ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE

CHAPTER 810-6-2
TAXES LEVIED ON GROSS SALES AND GROSS RECEIPTS; APPLICABLE TAX RATES

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810-6-2-.01 Abrasives - Shot, Grit, Etc.

Shot, grit, stars, sand, and other abrasives of like kind are taxed as parts or attachments to machines when used in machines manufacturing or processing tangible personal property. Such abrasive, when used in maintenance of equipment or when used for purposes other than manufacturing or processing tangible personal property are taxed at the general rate. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.02 Accessories On New Automobiles, Applicable Tax Levy.

(1) Accessories which are purchased from the dealer after title and possession of the automotive vehicle have passed to the purchaser are taxed at the usual 4% rate.

(2) As a practical application of this rule, the dealer's sales invoice will be accepted as the basis for determining the tax rate applicable unless there is conclusive evidence that the invoice does not reveal the true facts. (Adopted March 9, 1961, amended November 1, 1963, amended September 26, 1966. §40-23-2(1))
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.02.05 Agricultural Publications.

No exemption is granted for agricultural publications in the Sales Tax Law, Act No. 100, Second Special Session Legislature 1959, effective October 1, 1959.
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.03 Annealing Pots.

Steel pots or tubs used to contain small metal parts or fittings while being heat treated in an annealing furnace as a step in the manufacture thereof are taxed at the special machine rate of 1 1/2%. (§40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.04 Automotive Demonstrator, Levy Of Tax.

(1) Any dealer licensed pursuant to Section 40-23-6, Code of Ala. 1975, who withdraws from his or her stock in trade any automotive vehicle, truck trailer, semi-trailer, or house trailer for use by the dealer or by the dealer's employee or agent in the operation of the business, shall pay, in lieu of the sales tax, a fee of five dollars ($5.00) per year or part of year on each automotive vehicle, truck trailer, semi-trailer, or house trailer so withdrawn. Each year or part thereof shall begin with the date or anniversary date of the withdrawal and run for the 12 succeeding months during which the automotive vehicle, truck trailer, semitrailer, or house trailer remains the property of the dealer. This fee is to be reported on the dealers' sales tax returns covering the tax reporting period in which the withdrawal is made. When the vehicle is returned to the stock of the dealer and sold, the sale is subject to the tax. (Section 40-23-2(4))

(2) The use described in the preceding paragraph does not include the withdrawal of automotive vehicles, truck trailers, semitrailers, or house trailers by a dealer for rental or leasing purposes where the dealer is engaged in business both of selling and leasing such property. If a dealer withdraws from stock a vehicle or trailer for leasing purposes, the withdrawal is exempt from sales tax if the lease of the vehicle or trailer is taxable pursuant to Section 40-12-222, Code of Ala. 1975.

(3) Where the dealer follows the practice of having his or her salesmen purchase the vehicles which they use as demonstrators, the sales to the salesmen are subject to sales tax measured on the sales price thereof less any allowance made for used vehicles taken in trade. The sale of the used vehicle so taken in trade is subject to sales tax when resold.

(4) The withdrawal of an automotive vehicle from inventory by a licensed dealer for the purpose of providing the vehicle to a school for use in a drivers education program constitutes use by the dealer in the operation of the dealer's business and,

therefore, is subject to the five dollar ($5.00) fee outlined in paragraph (1) above. (Section 40-23-2(4))
Author: Dan DeVaughn, Sales and Use Tax Division
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted March 9, 1961. **Amended:** November 1, 1963, August 16, 1974, June 12, 1978, October 16, 1978. Readopted through APA effective October 1, 1982. Filed August 22, 1989; December 22, 1989. **Amended:** Filed September 15, 1998; effective October 20, 1998.

810-6-2-.05 Automotive Supply Jobbers, Where Taxability Usually Applies (Repealed 3/10/98).

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

810-6-2-.06 Baking Pans.

Baking pans used in the production of bakery products for sale are taxable at the machine rate of 1 1/2% of the gross proceeds of the sale.
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.07 Barbers And Beauticians.

(1) Barber and beauty shop operators primarily render personal services. They are the purchasers for use or consumption of such tangible personal property as is used or consumed incidentally in the rendering of such personal service.

(2) Barber and beauty shops are not, however, relieved from collecting and reporting tax on sales of tangible personal property for use or consumption, such as, package cosmetics, hair tonics, lotions and like articles when sold apart from the rendering of personal services. §40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.08 Belting.

Belting purchased for use on a particular machine used in manufacturing is taxed at the special machine rate of 1 1/2% even though such belting may not be purchased to the exact length required. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.09 Boiler Tubes.

Boiler tubes used in repairing boilers used to furnish heat or power used in manufacturing are taxed at 1 1/2% as parts for machines used in manufacturing. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.09.02 Sales Of Textbooks, Other Books, And School Supplies By Schools.

(1) The term "elementary or secondary school" as used in this rule shall mean a school where the curriculum consists of one or more of grade levels K through 12. This term shall not include nurseries and day care centers nor shall it include private schools at which the courses of study are limited to specialized subjects such as dance, horseback riding, music, cooking, sewing, or religion.

(2) The sales and use tax statutes contain no exemption for sales of textbooks, other books, and school supplies. Accordingly, unless the sales or use tax statutes contain a specific exemption for the seller or purchaser, sales or use tax is due on retail sales of these items at the general rate of tax. (Sections 40-23-2(1) and 40-23-61(a), Code of Ala. 1975)

(3) Sales of textbooks, other books, and school supplies made by a school (not including an institution of higher learning) owned and operated by a county or a municipality of the State of Alabama are not subject to sales or use tax. (City of Anniston v. State, 265 Ala. 303, 91 So. 2d 211 (1956))

(4) Sales of textbooks, other books, and school supplies made by a privately-owned and operated elementary or secondary school or by an elementary or secondary school owned and operated by the State

of Alabama are exempt from sales or use tax when the net proceeds from the sales are used solely for the benefit of the elementary or secondary school. See Sales and Use Tax 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 40-9-31, Code of Ala. 1975)

(5) Except as outlined in paragraph (4), sales of textbooks, other books, and school supplies made by a privately owned and operated school or college or by a school or college owned and operated by the State of Alabama are subject to sales or use tax. (Sections 40-23-2(1) and 40-23-61(a), Code of Ala. 1975)
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-9-31, 40-23-2(1), 40-23-31, 40-23-61(a), 40-23-83.
History: Amended: Filed May 5, 1999, effective June 9, 1999.

810-6-2-.10 Coal Loading Machines.

Coal loading machines used in mines are taxed at the special machine rate of 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.11 Coal Cutting Machines.

Coal cutting machines are taxed at the special rate of 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.12 Coke, Petroleum.

Petroleum coke and pitch used in the manufacture of aluminum from alumina are subject to tax at the special machine rate where such petroleum coke and pitch are made into linings for pots where alumina is reduced to aluminum or are made into anodes for such pots. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.12.05 Community Action Agencies.

Sales of tangible personal property to organizations which are nonprofit corporations including those that are federally funded are subject to state and local sales tax. (Community Action Agency of Huntsville, Madison County, Inc., v. State of Alabama) (Adopted August 10, 1982)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.12.06 Compressors, Tar Buckets, Portable Signs.

Compressors, tar buckets, and portable signs mounted on wheels are not considered trailers. A trailer is defined as a vehicle without motive power designed to carry persons or property wholly on its own structure and to be drawn by a motor vehicle. Since portable compressors, portable tar buckets, and portable signs are not designed for ordinary highway hauling purposes, they are subject to tax at the rate of 4 percent. (Alabama Dept. of Revenue, Horace Hitt, Chief, Sales and Use Tax Division; adopted December 5, 1984; effective date January 10, 1985)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.13 Compositions.

(1) Gross proceeds accruing from the retail sales of compositions, paste-ups, or layouts sold to printers, publishers, or others are subject to the sales tax at the machine rate of 1 1/2%.

(2) 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, sales of materials to the manufacturer of the compositions are at wholesale, tax free, when such materials become a component of the compositions, etc., produced for sale. The machines used by the composition manufacturer in manufacturing the compositions are taxable at the machine rate of 1 1/2%. 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, at the general rate of 4%. (Sections 40-23-1(a)(9)b and 40-23-60(4)b)

(3) Where a printer or publisher manufactures compositions for their own use, sales or use tax, whichever may apply shall be due on the purchase price of the materials becoming a component of the compositions at the machine rate of 1 1/2%.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83, 40-23-2(3)
History: **Amended:** Filed November 5, 1997; effective December 10, 1997.

810-6-2-.14 Cotton Gins.

(1) Cotton gin machinery and equipment used in separating lint from seed, in cleaning and conditioning lint, in baling lint, the engines or motors furnishing the power for such separating, cleaning, conditioning and baling, and the equipment used to carry the cotton lint and seed, from step to step in the ginning process are taxed at the special machine rate of 1 1/2%. The equipment which carries the seed cotton directly into the first processing machine and the blower which discharges the seed from the gin are considered to be attachments to the processing machines and therefore, are also taxed at the special rate.

(2) The special rate does not, however, apply to conveyor equipment used in unloading seed cotton and putting it into storage and does not apply to moving cotton seed from the gin to storage and from storage into transport equipment. Other equipment and materials which are taxed at the general 4% rate are scales of all description and building materials used in the construction of the gin house and storage facilities. (Adopted March 9, 1961, amended November 1, 1963, effective July 1, 1963) §§40-23-2(3), 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.15 Crossties Used In Mining.

Crossties and switchties used in the construction and maintenance of tracks used in bringing minerals to the surface of the earth are taxed at the special machine rate of 1 1/2%. This provision does not, however, extend to crossties and switchties used in the construction or maintenance of tracks used in transporting minerals from the mine after the mining operation has been completed and it does not extend to timbers used in erecting structures in or about mines or used in supporting mine roofs. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.

History:

810-6-2-.15.03 Double Wide Mobile Homes.

Mobile homes whether they be of the double wide variety or the standard variety are in fact mobile homes. Mobile homes, including double wide mobile homes, do not qualify as modular buildings. §40-23-2(4) (Adopted August 10, 1982)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.15.05 Dry Docks.

A dry dock is subject to the sales or use tax, whichever applies. A dry dock is not a vessel, nor is it a barge, exempted from the sales or use tax. §40-23-4(12)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.16 Dust Collecting Equipment.

Dust collectors made up of ducts, collectors, filters, and other parts are not of themselves machines used in manufacturing. They may, however, by attachment to a machine used in manufacturing take the special one and half percent rate. The special rate would not in any event apply with respect to sheet metal or other building materials used to construct duct work or other parts of dust collection systems where such materials become a part of the building in which the system is located. §40-23-1.(10)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.17 Electric Motors.

Electric motors used to drive machines used in mining, processing or manufacturing are taxed at the special machine rate of 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.18 Electric Mine Locomotives.

Locomotives receiving power from an electric trolley used to bring coal to the surface of a mine are taxed under the machine levy at 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.19 Electric Motors, When Furnishing Power For Machines In Manufacturing, Compounding, Processing, Mining Or Quarrying And Plant Maintenance.

Electric motors used to furnish power for machines used in manufacturing, compounding, processing, mining, or quarrying are taxed at the machine rate of 1 1/2%. Electric motors used to power equipment used primarily in plant maintenance are subject to the tax at the general rate of 4%. §§40-23-2(3), 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.20 Electrical Equipment, Paper Manufacturers (Repealed 11/03/98).

(Repealed 11/3/98)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.21 Electrical Supplies Used By Manufacturers Which Are Taxed At Special Rate (Repealed 3/10/98).

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

810-6-2-.22 Engravers And The Machine Rate.

Gross receipts accruing from the retail sales of photo engravings, plates, cuts, and other like articles sold to printers are subject to the sales tax at the machine rate of 1 1/2% where sold for use as parts or attachments of machines used in manufacturing. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.22.05 Federal Tax On Hazardous Chemicals.

It is the position of the Department based on an opinion by the Legal Division of the Department of Revenue that the federal tax is to be included in the measure of the tax when computing sales and/or use tax on retail sales of hazardous chemicals. The federal tax is a "cost of doing business" tax levied upon the sale or use of certain chemicals sold by a manufacturer, producer or importer thereof. §4662C, Title 26, U.S.C.A. reads as follows: "If any person manufactures, produces, or imports a taxable chemical and uses such chemical, then such person shall be liable for tax under §4661 in the same manner as if such chemical were sold by such person." Therefore, if the tax is on the cost of doing business by the provider of the chemical, then the federal tax would be included in the measure of the base used for computing the sales and/or use tax payable to the state. §40-23-1(10) (Adopted August 10, 1982)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.23 Fire Clay Used In Lining Blast Furnaces, Etc. (Repealed 7/9/98).

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

810-6-2-.24 Firebrick And Fire Clay - Paper Manufacturers (Repealed 7/9/98).

(Repealed)

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

810-6-2-.25 Refractories, Rates Applicable To.

(1) The term "refractories" as used in this rule shall mean fire clay, firebrick, magnesite, steel, and other special purpose heat resistant materials.

(2) Refractories, which are not in the nature of building materials and which are designed and manufactured for use as parts or attachments for machines used in manufacturing, compounding, or processing tangible personal property, are taxable at the reduced machine rate of sales or use tax when purchased for use as a part or attachment to manufacturing machinery. (§§40-23-2(3) and 40-23-61(b))

(3) Refractories purchased for use in lining blast furnaces, kilns, boilers, cupolas, ladles, or other machines used to manufacture, compound, or process tangible personal property are taxable at the reduced machine rate of sales or use tax. (§§40-23-2(3) and 40-23-61(b))

(4) Refractories purchased for purposes other than becoming parts or attachments to machines used in manufacturing, compounding, or processing tangible personal property are taxable at the general rate of sales or use tax. (§§40-23-2(1) and 40-23-61(a))
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-2-(1)(3). 40-23-61(a)(b), 40-23-31, 40-23-83.
History: Amended: Filed June 4, 1998; effective July 9, 1998.

810-6-2-.26 Firebrick Used In Lining Blast Furnaces, Etc. (Repealed 7/9/98).

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

810-6-2-.26.02 Food Products Through Vending Machines, Sale Of (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-2(5), 40-23-31.
History: Adopted August 15, 1974. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-2-.27 Gold, Coin, And Bullion.

(1) Through May 31, 2018 sales of gold in coin, bullion, nugget, flake, or other form to purchasers within the state are subject to the retail sales or use tax. In any form other than as a mineral in place, not yet extracted, gold is tangible personal property subject to the usual rules of taxation. Therefore, exemption is allowed only if the sale is for resale in the regular course of business or if the gold becomes an ingredient or a component of a new article for sale. Sales to purchasers for investment or speculation are fully taxable and are treated as sales of coins, stamps, paintings, antiques, or other valuables purchased by collectors. When applicable, the tax is measured by the full selling price without deductions for brokerage fees, service fees, or premiums included in the gross price.

(2) Following are a few guidelines for the taxation of gold through May 31, 2018:

(a) Gold purchased and delivered outside the state is subject to use tax at the time it is brought into the state.

(b) Sales of gold to persons who take only a document of ownership covering gold remaining outside of the state are exempt from sales and use tax.

(c) Agents, including gold jobbers and brokers, who sell gold at retail in their own name must collect retail sales tax thereon.

(3) Beginning June 1, 2018 until May 31, 2028, sales of bullion (including coins), gold, silver, platinum, palladium, or a combination of each precious metal (not including jewelry or works of art) that has gone through a refining process and for which the item's value depends on its mass and purity, and not its form, numismatic value, or other value are exempt from sales and use tax.

(4) Sales to persons who use gold in the rendition of professional or commercial services such as dentists or dental laboratories continue to be taxable.
Author: Michele Mayberry, Christy Vandevender
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-4(a)(51), 40-23-31, 40-23-83.

History: Amended: Filed November 16, 2018; effective December 31, 2018. **Amended:** Published September 30, 2022; effective November 14, 2022.

810-6-2-.28 Gravel Screens.

Gravel screens used in substantially the form in which they are purchased as parts of a mechanically powered gravel or sand washer and grader are taxed at the special machine rate of 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.29 Hand Tools Not Exempted As Machines.

(1) The word "machine" as used in the Sales and Use Tax Laws is not understood to mean and include the hand implements used by laborers and craftsmen, commonly referred to as "hand tools" which are manually powered and controlled.

(2) Implements, hand operated, which are powered by electricity, steam or compressed air which is delivered to implements through wires, pipes, or hoses are considered to come within the levy of the tax at 1 1/2% where such implements are used in mining, quarrying, manufacturing, processing or compounding. §§40-23-1(10), 40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.30 Hose - Water, Steam, Or Air.

Hose when used as an attachment for a machine used in manufacturing, compounding, processing, mining or quarrying is taxed at the machine rate of 1 1/2%. Hose used for general purposes or for maintenance is taxed at the general rate of 4%. (Adopted March 9, 1961, amended November 1, 1963) §§40-23-2(3), 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.31 **Hospitals, Infirmaries, Sanitariums, And Like Institutions - State, City And County.**

(1) State, city, and county owned and operated hospitals, infirmaries, sanitariums, and like institutions are exempt from the payment of sales or use tax on their purchases of tangible personal property. §§40-23-4(11) and 40-23-62(13)

(2) State, city, and county owned and operated 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 such items are used in rendering hospital services. This is true irrespective of whether or not such tangible personal property is billed separately to their patients. State, city, and county owned and operated hospitals, infirmaries, sanitariums, and like institutions are deemed to be the purchasers for use or consumption of such tangible personal property; and the sellers of these items are not required to collect sales or use tax on sales of such property to said institutions since such purchases are specifically exempt from sales and use tax pursuant to Code of Ala. 1975, §§40-23-4(11) and 40-23-62(13).

(3) When state, city, or county owned and operated hospitals, infirmaries, sanitariums, and like institutions furnish meals to nurses, attendants, and patients as a part of their services rendered, such institutions are deemed to be the users or consumers of the food and beverages used in the preparation of these meals. Purchases of food and beverages for use or consumption by these institutions are exempt from sales and use tax. §§40-23-4(11) and 40-23-62(13)

(4) When state owned and operated hospitals, infirmaries, sanitariums, and like institutions operate cafeterias that serve meals to the public, such institutions will be required to collect and remit the sales tax on sales of meals and beverages to their customers. Foodstuffs and beverages withdrawn by such state owned and operated institutions and used or consumed in furnishing meals as outlined in paragraph (3) are not subject to sales tax. §40-23-2(1)

(5) When city and county owned and operated hospitals, infirmaries, sanitariums, and like institutions operate cafeterias that serve meals to the public, such institutions are not required to collect and remit sales tax on sales of meals to their customers. (City of Anniston v. State of Alabama, 91 So. 2d 211)
(Adopted March 9, 1961, amended)
Author:

Statutory Authority:
History:

810-6-2-.32 House Trailers And Mobile Homes.

(1) The gross proceeds of sales of house trailers or mobile homes are taxable at the reduced automotive rate of sales or use tax. Where any house trailer or mobile home is taken in trade as a credit or part payment on the sale of a new or used house trailer or mobile home, the measure of sales or use tax shall be the price of the new or used house trailer or mobile home sold less credit for the house trailer or mobile home taken in trade. (Sections 40-23-2(4) and 40-23-61(c), Code of Ala. 1975)

(2) The reduced automotive rate of sales or use tax also applies to parts, attachments, or accessories for house trailers or mobile homes purchased from the dealer as a unit along with the house trailer or mobile home. Parts, attachments, or accessories purchased from the dealer after title and possession of the house trailer or mobile home has passed to the purchaser are taxable at the general rate of sales or use tax. The dealer's sales invoice shall be the basis for determining the applicable tax rate unless there is conclusive evidence that the invoice does not reveal the true facts. (Sections 40-23-2(1) and 40-23-61(a), Code of Ala. 1975)

(3) Where a dealer purchases parts and materials or withdraws parts and materials from a stock of goods for use in repairing or reconditioning house trailers or mobile homes which (i) are owned by the dealer, (ii) are offered for sale by the dealer, and (iii) are not for the dealer’s own use or consumption, the parts and materials would be exempt from sales or use tax when purchased or withdrawn from the dealer’s stock of goods. (Sections 40-23-1(a)(9)k and 40-23-60(4)j, Code of Ala. 1975)

(4) Mobile home set-up materials and supplies are taxable at the reduced automotive rate of sales or use tax. These items qualify for the reduced rate regardless of who sells them or to whom they are sold provided the facts substantiate that they were used to set-up a house trailer or mobile home. The term "mobile home set-up materials and supplies" shall include steps; blocks; anchoring materials such as cable, straps, and buckles; and pipe. The term shall not include tape or other similar supply items which lose their identity or are not passed on substantially intact to the owner of the mobile home. The term "mobile home set-up materials and supplies" shall not include hand tools or electrical tools used to set-up a mobile home and not becoming a part of the mobile home dwelling. (Sections 40-23-2(4) and 40-23-61(c), 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)(9)k, 40-23-2(1), 40-23-2(4), 40-23-41, 40-23-60(4)j, 40-23-61(a), 40-23-63(c), 40-23-83.
History: Filed August 22, 1989; December 22, 1989. **Amended:** Filed November 23, 1998; effective December 28, 1998.

810-6-2-.32.05 Hydraulic Oils.

Retail sales of hydraulic oils are subject to the sales tax at a rate of 4 percent except hydraulic oil used as part of a machine used in quarrying, mining, manufacturing, processing, and compounding tangible personal property which is taxed at 1 1/2%. §§40-23-2(1), 40-23-2(3) (Adopted August 10, 1982)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.33 Ice Plants.

(1) The following are taxed at 1 1/2% rate levied on machines used in manufacturing when used by ice manufacturers: pumps, motors, compressors, pipes, valves, gauges, water filters, ice crushing and shaving machines and other machines and the machinery used directly in the ice making process beginning with the point where the water enters into the process through the point where the ice is removed from the cans in which it is made or, if the ice is to be sold as crushed or shaved ice, through the point where the ice is crushed or shaved. Refrigerants used in the manufacturing process are also taxed at the machine rate.

(2) Property taxed at 4% rate includes: ice hooks, hand saws, ice picks, containers (not furnished), tarpaulins, power saws, scoring machine, transportation equipment, ice tickets, office supplies, and equipment, scales, chemicals of all kinds, fuel oil, other oils not classified and taxed as lubricants, advertising materials, mechanical conveyors having no part in the manufacturing process, etc. §§40-23-2(1), 40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.34 Improvised Attachments For Machines Used In Manufacturing.

The materials, from which parts and attachments for machines used in manufacturing, compounding, processing, mining or quarrying are improvised, are taxed at the special 1 1/2% rate when such

improvised parts or attachments are necessary to the operation of such machines and are customarily so used. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.35 Insulation, Pipe Coverings, Tank Coverings, Boiler Insulation - Paper Manufacturers (Repealed 11/3/98).

(Repealed 11/3/98)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.36 Kerosene Used In Making Molds.

Sales to foundrymen of kerosene to be used in making molds and cores are taxed at the general rate of 4%. (Adopted March 9, 1961, amended November 1, 1963) §§40-23-1(10), 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.36.02 Lawn mowers.

(1) Push type and self-propelled lawn mowers, roto-tillers, and garden tractors do not come within the automotive section of law levying a lower rate of tax, they are taxable at the rate of 4%. §40-23-2(1)

(2) Self-propelled riding lawn mowers and garden tractors do come within the automotive section and are taxable at the rate of 2%. (Adopted August 15, 1974, amended September 29, 1988, author Dan DeVaughn, Sales and Use Tax Division, adopted December 8, 1988, filed December 20. 1988, effective January 24, 1989)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.36.05 Lay-Away Sales.

(1) The Sales Tax Law defines a sale as follows: "installment and credit sales and the exchange of properties as well as the sale

thereof for money, every closed transaction constituting a sale." It has been held that Alabama sales tax applies only to sales that are "closed" within the state and that, for tax purposes, sales are closed when title to the goods are passed to the purchaser.

(2) The time that title to the goods passes as designated by the lay-away contract is determinative of the time that sales tax is due. If there is no lay-away contract or the contract is silent as to the time title transfers, amounts received in payment of the sales price of property held by the seller until the total amount of the sales price is paid to him are not taxable until the total sales price, including the service charge, has been paid and the property delivered to the purchaser.

(3) If the customer fails to complete payments under the lay-away agreement and obtains from the retail merchant a refund of those payments, excluding the service charge, and title has not passed, the retail merchant is entitled to a credit for any sales tax previously paid to the Department upon the transaction regardless of the amount refunded to the customer. In an incomplete lay-away transaction there can be no "return" since the customer never obtains delivery of the goods. (Alabama Dept. of Revenue; Chief, Sales & 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.
History:

810-6-2-.37 Lumber And Timbers Used In Mine Tipple.

Sales of lumber and timbers to mine operators for use in constructing or repairing structures such as tipples, bridges, or trestles used in supporting mining and processing equipment and tracks are subject to tax at the general rate of 4%. This rule does not apply to machines and machinery supported by such structures, nor does it apply to crossties and switchties all of which are covered in other rules. §40-23-1(10)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.38 Lumber And Timbers Used In Mining.

Sales of lumber and timbers to mine operators for use in the building and maintenance of structures and for use in supporting mine roofs are subject to sales tax at the general rate of 4%. (Adopted March 9, 1961, amended November 1, 1963) §40-23-1(10)
Author:

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

810-6-2-.39 Machine Shop Equipment.

Machine shop equipment used for maintenance and repair purposes is taxable at the general rate of 4%. Machines used both in maintenance and repair work and in the production of manufactured articles are taxed at the special machine rate of 1 1/2% when use in production is substantial. Tax is due at the general rate, however, when use in production is an incidental or inconsequential use as compared to use in maintenance and repair. (Adopted March 9, 1961, amended November 1, 1963) §§40-23-1(10), 40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.40 Machines, Building Materials (Repealed 7/9/98).

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

810-6-2-.41 Machines Furnished And Installed By Building Contractors.

(1) The 1 1/2% tax rate shall apply where a building contractor purchases for installation under a building contract machines and parts or attachments for machines which are to be used in mining, quarrying, manufacturing, compounding or processing. The parts or attachments to come under the special 1 1/2% rate must be made or manufactured for such use and customarily so used.

(2) On the other hand, building materials when used as such cannot come within the special 1 1/2% levy when purchased by a contractor or by a manufacturer regardless of whether or not the structure made therefrom may be used in mining, quarrying, manufacturing, compounding or processing. §§40-23-2(3), 40-23-1(10)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.41.01 Sales Of Electrical Generators.

Retail sales of stand-alone, commercial and portable electrical generators that manufacture alternating current electricity are taxable at the reduced machine rate. (Sections 40-23-2(3) and 40-23-61(b))
Author: Jim Smith
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-2(3), 40-23-31, 40-23-61(b), 40-23-83.
History: **New Rule:** Filed June 4, 1998; effective July 9, 1998.

810-6-2-.42 Machines Or Machinery Not Used In Manufacturing.

Materials or equipment which might constitute a machine or machinery when not used for mining, quarrying, manufacturing, compounding or processing are taxed at the general rate of 4%. (Adopted March 9, 1961, amended November 1, 1963) §40-23-1(10)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.43 Self-Propelled Draglines Used In Mining.

A self-propelled dragline purchased for use in mining tangible personal property taxable at the reduced machine rate of sales or use tax. Replacement parts and attachments for self-propelled draglines used in mining tangible personal property are also taxable at the reduced machine rate of sales or use tax when (i) made or manufactured for use on or in the operation of the dragline, (ii) necessary to the operation of the dragline, and (iii) customarily so used. State v. Twin Seam Mining Co., Inc., 274 Ala. 3, 145 So 2d 177 (1962) (Sections 40-23-2(3) and 40-23-61(b), Code of Ala. 1975).
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: **Amended:** Filed June 25, 1998; effective July 30, 1998.

810-6-2-.44 Magnesite Used In Lining Furnaces, Etc. (Repealed 7/9/98).

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

History: Filed June 4, 1998; effective July 9, 1998.

810-6-2-.45 Manufacturer's Use Of Electrical Supplies (Repealed 3/10/98).

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

810-6-2-.46 Manufacturer's Use Of Patterns.

(1) Patterns purchased by a manufacturer for use as a part or attachment to a machine used in manufacturing tangible personal property are subject to the sales and/or use tax at the machine rate of 1 1/2%.

(2) Pattern materials purchased by a manufacturer for use in making patterns that will become a part or attachment for a machine used in manufacturing tangible personal property are subject to the sales and/or use tax at the machine rate of 1 1/2%.

(3) The patterns or materials used in making patterns are taxable to the manufacturer at the time of purchase even though the patterns may pass to the manufacturer's customer after use by the manufacturer in making castings. (Adopted October 29, 1976) §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.46.01 Marine Dealers, Sales By.

The proper rates of state sales tax to be paid on sales of boats, motors, trailers. and other items associated with the marine industry are as follows:

(a) Boat trailers sold alone are taxable at 2 percent of the net difference paid.

(b) Boat motors sold alone are taxable at the general rate of 4 percent of the total selling price.

(c) Nonautomotive boats sold alone are taxable at the general rate of 4 percent of the total selling price.

(d) When a boat without a motor is sold with a trailer, the total selling price of the boat is taxable at the general rate and the trailer is taxable at the automotive rate on the net trade difference (total selling price of the trailer less credit allowed for a qualifying automotive unit traded-in) provided the board and trailer prices are separately stated on the dealer's invoice. To qualify for the trade-in allowance, the unit traded-in for the trailer must qualify as an automotive unit. If the boat and trailer prices are not separately stated on the invoice, the total selling price of the boat and trailer is taxable at the general rate with no deduction allowed for a trade-in.

(e) Boat, motor and trailer sold as a unit is taxable at 2 percent of the net difference paid if it qualifies as an automotive vehicle.

(f) If a dealer removes a motor from a customer's unit classified as an automotive vehicle, accepts it as part payment of another motor, and installs the new motor, the tax is computed at 4 percent of the net difference paid. A motor sold with a motor traded that is not part of an automotive vehicle at the time of the sale is taxable at 4 percent of the total selling price.

(g) Coast Guard required equipment and accessories such as, but not limited to, life jackets and fire extinguishers included in the price of boat, motor and trailer, are taxable at 2 percent of the net difference paid. Skis, ropes, etc., are taxable at the general rate of 4 percent.

(h) Depth finders, trolling motors, and other permanently attached accessories sold with unit at time of original purchase are taxable at 2 percent of the net difference paid provided the unit qualifies as a motorboat with built-in motor, or boat with outboard type motor attached thereto by attachments intended to be permanent rather than readily movable, and which motor is controlled with remote controls built on or into the hull of said boat.

(i) Boat, motor and trailer sold by dealer for an individual is subject to the tax in the same manner and at the same rate as a boat, motor and trailer owned and sold by the dealer.

(j) Boat, motor and trailer sold with trade-in allowed (Example: New unit $10.000.00, credit for unit traded $5,000.00, net difference $5,000.00) would be taxable at 2 percent of net difference paid provided both units qualify as an automotive vehicle as outlined in (h).

(k) Sail boat sold alone is taxable at 4 percent of total selling price.

(l) Sail boat sold with auxiliary motor permanently attached so that it qualifies as an automotive vehicle as outlined in (h) is taxable at 2 percent of the net difference paid.

(m) Aluminum fishing boat sold alone is taxable at the general rate of 4 percent of total selling price. (§§40-23-2(1)(4))

Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Adopted effective January 10, 1985. **Amended:** September 29, 1988. **Amended:** Filed June 4, 1998; effective July 9, 1998.

810-6-2-.47 Material Handling Equipment.

(1) Equipment used for transporting materials to the plant of a manufacturer, processor, or compounder or used for transporting finished products from such plants is taxed at the general 4% rate.

(2) The movement of materials or products purely for transportation purposes is not manufacturing, processing or compounding. In Alabama - Georgia Syrup Company v. State, 42 So. 2d 796, the Supreme Court of Alabama stated with reference to platform trucks used for moving the company's products in the process of blending and packing. "We do not think that platform trucks are machines within the meaning of the exemption. They are obviously used in transportation from one point in the plant to another and not in compounding and manufacturing of tangible personal property."

(3) The general rule with reference to transportation equipment is that it is taxable at the general rate of 4% up to the point where the materials go into process, the equipment feeding the first processing machine being taxed under the machine levy at 1 1/2%.

(4) Equipment for transporting the finished product is subject to tax at the general 4% rate, the last equipment to come under the machine levy being that equipment which discharges the finished product from the last machine used in the process. (Adopted March 9, 1961, amended November 1, 1963) §40-23-2(3)

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

810-6-2-.48 Materials From Which Patterns Are Manufactured, Tax Rates Applicable.

(1) Pattern materials used by foundrymen in making patterns to be used in casting are taxed at the special machine rate of 1 1/2%.

(2) Sales of patterns are taxed at the special machine rate of 1 1/2% when made to a foundryman to be used by him in making molds for castings.

(3) Sales of supplies and hand tools used in making patterns are subject to the tax at the 4% rate. (Adopted March 9, 1961, amended November 1, 1963, effective July 1, 1963) §§40-23-2(3), 40-23-1(10)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.49 Mats Purchased For Use In Newspaper Advertising.

Mats purchased by advertisers to be furnished to newspaper publishers for use in producing plates used in printing newspapers are taxed at the special machine rate of 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.50 Meals Furnished Along With Rooms By Schools And Colleges.

Where both lodgings and meals are furnished to students by institutions of higher learning, both public and private, the meals are subject to sales tax. If both lodgings and meals are furnished for a lump sum, the full amount is to be used as the measure of the tax. Where lodgings and the meals are furnished for separate amounts and the billings and records of the institution show such charges separately, only the charge for meals is to be used as the measure of the tax. (Attorney General's Opinion 12-19-60) §40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.51 Meals Sold By Schools.

(1) Sales to children of lunches, when not for profit, in kindergartens, grammar schools, junior high schools, and high schools, both private and public, are specifically exempted from sales tax.

(2) Sales of meals made by all colleges, universities or other institutions of higher learning, both privately and publicly owned

and operated, are by specific provisions of the Sales Tax Law subject to sales tax.

(3) Sales of meals made by schools (not including institutions of higher learning) owned and operated by the counties and municipalities of the State of Alabama are not subject to the sales tax. (City of Anniston v. State of Alabama, 91 So. 2d 211)

(4) With the exception of the sales of meals described in the paragraphs above, sales of meals made by privately owned and operated schools and colleges and sales of meals made by schools and colleges owned and operated by the State of Alabama are subject to the tax. §40-23-2(1)

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

810-6-2-.51.05 Members Of Armed Services Stationed In Alabama Subject To Sales And Use Taxes.

(1) Members of the armed services of the United States stationed in Alabama have no immunity from sales taxes imposed upon sales of tangible personal property to them by Alabama vendors.

(2) Property is not subject to Alabama use tax where purchased outside Alabama for use in this state by members of the armed services of the United States who are residents of another state, but who are stationed in this state, except that Alabama use tax is due on automobiles where purchased outside Alabama for use in this state where a sales or use tax on such vehicles is levied by but has not been paid to the state of residence of the purchaser. Members of the armed services stationed in states other than Alabama who purchase automotive vehicles outside of Alabama for use outside Alabama but will title and register said vehicle in Alabama will not be subject to the use tax. (Title 50, U.S. Code, §754(2)) (Amended June 12, 1978) §§40-23-2(4), 40-23-102

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

810-6-2-.51.07 Metal Cleaning Chemicals.

Manufacturers of metal products are taxed on the use of all chemicals and oils which they use as cleaning materials, except oils classified and taxed as lubricating oils. §40-23-2(1)

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

810-6-2-.52 Molding Machines.

Mechanically operated devices used in making molds from sand for use in manufacturing are taxed at the special machine rate of 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.52.03 Music Machines.

Gross receipts from the operation of musical devices (juke boxes) are taxable. The Supreme Court of Alabama held in the case Birmingham Vending Company v. State of Alabama, 38 So. 2d 876, that both the machine owner and the proprietor of the place of the business where the machine was operated are jointly and individually liable for the total amount of sales tax due on the gross receipts from such machines, where the machine owner supplied the machine and recordings, and where the proprietor of the location controlled the playing of the machine and both the owner and the proprietor shared in the income. The court held that this was a joint venture with either of the parties to the venture being liable for the payment of the tax due. §40-23-2(2)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.52.05 National And State Banks.

(1) Sales of tangible personal property to any national or state bank are taxable unless the bank is purchasing the property for resale. (Sections 40-23-2 and 40-23-61, Code of Ala. 1975, and 12 U.S.C. Section 548)

(2) National or state banks that are in the business of selling tangible personal property shall collect sales or use tax on their retail sales. Examples of retail sales by banks include sales by bank-operated cafeterias and sales of personalized checks or coin banks to bank customers. (Sections 40-23-2 and 40-23-61, Code of Ala. 1975, and 12 U.S.C. Section 548)
Author: Patricia A. Estes, Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-2, 40-23-31, 40-23-61, 40-23-83.
History: Adopted February 13, 1970, readopted through APA effective October 1, 1982; amendment filed February 26, 1987.
Amended: Filed May 5, 1999; effective June 9, 1999.

810-6-2-.53 Negatives.

(1) Gross receipts accruing from the retail sales of black and white negatives or color separations sold to printers to produce plates for offset printing are subject to the sales tax at the machine rate of 1 1/2% where sold for use as parts or attachments of machines used in manufacturing plates.

(2) Sales of materials to processors producing negatives are at wholesale, tax free, where such materials become a component of the negatives produced for sale.

(3) Where a printer or publisher develops negatives for his own use, sales or use tax, whichever may apply, shall be due on the purchase price of the materials becoming a component of the negatives at the machine rate of 1 1/2% where the negatives are used as an attachment for machines used in manufacturing plates. §§40-23-2(3), 40-23-1(9g)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.54 Packaging Equipment.

Mechanical equipment used in measuring, weighing, or packaging by manufacturers, compounders, or processors is taxed at the special machine rate of 1 1/2% when such equipment is a part of the production line used to put the product in condition for sale. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.55 Packing, Paper Manufacturers (Repealed 11/3/98).

(Repealed 11/3/98)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.56 Pan Glaze.

Pan glaze used by bakers as a coating for pans and trays used in baking is a supply item subject to tax. §40-23-1(10)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.56.01 Used Equipment.

Used equipment is subject to the sales and use taxes on the same basis that new equipment is subject to tax. (Section 40-23-2(3)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Amended: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.56.02 Paper Manufacturers - Taxable Items Used (Repealed 11/3/98).

(Repealed 11/3/98)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.56.03 Paper Manufacturers - Items Used Which Are Taxed As Machines (Repealed 11/3/98).

(Repealed 11/3/98)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.57 Parts And Attachments For Machines Used In Manufacturing.

Materials purchased by a manufacturer, compounder, processor, miner, or quarryman for attachment to, or to be made a part of, a machine used in manufacturing, compounding, processing, mining or quarrying is entitled to the reduced machine rate of sales or use

tax regardless of whether or not such materials at the time of purchase are recognizable as parts and attachments for machines, provided, however, that the parts and attachments made from such materials are designed and manufactured for use, customarily so used and necessary to the operation of the completed machine. Such materials would include, but would not be limited to, tool steel, steel plate, steel angles, shafting, packing, pipe, pipe fittings, pipe fitting supplies, valves, steam hose, fire clay, bulk lining materials, bulk insulation materials and pipe and tank coverings. Also recording instruments and similar attachments which are not generally classified as parts and attachments to manufacturing machines would qualify as parts and attachments when attached directly to a manufacturing machine. The reduced machine rate does not, however, extend to the materials used in erecting buildings or other structures even though such buildings or structures may house or support machines used in manufacturing, compounding, processing, mining, or quarrying. (§§40-23-2(3) and 40-23-61(b))
Author: Patricia Estes, Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Amended: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.58 Patterns Purchased For Use.

Patterns which become parts or attachments of molding machines used in manufacturing are taxed at the special machine rate of 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.59 Patterns Used By Operators Of Foundries.

Foundry operators use patterns to form the molds in which their products are cast. These patterns are subject to tax at the special machine rate of 1 1/2% when purchased by the foundry operators. In those cases where the foundryman fabricates the pattern used by him, the materials used in such fabrication are taxed at the special rate. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.60 **Photographs, Photostats, Blueprints, Etc., And Applicable Special Machine Rate (Repealed 3/10/98).**

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

810-6-2-.61 **Pipe, Pipe Fittings, Valves And Pipe Fitting Supplies - Paper Manufacturers (Repealed 11/3/98).**

(Repealed 11/3/98)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.62 **Pipe Threading Machines.**

Pipe threading machines used for construction purposes by a contractor or other builder are taxed at the 4% general rate. §§40-23-1(10), 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.63 **Piping.**

Piping leading to and from storage tanks and piping bringing gas or water into a plant does not come within the levy on machines used in manufacturing. The general rate of 4% applies. (Adopted March 9, 1961, amended November 1, 1963, effective July 1, 1963) §40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.64 Piping In Manufacturing Plant.

(1) Piping furnished and installed by contractor along with pump houses and well connections is subject to use tax when intended for use by a paper manufacturer to supply his plant with the water necessary to the manufacturing of paper. The Supreme Court of Alabama held that the pipe and other materials used were building materials which are made taxable at the general tax rate by the building materials provision found in the definition of "sale at retail." (Layne Central Company v. Curry, 8 So. 2d 839)

(2) Please note that the Supreme Court has in the Wilputte Coke Oven case made a distinction between "building materials" and recognizable parts and attachments for machines. See Rule 810-6-2-.41 Machines Furnished and Installed by Building Contractors. §§4O-23-1(10), 40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.65 Plates, Printers.

(1) Plates purchased by a printer for use as a part or attachment for a machine used in printing tangible personal property are subject to the sales and/or use tax at the machine rate of 1 1/2%.

(2) Materials purchased by a printer for use in making plates that become a part or attachment to a machine used in printing tangible personal property are subject to the sales and/or use tax at the machine rate of 1 1/2%.

(3) The plates or materials used in making plates are taxable to the printer at the time of purchase even though the plates may pass to the printer's customer after use by the printer.

(4) An example would be a person needing business cards with his picture shown thereon. The printer does not have the facilities to make the type plate needed; therefore, he purchases the plate needed to print the cards from a person in the business of making plates. (Adopted October 29, 1976) §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.66 Platform Trucks.

In Alabama-Georgia Syrup Company v. State of Alabama, 42 So. 2d 796, the Alabama Supreme Court held that platform trucks "used for moving the company's products in the process of blending and packing the syrup in the plant" are not exempted by the machine exemption "under old sales tax law." The court stated: "We do not think that platform trucks are machines within the meaning of the exemption. They are obviously used in transportation from one point in the plant to another and not in compounding and manufacturing of tangible personal property." §40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.66.05 Portable Power Saws.

(1) The Sales and/or Use Tax Laws levy a tax of 1 1/2% on the net difference paid for any machine, machinery, or equipment used in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms.

(2) The machines and machinery including chain saws used in production and harvesting of timber grown on tree farms, including pulpwood are taxed at 1 1/2%. Chain saws used for clearing land, cutting firewood, or other nonagricultural uses are taxed at 4%. (§40-23-2(3), adopted March 9, 1961, amended July 27, 1964, amended June 12, 1978) §§40-23-37, 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.67 Power Cables.

Power cables supplying power to working areas in mines and quarries are subject to the tax at the 4% rate. §40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.68 Power Lines.

Electric power lines carrying electric power into a plant of a manufacturer, compounder or processor are taxed at the general rate of 4%. (Adopted March 9, 1961, amended November 1, 1963, effective July 1, 1963)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.69 Printers, Applicable Tax Rate.

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 1 1/2% 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 4%.
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.71 Proofs.

Gross receipts accruing from the retail sales of proofs sold to printers, publishers or others, which are used to make negatives to produce plates for offset printing, are subject to the sales tax at the machine rate of 1 1/2%. The machines used by the processor in the processing of proofs are taxable at the machine rate of 1 1/2%. The supplies, materials, and equipment not becoming a component of the product sold, or not constituting machines used in processing are subject to the sales or use tax, whichever may apply at the general rate of 4%. Where a printer or publisher processes proofs for their own use, sales or use tax shall be due on the purchase price of the materials becoming a component of the proofs at the machine rate of 1 1/2% where the proofs are used to make negatives to produce plates for offset printing. (Adopted June 20, 1966) §40-23-2(3)

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

810-6-2-.72 Pumps, Mines.

Pumps when used in mining are taxed at the special machine rate of 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.73 Rail Bonds Used In Mining.

Rail bonds used in the construction and maintenance of mine tracks used in bringing minerals to the surface of the earth are taxed at the special machine rate of 1 1/2%. This provision does not, however, extend to rail bonds used in the construction and maintenance of trucks used in transporting materials from the mine after the mining operation has been completed. §§40-23-2(3), 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.74 Railroad Companies - Machines.

Machines when sold to, or for use by, railroad companies in maintaining, repairing or reconditioning their equipment are subject to the sales or use tax at the general rate of 4%. §40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.74.05 Railroad Rails.

(1) Railroad rails are taxable at the general rate of 4% when used as a roadway for transportation equipment or for general purposes not described in the next paragraph.

(2) Railroad rails are taxed at the special machine rate of 1 1/2% when used as a roadway for quarrying or mining equipment in quarries or mines or when used on or in the operation of machines used in manufacturing, compounding or processing. (Adopted March 9, 1961, amended November 1, 1963, effective July 1, 1963) §§40-23-2(1), 40-23-2(3)
Author:

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

810-6-2-.75 Rails Used In Mining.

Mine rails used in the construction and maintenance of tracks used in removing minerals from the earth are taxed at the special machine rate of 1 1/2%. This provision does not, however, extend to rails used in the construction or maintenance of tracks used in transporting minerals after the mining operation has been completed. §§40-23-2(3), 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.76 Recording Instruments - Paper Manufacturers (Repealed 11/3/98).

(Repealed 11/3/98)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.77 Recovery Lance Hose (Steam Hose) - Paper Manufacturers (Repealed 11/3/98).

(Repealed 11/3/98)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Filed September 29, 1998; effective November 3, 1998.

810-6-2-.78 Repairs, Machines.

(1) When repairs require service only or service with the use of an inconsequential amount of materials, the amount received is not subject to tax.

(2) When materials and service are used in repairing machines taxed at the special machine rate and when there is no separation in the billing, both materials and services are to be included in gross proceeds of sales at the special rate.

(3) When materials and service are used in repairing machines taxed at the special machine rate with service and materials shown separately, the materials only are subject to the tax.

(4) Materials are taxable at the general rate in any event when sold to repairmen for use in making repairs when such materials lose their identity as the result of such use; for instance, paint, solder, lumber, and sheet metal.

(5) When both materials and services are used in repairing machines taxed at the general rate and when there is no separation in the billing, both materials and services are to be included in the measure of tax to be paid. Both are taxed at the general rate. When the materials are shown separately on the invoice, the materials only are taxable. (Adopted March 9, 1961, amended November 1, 1963)

(6) Also see rule entitled Materials Used In Repairing.
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.79 **Repairs Of Electric Motors And Electric Generators.**

(1) Parts and attachments furnished by repairmen in reconditioning or repairing electric motors and electric generators are sold by the repairmen to the owners of the motors and generators. The repairman's sales of repair parts, such as ball bearings, brushes and wire used in rewinding, are subject to the sales tax. These parts and attachments are purchased at wholesale tax free by the repairman.

(2) Materials which lose their identity because of use by a repairman in repairing or reconditioning electric motors and electric generators, such as solder, babbitt, varnish, and insulation paste are subject to sales or use tax when purchased by the repairman. The tax shall be paid to the repairman's supplier or direct to the Department of Revenue as the circumstances require. Provided, however, where a repairman is engaged in the business of selling such repair materials, as well as using them, he may purchase at wholesale all repair materials which he both sells and uses in making repairs and pay direct to the Department of Revenue as sales tax the amount due on both sales and withdrawals from stock for use.

(3) The repairman's charges for labor used in installing parts and materials are not to be included in the measure of tax to be collected from his customers and paid to this state where such charges for labor are separately invoiced by the repairmen to his customers and where the books and records of the repairman are

kept in such a manner as to clearly reflect receipts from making installations and rendering services.

(4) In those instances where repair parts are used in repairing or rebuilding a motor or generator used in such a way that it would be taxed at the special machine rate, such repair parts are also taxed at the special rate.
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.79.03 Repossessed Used Vehicles, Sales Of.

Resales of automotive vehicles repossessed by the seller or for him by a finance company are taxable measured by the gross proceeds of the resales thereof less credit for any automotive vehicle accepted as part-payment of the sales price of the vehicle so resold.
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.79.04 Restaurant, Equipment And Supplies.

(1) Restaurants and cafeterias are considered to be processors and compounders of food products for sale; therefore, they are entitled to purchase machines used in processing and compounding at the reduced rate of 1 1/2%.

(2) The machines falling in this category include, but are not limited to, meat slicers, burger patty makers, ice machines, coffee makers, shredders, electric mixers, electric food cutters, french fry machines and ranges.

(3) Items not falling in this category, such as refrigeration units, pots, pans, stainless steel work tables, hand tools, and similar items are taxable at the general rate of 4 percent. §§40-23-2(1) and 40-23-2(3)

(4) See rule entitled Furnished Containers, 810-6-1-.69 for information regarding application of tax on purchases of paper products. (Adopted August 10, 1982)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.79.05 Rural Electrification Authority (R.E.A.) (Repealed 8/14/22).

Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Repealed: Published June 30, 2022; effective August 14, 2022.

810-6-2-.86 Sales Tax On Admissions To Be Shown As Separate Item (Repealed 7/9/98).

(Repealed)
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-83. 40-23-26, 40-23-31.
History: Readopted through APA effective October 1, 1982.
Repealed: Filed June 4, 1998; effective July 9, 1998.

810-6-2-.87 Sand Handling And Sand Conditioning Equipment.

Machines and equipment used by manufacturers for conditioning and transporting, while in process, sand for use in mold making are taxed at the special machine rate of 1 1/2%. (§40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.88 Sawdust Removal Equipment.

(1) Equipment manufactured for and customarily used in removing sawdust from saws in saw mills is taxed at the special machine rate of 1 1/2% when such equipment is a part or attachment of the sawing mechanism.

(2) The same rule applies to equipment manufactured for and customarily used to remove waste material from planers, edgers, and other manufacturing machines.

(3) Note, however, the removal or disposal of waste materials is not of itself a manufacturing process. The waste removal equipment must be an attachment of a machine which is covered by the levy on machines used in manufacturing in order for it to take the special rate of 1 1/2%. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.

History:

810-6-2-.88.02 School Buses.

A school bus purchased by an individual for use under direction of and control of a board of education is subject to tax. §40-23-1(10)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.88.03 Schools And Colleges Owned By The State, Counties Or Cities, Sales Made By.

(1) Except as outlined in paragraph (2), retail sales of tangible personal property made by all schools and colleges owned and operated by the State of Alabama are subject to sales tax.

(2) Sales by elementary or secondary schools owned and operated by the State of Alabama are exempt from sales tax when the net proceeds from the sales are used solely for the benefit of the elementary or secondary school.

(3) Sales made by all colleges, universities, or other institutions of higher learning, both privately and publicly owned and operated, are by specific provisions of the Sales Tax Law subject to sales tax.

(4) If a student activity fee is collected from each student as a lump sum not broken down and covers the yearbook which is then supplied without further charge, the distribution of the yearbooks to the students is a service of the school not subject to tax.

(5) Gross proceeds of sales made by schools (not including institutions of higher learning) owned and operated by the counties and municipalities of the State are not subject to sales tax.

(6) Gross receipts from athletic contests conducted by or under the auspices of state-, city-, and county-operated educational institutions, other than primary or secondary schools, are subject to sales tax. Such institutions must collect the sales tax on their gross receipts from athletic contests and remit the tax to the Department of Revenue. State-, city-, and county-operated primary and secondary schools shall collect the sales tax on their gross receipts from athletic contests including receipts from any football playoff conducted by or under the auspices of the Alabama High School Athletic Association; but, instead of remitting the tax collected to the Department of Revenue, the tax shall be

retained by the collecting school and used by the school 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. 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 or fees from other amusements or entertainment conducted by schools and colleges owned and operated by the State of Alabama, a county or city of the State of Alabama. (Section 40-23-2(2))
Author: Donna Joyner, Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Rule effective October 1, 1982. **Amended:** Filed May 6, 1992. **Amended:** Filed August 25, 1994; effective September 29, 1994. **Amended:** Filed October 1, 1996; effective November 5, 1996. **Amended:** Filed November 8, 2006; effective December 13, 2006.

810-6-2-.88.04 **Exemption For Certain Sales By Elementary And Secondary Schools, School Sponsored Clubs And Organizations, And School Affiliated Groups.**

(1) The term " elementary or secondary school" as used in Act No. 96-653 and in this regulation shall mean both public and private schools where the curriculum consists of one or more of grade levels K through 12. The term " elementary or secondary school" shall not include nurseries and day care centers nor shall it include private schools at which the courses of study are limited to specialized subjects such as dance, horseback riding, music, cooking, or sewing.

(2) Provided the net proceeds from the sales are used solely for the benefit of the elementary or secondary school, sales and use taxes do not apply to sales by the following:

(a) elementary or secondary schools,

(b) nonprofit elementary or secondary school-sponsored clubs and organizations, or

(c) nonprofit elementary or secondary school affiliated groups, such as parent-teacher organizations and booster clubs whose membership may be composed of individuals other than students.

(3) The exemption outlined in paragraph (2) above also applies to sales resulting from agreements or contracts entered into with resident or nonresident organizations to participate in fund-raising campaigns for a percentage of the gross receipts where students act as agents or sales persons for the organizations by selling or taking orders for the sale of tangible personal

property. Neither the school, club, organization, or group enumerated in paragraph (2) nor the resident or nonresident organization with whom the school, club, organization, or group contracts is required to collect or remit sales or use tax on the tangible personal property sold for fund-raising purposes.
Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31 and 40-23-83.
History: **New Rule:** Filed October 1, 1996; effective November 5, 1996.

810-6-2-.89 Scrap Metal Shredder.

A scrap metal shredder that will take such items as junk automobile bodies and through a series of magnetically operated devices separate the metal from the nonmetal items, shred the metal, and hydraulically compress it into blocks of certain sizes to specifications so that it can be measured when loading the furnace is taxed at the machine rate of 1 1/2%. (Adopted June 12, 1978) §40-23-2(3)
Author:
Statutory Authority:
History:

810-6-2-.90 Shafting, Paper Manufacturers (Repealed 11/3/98).

(Repealed 11/3/98)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: **Repealed:** Filed September 29, 1998; effective November 3, 1998.

810-6-2-.90.01 Seller's Responsibility To Collect And Pay State Sales Tax And Seller's Use Tax.

(1) Under certain conditions, an out-of-state seller engaged within this state in the business of selling at retail tangible personal property is required to register with the Department for a sales tax license and collect and remit sales tax on all sales made within the state as provided for by Chapter 23, Article 1 of Title 40, Code of Ala. 1975. Sales taxes collected must be reported and paid in accordance with the provisions of Rule 810-6-4-.19, State Sales Tax Returns Required from All Retail Vendors and Annual Schedule of Locations Required from All Retail Vendors with Multiple Locations.

(2) A transaction on which the sales tax imposed is collected by a licensed seller is exempt from use tax and is not subject to the following provisions of this rule. (Section 40-23-62(1))

(3) Otherwise, a seller engaged in making retail sales of tangible personal property for storage, use or other consumption in this state is required to register with the Department and collect and remit use tax, as provided for by Chapter 23, Article 2 of Title 40, when the seller has "substantial nexus" with the state. Substantial nexus is a connection between a seller and the state, created by the seller's business activities in the state, which is substantial enough to cause the seller to be subject to the jurisdictional taxing authority of the state.

(4) Section 40-23-68 sets forth the conditions under which a seller must collect and remit use tax on retail sales of property for storage, use or other consumption in the state. These conditions include any contact with this state that would allow this state to require the seller to collect and remit the tax due under the provisions of the Constitution and laws of the United States. These conditions include, but are not limited to:

(a) Delivery within the State of Alabama by means of vehicle owned by the selling entity;

(b) Maintains, occupies, or uses, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business;

(c) Employs or retains under contract any representative, agent, salesman, canvasser, solicitor or installer operating in this state under the authority of the person or its subsidiary for the purpose of selling, delivering, or the taking of orders for the sale of tangible personal property or any services taxable under this chapter or otherwise solicits and receives purchases or orders by any agent or salesman;

(5) A seller may have substantial nexus with this state due to the business activities conducted in the state by the seller's affiliates as set forth in Section 40-23-190, Conditions for Remote Entity Nexus. A seller has substantial nexus with this state for the collection of use tax if:

(a) The seller and an in-state business maintaining one or more locations within this state are related parties; and

(b) The seller and the in-state business use an identical or substantially similar name, tradename, trademark, or goodwill, to develop, promote, or maintain sales, or the in-state business and the seller pay for each other's services in whole or in part contingent upon the volume or value of sales, or

the in-state business and the seller share a common business plan or substantially coordinate their business plans, or the in-state business provides services to, or that inure to the benefit of, the business related to developing, promoting, or maintaining the in-state market.

(6) Two entities are related parties under this section if one of the entities meets at least one of the following tests with respect to the other entity:

(a) One or both entities is a corporation, and one entity and any party related to that entity in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code owns directly, indirectly, beneficially, or constructively at least 50 percent of the value of the corporation's outstanding stock;

(b) One or both entities is a limited liability company, partnership, estate, or trust and any member, partner, or beneficiary, and the limited liability company, partnership, estate, or trust and its members, partners, or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the profits, or capital, or stock, or value of the other entity or both entities; or

(c) An individual stockholder and the members of the stockholder's family, as defined in Section 318 of the Internal Revenue Code, owns directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the value of both entities' outstanding stock. (Section 40-23-190)

(7) Every seller required to collect the use tax shall register with the Department and give the name and address of each agent operating in this state, the location of any and all distribution or sales houses or offices or other places of business in this state, and such other information as the Department may require with respect to matters pertinent to the enforcement of the Alabama Use Tax Law. Use taxes collected must be reported and paid in accordance with the provisions of Rule 810-6-5-.19.01, State Use Tax Returns.

Author: Ginger Buchanan

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-2, 40-23-61 thru 40-23-68, 40-23-83, 40-23-190.

History: **New Rule:** Filed July 20, 2012, effective August 24, 2012.

810-6-2-.90.02 Simplified Sellers Use Tax Remittance Program.

(1) Unless otherwise defined herein, the definitions of terms set forth in §40-23-191, Code of Ala. 1975, are incorporated by reference herein.

(2) The term "eligible seller" shall mean

(a) A seller that sells tangible personal property or a service, but

(i) Does not have a physical presence in this state; or

(ii) Is not otherwise required to register with the Department pursuant to §§41-4-116 or 40-23-190, Code of Ala. 1975.

(b) A marketplace facilitator for all sales made through the marketplace facilitator's marketplace by or on behalf of a marketplace seller.

(3) The terms "marketplace facilitator" and "marketplace seller" shall be as defined in § 40-23-199.1. See Rule 810-6-2-.90.04 Requirements for Certain Marketplace Facilitators.

(4) The term "locality" shall mean a county, municipality, or other local governmental taxing authority which levies a local sales and/or use tax.

(5) The term "most recent federal census" shall mean the decennial population count conducted by the U. S. Census Bureau.

(6) The term "municipality" shall mean any incorporated city or town located in the state.

(7) The term "otherwise delivered" shall mean delivery by a method other than in equipment owned or leased by the seller. Delivery in the seller's own vehicle or in equipment leased by the seller establishes a physical presence and disqualifies the seller from participation in the program.

(8) The term "participating eligible seller" shall mean a seller that has been admitted into and is in good standing in the program.

(9) The term "program" shall mean the Simplified Sellers Use Tax Remittance Program.

(10) The term "seller" shall be as defined in § 40-23-191, Code of Ala. 1975.

(11) The term "simplified sellers use tax return" shall mean the monthly report of tax due from eligible sellers participating in the program.

(12) The term "state" shall mean the State of Alabama.

(13) Pursuant to Section 40-23-193, Code of Ala. 1975, the program is designed to allow an eligible seller who participates in the program to collect, report, and remit a statewide eight percent (8%) tax on sales made into Alabama. Participation in the program is voluntary. Only those eligible sellers accepted into the program shall collect and remit the simplified sellers use tax. The collection and remittance of simplified sellers use tax relieves the eligible seller and the purchaser from any additional state or local sales and use taxes on the transaction.

(a) No participating eligible seller shall be required to collect the tax at a rate greater than eight percent (8%), regardless of the combined actual tax rate that may otherwise be applicable.

(b) No sales for which the simplified sellers use tax is collected shall be subject to any additional sales or use taxes from any locality levying a sales or use tax with respect to the purchase or use of the property, regardless of the actual tax rate that might have otherwise been applicable.

(c) The participating eligible seller shall collect the tax on all purchases shipped or otherwise delivered into the state unless the purchaser furnishes the eligible seller with a valid exemption certificate, sales tax license, or direct pay permit issued by the department.

(14) A participating eligible seller shall provide the purchaser with a statement or invoice showing that the simplified sellers use tax was collected and is to be remitted on the purchaser's behalf. The statement may be included in an order confirmation e-mail to the purchaser, in a notice on the seller's website, or by any other means approved by the department as sufficient to provide reasonable notice to the customer.

(15) To participate in the program, an eligible seller shall complete the required application and provide other information as necessary to certify that the seller

(a) Meets the definition of an eligible seller,

(b) Agrees to collect, report, and remit the simplified sellers use tax for all sales shipped or otherwise delivered into the state while participating in the program,

(c) Agrees to provide the department with information related to sales to Alabama customers as required by law or requested by the department, and

(d) Agrees to comply with all program reporting requirements established under program procedures.

(16) A participating eligible seller shall be removed from the program if:

(a) The eligible seller substantially fails to collect, report, and remit the simplified sellers use tax.

(b) The eligible seller fails to submit required reports on a timely basis.

(c) It is determined that the seller is no longer an eligible seller, as defined by §40-23-191, Code of Ala. 1975.

(d) There is any other finding by the department that the participant is not in compliance with the terms authorizing participation in the program.

(17) Participating sellers remain eligible for participation in the program unless the seller establishes a presence through a physical business address for the purpose of making instate retail sales within the state or becomes otherwise required to collect and remit sales or use tax pursuant to §40-23-190, Code of Ala. 1975, through an affiliate making retail sales at a physical business address in Alabama. A participating eligible seller that establishes a substantial nexus in this state only though the acquisition of an in-state business may continue in the program to satisfy the requirements to collect and remit tax for its Alabama sales.

(18) Any participating eligible seller who fails to report that he or she is no longer eligible to participate in the program or falsely certifies eligibility on any report or application shall be subject to the negligence and/or fraud penalties in accordance with §40-2A-11, Code of Ala. 1975.

(19) Participating eligible sellers shall file monthly a simplified sellers use tax return reporting all sales shipped or otherwise delivered into the state.

(a) The return shall be due on or before the 20th day of the month next succeeding the month in which tax accrues.

(b) The return shall be due even in months where no tax liability is incurred.

(c) Returns and payments are required to be submitted via the Department's electronic online filing and payment system, My Alabama Taxes (MAT).

(d) Returns required to be submitted shall only include statewide totals of the simplified sellers use tax collected and remitted and shall not require information related to the location of purchasers or amounts of sales into a specific city or county.

(e) Returns and payments submitted after the due date will be subject to penalties and interest in the same manner as those applied to other tax returns due the department and in accordance with the provisions of §§40-2A-11 and 40-1-44, Code of Ala. 1975, respectively.

(20) Participating eligible sellers shall be entitled to a discount of two percent (2%) of the simplified sellers use tax collected and timely reported and remitted to the department. For tax periods beginning on or after January 1, 2019, the allowance for discount shall not apply to any taxes collected and remitted in excess of four hundred thousand dollars ($400,000) and is limited to $8,000 per tax period. No discount shall be allowed for any taxes which are not timely reported and remitted to the department pursuant to the program.

(21) The proceeds of the simplified sellers use tax paid shall be appropriated to the department, which shall retain the amount necessary to cover the amounts paid for refunds authorized in §40-23-196, Code of Ala. 1975. The balance of the amounts collected shall be distributed as follows:

(a) Fifty percent (50%) to the state treasury allocated as seventy-five percent (75%) to the General Fund and twenty-five percent (25%) to the Education Trust Fund.

(b) Twenty-five percent (25%) to each county in the state on a prorated basis according to population as determined in the most recent federal census prior to the distribution for all tax periods prior to January 1, 2019. For tax periods beginning on or after January 1, 2019, the amount distributed on a prorated basis according to population as determined in the most recent federal census prior to the distribution to each county shall be twenty percent (20%).

(c) Twenty-five percent (25%) to each municipality in the state on a prorated basis according to the population as determined in the most recent federal census prior to the distribution for all tax periods prior to January 1, 2019. For tax periods on or after January 1, 2019, the amount distributed on a prorated basis according to population as determined in the most recent federal census prior to the

distribution to each municipality shall be thirty percent (30%).

(22) The distribution of the proceeds from the simplified sellers use tax paid to counties and municipalities shall be made electronically and shall be deposited in the most current banking account for each county and municipality on file with the department. Proceeds shall be paid to counties and municipalities monthly, for proceeds received during each preceding calendar month.

(23) Participating eligible sellers shall maintain records of all sales shipped or otherwise delivered into Alabama, including copies of invoices showing the purchaser's name, address, purchase amount, and the amount of simplified sellers use tax collected. Such records shall be made available for review and inspection upon request by the department.

(24) Eligible sellers participating in the program shall not be subject to audit or review by any Alabama locality for simplified sellers use tax. The Department holds the sole authority for audit and review of eligible sellers participating in the program.
Author: Christy Edwards, Ginger Buchanan, Michelle Mayberry
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-191 through 40-23-199.1.
History: **New Rule:** Filed September 17, 2015; effective October 22, 2015. **Amended:** Filed March 9, 2016; effective April 23, 2016. **Amended:** Filed September 1, 2017; effective October 16, 2017. **Amended:** Filed October 9, 2018; effective November 23, 2018. **Amended:** Published October 30, 2019; effective November 14, 2019.

810-6-2-.90.03 **Requirement For Certain Out-Of-State Sellers Making Significant Sales Into Alabama.**

(1) An out-of-state seller who is making retail sales of tangible personal property into the state is required to register with the Department and to collect and remit tax pursuant to Section 40-23-67, Code of Ala. 1975, when the seller's retail sales of tangible personal property sold into the state exceed $250,000 per year based on the previous calendar year's sales.

(2) Sellers may satisfy the requirements described in (1) above by one of the following methods:

(a) Using the collecting, reporting, and remitting provisions of Article 2, Chapter 23 of Title 40, Code of Ala. 1975,

(b) Using the collecting, reporting, and remitting provisions created by the Simplified Sellers Use Tax Remittance Act codified at 40-23-191 through 40-23-199, Code of Ala. 1975, or

(c) Having simplified sellers use tax collected, reported, and remitted by a marketplace facilitator pursuant to Rule 810-6-2-90-.04 Requirements for Certain Marketplace Facilitators and Marketplace Sellers.

(3) This rule shall not be enforced for any of the following:

(a) transactions occurring prior to October 1, 2018,

(b) any transactions made through a marketplace facilitator's market for any time period prior to January 1, 2019, or

(c) any transactions made through a marketplace facilitator's market during the time period for which a waiver of penalties was granted to the marketplace facilitator pursuant to Rule 810-6-2-90-.04.

Author: Christy Edwards, Cameran Clark
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-83, 40-23-67, 40-23-68, 40-23-191 through 40-23-199.
History: **New Rule:** Filed September 17, 2015, effective October 22, 2015. **Amended:** Filed October 9, 2018, effective November 23, 2018.

810-6-2-.90.04 Requirements For Certain Marketplace Facilitators And Marketplace Sellers.

(1) For the purpose of this rule, the following terms shall have the following meanings:

(a) Department: The Alabama Department of Revenue.

(b) Simplified Sellers Use Tax Remittance Program ("SSUT Program"): As defined in §40-23-191, Code of Ala. 1975.

(c) Simplified Sellers Use Tax ("SSUT"): As defined in §40-23-191, Code of Ala. 1975.

(d) Marketplace facilitator: As defined in §40-23-199.2, Code of Ala. 1975.

(e) Marketplace seller: As defined in §40-23-199.2, Code of Ala. 1975.

(f) Transaction: A sale or purchase at retail of tangible personal property made through the marketplace facilitator's marketplace by or on behalf of a marketplace seller for delivery to a location in this state, whether by the marketplace facilitator or another person.

(g) Purchaser: As defined in §40-23-199.2, Code of Ala. 1975.

(h) Non-participating marketplace facilitator: A marketplace facilitator that elects to comply with the notice and reporting requirements prescribed herein on transactions made through the marketplace facilitator's marketplace by or on behalf of a marketplace seller. A marketplace facilitator that is not a registered participant in good standing in the SSUT Program is deemed to have elected to comply with these notice and reporting requirements.

(i) Participating marketplace facilitator: A marketplace facilitator that elects to collect and remit SSUT on transactions made through the marketplace facilitator's marketplace by or on behalf of a marketplace seller and is registered and in good standing in the SSUT Program.

(j) Taxable transaction: Any transaction made through the marketplace facilitator's marketplace by or on behalf of a marketplace seller except the following:

1. Sales to licensed retailers with a valid sales tax license. See Rules 810-6-1-.144.03, and 810-6-1-.89.02.

2. Sales to purchasers with valid exemption certificates. See Rules 810-6-5-.02 and 810-6-5-.02.01.

3. Sales of motor vehicles as this term is defined in §40-12-240, Code of Ala.1975.

(k) Qualifying amount: Transactions totaling in excess of $250,000 for the calendar year preceding the year in which a marketplace facilitator elects to either collect SSUT or to comply with notice and reporting requirements. The qualifying amount shall be calculated by aggregating the transactions made directly by the marketplace facilitator, including sales by related parties, and the combined transactions made by all marketplace sellers through the marketplace facilitator's marketplace.

(2) Related parties: As defined in §40-23-190, Code of Ala. 1975.

(3) Requirements for Participating Marketplace Facilitators

(a) Except as provided in subparagraph (2)(b), effective January 1, 2019, participating marketplace facilitators with transactions in excess of the qualifying amount are required to collect and remit SSUT on all taxable transactions made through the marketplace facilitator's marketplace by or on behalf of a marketplace seller, including those marketplace sellers that would otherwise have an obligation to collect and remit sales or use tax on these transactions.

(b) Transactions made through the marketplace facilitator's marketplace by or on behalf of a related party that has a retail location in this state are subject to sales tax.

(c) If more than one marketplace facilitator is involved in a transaction, the obligation to collect and remit SSUT will be as follows:

1. If each party is a participating marketplace facilitator, as agreed to by the marketplace facilitators in writing, provided that the agreement has been provided to the department.

2. If no agreement has been provided to the department and only one of the parties is a participating marketplace facilitator, by the participating marketplace facilitator.

3. If no agreement has been provided to the department and each party is a participating marketplace facilitator, by the marketplace facilitator who lists the potential retail sale on its marketplace.

(d) Participating marketplace facilitators must comply with the collection, remittance, and reporting requirements set forth in §§40-23-192 and 40-23-193, Code of Ala. 1975.

(e) Participating marketplace facilitators are required to maintain records of all sales delivered, in accordance with §40-23-195, Code of Ala. 1975, and shall make such records available for review and inspection by the department upon request.

(f) Participating marketplace facilitators are not subject to audit by an Alabama locality for SSUT. However, an Alabama locality may audit the non-marketplace facilitator sales of a marketplace seller for sales or use tax that may be due.

(4) Requirements for Marketplace Sellers

(a) Marketplace sellers are relieved from the collection and remittance of sales tax, use tax, or SSUT for transactions made on or through a participating marketplace facilitator's platform for which SSUT has already been collected on such transactions and no further tax shall be collected by the marketplace seller for such transactions.

(b) Marketplace sellers making sales on or through a non-participating marketplace facilitator's marketplace are not relieved of their obligation under the laws of this state to remit sales or use tax on transactions made on or through a non-participating marketplace facilitator's marketplace, on or through the marketplace seller's own electronic sales

platform, or at the marketplace seller's retail location in this state.

(5) Requirements for Non-Participating Marketplace Facilitators

(a) A non-participating marketplace facilitator must file in a form prescribed by the department an election to comply with the notice and reporting requirements set forth in sub-paragraphs (4)(b), (c), and (d) for all transactions for which sales or sellers use tax is not remitted by the marketplace facilitator on behalf of the marketplace seller. Elections required by this subparagraph must be filed with the department:

1. On or before January 31, 2019, if during calendar year 2018 transactions on or through its marketplace exceeded the qualifying amount; and

2. On or before January 31 of each subsequent calendar year in which the marketplace facilitator's transactions for the previous calendar year exceeded the qualifying amount.

(b) TRANSACTIONAL NOTICES. Non-participating marketplace facilitators must provide notices to each purchaser who enters into a transaction as follows:

1. The notice must state that no sales or use tax is being collected or remitted upon the transaction, or that the seller is not required to collect sales or use tax and that the purchaser may be required to remit any tax owed directly to the department. The notice shall also advise that a summary of such sales is being provided to the department.

2. The notice must be prominently displayed on each order form, invoice, and sales receipt for the transaction that is provided to the purchaser, whether provided in physical or electronic form.

(c) ANNUAL TRANSACTION SUMMARY TO PURCHASERS. Non-participating marketplace facilitators must provide an annual transaction summary to each purchaser who entered into, in the aggregate during the previous calendar year, more than $200 in transactions that are subject to the notice and reporting requirements of paragraph (4) of this rule.

1. The annual transaction summary must include:

(i) A statement that sales or use tax was not collected on the listed transactions in the prior calendar year and that the purchaser may be required to remit any tax owed directly to the department

(ii) A list of transactions entered into during the prior calendar year by the purchaser showing with respect to each transaction the

I. Seller's Name

II. Transaction Date

III. Invoice or Transaction Number

IV. Purchaser's Name

V. Purchaser's Billing Address

VI. Delivery Address

VII. Number of Items Purchased

VIII The type of tangible personal property purchased

IX. Total Purchase Price

(iii) A statement that a report will be submitted to the department pursuant to subparagraph (4)(d) of this rule stating only the purchaser's name, address, total dollar amount of the purchaser's transactions, and the name and address of the seller for each transaction included in the annual transaction summary.

2. The annual transaction summary is due by January 31 of each year following the year for which the summary is due.

3. Except as provided in subdivision (iv) of this subparagraph (4)(c), the annual transaction summary shall be sent to the purchaser's billing address, or if unknown, the purchaser's shipping address, in an envelope marked prominently with words indicating important tax information is enclosed. If no billing or shipping address is known, the summary shall be sent electronically to the purchaser's last known e-mail address with a subject heading indicating important tax information is enclosed.

4. If the purchaser's billing or shipping address is known, the summary may be provided to the purchaser electronically, if:

(i) No earlier than December 1 of the year to be covered by the summary and no later than January 15

of the following year, the purchaser agrees to receive the report electronically, and

(ii) The purchaser acknowledges that she or he understands that the summary to be received electronically will contain important tax information and that information included in the summary will be provided to the department.

(d) PURCHASER REPORTS TO DEPARTMENT. Non-participating marketplace facilitators must provide reports to the department for each purchaser who entered into transactions that are subject to the transactional notice requirement of subparagraph (4)(b).

1. Reports for each purchaser must be filed electronically in a form and manner prescribed by the department.

2. Time of filing.

(i) Marketplace facilitators with transactions in excess of $1,000,000 in any given quarter ending March 31, June 30, September 30, or December 31, must file the purchaser report required in this subparagraph on or before the 20th day of the month succeeding the end the quarter.

(ii) Marketplace facilitators with quarterly transactions of $1,000,000 or less in any given calendar year may file the purchaser report required by this subparagraph annually by the January 30 of the calendar year succeeding the year for which the report is being provided or quarterly on or before the 20th day of the month succeeding the end of the quarterly reporting period.

(iii) For the purposes of this subdivision, total quarterly transactions shall be calculated by aggregating the transactions made directly by the marketplace facilitator, including sales by related parties, and the combined transactions made by all marketplace sellers through the marketplace facilitator’s marketplace.

3. The report for each purchaser must include:

(i) The name of the purchaser;

(ii) The billing address and, if different, the last known mailing address of the purchaser;

(iii) The shipping address for each transaction that the purchaser entered into that is subject to the transactional notice requirement in subparagraph (4)(b);

(iv) The total purchase price for each transaction that the purchaser entered into that is subject to the transactional notice requirement in subparagraph (4)(b); and

(v) The name and address of the seller for each transaction included in the report.

4. A certification by the filing entity that it has complied with the transactional notice requirement for each transaction included in the report.

(5) Penalties. In addition to any other applicable penalties a failure to timely file penalty in the amount of $50 will be assessed for failure to file with the department the report for each purchaser required in subparagraph (4)(d).

(6) Waiver of Penalties. A marketplace facilitator that elects to collect and remit SSUT, in lieu of complying with the notice and reporting requirements in paragraph (4), may be granted a waiver of the penalties imposed under paragraph (5) upon a demonstration that it is impractical for the marketplace facilitator to begin collecting and remitting SSUT on marketplace sales prior to January 1, 2019. Waivers will be granted on a case-by-case basis, but shall be granted only if the following conditions are satisfied prior to January 1, 2019:

1. The marketplace facilitator has registered with the department to participate in the SSUT Program; and

2. The marketplace facilitator has requested in writing and received approval from the department for a deferral of its obligation to collect and remit SSUT as required under paragraph (3) to a reasonable date certain.

(7) Marketplace Seller Exemptions

(a) The limited amount of information required to be reported to the department by this rule is designed to alleviate any concerns regarding the privacy of a marketplace seller's customers with respect to their purchases. However, if a seller believes that, due to the nature of business conducted by the seller, reporting to the department even the limited information required by this rule would result in a violation of the rights of its customers under the First Amendment of the United States Constitution, the seller may apply to the department for an exemption from the reporting requirements of this rule.

(b) An application for a marketplace seller exemption from the reporting requirements of this rule must be submitted to the department. An application for a seller exemption must list the seller's name, address, telephone number and point of contact and must explain in detail why reporting the information required by this rule would result in a violation of the first amendment rights of its customers. The department may request additional information from the seller regarding its application. The vendor may request a conference with the department to discuss its application.

(c) The department will grant or deny the marketplace seller exemption application in a reasonable time and will notify the seller of its decision.

Author: Michele Mayberry, Victoria Williams, Lee Ann Rouse
Statutory Authority: Code of Ala. 1975, §§40-2-11(7), 40-2A-7(a)(5), 40-2A-11, 40-23-31, 40-23-83,40-23-190, 40-23-197(3)(a), 40-23-198 ,40-23-199, and 40-23-199.2.
History: **New Rule:** Filed October 9, 2018; effective November 23, 2018. **Amended:** Published November 30, 2021; effective January 14, 2022.

810-6-2-.91 Soda Fountains And Ice Cream Cabinets (Repealed 4/14/22).

(REPEALED)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: **Repealed:** Published February 28, 2022; effective April 14, 2022.

810-6-2-.92 Soft Drink Bottlers.

Soft drink bottlers are engaged in manufacturing and compounding and, therefore, shall pay sales or use tax at the machine rate on the machines purchases and used directly in manufacturing and compounding. They shall also purchase at wholesale, tax free, the ingredients of the drink which they compound. Supplies consumed in manufacturing or compounding are subject to tax at the general rate when purchased by the bottlers. Sections 40-23-1(a)(9)b, 40-23-2(3), 40-23-2(1), 40-23-60(4)b, 40-23-61(a), and 40-23-61.

(a) Examples of machines used at the machine rate:

1. Bottle filling machines

2. Capping machines

3. Refrigeration equipment, when used to cool the product when in the compounding process

4. Filtering equipment, used for filtering water used in the product

5. Bottle washers and soakers

6. Sterilizers

7. Water heaters

(b) Examples of supplies and equipment which are subject to tax at the general rate:

1. Returnable or reusable bottles

2. Flats

3. Soap

4. Hand trucks

5. Office equipment

6. Office supplies

7. Advertising materials

Author: Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-23-31, 40-2A-7(a)(5), 40-40-23-83, 40-23-1(a)(9)b, 40-23-2(3), 40-23-2(1), 40-23-60(4)b, 40-23-61(a), 40-23-61.
History: **Amended:** Filed December 23, 1997; effective January 27, 1998.

810-6-2-.92.02 State, County And City, Sales Made By.

(1) The counties and cities of the State of Alabama and the agencies and the instrumentalities thereof are not required by the provisions of the Sales Tax Law to collect or to pay the Department of Revenue sales tax because of sales of tangible personal property made by them, except those institutions of higher learning operated by the cities and the counties must pay sales tax on sales made by them.

(2) The Sales Tax Law by specific provisions requires state-, city-, and county-operated educational institutions, other than primary or secondary schools, to collect and remit to the Department of Revenue the tax levied on admissions to athletic contests. State-, city-, and county-operated primary and secondary schools shall collect the sales tax levied on admissions to

athletic contests including admissions to any football playoff conducted by or under the auspices of the Alabama High School Athletic Association; but, instead of remitting the tax collected to the Department of Revenue, the tax shall be retained by the collecting school and used by the school 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. (Section 40-23-2(2))

(3) The Sales Tax Law also requires the State of Alabama and all of its agencies or instrumentalities to collect and remit to the Department of Revenue the sales tax levied on sales of tangible personal property. (Readopted through APA effective October 1, 1982, amended June 5, 1992) (§40-23-2(1))
Author: Donna Joyner, Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §40-23-31.
History: Rule effective October 1, 1982. **Amended:** Filed May 6, 1992. **Amended:** Filed August 25, 1994; effective September 29, 1994. **Amended:** Filed November 8, 2006; effective December 13, 2006.

810-6-2-.93 Steel Plate.

Steel plate is taxable at the 1 1/2% machine rate when made into a tank at the site when the tank becomes a part of machinery used in manufacturing or processing. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.94 Storage Tanks.

(1) Storage tanks in or at manufacturing plants are subject to tax at the general rate of 4%. Piping leading to and from the storage tanks is also taxed at the 4% rate.

(2) Tanks which are connected into a processing system for the purpose of maintaining a suitable flow of materials through the connecting processing equipment are entitled to the special rate of 1 1/2%. (Adopted March 9, 1961, amended November 1, 1963, effective July 1, 1963) §§40-23-2(1), 40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.94.04 Sugar Sold For Consumption By Bees (Repealed 7/9/98).

(Repealed)
Author: Patricia A. Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-83, 40-23-1(a)(10), 40-23-31.
History: Adopted March 9, 1961. **Amended:** November 1, 1963. Readopted through APA effective October 1982. **Repealed:** Filed June 4, 1998; effective July 9, 1998.

810-6-2-.95 Supplies And Materials.

In maintaining and making repairs of machines and equipment used in mining, replacement parts specifically manufactured for use on such machines are taxed at the special machine rate of 1 1/2% when the machines themselves are entitled to the special rate. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.96 Switchboards.

Switchboards and other electrical equipment used in controlling the flow of electric power into manufacturing plants and mines are taxed at the general rate of 4%. (Adopted March 9, 1961, amended November 1, 1963, effective July 1, 1963) §40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.97 Tanks Used In Manufacturing.

Tanks which are part of a chain of processing operations are taxed at the special machine rate of 1 1/2% when such tanks are purchased prefabricated and require no more than installation at the site. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.98 **Equipment Used By Television, Cable TV, And Radio Stations.**

(1) Amplifiers used in broadcasting by television, cable TV, and radio stations are machines used in processing of tangible personal property. State of Alabama v. The Television Corporation, 271 Ala. 692, 127 So. 2d 603, Mountain Brook Cablevision, Inc., v. State of Alabama, CV-82-1469-TH (Cir. Ct. Montgomery County February 25, 1983) and Cablevision Company, Inc. v. State of Alabama CV-82-1470-TH (Cir. Ct. Montgomery County February 25, 1983). (See Curry v. Alabama Power Company, 243 Alabama 53, 8 So. 2d 521, holding that electricity is tangible personal property within the meaning of that term as used in the sales and use tax statutes.)

(2) When used in broadcasting by television, cable TV, and radio stations, equipment, which amplifies, modifies, or otherwise controls electrical currents and signals imposed on electrical current and the attendant electromagnetic waves, qualifies as a machine used in processing tangible personal property and is subject to the reduced machine rate of tax. Examples of this equipment include, but are not limited to, traps, receivers, video sequencers, filters, data scanners, taps, character generators, equalizers, modulators and modules, power supplies and standby power supplies, attenuators, and converters (wherever located). (Sections 40-23-2(1) and 40-23-61(b), Code of Ala. 1975)

(3) Transmission cable and all other tangible personal property not classified as machines or parts and attachments for machines used in processing tangible personal property are taxable at the general rate. (Sections 40-23-2(1) and 40-23-61(a))
Author: Patricia Estes, Dan DeVaughn
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-2(1), 40-23-2(3), 40-23-31, 40-23-61(a), 40-23-61(b), 40-23-83.
History: **Amended:** Filed September 27, 1993; effective November 1, 1993. **Amended:** Filed June 25, 1998; effective July 30, 1998.

810-6-2-.99 **Tool Steel.**

Tool steel is taxed at the special machine rate of 1 1/2% when used as a part or an attachment for a machine used in mining or quarrying even though it may require some fabrication by the mine or quarry operator to adapt it for use on his equipment. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.100 Track Accessories Used In Mining.

Track accessories including spikes, bolts, plates, and switch parts becoming part of mine tracks used in removing minerals from the earth are taxed at the special machine rate of 1 1/2%. This provision does not, however, extend to track accessories used in the construction or maintenance of tracks used in transporting minerals from the mine after the mining operation has been completed. §§40-23-2(3), 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.101 Transformers.

Transformers used in the generation, manufacture, or distribution of electricity by public utilities are machines used in manufacturing and processing tangible personal property and, therefore, are taxed at the reduced machine rate. (Curry v. Alabama Power Company, 8 So. 2d 521) Following this decision by the court, the Department has ruled that all transformers used by producers or distributors of electricity and transformers used by other manufacturers, processors, or compounders as a part of their manufacturing, processing, or compounding equipment are entitled to the reduced machine rate of sales and use tax. Power capacitors and voltage regulators qualify for the reduced machine rate when used in the generation, manufacture, or distribution of electricity by public utilities or by other manufacturers, processors, or compounders as a part of their manufacturing, processing, or compounding equipment. (Readopted through APA effective October 1, 1982) (Sections 40-23-2(3) and 40-23-61(b))
Author: Dan DeVaughn.
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History: Amended: Filed September 27, 1993; effective November 1, 1993.

810-6-2-.102 Trolley, Materials, Mines.

Trolley equipment used in supplying electric power to mine locomotives used in bringing minerals to the surface of the earth are taxed at the special machine rate of 1 1/2%. This provision, however, does not extend to electric cable, switch gear, and other equipment used to deliver electric current to trolley lines or to other mining machines or machinery. §§40-23-2(3), 40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.

History:

810-6-2-.103 Truck Bodies, Rates Of Tax.

A truck body, not a part of an automotive vehicle at the time it is purchased, is taxable at the general 4% rate except in those instances where a truck chassis and a truck body are purchased out of Alabama in separate transactions but are assembled into a unit for importation into this state, in which event, the unit is taxable at the automotive rate of 2%. (Adopted March 9, 1961, amended November 1, 1963, amended July 1, 1963, amended September 29, 1988, author Dan DeVaughn, Sales and Use Tax Division, adopted December 8, 1988, filed December 20, 1988, effective January 24, 1989)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83, 40-23-2(1), 40-23-2(4).
History:

810-6-2-.104 Used Automotive Vehicles.

A used automotive vehicle is one which has been put to the use for which it was intended. All sales of used automotive vehicles are taxed at the automotive rate regardless of how acquired. The sales tax applies on sales of used automotive vehicles in the same way it applies on new automotive vehicles. §40-23-2(4)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.104.02 Used Vehicles Acquired In Trades, Sales Of.

Used automotive vehicles, used truck trailers and semitrailers when taken in trade are subject to sales tax at the automotive rate when resold. §40-23-2(4)
Author:
Statutory Authority: Code of Ala. 1975, §40-23-31.
History:

810-6-2-.104.05 Machines, Vending (Repealed 7/30/98).

(Repealed)
Author: Patricia Estes
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-1(a)(8), 40-23-31.

History: Filed November 17, 1992. **Amended:** Filed February 18, 1993. **Repealed:** Filed June 25, 1998; effective July 30, 1998.

810-6-2-.105 Wire Rope.

Wire rope is subject to sales or use tax at the 4% general rate when used on locomotive cranes, or other material handling equipment which is not entitled to the special machine rate of 1 1/2% . (Adopted March 9, 1961, amended November 1, 1963) §§40-23-2(1), 40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.106 Wire Rope Used On Machines.

Wire rope is taxed at the special machine rate of 1 1/2% when used as an attachment for a machine used in mining, manufacturing or quarrying. §40-23-2(3)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.
History:

810-6-2-.107 Wholesale Sales.

(1) Record of sales at wholesale to be kept. In the court case State of Alabama v. Levey, 29 So. 2d 129, the Alabama Supreme Court held that suitable records of wholesale sales must be kept in accordance with the provisions of the Sales and Use Tax Laws in order to claim nontaxability for such sales.

(2) "We pointed out that the taxpayer kept no proper record to indicate these sales or differentiate them from the remainder of the gross sales shown on his general ledger. He, himself, said this and testified his charge tickets, which had been destroyed, were his only records to distinguish such sales. Other evidence was of like import."

(3) "We have construed the pertinent provisions of Title 51, noted above, as requiring the keeping of accurate records of such exempt sales if they are to escape taxation; and noncompliance gives authority to the tax department to disregard such a claim of exemption and, on a proper showing of liability to levy the tax on the gross, as for retail sales, as the provisions of the statute contemplate." §40-23-2(1)
Author:
Statutory Authority: Code of Ala. 1975, §§40-23-31, 40-23-83.

History:

810-6-2-.108 **Paper Manufacturer's, Tax Rates Applicable To.**

(1) Purchases of machines by paper manufacturers to be used in manufacturing, processing, or compounding tangible personal property and purchases by paper manufacturers of the parts, attachments, or replacements for these machines which are

(i) made or manufactured for use on or in the operation of the machines,

(ii) necessary to the operation of the machines, and

(iii) customarily so used are taxable at the reduced machine rates of sales and use tax levied in Sections 40-23-2(3) and 40-23-61(b). Examples of tangible personal property that are taxable at the reduced machine rate when purchased by paper manufacturers are:

(a) machine clothing - felts, screen plates, and wire (b) tanks to be used in manufacturing

(c) recording instruments attached directly to manufacturing machinery

(d) pipes, valves, pipe fittings, and pipe fitting supplies attached to manufacturing machinery (all other pipes, valves, pipe fittings, and pipe fitting supplies are taxable at the general rate except for those which are used in a water treatment plant and, therefore, qualify for the pollution control exemption in Sections 40-23-4(a)(16) and 40-23-62(18))

(e) all machinery and equipment used to generate electricity including boilers, engines, condensers, generators, transformers, and attachments thereto (machinery and equipment used solely for the transmission of electricity is taxable at the general rate)

(f) electrical equipment used as direct controls of manufacturing machines

(g) all transformers, wherever used

(h) insulating material, both bulk and preformed, which is applied to manufacturing machinery

(i) shafting, whether purchased prefabricated to exact size or unfinished to be cut and machined by the purchaser, when used on manufacturing machinery

(j) packing, whether purchased prefabricated or in bulk form, when purchased for use on manufacturing machinery

(k) steam hose purchased for use as a part or attachment to manufacturing machinery

(l) steel, steel plate, steel angles, bushing, bronze, steel shapes, and tool steel from which machine parts or attachments are fabricated

(m) fire clay and bulk lining materials

(n) equipment used in measuring, weighing, and packaging product when it is a part of the production line machinery and is used to put the product in condition for sale

(o) computers directly linked to manufacturing machinery and used to control or monitor manufacturing machinery

(p) machinery used during the manufacturing process to test or measure materials entering the product.

(2) Tangible personal property purchased by paper manufacturers is taxable at the general rate of sales or use tax levied in Sections 40-23-2(1) and 40-23-61(a) unless it qualifies for the reduced automotive, manufacturing machine, or farm machine rate of tax or for a specific statutory exemption or exclusion. Property purchased for use in general plant maintenance, administration, general management, or marketing is taxable at the general rate. The following items are taxable at the general rate of sales or use tax when purchased by paper manufacturers with certain exceptions as noted:

(a) steam hose used for cleaning purposes including bulk purchases of steam hose of the kind which may be used either for cleaning the plant and plant equipment or for use as an attachment to manufacturing machinery (unless the purchaser can document that all of the steam hose purchased in bulk was used on manufacturing machinery)

(b) bulk or preformed insulating material not becoming an attachment to manufacturing machinery

(c) machinery and equipment used solely to transmit electricity from the powerhouse to motor control centers on manufacturing machinery (these items transmit electricity rather than manufacture electricity)

(d) all wire, fixtures, and other materials used in lighting

(e) baling wire pulp for internal use

(f) skid and anchor plates

(g) steel strapping, when not furnished as part of a one-time-use container

(h) gummed tape, when not furnished as part of a one-time-use container

(i) wooden skids

(j) pulpwood saws and saw parts (taxable at the reduced farm machine rate when purchased for use in harvesting timber)

(k) yard switcher repair parts

(l) safety shoes

(m) lumber

(n) magazine subscriptions

(o) repair parts for electric trucks

(p) office supplies

(q) laboratory supplies

(r) cafeteria equipment

(s) charts used on recording instruments that are attached directly to manufacturing machinery

(t) tractor repair parts

(u) paints

(v) auto, truck, and trailer repair parts

(w) hand-operated hoists and parts

(x) portable air compressors and parts

(y) tools

(z) first aid supplies, fire protection supplies and equipment, safety supplies and equipment

(aa) welding machines and parts

(bb) fuel oil

(cc) Dowicide (not taxable when it becomes an ingredient or component part of the paper manufacturer's manufactured product)

(dd) Nopco K. F. foam killer (exempt when used primarily for air or water pollution control purposes)

(ee) seedlings and plants

(ff) repair parts for gas-driven and electric lift trucks (new units taxable at the reduced automotive rate)

(gg) building materials including brick, structural steel, concrete, lumber rails, paint, insulation materials, plumbing fixtures, and all other materials becoming a part of a structure

(hh) pipes, valves, pipe fittings, and pipe fitting supplies including those which are used in drinking water lines and fire protection lines (pipes, valves, pipe fittings, and pipe fitting supplies which are attached to manufacturing machinery are taxable at the reduced machine rate; those which are used in a water treatment plant qualify for the pollution control exemption in Sections 40-23-4(a)(16) and 40-23-62(18))

(ii) construction supplies including welding rods, acetylene, oxygen, screws, nuts, bolts, and rivets.

(3) The rates of sales and use tax applicable to purchases of used machinery and equipment by paper manufacturers are the same as the rates applicable to purchases of new equipment.

(4) Exemptions and exclusions which commonly apply to paper manufacturers include the wholesale exclusion for purchases of materials becoming an ingredient or component part of a manufactured product and the one-time-use containers or container components in which the manufacturer's product is furnished, the exemption for oils and greases otherwise taxed as lubricants, and the exemption for certain railroad cars, vessels, and barges of over five tons load displacement. (Sections 40-23-1(a)(9)b, 40-23-1(a)(9)c, 40-23-4(a)(1), 40-23-4(a)(12), 40-23-60(4)b, 40-23-60(4)c, 40-23-62(4), and 40-23-62(17)

Author: Patricia Estes, Dan DeVaughn

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(9)b, 40-23-1(a)(9)c, 40-23-2(1), 40-23-2(3), 40-23-4(a)(1), 40-23-4(a)(12), 40-23-4(a)(16), 40-23-31, 40-23-60(4)b, 40-23-60(4)c, 40-23-61(a), 40-23-61(b), 40-23-62(4), 40-23-62(17), 40-23-62(18) and 40-23-83

History: **New Rule:** Filed September 29, 1998; effective November 3, 1998.