae Dishes	
	NT(1)		
Cup Carriers	NT(1)	Table Covers	T
Cup Dispensers	T	Table Wiping Towels	T
Doilies	T	Tableware, Plastic & Spoons	
	NT(2)		
Eclair Cases	NT	Tissue, 12 x 12 M.G.	
	NT(1)		
Guest Checks	T	Toilet Tissue	T
Hot Dog Trays	NT	Tooth Picks and Frills	T
Kone Bottles	NT	Towelettes, Moist	
	NT(2)		
Napkins	NT(2)	Towels	T
Napkin Dispensers	T	Tray Covers	T
Paper Bags	NT	Waxed Paper	

	NT(1)		
Paper Cans and Pails	NT(1)	Wooden Forks and Spoons	
	NT(2)		
Paper Plates	NT	Wooden Dishes	
	NT(1)		
		Wooden Skewers	
	NT(2)		

(1) Nontaxable only if accompanies sale and cannot be reused.

(2) Amended to conform to the decision of the Alabama Court of Civil Appeals in the case, State Department of Revenue v. Kelly's Food Concepts of Alabama, LLP

(c) LAUNDRY AND DRY CLEANING SUPPLIES:

Bridal Gown Boxes	T	Shirt Bags	T
Coat Retainers	T	Shirt Bands	T
Collar Supports	T	Shirt Boards	T
Garment Bags,	T	Shirt Boxes	T
Garment Roll Film	T	Shirt Pax	T
Garment Roll Film Dispenser Racks	T	Shirt Shells	T
Hanger Shields and Guards	T	Storage Bags	T
Hangers	T	Sweater Bags	T
Laundry Boxes	T	Tape	T
Laundry and Launderette Bags	T	Trouser Guards	T
Laundry Shells	T	Twine	T
Paper Cutters	T	Wrapping Paper	T

(d) RETAIL BAKERY AND CANDY SHOPS:

Adding Machine Tape	T	Jiffy Bags	NT
Aluminum Foil	NT(1)	Labels	NT
Aluminum Pie and Cake Plates	NT(1)	Marking Pencils	T
Bakery Bags	NT	Pan Liners	
NT(1)			
Bakery Boxes	NT	Paper Cans	NT
Bakery Tissue	NT	Paper Caps	T
Baking Cups	NT(1)	Paper Cutters	T
Bread Bags	NT		

		Paper Pie Plates	
NT(1)			
Cake Circles	NT(1)	Parchment	NT
Candy Bags	NT	Ribbon	NT

(1) Nontaxable only if accompanies sale and cannot be reused.

(2) If used as part of package.

Candy Cups	NT	Sales Books	T
Cellophane	NT	Sandwich Bags	NT
Cellophane Bags	NT	Sandwich Wrap	NT
Doilies	NT(1)	Shredded Cellophane	NT
Eclair Cups	NT(1)	Signboard	T
Food Pails and Tubs	NT(1)	Sweeping Compound	T
Gift Wrap	NT	Tooth Picks and Frills	T
Glassine Bags	NT	Transparent Tape	
NT(2)			
Grocery Bags	NT	Twine	NT
Gum Tape	NT(2)	Wax Paper	NT
Gum Tape Dispensers	T	Window Bags	NT
Heat Sealing Equipment	T	Wrapping Paper	NT

(e) DRUG, VARIETY, AND SUNDRY STORES: (See also Food and Beverage Servers)

Adding Machine Tape	T	Notion Bags	NT
Gift Wrapping Paper	NT	Paper Cutters	NT
Grocery Bags	NT	Prescription Bags	NT
Guest Checks	T	Ribbon and Accessories	NT
Gum Tape	NT		
Gum Tape Dispensers	T	Sanitary Napkin Bags (resale)	NT
Prescription Medicine Bottles	NT(1)	Shopping Bags	NT
Prescription Medicine Boxes	NT(1)	Signboard	T
Prescription Medicine Jars	NT(1)	Twine	NT
Millinery Bags	NT	Wrapping Paper	NT

(1) Nontaxable only if accompanies sale and cannot be reused

(2) If used as part of package

(f) FLORISTS AND NURSERIES: (1)

Cellophane	NT	Polyethylene Rolls and Bags	NT
Cellophane Bags	NT	Polyethylene & Paper Cutters	NT
Cellophane Tape	NT	Pressure Sensitive Tape	NT
Florist Tissue	NT	Ribbon and Accessories	NT
Flower Boxes	NT	Shredded Cellophane	NT
Gift Papers and Foil	NT	Twine	NT
Gummed Tape	NT	Wrapping Paper	NT
Gummed Tape Dispensers	T	Wrapping Tissue	NT
Paper Bags	NT		

(g) RETAIL DEPARTMENT STORES & SPECIALTY STORES: (Includes Book & Stationery Stores, Gift Shops, Hardware Stores, etc.)

Curtained Rod Bags	NT	Notion Bags	NT
Garment Bags	NT	Paper Cutters	T
Garment Bag Boxes	NT	Record Bags	NT
Gift Boxes	NT	Ribbon and Accessories	NT
Gift Wrap	NT	Sales Books	T
Grocery Bags	NT	Shirt Bags	NT
Gum Tape	NT	Shoe Bags	NT
Gum Tape Dispenser	T	Shopping Bags	NT
Ice Bags	NT	Shredded Cellophane	NT
Jiffy Bags	NT	Shredded Tissue	NT

Labels	NT	Signboard	T
Lampshade Bags	NT	Transparent Tape	NT
Marking Pencils	NT	Twine	NT
Millinery Bags	NT	Wrapping Paper	NT
Millinery Boxes	NT	Wrapping Tissue	NT
Nail Bags	NT		

(h) MEAT AND POULTRY PACKERS, FOOD LOCKERS AND DAIRIES: (1)

Butcher Paper	NT	Ice Cream Cans and Carton	NT
Butter Tubs	NT	Ice Cream Pails	NT
Butter Wraps	NT	Ice Cream Sticks	NT
Cellophane and Plastic Films	NT	Marking Pencils	T
Cellophane Tape	NT	Meat Boards	NT
Chic Pax	NT	Parchment	NT
Chic Trainer Trays	NT	Poly Bags	NT
Cone Bottles	NT	Pork Loin Wrap	NT
Creamer Caps	NT	Poultry Bags	NT
Cups and Tubs	NT	Sacks	NT
Egg Cartons	NT	Sausage Boxes & Liners	NT
Freezer and Locker Paper	NT	Spoons, Forks and Knives	NT
Freezer Tape	NT	Straws	T
Grocery Bags	NT	Ti-Paks and Twisters	NT
Gum Tape	NT	Twine	NT
Gum Tape Dispenser	T	Waxed Paper	NT
Ham Wraps	NT	Wrapping Paper	NT
Ice Cream Bags	NT		

(1) If the sales are made to a food locker business - it must be determined if the products are used in rendering a service, or if they are in the actual retail meat business. If they are wrapping meat for customers to be stored in their individual lockers - this is a service and the items are taxable.

(i) FARMS, ASSEMBLERS OF FARM PRODUCTS:

Box Liners	NT	Hay Baling Ties or Twine	
NT(1)			
Butter Tubs	NT	Labels	NT
Car Liners	T	Marking Pencils	T
Cellophane	NTNT	Poly Bags	NT
Cellophane Bags	NT	Poly Sheets and Rolls	
Cellophane Tape	NT	Potato Bags	NT
Chic Pak	NT	Poultry Bags	NT
Chic Trainer Trays	NT	Prepackage Trays	NT
Containers for Packaging Bees or Worms for Sale	NT(1)	Shredded Paper and Cellophane	NT
Egg Cartons	NT	Tomato Cartons	NT
Flour and Meal Bags	NT	Twine	NT
Fruit Baskets	NT(1)	Window Bags	NT
Grocery Bags	NT	Wrapping Paper	NT
Gum Tape	NT	Wrapping Tissue	NT
Gum Tape Dispensers	T		

(1) Nontaxable if accompanies sale and cannot be reused.

Author: Ginger Buchanan
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9)d, 40-23-1(a)(9)e, 40-23-1(a)(9)(f), 40-23-1(a)(9)g, 40-23-4(a)(10), 40-23-4(a)(20), 40-23-4(a)(40), 40-23-4(a)(42)c, 40-23-31, 40-23-60(4)d, 40-23-60(4)e, 40-23-60(4)f, 40-23-60(4)g, 40-23-62(12), 40-23-62(21), 40-23-62(32), 40-23-62(34)c, 40-23-31, 40-23-83.
History: Adopted: March 9, 1961. **Amended:** July 27, 1964. Readopted through APA effective October 1, 1982 Filed: April 13, 1994. **Amended:** Filed June 20, 1994; effective July 25, 1994. **Amended:** Filed June 25, 1998; effective July 30, 1998. **Amended:** Filed January 27, 2015; effective March 3, 2015.

810-6-1-.70 Furnished Containers, Pallets (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted January 20, 1966. Readopted through APA effective October 1, 1982. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.71 Grease Protective (Repealed 1/27/98).

(Repealed)
Author:
Statutory Authority:
History: **Repealed:** Filed December 23, 1997; effective January 27, 1998.

810-6-1-.72 Gases: Acetylene, Oxygen, Hydrogen.

(1) All sales to consumers such as dentists, doctors, private hospitals, manufacturers, refiners, repairmen, welders, or junk dealers of acetylene, oxygen, hydrogen, and other gases for use in rendering professional medical services or in manufacturing, processing, or repairing are subject to sales or use tax. (§§40-23-1(10) and 40-23-60(5)).

(2) Sales of these gases to manufacturers or compounders where the gas enters into and becomes an ingredient or component part of the product manufactured or compounded for sale are at wholesale, tax-free. For example, sales of oxygen to manufacturers of steel where the oxygen becomes an ingredient or component part of the product manufactured for sale are nontaxable wholesale sales. (State v. United States Steel Corporation, 206 So.2d 358) See Rule 810-6-1-.

80 entitled Ingredient or Component of Product Manufactured or Components for Sale. (Sections 40-23-1(a)(9)b and 40-23-60(4)b).

(3) Sales of these gases to dealers for resale are not taxable. (Sections 40-23-1(a)(9)a and 40-23-60(4)a)
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9)a, (a)(9)b, (a)(10), 40-23-31, 40-23-60(4)(a), (4)b, (5), 40-23-83.
History: Amended: Filed June 4, 1998; effective July 9, 1998.

810-6-1-.73 Gases: Propane And Butane.

Sales at retail of propane and butane gases or any similar gas are subject to sales or use tax, whichever may apply. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.74 Gases Sold To Hospitals, Etc. (Repealed 7/9/98).

(Repealed)
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-31, 40-23-83.
History: Repealed: Filed June 4, 1998; effective July 9, 1998.

810-6-1-.75 Gratuities And Tips.

(1) The terms "gratuity" and “tip” as used in this rule shall mean a monetary amount paid by a customer in a bar, restaurant, or similar establishment usually in return for or in anticipation of some service. While a gratuity or tip is generally thought of as a voluntary monetary gift, in practice some retailers add a mandatory gratuity to the customer’s bill.

(2) Sales tax does not apply to voluntary gratuities or tips, whether in cash or otherwise added by the customer to the bill, when given directly to the retailer’s employee by the customer or given to the retailer who receives no benefit from the gratuity or tip and merely acts as a conduit to channel the gratuity or tip in total to the retailer’s employee.

(3) Sales tax applies to mandatory charges designated as gratuities, minimum service charges, or other minimum charges

billed to customers by retailers, whether listed separately on the customer's bill or included as part of the selling price of the food, meal, or drinks, when the retailer receives a benefit from the added charges such as using all or a portion of the mandatory charges to supplement the wages or salaries of the retailer's employees. (State v. International Trade Club, Inc., 351 So. 2d 895 (Ala. Civ. App. 1977)) (Sections 40-23-1(a)(6) and 40-23-1(a)(8), Code of Ala. 1975).

(4) A mandatory charge designated as a gratuity, minimum service charge, or other minimum charge is not taxable when the retailer collects the charge from the customer in lieu of voluntary gratuities or tips and merely acts as a conduit to channel the charge in total to his or her employees. Added charges of this nature are simply substitutes for cash tips and the retailer receives no benefit from the charge. (State v. International Trade Club, Inc., 351 So. 2d 895 (Ala. Civ. App. 1977)).
Author: Patricia Estes & Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83, 40-23-1(a)(6), and 40-23-1(a)(8).
History: Adopted November 3, 1980. Readopted under APA October 31, 1982. Amended December 5, 1984; amendment effective January 10, 1985. **Amended:** Filed September 15, 1998; effective October 20, 1998.

810-6-1-.76 Hospitals, Infirmaries, Sanitariums, And Like Institutions - Private.

(1) Private hospitals, infirmaries, sanitariums, and like institutions are required to pay sales tax or use taxes, whichever may apply, on their purchases of tangible personal property. (Sections 40-23-2 and 40-23-61, Code of Ala. 1975).

(2) Private hospitals, infirmaries, sanitariums and like institutions are primarily engaged in the business of rendering services. They are not required to collect and remit sales tax on their gross receipts from meals, bandages, dressings, drugs, x-ray photographs, or other tangible personal property when the items are used in rendering hospital services. This is true irrespective of whether or not the tangible personal property is billed separately to their patients. Private hospitals, infirmaries, sanitariums, and like institutions are deemed to be the purchasers for use or consumption of the tangible personal property; and, the sellers of these items are required to collect sales or use tax on sales of the property to the institutions. Provided, however, purchases by private hospitals, infirmaries, sanitariums, and like institutions of drugs as defined in Section 40-23-4.1(a), Code of Ala. 1975, are specifically exempt from sales and use tax. (Sections 40-23-2, 40-23-4.1, and 40-23-61).

(3) When private hospitals, infirmaries, sanitariums, and like institutions furnish meals to nurses, attendants and patients as a part of their services rendered, the institutions are deemed to be the users or consumers of the food and beverages used in the preparation of these meals. Sales or use tax is due on the purchase of the food and beverages by the institution in the manner outlined in paragraph (2) unless the institution also operates a cafeteria which serves the public. (Sections 40-23-2 and 40-23-61).

(4) Privately-owned hospitals, infirmaries, sanitariums, and like institutions that operate cafeterias serving meals to the public must purchase all foodstuffs and beverages at wholesale, tax free, and collect the sales tax on sales of meals to their customers and remit the tax to the Department of Revenue. These institutions must also compute and pay tax to the Department of Revenue on the cost of foodstuffs withdrawn from stock and used to feed patients. (Sections 40-23-1(6) and 40-23-1(10)).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted March 9, 1961. Amended November 1, 1963. Readopted through APA effective October 1, 1982. Filed August 22, 1989; December 22, 1989. **Amended:** Filed September 15, 1998; effective October 20, 1998.

810-6-1-.77 Hymn Books And Religious Publications (Repealed 12/28/98).

(REPEALED)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed November 23, 1998; effective December 28, 1998.

810-6-1-.77.01 Ice, Sales Of.

(1) Sales of ice to purchasers who have a sales tax license number are sales at wholesale not subject to sales or use tax, provided the purchaser is buying the ice of resale. (Sections 40-23-1(a)(9)a and 40-23-60(4)a).

(2) Sales of ice to purchasers for use as an ingredient of iced drinks manufactured or compounded for sale are sales at wholesale not subject to sales or use tax. (Section 40-23-1(a)(9)b and 40-23-60(4)b).

(3) Sales of ice to transportation companies or others for use in icing railroad cars or refrigeration trucks are subject to sales or use tax. (Section 40-23-1(a)(10) and 40-23-60(5)).

Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9a, 40-23-1(a)(9)b, 40-23-1(a)10), 40-23-31, 40-23-60(4)a, 40-23-60(4)b, 40-23-60(5), 40-23-83.
History: **Amended:** Filed February 3, 1998; effective March 10, 1998.

810-6-1-.78 **Ice, Sales To Compounders Of Drinks (Repealed 3/10/98).**

(Repealed)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83.
History: **Repealed:** Filed February 3, 1998; effective March 10, 1998.

810-6-1-.79 **Ice Used In Icing Railroad Cars (Repealed 3/10/98).**

(Repealed)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83.
History: **Repealed:** Filed February 3, 1998; effective March 10, 1998.

810-6-1-.79.03 **Industrial Uniforms, Sales Or Replacement Of.**

When a lessee is required under a contract lessor to reimburse the lessor for the depreciated value of any item lost or not returned by the lessee, the transaction is not a retail sale; therefore, no sales tax is due. (See State of Alabama v. Industrial Uniform Services Inc.)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Adopted June 12, 1978.)

810-6-1-.80 **Ingredient Or Component Of Product Manufactured Or Compounded For Sale.**

(1) Subject to the qualifications outlined in paragraph (2), tangible personal property which is purchased by a manufactured or compounded and which enters into and becomes an ingredient or component part of the final product manufactured or compounded for

sale may be purchased at wholesale, tax free, for both sales and use tax purposes, regardless of whether the property is used with the intent that it becomes an ingredient or component part of the finished product. The burden of proving that such materials do in fact become an ingredient or component part of the finished product must be carried by the manufacturer or compounder. (Sections 40-23-1(a)(9)b and 40-23-60(4)b).

(2) In order to qualify for the wholesale sale exclusion contained in Sections 40-23-1(a)(9)b and 40-23-60(4)b), the tangible personal property purchased by the manufacturer or compounder must be present in the final product and must not be deducted as depreciation or as a Section 179 expense deduction as allowed under Section 40-18-35(a)(17), on the manufacturer's or compounder's Alabama income tax return. (Sections 40-23-1(a)(9)b and 40-23-60(4)b).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83.
History: **Amended:** Filed February 4, 1985. **Amended:** Filed November 5, 1997; effective December 10, 1997.

810-6-1-.80.01 Oils Used In Aluminum Rolling Process.

Oils used in the hot or cold aluminum rolling processes have been determined to remain on and become an ingredient or component part of the rolled aluminum and, therefore, subject to the criteria outlined in Sales and Use Tax Rule 810-6-1-.80 entitled ingredient or Component of Product Manufactured or Compounded for Sale may be purchased by the processor at wholesale, free of sales or use tax.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-1(a)(9)b, 40-23-6(4)b), 40-2A-7(a)(5),40-23-31, 40-23-83.
History: Filed August 22, 1989; December 22, 1989. **Amended:** Filed November 5, 1997; effective December 10, 1997.

810-6-1-.80.02 Materials Purchases By Manufacturers And Compounders For Use As Rust Preventatives Or Protective Coatings.

Materials, including grease and other petroleum products, purchased by manufacturers or compounders for use as a rust preventative or a protective coating for metal products while in storage or in shipment are exempt from sales or use tax when they remain on the final product manufactured or compounded for sale.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-2A-7(a)(5),40-23-31, 40-23-83, 40-23-1(a)(9)b, 40-23-60(4)b.

History: Amended: Filed December 23, 1998; effective January 27, 1998.

810-6-1-.81 Installation Charges.

(1) Where the quoted or advertised price is a lump sum for both property and installation or where billing and other records do not show separate charges for property and for installation, the measure of the tax is the total amount received by the seller.

(2) Where the seller has a standard retail sales price for his products and where the standard sales price is used both when making across-the-counter sales and when selling and installing the property, he may make a separate and additional charge for making the installation which, when shown separately in his billings and on his books, will not be subject to the sales tax. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-1(6).
History:

810-6-1-.81.01 Interior Decorators And Interior Designers.

(1) Further, these interior decorators must collect sales tax from their clients on their retail sales of tangible personal property and remit the tax to the Department of Revenue. Out-of-state interior decorators and interior designers, who do not have a place of business in Alabama but for whose business sufficient nexus exists, must register to collect sellers use tax on their Alabama sales and collect and remit sellers use tax to the Department of Revenue on those sales. (Sections 40-23-6 and 40-23-66).

(2) Fees charged by interior decorators or interior designers in conjunction with sales of tangible personal property are a part of the gross proceeds of sales and must be included in the measure of sales or use tax charged to and collected from their clients. Fees charged by interior decorators or interior designers are taxable even if they are billed to clients as an amount separate from the cost of tangible personal property on a cost plus basis. (Sections 40-23-1(a)(6), 40-23-1(a)(8), and 40-23-60(10)).

(3) Sales or use tax does not apply to fees charged by interior decorators or interior designers solely for consultation or designing services when no sale of tangible personal property occurs in conjunction with those services.

(4) In those instances where interior decorators or interior designers receive a fixed sum fee which is not in any way

contingent upon the sale of tangible personal property and, subsequently, sell tangible personal property in a completely unrelated transaction, the fixed sum fee is not a part of the selling price of the tangible personal property and is not subject to sales or use tax.

(5) Interior decorators or interior designers who contract to furnish and install tangible personal property which becomes a part of realty are the users or consumers of such property and owe sales or use tax on the cost of the property so used or consumed. Property withdrawn from inventory by an interior decorator or interior designer for use in performing contracts for additions or improvements to realty must be reported as taxable withdrawals and the sales tax thereon remitted directly to the Department of Revenue. The measure of tax on withdrawals is the cost of the property to the interior decorator or interior designer who withdraws the property. Except as enumerated in Rule 810-6-3-.77, interior decorators or interior designers making additions or improvements to realty may not claim immunity or exemption from sales or use tax on account of property purchased and used in connection with contracts with the federal, state, county, or city governments. The fact that a governmental agency has advised the interior decorator or interior designer not to include tax on the invitation to bid or purchase order would not relieve the interior decorator or interior designer from liability for sales or use tax on the cost of materials used in fulfilling a contract with that agency for making additions or improvements to realty. (Sections 40-23-1(a)(10) and 40-23-60(5)).
Author: Ginger L. Buchanan
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-9-33, 40-23-1(a)(6), 40-23-1(a)(8), 40-23-1(a)(10), 40-23-6, 40-23-31, 40-23-60(5), 40-23-60(10), 40-23-66, 40-23-83.
History: Filed November 19, 1990; March 20, 1991. **Amended:** Filed February 20, 2001; effective March 27, 2001. **Amended:** Filed May 6, 2005; effective June 10, 2005.

810-6-1-.82 **Label Furnished Manufacturer And Compounder (Repealed 7/30/98).**

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31, 40-23-83.
History: Filed August 22, 1989; December 22, 1989. Filed April 21, 1992; August 20, 1992. **Repealed:** Filed June 25, 1998; effective July 30, 1998

810-6-1-.83 Label, One-Time-Use Container (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Filed August 22, 1989; December 22, 1989. Filed April 21, 1992; August 20, 1992. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.84 Labor Or Service Charges.

(1) The term "new or different" as used in this rule shall mean new or different insofar as the ultimate purchaser is concerned. The fact that work may be performed at various stages before an item is ready for use by the ultimate purchaser does not mean that the item is not a new item.

(2) Sales or use tax applies to labor or service charges billed to customers in conjunction with sales of tangible personal property and repairs to tangible personal property as follows:

(a) Labor or service charges, whether included in the total charge for the product or billed as a separate item, are taxable if the labor or service (i) is incidental to making, producing, or fabricating a new or different item of tangible personal property or otherwise preparing the tangible personal property for sale and (ii) is performed prior to transfer of title to the purchaser. (Sections 40-23-1(a)(6), 40-23-1(a)(8), and 40-23-60(10), Code of Ala. 1975).

(b) Labor or service charges are not taxable when billed for labor or services expended in repairing or altering existing tangible personal property belonging to another in order to restore the property to its original condition or usefulness without producing new parts. When repair work includes the sale of repair parts in conjunction with repairs to existing tangible personal property belonging to another, only the sales price of the repair parts is taxable provided the charges for the repair parts and the charges for the repair labor or repair services are billed separately on the invoice to the customer. If the repairman fabricates repair parts which are used in conjunction with repairs to existing tangible personal property belonging to another, the total charge for the parts, including any labor or service charges incurred in making, producing, or fabricating the parts, is taxable even if the fabrication labor or service charges are billed to the customer as a separate item. (Sections

40-23-1(a)(6), 40-23-1(a)(8), and 40-23-60(10), Code of Ala. 1975).
Author: Patricia A. Estes, Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-1(a)(8), 40-23-31, 40-23-60(10), 40-23-83.
History: Amended: Filed November 23, 1998; effective December 28, 1998.

810-6-1-.85 Laundries, Dry-Cleaning Establishments.

(1) Laundries and dry cleaning establishments in washing, dry cleaning, dying, pressing and otherwise reconditioning clothing, curtains, drapes, linens, rugs and other articles are performing a service which is not subject to the sales tax.

(2) The materials, supplies, and equipment used or consumed in rendering laundry and dry cleaning services are subject to sales or use tax, whichever may apply. The tax due is to be paid by the laundry or dry cleaning establishment to the supplier where the supplier is required to collect the tax or directly to the Department of Revenue as use tax where the supplier does not collect the tax.

(3) In case the laundry or dry cleaning establishment makes sales of tangible personal property at retail as well as renders services such sales are subject to sales tax. The goods acquired for resale at retail are purchased at wholesale tax free.
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted May 26, 1961.

810-6-1-.86 Laundry And Garment Bags (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.88 Lawyers.

Lawyers use law books, supplies, and equipment, which books, etc., are taxable. 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.89 Lease Sales-Retention Of Title.

Transfers of property constitute sales when made under lease-sale or retention-of-title contracts where these contracts contemplate transfer of ownership when all of the agreed upon payments have been made. §40-23-1(5).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.89.02 Licensed Dealers, Sales To.

(1) Sales to dealers at wholesale. Sales of tangible personal property are sales at wholesale, not subject to tax, when made to a licensed dealer to be put into the stock of goods offered for sale by the dealer, notwithstanding the fact that the dealer may occasionally or habitually withdraw from stock some part of the inventory for use or consumption in connection with the business or for the personal use or consumption of the dealer. Such withdrawals shall be reported on the licensed dealer's sales tax return and the sales tax thereon computed and remitted to the Department of Revenue. The sales tax on withdrawals shall be computed on the cost to the dealer of the property withdrawn. See Rule 810-6-1-.196 Withdrawals from Inventory. [Sections 40-23-1(a)(6), 40-23-1(a)(8), 40-23-1(a)(9)a, and 40-23-1(a)(10)].

(2) Sales to dealers at retail. Sales of tangible personal property to a licensed dealer for his own use or consumption rather than for resale purposes are sales at retail and are subject to tax. (Sections 40-23-1(a)(10) and 40-23-2).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-2A-7(a)(5), 40-23-1(a)(6), 40-23-1-(a)(8); 40-23-1(a)(9)a, 40-23-1(a)(10), 40-23-31, 40-32-83, 40-23-2.
History: **Amended:** Filed December 23, 1997; effective January 27, 1998.

810-6-1-.90 Machine Shops.

(1) Sales of property manufactured or fabricated by machine shops and custom foundries are subject to sales or use tax, except when the sale is for resale or otherwise specifically exempted.

(2) In doing repair work the machine shop operator consumes materials such as paint, solder, babbitt, and lumber which lose their identity in the repairing process. The machine shop operator

is also considered to be the consumer of items such as cotter keys, nails, washers, stove bolts and nuts, bits of metal, and sheets of metal used in patching, mending, or reinforcing weakened parts. The machine shop operator shall not collect sales or use tax from the customer on amounts billed to the customer for the cost of these materials which the operator consumes in performing repair work; instead, the operator shall remit sales or use tax to the supplier at the time of the operator's purchase of the materials.

(3) Where in making repairs the machine shop operator fabricates or manufactures a recognizable part or attachment for the article being repaired (as contrasted to patching, mending, or reinforcing weakened parts), the operator shall bill the parts or attachments separately and collect sales or use tax only on the sales price of the part or attachment. If the machine shop operator fails to separately state the charges for parts and attachments and the charges for services, the operator shall collect sales or use tax on the total amount of the charges billed to the customer. Under no circumstances, however, shall the machine shop operator deduct labor or other costs which go into the fabrication or manufacture of a recognizable part or attachment from the selling price of the part or attachment. Sections 40-23-1(a)(6) and 40-23-60(10), Code of Ala. 1975.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Amended: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.91 Made-To-Order And Custom Sales.

Where persons contract to manufacture, compound, process or fabricate their materials into articles of tangible personal property according to the special order of their customers, the total receipts from the sales of such articles are subject to the sales or use tax, whichever may apply. The seller may not deduct any of his costs, nor can he deduct any of his charges for labor or services, which are an item of the production or fabrication costs of the article, to arrive at the taxable amount. Articles commonly made to order are curtains, draperies, tents, awnings, clothing, and slipcovers. The person making sales of made-to-order and custom made articles purchases the materials which become a component or ingredient of their products at wholesale, tax free. The equipment, tools and supplies used or consumed in the production of such articles and not becoming a part thereof are subject to tax, except that machines used in such production are specifically taxed at one and one-half percent rather than the general rate of four percent. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted March 6, 1961. Amended November 1, 1963.)

810-6-1-.92 Manufacturer's Use Of Electrical Supplies, Susceptibility To The Sales & Use Tax (Repealed 3/10/98).

(Repealed)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-2(3), 40-23-31, 40-23-83.
History: Repealed: Filed February 3, 1998; effective March 10, 1998.

810-6-1-.93 Materials From Which Patterns Are Manufactured.

Pattern makers who make patterns which they sell to others for use, purchase at wholesale tax free the materials from which such patterns are made.
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.94 Materials Used In Plating.

(1) Materials purchased by a person, firm, or corporation for use in further processing or manufacturing tangible personal property not owned by the person, firm, or corporation but owned by a manufacturer or a compounder are exempt from the sales and/or use tax when the tangible personal property is to be ultimately sold at retail.

(2) The materials used in plating tangible personal property not belonging to the plating company are subject to the sales and/or use tax when the plating company customers used the product which was plated for the customer and there was no retail sale of the product. The materials used in this category are not purchased by or used by the manufacturer or compounder who manufactures or compounds a product for sale; therefore, the purchase of the materials does not fall within the meaning of the term "wholesale" as found in Code of Ala. 1975, §40-23-1(9). (Adopted July 2, 1975. Amended June 12, 1978.).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.95 Materials Used In Repairing.

(1) Materials used in repairing, for tax purposes, fall into the following classes:

(a) Materials which pass to the repairman's customer and which do not lose their identity when used by the repairman and which are a substantial part of the repair job (such as auto repair parts, radio tubes, and condensers) are sold at retail by the repairman. He must collect and report sales tax on such sales, including tax on the service incidental thereto. He may, however, if making a separate agreement to sell the repair parts and to perform the labor and service required, collect and remit the tax only upon the price of the parts if his records and his invoices clearly show a separation of the amounts received from sales and parts and from rendering service.

(b) Materials which pass to the repairman's customer but which lose their identity when used by the repairman or which are inconsequential in amount, such as paint, solder, and tacks, are considered to have been used or consumed by the repairman and are taxable at the time of sale to him.

(c) Materials which are used or consumed by the repairman and which do not pass on to his customer are supplies and taxable when sold to the repairman. §40-23-1(10).

(d) Materials which fall in classes (b) or (c) are purchased at wholesale for use by a repairman who, in addition to using such materials as a repairman, sells the same kinds of materials for use by others. These materials become subject to the sales tax upon their withdrawal for use by the repairman under the withdrawal feature of §40-23-1(6), (8), and (10). Note, however, that a repairman is not to be considered a vendor of these classes of materials unless he carries a stock of them and sells outright therefrom a substantial amount. If the repairman makes only isolated sales or "accommodation" sales of these materials he is not to be considered as a seller of them under the sales tax law, in which case his supplier must collect the tax.

(2) In all instances, materials are taxable when sold to repairmen for use in making repairs where such materials lose their identity as a result of such use, for instance, solder used in welding, paint used in automobile refinishing, thread used in mending clothing. In all instances where the shape or composition of the repair material is materially changed, such altered or changed material is considered to have been used or consumed by the repairman and, for that reason, subject to tax when sold to him.

No tax on this material is to be collected by the repairman from his customer.

(3) In instances where repair materials and repair parts are passed to the repairman's customer without change, except necessary and customary minor adjustments, such parts or materials may be purchased at wholesale by the repairman licensed under the Sales Tax Law. The repairman is then required to collect sales tax from his customer.
Author: Horace L. Hitt
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Rule originally adopted as Rule #R27-011, then readopted under APA October 1, 1982. Amendment: Adopted October 8, 1985.

810-6-1-.96 **Materials Used In Repairing Which Pass To The Repairman's Customer But Do Lose Their Identity (Repealed Effective November 27, 1985).**

Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: **Repealed:** Effective November 27, 1985.

810-6-1-.97 **Materials Used On Road And Bridge Projects.**

(1)(a) Sales of sand, gravel, or other building materials by landowners or other suppliers who regularly sell or offer to sell these materials are subject to sales tax when made to contractors for the State of Alabama or the counties or municipalities of the State for use by the contractors in building roads or bridges. This rule applies in all instances where the contractor is obligated by the terms of the contract to furnish, to pay for, and to lay down the materials, including sales of materials which have been selected by and on which an option has been taken by the state or the counties or municipalities of the State. The supplier shall collect the tax from the contractor and remit the amount due to the Department of Revenue. (Sections 40-23-1(a)(10) and 40-23-60(5)).

(2) Where an isolated sale of sand, gravel, or similar material is made to a contractor by a landowner who is not engaged in the business of selling such material, the isolated sale will not be required to be reported to the Department and neither sales tax nor use tax will be due from the landowner or from the contractor on the transaction.
Author: Traci Floyd, Ginger L. Buchanan
Statutory Authority: Code of Ala. 1975 §§40-2A-7(a)(5), 40-9-33, 40-23-1(a)(10), 40-23-31, 40-23-60(5), 40-23-83.
History: Readopted through APA effective October 1, 1982.
Amended: Filed February 20, 2001; effective March 27, 2001.

Amended: Filed May 6, 2005; effective June 10, 2005. **Amended:** Filed November 20, 2013; effective December 25, 2013.

810-6-1-.98 Mattress Renovation.

(1) A mattress renovator both renders service and sells tangible personal property where he rebuilds or renovates a mattress for his customer by reworking the materials in the customer's mattress, the identity of which is maintained throughout the operation, and by adding thereto whatever new materials are required to complete the job in a satisfactory matter. Under these circumstances, the mattress renovator may make separate contracts to render the service required and to sell the tangible personal property used (ticking, cotton, springs, tufts, etc.) in which case the receipts from a rendering service are not subject to sales tax where the invoice rendered to the customer and the records of the renovator show separately sales of tangible personal property and charges for performing services. Provided, however, for tangible work of this nature is done for a lump sum without separation of charges for tangible personal property and for services, the sales tax shall apply to the lump sum amount.

(2) In instances where the identity of the customer's mattress is not preserved with the mattress delivered to the customer having been made from whatever materials were available, the mattress returned to the customer is considered a new article, the measure of the tax being the amount paid by the customer including the value of the customer's old mattress. The mattress renovator purchases at wholesale tax free the materials he uses in renovating or rebuilding his customer's mattress. §40-23-2(1).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.99 Meals Served By Boarding Houses.

Food furnished by operators of boarding houses is not considered to be sold at retail when the charge for such food is a lump sum covering meals for a week or for a month and when such food is not offered for sale to the general public. The supplier of food stuff is required to collect the tax from the operator at the time of the sale to him. The boarding house operator is considered to be rendering a service rather than making sales and is regarded as the consumer of the materials he purchases. This rule does not apply to meals furnished by schools and colleges. (See Rule 810-6-2-.50.) (Alabama Dept. of Revenue; Chief, Sales and Use Tax Division. Adopted October 1, 1959. Readopted under APA October 31, 1982. Amended December 5, 1984; amendment effective January 10, 1985.)

Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.100 **Meals, Snacks, Drinks, And Beverages Served In Alabama By Railroads, Airlines, And Other Transportation Companies.**

(1) Sales of meals, snacks, drinks, and beverages, to passengers by railroads, airlines, steamships, and other transportation companies within this state are subject to sales tax, provided the meals, snacks, drinks, or beverages are served to the passengers while still in Alabama. Sections 40-23-1(a)(10) and 40-23-2(1), Code of Ala. 1975.

(2) Meals, snacks, drinks, and beverages, served in Alabama by a transportation company as a part of its transportation service are retail sales subject to sales tax when the transportation company includes in the ticket price an amount to cover the selling price of the meal, snack, drink, or beverage. The amount for the meal included in the selling price of the ticket is the measure of tax. (State v. Hertz Sky Center, Inc., 294 Ala. 336, 317 So. 2d 324 (1975) and State v. Delta Air Lines, 356 So. 2d 1205 (Ala. Civ. App. 1978)).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982.
Amended: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.101 **Meals Served To School Children In The School Buildings.**

Lunches sold within school buildings, not for profit, to school children are exempted from the sales tax. This exemption is construed to mean sales of lunches to pupils of kindergartens, grammar, and high schools, either public or private.
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.102 **Meals Sold To The Public.**

Sales of prepared foods and drinks of all kinds for consumption on or off the premises of the seller are subject to the sales tax, which tax must be collected and remitted by the seller, except as otherwise stated in Sales and Use Tax Rules 810-6-1-.99

Meals Served By Boarding Houses, 810-6-2-.51 Meals Sold by Schools and 810-6-1-.100 Meals, Snacks, Drinks, and Beverages Served in Alabama by Railroads, Airlines, and other Transportation Companies. (Section 40-23-2(1), Code of Ala. 1975).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.103 Metal Name Plates (Repealed 10/1/14).

REPEALED
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Repealed: Filed August 27, 2014; effective October 1, 2014.

810-6-1-.104 Microfilming Of Records.

The microfilming of records is a service transaction with the material cost being incidental to the transaction. Sales and/or use tax will be due on films, equipment, and other supplies purchased for use in microfilming records. (Legal Division Opinion 2/10/78) (Adopted June 12, 1978.)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.105 Modular Buildings.

(1) The Alabama Supreme Court has interpreted the language relative to modular buildings in Sections 40-23-1(a)(10) and 40-23-60(5), Code of Ala. 1975, as "designed to make the sale of materials going into the construction of such buildings subject to the tax and to exempt the sale of the building itself" from sales or use tax. This interpretation places "modular building components on a par with conventional building materials" and makes "the sale of all building materials, modular or otherwise, sales at retail." The attachment of the building components or units to realty and the subsequent sale of the components or units as a completed building is not treated as a taxable transaction. In making this interpretation, the Supreme Court ruled that use tax is due on modular building units manufactured by an out-of-state manufacturer and sold by the manufacturer to a contractor who attached the units to realty in Alabama. The measure of the use tax is the manufacturer's selling price of the modular units.

(Boswell v. Alcoa Construction Systems, Inc., 368 So. 2d 18 (S.Ct. 1979)).

(2) Sales tax is due on modular building components or units manufactured in Alabama as follows:

(a) An instate builder or manufacturer of modular building components or units who builds or manufactures the components or units for resale in the form of tangible personal property to persons who affix them to realty, shall obtain a sales tax license and purchase all building materials, fixtures and other equipment becoming part of the modular building components or units without payment of sales or use tax to the suppliers. The builder or manufacturer of the modular building components or units shall (i) collect sales tax on any retail sales of the components or units sold in Alabama measured by the selling price of the components or units and (ii) report and pay the sales tax to the Department of Revenue on those retail sales.

(b) In the event an instate builder or manufacturer of modular building components or units, who has obtained a sales tax license pursuant to paragraph (2)(a), also contracts to affix modular building components or units to realty either inside or outside Alabama, the builder or manufacturer shall be liable for sales tax computed on the cost price of the materials withdrawn from inventory and used to build or manufacture the components or units which the builder or manufacturer affixes to realty pursuant to the contract.

(3) Use tax is due on modular building components or units as follows:

(a) Out-of-state builders or manufacturers of modular building components or units, who do not have a place of business in Alabama but for whose business sufficient nexus exists, shall (i) register to collect sellers use tax on their Alabama sales of modular building components or units which are sold in the form of tangible personal property to persons who affix them to realty and (ii) report and pay the tax to the Department of Revenue on their Alabama sales. The measure of the sellers use tax is the selling price of the components or units. Purchases of modular building components or units from out-of-state builders or manufacturers who are not registered to collect sellers use tax are subject to consumers use tax. Consumers use tax should be computed and paid by the purchaser measured by the purchase price of the components or units. (Section 40-23-60(5)).

(b) An out-of-state builder or manufacturer of modular building components or units, who contracts to affix modular building components or units to realty inside Alabama, is liable for consumers use tax computed on the cost price of the

materials incorporated into the components or units which the builder or manufacturer affixes to realty in Alabama pursuant to the contract. Credit for legally imposed sales and use taxes paid to any other state or its subdivisions will be allowed against the Alabama use tax due as outlined in Rule 810-6-5-.04. (Sections 40-23-60(5) and 40-27-1, Article V.1, Code of Ala. 1975).

Author: Patricia Estes and Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-31, 40-23-60(5), 40-23-83, and 40-27-1.
History: **Amended:** Flied September 15, 1998; effective October 20, 1998.

810-6-1-.106 **Monuments, Memorial Stones, Grave Markers, And Other Decorative Or Commemorative Objects.**

(1) Monuments, memorial stones, grave markers, or other similar decorative or commemorative objects, collectively referred to in this rule as monuments, are building materials. Sales of monuments to the person who installs or erects them to realty are retail sales. The person who installs or erects monuments to realty is a contractor.

(2) A monument dealer or builder who contracts to furnish and install or erect monuments is a contractor and shall pay sales or use tax to the supplier on the cost of the monuments purchased for use in performing contracts or on the cost of the materials which become a component part of monuments which the dealer/builder manufacturers for use in performing contracts. In the event the supplier is an unregistered out-of-state supplier, the monument dealer/builder shall compute and pay consumers use tax on the monuments or monument materials purchased from the unregistered supplier. (Sections 40-23-1(a)(10) and 40-23-60(5).

(3) A monument dealer or builder who sells monuments uninstalled is a retailer and shall apply for and obtain a sales tax license or, if an out-of-state business with nexus in Alabama, register to collect sellers use tax. The licensed or registered monument retailer shall purchase at wholesale, tax-free all monuments purchased for resale and all materials which become a component of monuments which the retailer manufactures for sale. The monument retailer shall collect and remit sales or sellers use tax on the retail selling price of all monuments sold without any deduction for labor used in manufacturing, cutting, engraving, or marking the monuments. (§§40-23-1(a)(6), (a)(8), (a)(10), 40-23-26, 40-23-60(5)(10), and 40-23-67).

(4) A monument dealer or builder in Alabama who is in the dual business of both selling monuments uninstalled and contracting to furnish and install or erect monuments shall obtain a sales tax license. The dual business monuments dealer/builder shall purchase

at wholesale, tax-free all monuments and all materials becoming a component of monuments which the dealer/builder materials. The dual business monument dealer/builder shall collect sales tax from the customer and remit the tax to the Department of Revenue on all retail sales of uninstalled monuments and shall compute and pay sales tax on all monuments or components of monuments withdrawn from inventory for use in performing contracts to furnish and install or erect monuments. The measure of tax to be collected on sales of uninstalled monuments is the selling price of the monument sold without any deduction for labor used in manufacturing, cutting, engraving, or marking the monument. The measure of tax on monuments or monument materials withdrawn from inventory for use in performing contracts is the cost of these items to the dealer/builder who withdrawals them. (§§40-23-1(a)(8) and 40-23-1(a)(10)).
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7-(a)(5), 40-23-1(a)(6)(8)(10), 40-23-26, 40-23-60(5)(10), 40-23-67, 40-23-31, 40-23-83.
History: **Amended:** Filed June 4, 1998; effective July 9, 1998.

810-6-1-.107 Movie Theaters.

(1) Movie theater operators owe sales or use tax on all of the equipment, furniture, fixtures and supplies used by them in operating their businesses. Movie film and advertising materials, including trailers and posters, are subject to tax to be measured by the purchase price when this property is bought outright and not rented. (§§40-23-2(1), 40-23-61(a), Code of Ala. 1975).

(2) The lessor of film or films, is not required to report and pay rental tax on the gross receipts derived from the leasing or rental of the film or films, when the lessee charges admission for viewing the film or films. (§§40-23-2(2), 40-12-223(1), Code of Ala. 1975).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-1(1), 40-23-2(2), 40-23-31, 40-23-61(a), 40-23-83.
History: Adopted March 9, 1961. **Amended:** June 12, 1978. Readopted through APA effective October 1, 1982. **Amended:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.107.02 Motor Freight Lines, Sales To (Repealed 3/17/23).

(REPEALED)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.

History: Repealed: Published January 31, 2023; effective March 17, 2023.

810-6-1-.109 Name Plates.

Name plates attached by the manufacturer to the manufacturer's products for identification purposes are purchased at wholesale as a component part of the property manufactured for sale. §40-23-1(9c).
Author: Ginger Buchanan
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83.
History: Amended: Filed August 27, 2014; effective October 1, 2014.

810-6-1-.110 Newspapers.

(1) A newspaper is printed matter which is distributed to the public generally. It is in sheet form, is published at regular or short intervals, and contains information of current events and news of general interest. In addition, a newspaper carries advertising and by editorial comment, advocates the opinions of its publishers.

(2) A publication is a newspaper if it has qualified under postal regulations for second class postal rates, is required by postal regulations to publish the names and addresses of its owners and editors, and is qualified as a medium for publishing legal notices.

(3) Company news sheets containing, primarily, information of company interest only, distributed by the company to its employees and its clients and owners are not newspapers and are not exempted from the sales or use taxes. This type of material is subject to tax measured by its purchase price. When purchased in Alabama, the printer will be required to collect the tax from the company. When purchased outside of Alabama, the tax will be required to be paid direct to the Department of Revenue by the company making the purchase.

(4) Postage charges over and above the regular price for the publication, separately billed, for mailing to individual readers will not be required to be included in the measure of the tax. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.110.01 Newspapers, Sales Of.

(1) Sales of newspapers are subject to sales tax except when made at wholesale to dealers licensed in accordance with the provisions of Code of Ala. 1975, §40-23-6, as amended, or when made to the United States, the State of Alabama, or the counties or cities of the state.

(2) Sales of newspapers made by publishers and licensed dealers to unlicensed independent newsboys will be, in all instances, subject to, tax as retail sales, the tax to be measured by the gross proceeds of such sales.

(3) The word "newsboys" as used herein shall be understood to mean street hawkers and newspaper route persons of all ages.

(4) Newsboys who are itinerant vendors who have not filed with the Department of Revenue the bond required by the provisions of Code of Ala. 1975, §40-23-24. (Amended January 25, 1977, to comply with decision rendered by the Court of Civil Appeals in State v. The Advertiser Company.)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.111 Occasional Sale.

Property acquired for use or consumption may be sold tax free at a private sale completely disassociated from any retail business which may be operated by the seller. (Attorney General Opinion Price, May 12, 1937.)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.112 Signs.

(1) Signs are subject to tax on the full sales price when such signs are standard, prefabricated by the seller or his supplier and delivered as a complete unit.

(2) When the signs are custom built into a building or otherwise affixed to real property, they come within the building materials provision with the tax being due from the person who erects the sign to his supplier on the cost of materials used to construct the sign, in which case no tax would be due from the person

installing the sign on his service in attaching the materials to the building and/or real property. The same rule applies when a builder constructs an outdoor advertising sign that will become affixed to real property from the ground up using lumber, nails, sheet metal, etc.

(3) In instances where the sign company subcontracts the installation or subcontracts a portion of the construction of the sign, taxation of the materials will be as described above in paragraph (2), with tax being due on the cost of the materials used by the contractor and/or subcontractor that builds the custom-made signs.

(4) The courts have held that the contractor provision provided in §40-23-1(a)(10), Code of Ala. 1975, applies if all of the following criteria are met:

(a) The taxpayer must be a contractor.

(b) The materials must be building materials.

(c) The materials must become a part of the real estate. See Department of Revenue v. James A. Head & Co., 306 So.2d 5 (Ala. Civ. App.1974), cert. denied 306 So.2d 12 (1975).

(5) In some instances the sign dealer will be in a dual business, both selling and building signs. When both parts of the business are substantial rather than incidental, the dealer should be set up to purchase all material at wholesale, tax free, and pay tax directly to the department on sales and withdrawals. See Rule 810-6-1-.56, Dual Business and Rule 810-6-1-.29, Building Materials Manufactured by Contractors.

(6) Billboard advertising is a service and is not subject to sales tax. The provider of billboard advertising services must pay sales or use tax on purchases of supplies, materials, and equipment used in the operation of the business.
Author: Ginger Buchanan, Christy Vandevender
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-30, 40-23-31, 40-23-83.
History: Filed July 20, 1990; November 1, 1990. **Amended:** Filed August 27, 2014; effective October 1, 2014. **Amended:** Published February 28, 2022, effective April 14, 2022.

810-6-1-.113 Outside Signs, Furnished.

Outside signs furnished by a manufacturer to his customers, when such signs are furnished without cost to the customers, are subject to the sales or use tax when purchased by the manufacturer. These signs are not purchased to be resold, nor are

they purchased as a component of the property manufactured for sale by the manufacturers. §40-23-1(9).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.113.02 Oxygen To Steel Manufacturers, Sales Of (Repealed 7/9/98).

(Repealed)
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §40-2A-7-(a)(5), 40-23-1(a)(9)b, 40-23-60(4)b, 40-23-31, 40-23-83.
History: Amended: Filed November 5, 1997; effective December 10, 1997. **Repealed:** Filed June 4, 1998; effective July 9, 1998.

810-6-1-.114 Painters.

(1) Persons doing any kind of painting where the only tangible personal property supplied by them is the paint which they apply and the equipment, brushes, and supplies used in such application are primarily rendering a service and not making retail sales. The receipts from such painting are not subject to the sales tax. All of the paint, tools, brushes, equipment and supplies purchased by the painters are subject to a sales tax or use tax, whichever applies, at the time of sale to the painter.

(2) Note, however, that where painters sell painted signs, furniture, or articles which they have manufactured or purchased for painting for resale purposes, such sales are subject to sales tax. The paint and other materials used as a component part of articles to be sold are purchased tax free at wholesale.

(3) Where painters are both consuming paints, etc., in rendering services and consuming from the same stock the same kind of property and manufacturing property for sale, where the use and manufacturing is continuous and a substantial part of the total business, and where suitable records are kept revealing costs of all materials used in contract painting and cost of materials used in manufacturing, the painter using the materials for both purposes will be allowed to purchase all of the dual purpose materials at wholesale tax free and pay sales tax on the basis of gross receipts from property sold at retail plus the total cost of all materials used, consumed, or furnished by him in his contract painting business.

(4) Where the painter is in such dual business and his records are not kept to reveal sales and the cost of property used in contract painting, he shall be required to pay sales or use tax on all of

his purchases and, in addition, will be required to report and pay sales tax on all of his sales of property at retail.

(5) Such consumable supplies as brushes, thinners, paint removers, hand tools, sand paper, etc., are, in any event, taxable when purchased by the painter. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.115 **Paper Cups Furnished With Mixed Drinks And Ice Cream (Repealed 7/30/98).**

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9)c, 40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.116 **Parts And Materials Used To Repair Or Recondition Dealers' Automotive Vehicles.**

(1) When a licensed automotive vehicle dealer makes purchases of parts and materials to repair or recondition vehicles held in the dealer's inventory for sale, the purchases are tax free if the parts or materials become a part of the vehicle that will later be sold and taxed on the total sales price.

(2) When a licensed automotive vehicle dealer repairs or reconditions vehicles for individuals as well as vehicles that are a part of the dealer's own inventory for sale, all of the dealer's purchases of parts or materials are at wholesale, tax free. Provided suitable records are maintained to distinguish between parts or materials used on the dealer's own vehicles and those of others, only the parts used in repairing the vehicles of others are taxable when sold to the customer and materials used in reconditioning the vehicles of others are taxable when withdrawn and used by the dealer-repairman.

(3) The term "materials" means items such as paint, body lead, solder, and wax which become a part of a reconditioned automotive vehicle. Supply items not becoming a part of a reconditioned automotive vehicle such as sandpaper, thinner used for cleaning purposes, masking tape, and rags are taxable retail sales when purchased by the dealer. The term "parts" means items that are passed by the dealer to the customer substantially intact such as seat covers, gears, fan belts, piston, batteries, and tires. The

term "parts" does not include materials and supply items as defined and listed above.
Author: Horace Hitt, Ginger Buchanan
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83.
History: Rule originally adopted as Rule A28-044, then readopted under APA October 1, 1982. **Amended:** Adopted October 8, 1985. **Amended:** Published November 29, 2019; effective January 13, 2020.

810-6-1-.117 Pawnbrokers.

Pawnbrokers are required to file sales tax returns covering all property sold by them, including in the taxable retail sales reported sales of property forfeited to them by reason of the pawner's failure to redeem. §40-23-2(1).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.118 Peddlers, Truckers.

(1) Peddlers and/or truckers making retail sales of tangible personal property must apply for and obtain a sales tax license. Further, such peddlers and truckers must collect sales tax from their customers on their retail sales of tangible personal property and remit same to the Department of Revenue. §40-23-6.

(2) Peddlers and truckers are to be licensed under the sales tax law only when they have an established place of business or when they have a well-established and continuous business confined to a certain area or route. Peddlers and truckers having no fixed place of business may, as a condition precedent to obtaining a sales tax license under the sales tax law, be required to furnish the bond provided for in Code of Ala. 1975, §40-23-24, as amended. §40-23-24.

(3) Sales to a trucker purchasing lumber for resale from a lumber manufacturer, when said trucker does not have a sales tax license, are sales at retail subject to tax unless the trucker has registered with the Department of Revenue and has received a certificate of such registration pursuant to Code of Ala. 1975, §40-23-1(c). (Readopted through APA effective October 1, 1982)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Filed March 20, 1992; August 20, 1992.

810-6-1-.119 Photographs, Photostats, Blueprints, Etc..

(1) The retail sales of photographs, blueprints and other similar articles are subject to sales or use tax, whether delivered in final printed form or delivered in digital form via telephone lines, over the Internet, by e-mail, or by another alternative form of transmission. The transfer of digital images of these items from a seller to a purchaser for a price constitutes the sale of tangible personal property. The form in which tangible property is delivered by the seller to the purchaser is of no consequence. (Sections 40-23-2(1) and 40-23-61(a)) (Robert Smith FlipFlopFoto v. State of Alabama (Admin. Law Div. Docket No. S. 05-1240, Final Order entered April 30, 2007))

(a) In cases where negatives belonging to the customer are developed, the charge for developing the negatives is not subject to sales or use tax if a separate charge is made to the customer.

(b) In cases where an airplane is chartered for use in making aerial photographs, the charge for use of the airplane is not subject to sales or use tax if a separate charge is made to the customer.

(c) In cases where individuals deliver pictures to photographers or photographic studios for tinting or coloring, the receipts from such tinting or coloring are not subject to tax, since such receipts result from services rendered and do not result from sales of tangible personal property. (Section 40-23-2(1))

(2) The materials which become a physical part of the photographic prints, blueprints, etc., are purchased tax free at wholesale by the seller of the photographic print, blueprint, etc. (Sections 40-23-1(a)(9)b and 40-23-60-(4)b

(3) The materials and chemicals used or consumed by the seller of photographic prints, blueprints, etc., but not becoming a component thereof, are purchased at retail by the seller and are subject to the sales or use tax, whichever may apply at the time of such purchase. (Sections 40-23-1(a)(10) and 40-23-60-(5))

(4) The mechanical equipment used in the production of photographic negatives, photographic prints, and blueprints including cameras are subject to the reduced machine rate of sales or use tax. (Sections 40-23-2(3) and 40-23-61-(b))

(5) Photographic prints, blueprints, or other images sold to an advertising agency for use in the performance of a contract are purchased at retail by the advertising agency and are subject to

the sales or use tax, whichever may apply at the time of such purchase. (See Rule 810-6-1-.02, entitled Advertising Agencies.)

(6) The gross proceeds of services provided by photographers, including but not limited to sitting fees and consultation fees, even when provided as part of a transaction ultimately involving the sale of one or more photographs are exempt from sales and use tax, so long as the exempt services are separately stated to the customer on a bill of sale, invoice, or like memorialization of the transaction. For transactions occurring before October 1, 2017, neither the Department of Revenue nor the local tax officials may seek payment for sales or use tax not collected. With regard to such transactions in which sales or use tax was collected and remitted on services provided by photographers, neither the taxpayer nor the entity remitting the tax shall have the right to seek a refund of such tax.
Author: Ginger Buchanan
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9)b, 40-23-2(1), 40-23-2(3), 40-23-1(a)(10), 40-23-31, 40-23-60(4)b, 40-23-60(5), 40-23-61(a), 40-23-61(b), 40-23-83.
History: **Amended:** Filed February 3, 1998; effective March 10, 1998. **Amended:** Filed January 11, 2008; effective February 15, 2008. **Amended:** Filed November 30, 2016; effective January 4, 2016. **Amended:** Filed August 14, 2017; effective September 29, 2017.

810-6-1-.120 **Photographs, Photostats, Blueprints, Etc., When Purchased At Retail By The Seller (Repealed 3/10/98).**

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-1(a)(10), 40-23-31, 40-23-83.
History: **Repealed:** Filed February 3, 1998; effective March 10, 1998.

810-6-1-.121 **Photographs, Photostats, Blueprints, Etc., Where Purchased Tax Free At Wholesale By Seller (Repealed 3/10/98).**

(Repealed)
Author: Donna Joyner
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: **Repealed:** Filed January 11, 2008; effective February 15, 2008.

810-6-1-.122 Photograph Tinting (Repealed 2/15/08).

(Repealed)
Author: Donna Joyner
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Repealed: Filed January 11, 2008; effective February 15, 2008.

810-6-1-.123 Pig And Scrap Iron.

When a manufacturer of iron pipe withdraws pig and scrap iron from his raw materials stock to be used by him in casting machine parts for his use, he must add the cost of such materials into his gross proceeds of sales. (Issued January 1951.)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.124 Pipe Fittings.

Ordinarily pipe fittings are used by builders, contractors, or landowners as building materials which are taxed in accordance with the building material provision found in the definition of retail sales. In some instances, however, pipe fittings are used as standard parts or attachments from machines used in manufacturing, in which case they are entitled to the special machine rate of tax. See Reg. entitled Parts and Attachments. §§40-23-1(10), 40-23-2(3).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.125 Place Of Amusement.

(1) The total receipts accruing from the operation of places of amusement or entertainment are subject to the sales tax. Taxable gross receipts from places of amusement shall include receipts from admissions, service charges, amusement devices, musical devices, amounts paid to participate or engage in specific activities, and receipts from parking facilities when made available at the place of amusement for the convenience of patrons. Taxable gross receipts shall also include advertising receipts received from promotional sponsors where the sponsor purchases the right to give away general admission tickets or

passes to a specific activity. Receipts received from third party advertisers relating to advertising space on billboards, scoreboards, fences, programs or tickets, or to radio or television time not in conjunction with the right to give away general admission tickets or passes would not be subject to sales tax. (State of Alabama v. Huntsville Baseball Club, Inc. and Birmingham Baseball Club, Inc. (Admin. Law Div. Docket No. S. 92-208 & S. 92-170, decided January 18, 1995))

(2) Sales tax shall be collected as a separate item from the consumer at the amusement rate of tax based on the price of admission to the place of amusement. Where the tax is not stated and collected separately, the total amount of the admission price shall be used as the measure of the tax. A deduction for the sales tax included in the price of admission will be allowed in computing the tax due whenever the business has permanently displayed a sign showing the admission price and the amount or amounts of tax due within the view of persons paying the admission, or where the tickets used in connection with the transactions have plainly printed on the face the admission price and, as a separate item, the amount of sales tax due. Likewise, sales tax shall not be backed-out of amounts received from amusement or musical devices where the business has failed to permanently display a sign showing the price and the amount of sales tax due. The federal amusement tax collected as a separate item shall not be included in the measure of the sales tax. (Section 40-23-26)

(3) Places of amusement or entertainment where the public is charged a fee to see, hear, attend, participate or engage in any kind of display, program, activity, or event offered, include, but are not limited to, the following:

(a) Live or recorded performances, whether by individual ticket or by season tickets:

1. ballet performances;

2. circuses;

3. ice-skating shows;

4. motion pictures;

5. musical concerts;

6. opera performances;

7. outdoor theaters; and

8. theaters (movies and plays)

(b) Exhibitions or displays:

1. animal shows (contests, exhibitions);

2. antique shows;

3. arts and crafts, and art shows (fairs);

4. auto, boat or gun shows;

5. museums (that display art objects, antique autos, etc.); and

6. zoos

(c) Spectator sports:

1. automobile races;

2. drag strip operations;

3. horse shows (horse riding exhibitions);

4. motorcycle races;

5. rodeos;

6. sporting events such as football, baseball, basketball, hockey, and soccer games; and

7. wrestling or boxing;

(d) Participatory sports or games:

1. arcades where amusement devices such as pinball machines or video games are played;

2. bowling games;

3. go-cart races;

4. golf courses;

5. golf driving ranges;

6. Internet cafes where amusement devices such as game consoles and computer stations are assembled for game play and have computer network access or Internet access to the video or computer games. (The Docking Station, LLC v. State of Alabama (Admin. Law Div. Docket S. 07-124, Final Order decided May 1, 2007));

7. miniature golf courses;

8. para-sail boats;

9. pool (billiard) games;

10. skate board tracks;

11. skating rinks;

12. swimming pools; and

13. water slides;

(e) Fairs or carnivals:

1. amusement parks;

2. carnivals;

3. fairs;

4. games of skill, at a circus, carnival, etc. 5. shooting galleries (ranges); and

6. side shows;

(f) Other:

1. boat rides or sight-seeing tours for pleasure (marine life viewing, sunset sailboat cruises, dinner cruises, etc.);

2. cover charges (for admission to dance halls, nightclubs, discos, etc. that provide dancing, music, or other entertainment); and

3. rides for pleasure in helicopters, hot-air balloons, trains, etc.

(4) With the exception of athletic events conducted by educational institutions other than primary or secondary schools, no sales tax is due on receipts accruing from admissions from places of amusement or entertainment conducted by the State of Alabama, a county or city of the State or any instrumentality thereof. (City of Anniston v. State of Alabama, 91 So.2d 211)

(5) Public primary and secondary schools shall collect sales tax on admissions to athletic contests which they conduct; but, instead of remitting the tax collected to the Department of Revenue, the tax shall be retained by the school and used by the school for school purposes.

(6) Private or nonpublic primary and secondary schools shall collect and remit sales tax to the Department of Revenue on their gross receipts from athletic contests which they conduct. Effective July 1, 2006, pursuant to Act #2006-602, private or

nonpublic primary and secondary schools shall continue to collect sales tax on admissions to athletic contests which they conduct; but, instead of remitting the tax collected to the Department of Revenue, the tax shall be retained by the school and used by the school for school purposes. (Section 40-23-2(2))

(7) The sales tax levied in Section 40-23-2(2) does not apply to admissions to any football playoff conducted by or under the auspices of the Alabama High School Athletic Association. Taxes on admissions to these football playoffs shall continue to be collected; but, rather than being remitted to the Department of Revenue, the taxes collected shall be retained by the collecting schools and used for school purposes. Effective July 1, 2006, pursuant to Act #2006-602, this exemption and retention of the sales tax collected shall apply to any athletic event conducted by or under the auspices of the Alabama High School Athletic Association.

(8) Sales tax is due at the general rate of tax on the gross proceeds of retail sales of food, drink, souvenirs and other tangible personal property sold at retail at places of amusement or entertainment, except for sales made by counties and cities of the State of Alabama as provided in Rule 810-6-2-.92.02 entitled State, County and City, Sales Made By; and public and nonpublic primary or secondary schools and groups affiliated with these schools such as parent-teacher organizations and booster clubs as provided in Rule 810-6-2-.88.04 entitled Exemption for Certain Sales by Elementary and Secondary Schools, School Sponsored Clubs and Organizations, and School Affiliated Groups. (Section 40-23-2(1))
Author: Donna Joyner Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §40-23-31, 40-23-83, 40-23-2(2), 40-23-26.
History: Adopted March 9, 1961. Amended November 1, 1963, Readopted through APA October 1, 1982. Amended June 5, 1992. Rule effective October 1, 1982. **Amended:** Filed May 6, 1992. **Amended:** Filed August 25, 1994; effective September 29, 1994. **Amended:** Filed June 4, 1998; effective July 9, 1998. **Amended:** Filed November 8, 2006; effective December 13, 2006. **Amended:** Filed January 11, 2008; effective February 15, 2008.

810-6-1-.125.01 Amusement Tax Due On Fees Collected By Golf Courses Open To The Public.

(1) The term "golf course open to the public" as used in this regulation shall mean any golf course, except those owned and operated by the State of Alabama or a county or incorporated municipality of the State of Alabama, which allows the public to use one or more of its facilities for a fee. However, the following policies or activities shall not cause an otherwise

private golf course to be classified as a golf course open to the public:

(a) reciprocal play agreements with other golf courses that are also not open to the public.

(b) play by guests of a member (whether or not accompanied by the member).

(c) hosting a tournament in compliance with the provisions of Section 4-23-4(a)(39), as amended.

(d) periodically holding invitational or charitable tournaments.

(e) the sale of condominium units the purchase of which carries with it the privilege of using the golf course facilities.

(2) Golf courses open to the public are liable for and shall collect and remit the amusement tax levied in Section 40-23-2(2) on fees paid by their customers including but not limited to the following fees as of the effective date of this regulation:

membership dues	tennis court fees
initiation fees	swimming pool fees
golf cart fees	driving range fees
greens fees	locker fees

(3) The gross proceeds from the sales of condominium units by golf course open to the public do not constitute gross receipts from places of amusement and, therefore, are not to be included in the measure of tax levied in Section 40-23-2(2).

(4) Golf courses owned and operated by the State of Alabama or a county or incorporated municipality of the State of Alabama are exempt from the amusement levy contained in Section 40-23-2(2). [City of Anniston v. State, 265 Ala. 303, 91 So. 2d 211 (1956)].

(5) Retail sales of tangible personal property by golf courses owned and operated by counties or incorporated municipalities of the State of Alabama are exempt from sales tax. Retail sales of tangible personal property by all other golf courses, public or private, are taxable.

(6) The provisions of this rule shall become effective October 1, 1993.

Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-23-31
History: New Rule: Filed with LRS June 18, 1993, Certification files with LRS, September 7, 1993, effective October 12, 1993.

810-6-1-.126 Pole Line Construction.

Materials used in the construction of pole lines for the transmission of electric power and telephone, telegraph, radio, and television signals are building materials. These materials are purchased at retail subject to sales or use tax, whichever may apply, by the persons who erect the pole lines into place by attaching to real property. These materials include poles, lines, lightning arresters, circuit breakers, switch gear, all pole accessories and also include, all the materials and equipment used in the construction of substations. This class of materials is subject to tax at the four percent rate with the exception of transformers and amplifiers which are taxable at the machine rate of one and one-half percent. (Adopted May 26, 1961. Amended November 1, 1963; effective July 1, 1963.) §§40-23-1(10), 40-23-2(3).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.127 Popcorn Boxes (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a0(5), 40-23-1(a0(9)c, 40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.128 Postal Uniforms.

(1) Effective November 14, 1983, the U.S. Postal Service's procedures regarding uniform purchases for postal employees require vendor invoices to be made out directly to the Postmaster who, upon approval of the purchase by the employee, forwards the invoices to the Postal Data Center for certification and payment. Postal Service employees make no payment and handle none of the money at any time. (Postal Bulletin No. 21425 dated October 6, 1983, and Postal Bulletin No. 21547 dated January 2, 1986.)

(2) Postal Uniform purchases handled in accordance with the procedures outlined above are sales to the U.S. Postal Service and, therefore, are not subject to Alabama sales or use tax.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.

History: Adopted June 12, 1978. Readopted through APA effective October 1, 1982. **Amended:** Filed February 26, 1987. §40-23-4(17).

810-6-1-.129 Premiums And Gifts.

A sale of tangible personal property is taxable when made to a person who will use the property as a prize or a premium or will give the property away as a gift. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.130 Printers.

(1) Gross receipts accruing from the retail sales of printed matter of all kinds are subject to the sales tax. (Also see Rule 810-6-1-.137 entitled Raw Materials and Supplies Purchased By Manufacturers and Compounders.)

(2) Sales to consumers of printed matter such as catalogs, books, letterheads, invoice forms, envelopes, folders, advertising circular, and the like by printers or others engaged in selling printed matter are subject to the sales tax. A printer may not deduct from the selling price of such tangible personal property charges for the labor or service of performing the printing even though such labor or service charges may be billed to the customer separately from the charge for the stock. Such labor or service is embodied in and becomes a part of the tangible personal property sold.

(3) Where printers purchased from the United States Post Office stamped cards and envelopes and print thereon various legends for customers, the printers must pay sales tax measured by their gross proceeds of sales of the printed cards or envelopes to the customers. Such cards and envelopes constitute tangible personal property and, if they are not resold by such customers, the sales by the printers are at retail. Such printers will not be required to pay sales tax on the amount of the postage where stated separately in billing to customers.

(4) No tax arises from the service of printing or from the service of typesetting performed by the printer for a customer or for another printer where there is no transfer of ownership of tangible personal property from the printer to his customer. (§40-23-1(a)(6)).

(5) Sales of materials to printers are at wholesale, tax free, when such materials become a component of the printed matter produced for sale. The machines used in the printing come within

the machine levy and are taxed at the one and one-half percent rate. The supplies, materials, and equipment not becoming a component of the product sold or not constituting a machine used in manufacturing are subject to the sales or use tax, whichever may apply, at the general rate of four percent.

(6) Newspaper advertising supplements or circulars inserted in newspapers usually fall in the following categories:

(a) A buyer enters into a contract with a printer for the printing of advertising circulars, catalogs, etc., and directs the printer to deliver the printed material to a newspaper or several newspapers, or directs that they be delivered to another location, sometimes the buyer's place of business. The buyer then enters into a second contract with the newspaper for distribution of the inserts. That portion of advertising supplements or inserts retained by the buyer for distribution to buyer's customers, that do not become part of newspapers manufactured for sale, will be subject to sales tax. However, those advertising supplements or inserts that are delivered to the purchasers or newspaper companies to be inserted into and become part of the newspaper are purchased at wholesale, tax free. Ralph P. Eagerton, Jr. v. Dixie Color Printing Corporation.

(b) Newspaper advertising supplements and inserts which are inserted into the newspapers and sold as part and parcel of the newspaper, the retail sales of which are subject to the sales tax, no sales tax arises where such advertising supplements or inserts are:

(1) printed by the publishers of the newspaper and inserted into and sold as part and parcel of the newspaper published by such publishers, or

(2) printed by another printer for the newspaper publisher and paid for by the newspaper publisher for insertion into and sold as part and parcel of the newspaper.

Author: Ginger Buchanan
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Adopted March 9, 1961. Amended November 1, 1963; August 16, 1974; June 12, 1978. Readopted October 31, 1982, under APA. **Amended:** December 5, 1984. **Amended:** Filed February 12, 2016; effective March 28, 2016.

810-6-1-.131 Withdrawals Of Products Manufactured, Compounded, Or Processed For Sale.

(1) Except as noted in paragraphs (2) and (3) below, manufacturers, compounders, and processors shall include in

taxable sales reported for sales tax purposes the costs of materials purchased at wholesale which have become ingredients or components of products manufactured or compounded for sale by them but which are withdrawn from stock for their own use or consumption.

(2) Neither the withdrawal, use, or consumption of a manufactured product by the manufacturer thereof in quality control testing performed by employees or independent contractors of the manufacturer nor a gift by the manufacturer of a manufactured product, withdrawn from the manufacturer's inventory, to an entity listed in 26 U.S.C. Sections 170 (b) or (c), is subject to sales tax. (Sections 40-23-1(a)(6), 40-23-1(a)(10) and 40-23-1(e)).

(3) Refinery, residue, or fuel gas, whether in a liquid or gaseous state, that has been generated by, or is otherwise a by-product of, a petroleum-refining process, which gas is then utilized in the process to generate heat or is otherwise utilized in the distillation or refining of petroleum products is not taxable under the withdrawal provisions of the sales or use tax statutes. (Sections 40-23-1(a)(6), 40-23-1(a)(8), and 40-23-60(5)).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-1(a)(8), 40-23-1(a)(10), 40-23-1(e)), 40-23-31, 40-23-60(5), 40-23-83.
History: **Amended:** Filed December 1, 1995; effective January 5, 1996. **Amended:** Filed November 18, 1999; effective December 23, 1999.

810-6-1-.132 **Proofs, Wholesale, Tax Free.**

Sales of materials to the processors of the proofs are at wholesale, tax free, when such materials become a component part of the proofs produced for sale. §40-23-1(9b).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.133 **Pump Installed For A County Or Municipality By A Contractor.**

(1) A contractor who installs a pump for a county or incorporated municipality of the State of Alabama is required to pay tax on his purchase of the pump. The pump is in the same category as any other building materials which become affixed to realty. When title to a pump installed under contract passes from the contractor to the landowner, it has ceased to be personal property and has become real property. §40-23-1(10) and 40-23-60(5)).

(2) On and after January 1, 2014, the sale of a pump to, or the storage, use, or consumption of a pump by, any contractor or subcontractor to be incorporated into realty pursuant to a contract with any county or incorporated municipality of the State of Alabama awarded on or after January 1, 2014, is exempt from state, county, and municipal sales and use taxes provided the contractor or subcontractor has complied with Rule 810-6-3-.77 entitled Exemption of Certain Purchases by Contractors and Subcontractors in conjunction with Construction Contracts with Certain Governmental Entities. (Act No. 2013-205)
Author: Traci Floyd, Ginger L. Buchanan
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-31, 40-23-60(5), 40-23-83.
History: Effective October 1, 1982. **Amended:** Filed February 20, 2001; effective March 27, 2001. **Amended:** Filed May 6, 2006; effective June 10, 2005. **Amended:** Filed November 20, 2013; effective December 25, 2013.

810-6-1-.134 Pumps.

Well pumps when installed become realty along with well casing, pump house, well connections, etc. The person who installs the pump is the purchaser at retail who must pay sales tax or use tax, as the case may be. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.135 Punchboards (Repealed 7/30/98).

(Repealed)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10), 40-23-31, 40-23-83.
History: **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.136 Railroad Companies - Crossties And Timbers (Repealed 10/20/98).

(Repealed)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: **Repealed:** Filed September 15, 1998; effective October 20, 1998.

810-6-1-.137 Raw Materials And Supplies Purchased By Manufacturers And Compounders.

(1) Subject to the criteria outlined in Sales and Use Tax Rule 810-6-1-.80 entitled Ingredient or Component of Product Manufactured or Compounded for Sale, ingredients or materials which are purchased by manufacturers or compounded for sale may be purchased at wholesale, tax free, by such manufacturers or compounders. (Sections 40-23-1(a)(9)b and 40-23-60(4)b).

(2) One-time-use containers used by manufacturers and compounders to package their products and which become the property of the purchaser of the products are purchased at wholesale, tax free, by the manufacturers and compounders. Returnable containers are purchased at retail and are subject to tax. (Sections 40-23-1(a)(9)c and 40-23-60(4)c).

(3) Labels purchased by manufacturers and compounders, affixed to one-time-use containers, and sold along with the contents of the containers by said manufacturers and compounders are purchased at wholesale, tax free, by the manufacturers and compounders. The term "label" is understood to mean a tag or sticker of any material imprinted with information and said term includes price stickers, address stickers, and shipping tags as well as those tags or stickers which identify or describe the property to which they are attached.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83, 40-23-1(a)(9)c, 40-23-60(4)c)
History: Filed August 22, 1989; December 22, 1989. Filed April 21, 1992; August 20, 1992. **Amended:** Filed November 5, 1997; effective December 10, 1997.

810-6-1-.138 Rebuilding Of Tracks, Idlers, And Rollers.

(1) The rebuilding of tracks, idlers, and rollers belonging to others is a service and the receipts from this service by the repairman-dealer are not subject to sales or use tax.

(2) Sales of rebuilt tracks, idlers, and rollers by the repairman-dealer are subject to sales or use tax. The repairman-dealer shall compute sales or use tax on the total sales price and collect the tax from the person to whom the rebuilt item is sold. (§§40-23-1(a)(6) and 40-23-60(10)).

(3) Where a repairman-dealer (i) rebuilds tracks, idlers and rollers that are part of the repairman-dealer’s own stock of goods

for sale and (ii) rebuilds tracks, idlers, and rollers belonging to others, the following shall apply:

(a) Sales or use tax shall be paid by the repairman-dealer to the supplier on all purchases of materials used in rebuilding the tracks, idlers, and rollers unless the repairman-dealer elects to claim the exemption provided by §40-23-1(a)(9)(k) for materials purchased or withdrawn for use in rebuilding tracks, idlers and rollers which are part of the repairman-dealer's stock of goods for sale.

(b) If the repairman-dealer elects to claim the exemption in Section 40-23-1(a)(9)k, all materials becoming a part of the rebuilt tracks, idlers, and rollers shall be purchased at wholesale tax-free by the repairman-dealer and the repairman-dealer shall maintain suitable records to distinguish between the materials used in rebuilding the tracks, idlers, and rollers offered for sale by the repairman-dealer and the materials used by the repairman-dealer in rebuilding the tracks, idlers, and rollers of others. If suitable records are maintained, the repairman-dealer shall collect and remit sales tax on sales of rebuilt tracks, idlers, and rollers in accordance with paragraph (2) and shall compute and pay sales on the cost of the materials withdrawn and use in the rebuilding tracks, idlers, and rollers belonging to others.

(c) In the event suitable records are not kept by the repairman-dealer to determine which materials are used in rebuilding tracks, idlers, and rollers offered for sale by the repairman-dealer, then all materials used by the repairman-dealer shall become a taxable withdrawal by the repairman-dealer. The sales tax due on withdrawals by the repairman-dealer shall be computed on the purchase price or cost to the repairman-dealer of the materials withdrawn for use. (§40-23-1(a)(10)).

(4) Where any used track, idler, or roller which is a part of an automotive vehicle, truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt track, idler, or roller, the sales and use tax shall be paid on the net difference, that is, the price of the new or used track, idler, or roller sold less the credit for the used track, idler, or roller taken in trade. See Rule 810-6-1-.22 entitled Barter, Exchange, Trade Inc. (§40-23-2(1)).

Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§20-2A-7(a)(5), 40-23-1(2), 40-23-31, 40-23-83.
History: Adopted July 16, 1964. **Amended:** Filed July 6, 1977; August 10, 1983. **Amended:** Filed June 4, 1998; effective July 9, 1998.

810-6-1-.139 Receipts From Parking On Fairgrounds And At Other Places Of Amusement Or Entertainment (Repealed 7/9/98).

(Repealed)
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-2(2), 40-23-31, 40-23-83.
History: Repealed: Filed June 4, 1998; effective July 9, 1998.

810-6-1-.140 Recordings Purchased For Use With Musical Devices.

Recordings purchased for use in operating musical devices are subject to sales or use taxes whichever may apply. When such recordings have served their purpose in connection with the operation of musical devices and are sold at retail as used recordings as a regular course of business by the machine operators, such sales are subject to sales tax. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.141 Repairs, Outside Or Sublet.

(1) The operator of a repair shop who sublets a part or all of a repair job purchases at wholesale tax free the repair parts installed by the outside or sub-repairman. The shop operator shall bill such repair parts to his customers separately from any charges for labor and services and report and pay sales tax only on the retail sales price of such parts. Provided however, where repair parts are not separately billed, sales tax shall be paid on the total charge for the job.

(2) When the sub-repairman uses or consumes materials and supplies, such as solder, paint, paint thinners, bits of wire, and cement, these materials are subject to tax at the time of purchase by the sub-repairman, the tax to be paid to the supplier. Provided where the sub-repairman also is engaged in the business of selling at retail such supplies and materials, they are purchased by him at wholesale and are subject to the tax when withdrawn from stock for use or consumption, the tax to be paid direct to the Department of Revenue by the sub-repairmen. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.142 Repairs To Equipment.

(1) Where a repairman in Alabama repairs equipment, materials which pass to the repairman's customer but which lose their identity when used by the repairman or which are inconsequential in amount such as, paint, solder, and tacks are considered to have been used or consumed by the repairman and are taxable at the time of the sale to him.

(2) This rule is amended to conform to the decision rendered by the Court of Civil Appeals in State of Alabama v. Communication Equipment and Contracting Company, Inc. Act No. 100, §3, §40-23-4(17)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Adopted March 9, 1961. Amended February 6, 1968; November 13, 1970; October 29, 1976.

810-6-1-.143 Repairs To Real Property.

(1) The term "repairs to real property" as used in this rule includes, but is not limited to, the repairing, remodeling, restoring, or altering of buildings of all kinds and descriptions, plumbing systems, electric supply systems, water supply systems, central heating and air conditioning systems, roads, streets, railroads, and railways.

(2) Sales or use taxes are due on sales of materials to repairmen, builders, contractors, or other persons who use the materials in making repairs to real property. (Sections 40-23-1(a)(10) and 40-23-60(5)).
Author: Patricia A. Estes, Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(10, 40-23-331, 40-23-60(5), 40-23-83.
History: Amended: Filed November 23, 1989; effective December 28, 1998.

810-6-1-.144 Repairs To Tires And Tubes.

(1) Tire repairmen shall collect and remit sales tax on total charges for recaps, retreads, and the major repairs; such as sectional, reinforcement, and spot repairs. Materials used in recapping, retreading, and major repairing are purchased at wholesale, tax free. Machines used directly in recapping, retreading, and major repairing are taxed at the special one and one-half percent rate levied on machines.

(2) Tire repairmen shall not collect sales tax on charges for tube and minor tire repairs. Materials used in making tube and minor tire repairs are taxable to the repairmen. Machines used solely in making tube and minor tire repairs are taxable to the repairmen at the general rate of 4 percent.

(3) (a) Where the repairman uses repair materials for tube and minor tire repairs only, he shall pay tax thereon to his supplier; or if purchased outside of Alabama from a supplier who does not collect Alabama tax, he shall pay the tax direct to the Department of Revenue as use tax.

(b) Where the repairman does recapping, retreading, and major repairing as well as tube and minor tire repair, he may purchase at wholesale all materials used in tire and tube repairing; then shall pay sales tax direct to the Department of Revenue on the cost price of materials withdrawn for use in tube and minor tire repairing.

(4) All hand tools used in recapping, retreading, and major and minor tire repairing are subject to sales tax. All supplies used or consumed by tire repairmen and which do not pass on to their customers are taxable when purchased by them.

(5) Sales by repairmen of repaired, retreaded, and recapped tires owned by them are subject to tax measured by the total sales price without any deduction for labor or cost of materials.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982.
Amended: Filed February 26, 1987.

810-6-1-.144.03 Resale, Sales For.

All buyers of property for resale purposes are entitled to purchase at wholesale, tax free, the property they resell as regular course of business when they have secured the sales tax license required by law. This rule also applies to retailers located outside Alabama when they have secured the sales tax license required by law in the state in which they are located. §40-23-6.
Author:
Statutory Authority:
History:

810-6-1-.145 Meals Furnished To Employees By Restaurants.

Restaurants, cafes, and other eating establishments are liable for sales tax on meals furnished to their employees as part of a

compensation plan. The measure of tax is the value of food withdrawn and consumed by the employees. [State v. Morrison Cafeterias Consolidated, Inc., 487 So. 2d 898 (Ala. 1985)]
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-1(a)(10), 40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982.
Amended: Filed February 26, 1987. §§40-23-1(a)(6), 40-23-1(a)(10).
Amended: Filed February 3, 1998; effective March 10, 1998.

810-6-1-.146 Restaurants, Cafes, Hotels - Supplies Used (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5, 40-23-1(a)(10), 40-23-31, 40-23-83.
History: Adopted March 9, 1961. **Amended:** July 2, 1975. Readopted through APA effective October 1, 1982. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.147 Returned Merchandise.

(1) When property is returned by the purchaser and the seller refunds the full amount paid, there is no sale and the sales price of such returned property is not to be included in the gross proceeds of sales.

(2) When property is returned and a part, but not all, of the sales price is refunded, the full sales price is to be included in the gross proceeds of sales. This would include but not be limited to property returned and a restocking fee is charged before refunding the balance of the purchase price. (State v. Leary and Owens Equipment Company.)

(3) When the sale is on credit and less than the amount paid is refunded, the measure of the tax is the total amount of the sale. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.148 Rural Electrification Authority (REA).

Cooperatives set up under authority of United States Rural Electrification Laws are not instrumentalities of any governmental body. All purchases are subject to the sales and use

tax, whichever may apply, except when otherwise specifically exempted. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.149 Rust Preventatives (Repealed 1/27/98).

(Repealed)
Author:
Statutory Authority:
History: Filed December 23, 1997; effective January 27, 1998.

810-6-1-.150 Sale.

The term "sale" or "sales" includes installment and credit sales and the exchange of property as well as the sale thereof for money, every closed transaction constituting a sale. Each transaction whereby property is transferred from one owner to another constitutes a sale under the sales tax law except in instances where the property is transferred as a gift or where possession without ownership is given on a rental or lease basis with no intention to transfer ownership at the end of the rent or lease period. §40-23-1(5).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.150.05 Sand, Gravel, And Other Building Materials, Sales Of.

(1) The seller is making taxable sales of such building materials as sand, gravel, earth, crushed stone, and asphalt which are merely dumped or deposited by him on a job site or in a storage area. In this case the measure of the tax is the total amount received by the supplier without any deduction for the expense of loading, dumping, or hauling or any other expense whatsoever.

(2) On the other hand, sand, gravel, earth, crushed stone, and asphalt or like materials are purchased at retail subject to a tax measured by the purchase price where such materials are spread and placed by the purchaser under a contract to furnish and to apply the materials in such a way that they become a part of real property. Where this is the case, the purchaser is acting as a contractor rather than as a retailer and there is no sale at retail by him to the landowner.

(3) In case the supplier is both selling materials at retail and contracting to furnish and apply them, the rule of dual businesses will apply with the supplier purchasing all materials at wholesale, tax free, and thereafter reporting and paying tax to the Department of Revenue on both sales at retail and on withdrawals for use under contracts to furnish and apply. (Adopted May 26, 1961.) §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.163 Sales Tickets, Cash Register Receipt Paper, Invoice Forms, Etc. (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7-(a)(5), 40-23-1(10), 40-23-31 40-23-83.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.165 Shipping Supplies (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.166 Shoe Repairs.

(1) A shoe repair shop renders a service and also sells tangible personal property. A job which does not involve a sale of tangible personal property but merely represents the rendering of service does not require the payment of sales tax. In any transaction where tangible personal property is sold sales tax applies to the full purchase price without any deduction for labor or service.

(2) If the tangible personal property is sold and the labor or service is furnished in separate transactions, each transaction being billed separately, then the tax applies to the sales price of the tangible personal property and not to the labor or service.

(3) Materials and supplies used by shoe repairmen in rendering services, but which are not resold as merchandise are subject to

sales tax when purchased by the repairmen from the supply dealer. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.167 Structural Steel.

Structural steel is a building material and, for that reason, is usually subject to tax at the general rate at the time of its sale to the builder, contractor, or landowner who purchases it to add to or alter real property. This is in accordance with the building material provision found in the definition of "retail sale". In some instances, however, steel fabricators bill out machine parts as structural steel, in which case, where the facts show that the steel purchased is a part or attachment for a machine used in mining, quarrying, manufacturing, processing, or compounding, the machine rate will apply. §§40-23-1(10), 40-23-2(3).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.168 Table Wine Tax.

Whether billed separately to the purchaser or included in a lump sum selling price; the table wine tax levied pursuant to Code of Ala. 1975, §28-7-16, may not be excluded from the measure of sales or use tax.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted November 3, 1980. Amended March 16, 1981. Readopted October 31, 1982 under APA. Amended December 5, 1984; amendment effective January 10, 1985. Filed January 15, 1993; April 15, 1993.

810-6-1-.169 Textbooks (Repealed 6/9/99).

(Repealed)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-2(a)1, 40-23-31, 40-23-83.
History: Repealed: Filed May 5, 1999; effective June 9, 1999.

810-6-1-.170 Theatrical Productions, Symphonies, Etc..

(1) The gross proceeds from sales of admissions to any theatrical production, symphonic or other orchestral concert, ballet or opera production when such concert or production is presented by any society, association, guild, or workshop group, organized within this state, whose members or some of whose members regularly and actively participate in such concert or production for the purpose of providing a creative outlet for the cultural and educational interests of such members, and of promoting such interests for the betterment of the community by presenting such productions to the general public for an admission charge is exempt from the sales tax.

(2) In order to be exempt from the tax, some of the members of the society, association, guild, or workshop group must take an active part in the concert or production such as director, musician, or actor. §40-23-4(25).

Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.171 Ties And Timbers (Repealed 10/20/98).

(Repealed)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed September 15, 1998; effective October 20, 1998.

810-6-1-.172 Taxability Of Cross Ties And Timbers.

(1) Purchases of cross ties and timbers, treated or untreated, by railroad companies and others for use in Alabama are subject to sales or use tax on the following basis:

(a) Where untreated cross ties or timbers are purchased from outside this state and also creosoted outside this state and subsequently brought into this state for use, the measure of the use tax shall be the cost of the untreated ties or timbers plus the cost of creosoting. (Section 40-23-60(5), Code of Ala. 1975).

(b) Where untreated cross ties or timbers are purchased from outside this state and brought into this state and creosoted within this state prior to their use, the measure of the use

tax shall be the cost of the untreated ties and timbers since the materials used in creosoting the ties or timbers are taxable when purchased or withdrawn by the person performing the service. (Section 40-23-60(5)).

(c) Where untreated cross ties or timbers are purchased within Alabama for shipment in interstate commerce without paying the Alabama sales tax and where the cross ties or timbers are shipped outside this state for creosoting and subsequently shipped into and used within this state, the purchase is subject to the use tax as measured by the full price of the finished product brought into this state. (Section 40-23-60(5)).

(d) Where the Alabama sales tax is paid on the purchases of untreated cross ties or timbers and the cross ties or timbers are subsequently creosoted either within this state or outside this state, the purchaser would owe no additional Alabama sales or use tax on the cross ties or timbers. (Section 40-23-1(a)(6)).

(e) Cross ties and timbers are taxable when sold under bulk contract with the purchaser inspecting and approving the material at the plant or yard of the seller and the seller segregating and allotting the approved material to the purchaser for future shipment according to subsequently issued shipping instructions. This material is to be reported by the seller as subject to tax in accordance with the provisions of Section 40-23-8. (Sections 40-23-2(1) and 40-23-8).

(f) Cross ties and timbers are classified as building materials and are taxed at the general rate of sales or use tax except when used as a roadway for quarrying or mining equipment in which event the sales of cross ties and timbers are subject to the reduced mining or quarrying rate of sales or use tax. (Sections 40-23-2(1), 40-23-61(a), 40-23-2(3), and 40-23-61(b)).

(2) Cross ties and timbers sold F.O.B. an Alabama shipping point on a purchase order requiring the seller to ship to an out-of-state destination are sales in interstate commerce and are not subject to sales tax regardless of whether shipment is made by the use of purchaser's transportation facilities when the purchaser is a common carrier. (Sections 40-23-1(a)(5) and 40-23-4(a)(17)).
Author: Patricia Estes, Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83, 40-23-2(1), 40-23-2(3), 40-23-61(a), 40-23-61(b), 40-23-1(a)(5), 40-23-1(a)(6), 40-23-60(5), and 40-23-8.
History: **Amended:** Filed September 15, 1998; effective October 20, 1998.

810-6-1-.173 Tin Shops.

(1) Tin shops are usually found to be engaged in contracting, selling, manufacturing, and repairing. Because of the complex nature of these businesses, they ordinarily will be set up to purchase all of their materials at wholesale, tax free, with tax to be paid direct to the Department of Revenue as sales tax on use and sales.

(2) As contractors making additions to real property, tax should be paid on the cost price of materials which are used in the form received from the suppliers. Where the property installed is manufactured by the tin shop operators in their shops, sales tax is to be paid measured by the reasonable and fair market value of the property. (See rule entitled Building Materials Manufactured By Contractors.)

(3) As vendors making direct sales, sales tax is due measured by the sales price of the property sold.

(4) As repairmen, the sales tax is due on the cost of materials and supplies used or the sales price of the property transferred in the transactions, as the case may be. (See rule entitled Materials Used in Repairing, for ruling with regard to use and sale of materials used in repairing.) §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40123183.
History:

810-6-1-.174 Tobacco Tax.

Whether billed separately to purchaser or included in a lump sum selling price; state, county, and municipal tobacco excise taxes may not be excluded from the measure of sales or use tax. (§§40-23-1(a)(6), 40-23-1(a)(8).
Author: Dan DeVaughn.
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted August 5, 1963. **Amended:** October 29, 1976. Readopted through APA effective October 1, 1982. Filed January 15, 1993; April 15, 1993.

810-6-1-.175 Top Soil, Fill Dirt, Sand And Gravel.

(1) Sales of top soil, fill dirt, sand, and gravel are subject to sales tax, the tax to be measured by the amounts received from such sales including charges for transportation furnished by the

seller. These materials are sold in every instance where they are supplied to tenants, landowners, builders, or contractors for a consideration, for use in making additions or alterations to real property. Suppliers may not, for tax purposes, claim to furnish these materials free where charges are made for services such as hauling, loading and handling. The measure of the tax is the amount received by the supplier without any deduction for labor or services which go into producing and delivering the materials regardless of the fact that such transportation, labor, or service may be billed as separate items.

(2) This rule applies only where the materials are furnished, and does not apply where a charge for hauling is made by a person who contracts to haul materials which he does not furnish.
§§40-23-1(6), 40-23-2(1).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.176 Trade Stamps And Trade Coupons.

When making a sale of tangible personal property where as an incident thereto trade stamps or trade coupons are issued free to the purchaser, the seller shall collect and remit sales tax measured by the total amount paid by the purchaser. The seller shall not deduct from the total amount paid by the purchaser any amount on account of the value of the stamps or coupons issued nor, where the trade stamps or trade coupons have a fixed redemption value and are issued free based on a fixed ration of stamp or coupon value to the sales price, shall the seller be required to add the value of the trade stamps or trade coupons issued to the total amount paid by the purchaser before computing, collecting, and remitting the sales tax. (Section 40-23-1(a)(6), Code of Ala. 1975).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-31.
History: Readopted through APA effective October 1, 1982.
Amended: Filed June 25, 1998; effective July 30, 1998.

810-6-1-.177 Trading Stamps.

(1) This rule is intended to apply to those transactions where trading stamps are exchanged for articles of merchandise called premiums. These exchanges are usually referred to as trading stamp redemptions.

(2) The exchange of a premium for trading stamps is deemed to be a sale at retail. This exchange is subject to the sales tax. The

amount of tax is to be measured by the fair retail market value of the premium. Where the trading stamps have been given a fixed value, the measure of the tax shall not be less than the fixed value of the trading stamps used in exchange. If, however, the fair retail market value of the premium is more than the fixed value of the trading stamps required for its redemption, the measure of the tax shall be the fair market value, rather than the fixed value of the stamps. The premiums used to redeem trading stamps are purchased at wholesale, tax free. §40-23-2(1).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.178 Transportation Charges.

(1) Where a seller delivers tangible personal property in his own equipment or in equipment leased by him, the transportation charges shall be considered a part of the selling price subject to sales or use tax. Said transportation charges are taxable even if billed separately.

(2) Where delivery of tangible personal property is made by common carrier or the U.S. Postal Service, the transportation charges shall not be subject to sales or use tax if billed as a separate item and paid directly or indirectly by the purchaser. To be excluded from the measure of tax, these transportation charges must be separate and identifiable from other charges. Transportation charges are not separate and identifiable if included with other charges and billed as "shipping and handling" or "postage and handling." Indirect payment of the transportation charges shall include those instances where the seller prepays the freight to the common carrier or U.S. Postal Service and is reimbursed by the purchaser.

(3) Where a seller contracts to sell and deliver tangible personal property to some designated place and makes arrangements for delivery of the property by means other than a common carrier or the U.S. Postal Service, the transportation charges shall be considered a part of the selling price subject to sales or use tax. Said transportation charges are taxable even if billed separately.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: **Amended:** August 16, 1974; October 29, 1976. Readopted through APA effective October 1, 1982. **Amended:** Filed February 26, 1987. §§40-23-1(a)(5), 40-23-1(a)(6).

810-6-1-.179 Transportation Costs, Sellers.

In no event may a seller deduct costs of bringing property to his place of business or cost of delivering property from factory to his customer when such factory to customer transportation is paid by the seller either to a transportation company, the manufacturer, or by way of credit to this customer for transportation costs paid by the customer and deducted from seller's invoice. §40-23-1(6).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.180 Truck Trailers And SemiTrailers.

The term "semitrailers" in the Sales and Use Tax Laws shall include semitrailers designed and intended for use in connection with trucks and highway tractors ordinarily used for highway hauling; also luggage, boat, utility, camper, and travel semitrailers designed primarily to be drawn by passenger automobiles. A semitrailer may be pulled by any type automotive vehicle and be taxed at the automotive rate of 2%. A trailer must be pulled by a truck or truck tractor to be taxed at the automotive rate.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-2(4), 40-23-31.
History: Adopted March 9, 1961. **Amended:** March 23, 1962; December 15, 1969; September 29, 1988; adopted December 8, 1988. Filed December 20, 1988.

810-6-1-.181 Undertakers And Morticians.

(1) Sales of tangible personal property to undertakers and morticians are retail sales and subject to sales or use tax at the time of purchase. If the undertaker or mortician purchases tangible personal property from out-of-state vendors on which the tax has not been paid to the vendor, the undertaker or mortician will be required to pay consumers use tax directly to the Department.

(2) Where an undertaker manufactures vaults for his own use, he would be required to pay tax to his supplier on all the ingredients that become part of the vaults. If he is in a dual business of manufacturing vaults for his own use and for sale to others, he would be required to be licensed by this Department, buy all of his ingredients at wholesale tax exempt, and pay tax to

this Department on the sale of vaults and the withdrawal of vaults for his own use. The measure of the tax on the withdrawal of vaults for his own use would be the cost of materials and ingredients that become part of the manufactured vault. (§40-23-1(10).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted January 20, 1966. Readopted through APA effective October 1, 1982. Rule effective October 1, 1982.
Amended: Filed May 6, 1992.

810-6-1-.182 Upholstery Shops (Repealed 11/14/21).

(REPEALED)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Adopted May 24, 1968. **Amended:** July 19, 1968. **Repealed:** Published September 30, 2021; effective November 14, 2021.

810-6-1-.183 Used And Secondhand Property (Repealed 1/14/22).

(REPEALED)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: **Repealed:** Published November 30, 2021; effective January 14, 2022.

810-6-1-.183.02 Sales Of Tangible Personal Property Through Vending Machines.

(1) Sales tax is due on sales of tangible personal property sold through vending machines operated by coins, currency, credit cards, slugs, tokens, or other media of exchange. The retail operator of vending machines shall report and pay sales tax on the operator's total gross receipts from sales through vending machines without any deduction for commissions or rental charges paid to a person on whose property the machines are located. Sales tax may be removed from the retail vending machine operator's total gross receipts from vending machine sales before computing sales tax due. (State of Alabama v. Automatic Sales, 277 Ala. 63, 167 So.2d 146 (1964)) (Sections 40-23-1(a)(6), 40-23-1(a)(8), 40-23-2(1), and 40-23-2(5), Code of Ala. 1975).

(2) Sales of tangible property through vending machines are taxable as follows:

(a) Vending machine sales of food and food products for human consumption, coffee, milk, milk products, and substitutes for these products are taxable at 3 percent of the retail sales price. Items which qualify for this special rate include, but are not limited to, sandwiches, candy, potato chips, and crackers. (Section 40-23-2(5)).

(b) All other tangible personal property sold through vending machines is taxable at 4 percent of the retail sales price. Items which are taxable at the 4 percent general rate include, but are not limited, to soft drinks, fruit juices, bottled water, cigarettes, health and beauty aids, and chewing gum. (Section 40-23-2(1)).

(3) Except as noted in (a) below, the wholesale supplier of property sold through vending machines sells the property at wholesale and is not required to collect sales tax from the retail operator provided the operator is a retailer licensed pursuant to Section 40-23-6, Code of Ala. 1975. The licensed retail operator is required to report and pay the sales tax due on vending machine sales. The wholesale supplier shall charge tax to all customers who do not have a sales tax license number or who are not otherwise exempted by law. The measure of tax is the amount received by the supplier for the sale of the property. (Section 40-23-1(a)(9)a).

(a) Where a licensed or unlicensed retail operator purchases property for resale through vending machines and retains title to the property in the vending machines, the wholesale supplier and the retail operator may agree that the wholesale supplier will service the machines, collect the receipts from the machines, and collect and pay sales tax to the Department of Revenue on the vending machine sales. The payment of all applicable sales tax to the Department of Revenue by the wholesale supplier shall discharge both the supplier and the licensed or unlicensed retail operator from any additional sales tax liability with respect to sales through the vending machines covered by the agreement. The payment of a rental fee on the machines by the retail operator to the wholesale supplier shall not affect the validity of the agreement.

(4) A wholesale supplier of property sold through vending machines shall maintain records which show the sales tax license number of every purchaser who purchases property at wholesale. These records may be maintained on a ledger or other suitable book, in a separate card index, on each individual invoice, or in a computerized record keeping system. Each wholesale invoice shall show the complete name and address of the wholesale purchaser. Invoices made out to "cash" shall always be considered retail sales invoices. (Section 40-23-9).

(5) A wholesale supplier who places vending machines on location, retains title to the property in the vending machines, pays the

location owner a certain percentage of the gross sales as a rental charge for conducting business in the space occupied by the vending machines, services the machines, and collects the receipts is the retail operator of the vending machines and is required to report and pay the sales tax due on the sales through the machines. (Sections 40-23-2(1) and 40-23-2(5)).

(6) The provision in paragraph (2)(a) regarding the proper measure of tax to be used in computing the 3 percent sales tax applicable to vending machine sales of food and food products for human consumption, coffee, milk, milk products, and substitutes for these products shall be effective January 1, 2000.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-1(a)(8), 40-23-1(a)(9)a, 40-23-2(1), 40-23-2(5), 40-23-6, 40-23-9, 40-23-31.
History: **New Rule:** Filed June 25, 1998; effective July 30, 1998. **Repealed:** Filed November 2, 1998; effective December 7, 1998. **New Rule:** Filed November 18, 1999, effective December 23, 1999.

810-6-1-.183.03 Vending Machines, Sales Through (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31.
History: Adopted March 9, 1961. **Amended:** July 16, 1965. Readopted through APA effective October 1, 1982. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-1-.184 Seller Sells Tax Free At The Seller's Risk.

(1) Other than the exceptions noted in paragraphs (2), (3), (4) and (5) below, the seller is liable for sales or use tax on any sales for which the seller fails to collect the appropriate sales or use tax due. It is the seller's duty under the Sales and Use Tax Laws to know the general and customary business of the customer and to collect the amount of tax due. The seller is not, however, expected to follow each article of goods sold to its final use; therefore, the seller is not to be held accountable for an isolated transaction made by the customer or for an isolated use of property by the customer. Where a seller sells to a customer who both uses and sells from the same stock of goods, the seller may sell, tax free, at wholesale all of the goods so used and resold. (Sections 40-23-26 and 40-23-67, Code of Ala. 1975).

(2) A seller, who acts in good faith and reasonably believes a tax exempt purchase is legal, is not liable for sales or use tax later

determined to be due on a sale for which the purchaser provides the seller with a State Sales and Use Tax Certificate of Exemption (Form STE-1). (See Sales and Use Tax Rule 810-6-5-.02 State Sales and Use Tax Certificate of Exemption (Form STE-1) - Responsibilities of the Certificate Holder - Burden of Proof - Liability for Taxes Later Determined to be Due.) (Section 40-23-120).

(3) A seller who secures a properly completed and duly signed certificate pursuant to §40-23-4(a)(10) or §40-23-62(12), Code of Ala. 1975, and has no knowledge that such certificate is false when it is filed is not liable for sales or use tax on a sale later determined to be taxable. (See Sales and Use Tax Rule 810-6-3-.67.04 Certificate of Exemption - Fuel and/or Supplies Purchased for Use or Consumption Aboard Vessels Engaged in Foreign or International Commerce or in Interstate Commerce.) (Sections 40-23-4(a)(10) and 40-23-62(12)).

(4) A seller who secures from the purchaser a Form ST: EXC-1, or a variation thereof approved by the Revenue Department, is not liable for sales or use tax later determined to be due on sales of tangible personal property which the purchaser claims are exempt pursuant to Sections 40-23-4(a)(2), (4), or (22) or 40-23-62(5), (7), or (23). (See Rule 810-6-3-.20.01 Exemption Certification Form Respecting Fertilizers, Insecticides, Fungicides, and Seedlings (Form ST:EXC-1). (Section 40-23-4.3).

(5) A seller, who acts in good faith and reasonably believes a tax exempt purchase is legal, is not liable for sales or use tax later determined to be due on a sale for which the purchaser provides the seller with a Sales and Use Tax Certificate of Exemption for an Industrial or Research Enterprise Project (Form STE-2). (See Sales and Use Tax Rule 810-6-4-.24.01 Sales and Use Tax Certificate of Exemption for an Industrial or Research Enterprise Project (Form STE-2) - Responsibilities of the Certificate Holder - Burden of Proof - Liability for Taxes Later Determined to be Due. (Section 40-23-120)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-4(a)(2), 40-23-4(a)(4), 40-23-4(a)(10), 40-23-4(a)(22), 40-23-4.3, 40-23-26, 40-23-31, 40-23-62(5), 40-23-62(7), 40-23-62(12), 40-23-62(23), 40-23-67, 40-23-83, 40-23-120.
History: Filed August 22, 1989; December 22, 1989; November 17, 1992. **Amended:** February 18, 1993. **Amended:** Filed November 5, 1996; effective December 10, 1996. **Amended:** Filed May 5, 1999; effective June 9, 1999.

810-6-1-.185 Venetian Blinds.

Venetian blinds and similar window furnishings are subject to tax on the full sales price. This type of property remains personal

property even though it is attached to a building. Where venetian blinds are sold at installed price, tax is to be measured by the total invoiced amount. Also see Regulation 810-6-1-.84 entitled Labor Service and Regulation 810-6-1-.81 entitled Installation Charges. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.186 Veterinarians.

(1) Veterinarians use and consume medicines, equipment, and supplies in the rendering of professional services. When used by veterinarians who are not licensed to collect sales tax on their retail sales, these medicines, equipment, and supplies are taxable at the time of purchase by the veterinarian.

(2) Veterinarians in many instances make retail sales of medicines, vaccines and other supplies. Veterinarians who make retail sales shall apply for and obtain a sales tax license. Further, these veterinarians shall collect sales tax from their customers and remit the tax to the Department of Revenue.

(3) Veterinarians who have obtained a sales tax license shall purchase all medicines, equipment, and supplies from veterinarian supply houses tax-free. Those items purchased tax-free and used or consumed by the veterinarian shall be reported as a withdrawal by the veterinarian and the sales tax thereon remitted directly to the Department of Revenue. The tax on withdrawals shall be computed on the cost of the item purchased tax-free from the veterinarian supply house. The veterinarian shall collect sales tax from the customer on those items purchased tax-free from veterinarian supply houses and resold by the veterinarian. The tax on retail sales by veterinarians shall be computed on the selling price to the customer.

(4) With respect to purchases from suppliers other than veterinarian supply houses, veterinarians who have obtained a sales tax license shall pay tax to the supplier on items purchased for use or consumption and not for resale. Examples of such items include, but are not limited to, equipment, office supplies, and office furniture. Items purchased for resale from suppliers other than veterinarian supply houses shall be purchased tax-free and the veterinarian shall compute and pay sales tax on withdrawals and collect and remit sales tax on retail sales to customers.

(5) The sale, use, storage, or consumption of all antibiotics, drugs, serums, vaccines, and other medications used in the commercial production and growing of fish, livestock, and poultry is exempt form sales and use tax. This exemption does not apply to medications for dogs, cats, or any other animal which does not

qualify as fish, livestock, or poultry. When antibiotics, drugs, serums, vaccines, and other medications are used for both taxable and exempt purposes, the veterinarian must maintain adequate records to substantiate the exempt usage; otherwise tax shall be due on all antibiotics, drugs, serums, vaccines, and other medications regardless of how used.
Author:
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-4(a)(29), 40-23-31, 40-23-62(29), 40-23-83.
History: Amended: Filed December 15, 1997; effective January 19, 1998.

810-6-1-.186.03 Warehousemen, Sales Made By.

(1) Receipts of warehousemen from their services in storing, handling, packing, crating, delousing, etc., property for others are not subject to, the sales tax. Any materials used incidental to the rendering of such services are taxable at the sale to the warehousemen.

(2) When, however, warehousemen buy and sell property as a regular course of business, such sales, if not otherwise exempted, are subject to the sales tax, including sales of goods held on consignment and including transactions in which the warehouseman acts as a broker selling goods not actually owned by him or in his possession at the time he accepts the order.

(3) Sales by warehousemen of property forfeited to them in the operation of their warehousing business are subject to tax where such sales are made as a regular course of business. Where such sales are infrequently made they will be considered casual sales not required to be reported in sales tax returns filed with this Department. §40-23-2(1).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.186.04 Warehousemen, Sales To.

(1) All property purchased for use in operating places of storage is subject to sales or use tax, whichever may apply, including all tickets, labels, receipt forms, heating or cooling equipment, fire protection equipment, pest control supplies and equipment, compressors, containers, and crating materials, and any and all other supplies, materials, or equipment purchased for use incidental to the storing or warehousing of property of any kind or character.

(2) Note, however, that warehousemen may also be engaged in the business of selling, processing, or manufacturing for sale, in which event the supplies and equipment used in such activities will be taxable or not in accordance with the rules applying to the use of property for such purposes. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-1-.186.05 Warranty, Extended Or Service Contract.

(1) When a dealer sells an extended warranty or service contract to a customer, no sales tax is due.

(2) Except as noted in (3) below, sales or use tax is due on the purchase of, or withdrawal from inventory of, parts used in performing repairs or services pursuant to an extended warranty or service contract. Tax is to be computed on the cost of the parts to the dealer.

(3) Sales or use tax is not due on the purchase of, or withdrawal from inventory of, parts by dealers to be used in performing repairs or services free-of-charge for a customer under the terms of a manufacturer's extended warranty or service contract sold to the customer by the dealer. Such warranties are granted to the customer by the manufacturer, the manufacturer warrants or guarantees the replacement of defective parts at no cost to the customer, and the manufacturer provides full credit to the dealer performing the repair for the parts purchased or withdrawn. Department of Revenue v. Equipment Sales Corporation (Docket No. S. 92-286) (Sections 40-23-4(a)(18) and 40-23-62(19)) (Adopted June 12, 1978.)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-23-31, 40-23-83.
History: Filed with LRS June 21, 1994. **Amended:** Filed August 30, 1994; effective October 4, 1994.

810-6-1-.187 Warranty Contracts - Replacements Of Articles.

Where an unsatisfactory article is returned to the seller for replacement or repair under a warranty contract between the seller and his customer and the new article is given in exchange or defective parts are replaced at a reduced price, the amount of sales tax on such exchange or replacement shall be measured by the reduced price plus the fair and reasonable market value of any unsatisfactory article or part kept by the seller. In instances where there is no charge for the article given in exchange or for the replacement parts no tax is due. §40-23-2(1).
Author:

Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.188 Watch And Jewelry Repair Shops.

(1) Watch and jewelry repairmen render services in repairing, cleaning or servicing articles which belong to other persons. They also engage in the business of selling tangible personal property for use or consumption, such as watches, clocks, watch cases, watch parts, etc.

(2) Where the watch or jewelry repairman renders nothing but a service, sales tax does not apply to the transaction. In the cases where he furnishes tangible personal property, such as the above mentioned, then sales tax does apply to the full sales price of such tangible personal property without deduction for labor or service charges. If the tangible personal property is sold and the labor or services furnished in separate transactions, each transaction being billed separately, then the tax applies to the sales price of the tangible personal property and not to the labor or service.

(3) Materials and supplies used by watch and jewelry repairmen in rendering services but which are not resold as merchandise are subject to sales tax when purchased by the repairman from the supply dealer. §40-23-1(10).
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.189 Wheel Weights.

The balancing of wheels of automobiles is a service by the balancer. Receipts from such wheel balancing are not taxable. The weights used by a balancer are consumed by him and are taxable when sold to him. (Adopted November 1, 1963.)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-1-.190 Whiskey Tax.

(1) Title 28, Chapter 3, Article 6, Code of Ala. 1975, entitled Taxes on Sale of Spirited or Vinous Liquors, levies a total tax of 56 percent upon the selling price of all spirituous and vinous liquors sold by the Alabama ABC Board.

(2) The definitions of "Gross Proceeds of Sales" and "Gross Receipts" found in §40-23-1, Code of Ala. 1975, were amended effective May 7, 1992 to provide that any consumer excise tax included in the sales price of the property sold cannot be deducted from the gross proceeds of sales or gross receipts used to compute sales tax due on taxable sales. State and local consumer taxes, including, but not limited to, tobacco tax, beer tax, wine tax, and liquor tax cannot be excluded from the measure of state or local sales tax computed on taxable retail sales.

(3) The operator of a bar, tavern, or restaurant who sells alcoholic drinks purchases the liquors from the ABC Board at wholesale and pays the 56 percent liquor tax to the board based on the selling price. The sales tax is not due on such purchases, since they are purchases for resale. Subsequent sales of drinks by the bar, tavern, or restaurant operator are subject to the state sales tax. The measure of the tax is the total amount received for the drinks. The tax paid to the ABC Board in such cases becomes another overhead business expense to the retailer which he can take into consideration, together with other business expenses, in determining the selling price of each drink. He cannot collect the liquor tax from his purchaser as a tax; therefore, the total selling price is subject to state sales tax at the general rate.
Author: Dan DeVaughn, Michele Mayberry
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1, 40-23-31.
History: Adopted November 3, 1980. Readopted through APA effective October 1, 1982. **Amended:** February 8, 1989. Filed March 22, 1989; adopted May 9, 1989; filed June 2, 1989. **Amended:** Filed April 26, 2019; effective June 10, 2019.

810-6-1-.191 Withdrawal From Stock, Contractors (Repealed).

Repealed
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted November 13, 1971. **Amended:** June 12, 1978. Readopted under APA October 31, 1982. **Amended:** December 5, 1984. Filed January 15, 1993; April 15, 1993.

810-6-1-.192 Withdrawals From Stock, Manufacturers (Repealed).

Repealed
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Filed January 15, 1993; April 15, 1993.

810-6-1-.193 Withdrawals From Stock, Merchants (Repealed).

Repealed
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Filed January 15, 1993; April 15, 1993.

810-6-1-.194 Wrapping Paper.

(1) Wrapping paper is sold at wholesale, tax free when sold to manufacturers or compounders for use by them in the form of containers to be furnished by them with the products which they manufacture or compound for sale and when there is no intention on the part of the manufacturers, compounders or their customers for the containers to be returned for reuse. §40-23-1(9c).

(2) Wrapping paper is sold at wholesale, tax free when sold to retailers for use by them in the form of containers to be furnished with the product they have for sale when there is no intention on the part of the retailer or his customer for the container to be returned for reuse. §40-23-1(9c).

(3) The term "wrapping paper" as used in this rule does not include the material used to line transportation equipment for the protection of products during shipment. Such material is subject to tax when sold to the user.
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-1(10), 40-23-31.
History: Adopted March 9, 1961. **Amended:** November 1, 1963; July 27, 1964.

810-6-1-.195 X-Ray Machines, Heart Catheterization Machines, Computerized Tomography Machines And Consumable Supplies Used Therein.

(1) X-ray machines, heart catheterization machines, and computerized tomography machines (CT scan machines) process tangible personal property and, therefore, qualify for the reduced machine rate of sales or use tax. Machine parts, attachments, and replacement parts which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used also qualify for the reduced machine rate of sales or use tax. §40-23-2(3).

(2) Film, chemicals, and other consumable supplies used in x-ray machines, heart catheterization machines, and computerized tomography machines are taxable at the general rate of sales or use tax. §40-23-2(1).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83, as amended.
History: Filed March 22, 1989; adopted May 9, 1989; filed June 2, 1989.

810-6-1-.196 Withdrawals From Inventory.

(1) Taxable Transactions. Unless specifically exempted by law, withdrawals of tangible personal property from inventory are taxable under the withdrawal provisions of the sales tax statute.

(a) The sales tax due on taxable withdrawals are computed and paid by the person, firm, or corporation withdrawing the property.

(b) The measure of the sales tax due on taxable withdrawals is the price paid for the property by the person, firm, or corporation making the withdrawal.

(c) Alabama sales tax becomes due at the time and place that tangible personal property is withdrawn from inventory.

(d) Alabama sales tax is due on tangible personal property withdrawn from inventory in Alabama, regardless of where the withdrawn property is used or consumed.

(e) Withdrawals of building materials by a contractor who makes retail sales of building materials and who also withdraws building materials from the same stock of goods for use in fulfilling a contract for making additions, alterations, or improvements to realty are taxable to the person, firm, or corporation withdrawing the property. The measure of sales tax due on these withdrawals is the price paid for the building materials by the person, firm, or corporation making the withdrawals. Alabama sales tax becomes due on these building materials at the time and place of the withdrawals. Alabama sales tax is due on building materials withdrawn from stock in Alabama for use in fulfilling contracts both inside and outside of the state.

(2) Exemptions. The transactions in this paragraph shall not be deemed or considered to constitute a transaction subject to sales tax.

(a) The withdrawal, use, or consumption of a manufactured product by the manufacturer of such product in quality control

testing performed by employees or independent contractors of the manufacturer.

(b) A gift by the manufacturer of a manufactured product, withdrawn from the manufacturer's inventory to an entity listed in 26 U.S.C. Section 170(b) or (c).

(c) A gift by a retailer of a product or products withdrawn from the retailer's inventory to a qualified charitable entity listed in 26 U.S.C. Section 170(b) or (c), where the aggregate retail value of any single gift is equal to or less than $10,000.

(d) Refinery, residue, or fuel gas, whether in a liquid or gaseous state, that has been generated by, or is otherwise a by-product of, a petroleum-refining process, which gas is then utilized in the process to generate heat or is otherwise utilized in the distillation or refining of petroleum products.

(e) The property has been previously withdrawn from the inventory and the sales tax has been paid because of the previous withdrawal.

(f) The property withdrawn enters into and becomes an ingredient or component part of tangible personal property.

(g) Products manufactured or compounded for sale and not for the personal and private use or consumption of the person making the withdrawal.

(3) Exceptions. Sales of equipment, accessories, fixtures, and other similar tangible personal property used in connection with a sale of commercial mobile services as defined in §40-23-1, Code of Ala. 1975, or in connection with satellite television services, at a price below cost, are not taxable as a withdrawal. Instead, sales of this nature are retail sales and are taxable measured only by the seller's stated retail selling price.

Author: Donna Joyner; Christy Vandevender

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5); 40-23-1(a)(6); 40-23-1(a)(8); 40-23-1(a)(10); 40-23-1(e); 40-23-31; 40-34-60(5); 40-23-83. Ex Parte Sizemore, 605 So. 2d 1221 (Ala. 1992).

History: Filed January 15, 1993; April 15, 1993. **Amended:** Filed December 1, 1995; effective January 5, 1996. **Amended:** Filed November 18, 1999; effective December 23, 1999. **Amended:** Filed August 24, 2007; effective September 28, 2007. **Repealed and New Rule:** Published June 28, 2024; effective August 12, 2024.

810-6-1-.197 Sales Taxes Paid By Certain Camps.

(1) The term "camp" as used in this rule shall mean a facility providing lodgings, meals, and educational and recreational opportunities primarily for the benefit of children, students, and nonprofit organizations, and not members of the general public. The term "camp" as used in this rule shall not include any facility that does not qualify for the lodgings tax exemptions contained in Sections 40-26-1(b)(ii) or 40-26-1(b)(iii), Code of Ala. 1975.

(2) The term "department" as used in this rule shall mean the Alabama Department of Revenue.

(3) The definitions of terms contained in Section 40-26-1(c), are incorporated into this rule by reference.

(4) The furnishing of food, food items, T-shirts, caps, gym bags, and similar items by a camp, without a separate charge therefor, to children or students, members of a child or student's family, members and guests of nonprofit organizations, or other persons in conjunction with lodgings, meals, and educational or recreational opportunities provided for a lump sum payment shall not be considered a sale at retail. The furnishing of these items and activities is considered to be rendering a service rather than making a retail sale and the camp is considered to be the consumer of the items furnished. Unless the camp provides a valid sales tax account number or certificate of exemption, the vendor selling these items to the camp shall collect state and applicable county and municipal sales or use taxes from the camp at the time of purchase and remit the taxes collected to the department.

(5) Sales of food, food items, T-shirts, caps, gym bags, and similar items by a camp that purchases these items and regularly displays and offers them for sale through a gift shop, snack shop, or similar place to children or students, members of a child or student's family, members and guests of nonprofit organizations, or other persons for a separate charge that is in addition to any lump sum charge for lodgings, meals, and educational or recreational opportunities shall be considered sales at retail and are subject to state and applicable county and municipal sales tax. A camp making retail sales of this nature shall obtain a sales tax license and comply with Sales and Use Tax Rule 810-6-1-.56 entitled Dual Business. (Sections 40-23-1(a)(9), 40-23-1(a)(10), and 40-23-6, Code of Ala. 1975).

(6) A camp that does not maintain a stock or inventory of food, food items, T-shirts, caps, gym bags, and similar items from which it regularly makes retail sales as outlined in paragraph (5) and makes only isolated or accommodation sales of these items which it

acquired for use in conjunction with providing services as outlined in paragraph (4) is not engaged in making retail sales and does not qualify as a dual business. Where only isolated or accommodation sales of this nature are made, the camp shall pay state and applicable county and municipal sales or use tax to its vendors on all of its purchases of the items and is not required to obtain a sales tax license.

(7) The sales tax on amusements levied in Section 40-23-2(2), does not apply to a camp's receipts from providing lodgings, meals, and educational or recreational opportunities for a lump sum payment.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9), 40-23-1(a)(10), 40-23-2(2), 40-23-6, 40-23-31, 40-23-83.
History: **New Rule:** Filed August 23, 1999; effective September 27, 1999.

810-6-1-A **Appendix A.**

Appendix A

ATTACHMENT 810-6-1-.33.02

Report of Sales & Use Tax Collected By County Licensing Official (Form TC5)

See Master Code for form
Author:
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-111.
History: **New Rule:** Filed February 26, 1996; effective April 1, 1996.