

ALABAMA DEPARTMENT OF REVENUE  
ADMINISTRATIVE CODE

CHAPTER 810-8-7  
ALABAMA UNIFORM SEVERANCE TAX

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**810-8-7-.01      Scope Of Rules.**

This chapter sets forth the rules to be used by the Alabama Department of Revenue in administering the Alabama Uniform Severance Tax as codified in Code of Ala. 1975, Title 40, Chapter 13, Article 3.

**Author:** Alisa G. Johnson

**Statutory Authority:** Code of Ala. 1975, 40-2A-7(a)(5), 40-13-55.

**History: New Rule:** Filed December 7, 2012; effective January 11, 2013.

**810-8-7-.02      Definitions.**

(1) The definitions of terms contained in Code of Ala. 1975, Section 40-13-51, are incorporated into this chapter by reference. In addition, the following terms shall have the meaning ascribed to them for the purpose of clarification and for the enforcement of Title 40, Code of Ala. 1975, Chapter 13, Article 3:

(a) **Agricultural Purposes** - The use of lime or limestone in accordance with the "Alabama Agricultural Liming Materials Act" as codified in Chapter 23 of Title 2, Code of Ala. 1975.

(b) **Chert** - A metamorphic, fragmentary, flint or silica formation interspersed with varying quantity and quality of clay binder. Chert in its natural formation may require blasting to facilitate loading and manipulation.

(c) **Commercial Quarry** - A place from which stone, aggregate sand, gravel, sandstone, granite, shale, clay, dolomite, limestone, and any other natural mineral listed as such by the Geological Survey of Alabama is severed for sale.

(d) **Lightweight Aggregate** - Expanded raw materials that are used in the production of lightweight concrete products (i.e. structural concrete, concrete building blocks, pre-cast structural units and insulating fill). Raw materials commonly used in the production of lightweight aggregate are clay, sand, gravel, and rock.

(e) **Manufactured or Processed Severed Materials** - Natural minerals which have been blended, converted or otherwise transformed by the producer or first purchaser, into a finished product different from the natural minerals such that the component natural minerals are no longer identifiable in the resulting finished product.

(f) **Pollution Control or Abatement** - As defined in Section 40-23-4(a)(16), Code of Ala. 1975, shall include but shall not be limited to, severed materials used in the treating, modifying, or disposing of water or air pollutants with lime or limestone in water treatment or scrubbing systems in order to comply with a federal, state, or local pollution control law or regulation.

(g) **Portland Cement** - A mortar made by heating lime and clay in a kiln and pulverizing the result. It contains a large proportion of clay, and hardens after water is added.

(h) **Processed Sand** - Severed sand that has been washed. Clean sand that has the clay removed.

(i) **Rock Dust** - Ground limestone or marble that is used for mine safety by rendering coal dust inert.

(j) **Severed Material** - All natural minerals, including sand, gravel, sandstone, granite, shale, clay, dolomite, limestone, and any other mineral listed as such by the Geological Survey of Alabama that is not specifically excluded from taxation. Other taxable minerals include bauxite, salt, and silicon.

(k) **Ton** - A short ton of 2000 pounds.

(l) **Unprocessed Naturally Occurring Sand** - Sand that is excavated from the earth in its natural form.

(m) **Used for Fill** - Any material used to build up a formation on a road, house pad, or building pad.

**Author:** Alisa G. Johnson

**Statutory Authority:** Code of Ala. 1975, 40-2A-7(a)(5), 40-13-55.

**History: New Rule:** Filed December 7, 2012; effective January 11, 2013. **Amended:** Filed April 27, 2018; effective June 11, 2018.

**810-8-7-.03      Exemptions.**

(1) The following minerals are not subject to the Alabama Uniform Severance Tax. No quantities of these minerals should be reported to the Department on the monthly Uniform Severance Tax returns.

**(a) Exempt Products:**

1. Marble and marble by-products,
2. Iron ore - Materials subject to the tax in Section 40-12-128, Code of Ala. 1975,
3. Quartzite,
4. Coal - Materials subject to the tax in Chapter 13 of Title 40, Code of Ala. 1975,
5. Oil and natural gas - Hydrocarbons subject to the tax in Chapter 20 of Title 40, Code of Ala. 1975, and
6. Chert

**(b) Exempt Usage:** The minerals listed in this section are not exempt from the severance tax unless used as described below. The total quantities of these materials produced and sold should be listed on the tax return. Any materials used by the producer or first purchaser in ways qualifying the materials for the stated exemptions should be listed on the tax return and subtracted from the total quantities of the various materials to arrive at taxable quantities.

1. Portland Cement or Clay that produces lightweight aggregate
2. Lime or limestone used for agricultural purposes -
  - (i) Producers and first purchasers of lime or limestone who are permitted as manufacturers or distributors of "Agricultural Liming Materials" by the Alabama Department of Agriculture and Industries may claim an exemption from the tax.
  - (ii) A first purchaser who is not required to be permitted because he is located outside the State of Alabama, who manufactures or distributes liming materials meeting the specifications of the Alabama

Department of Agriculture and Industries may also claim an exemption from the tax.

(iii) Producers may report as exempt the quantity of agricultural liming materials reported by the producer to the Alabama Department of Agriculture and Industries in accordance with Section 2-23-5(a).

(iv) Exemptions may also be claimed for the quantity of materials meeting the specifications of the Alabama Department of Agriculture and Industries but not required to be reported because the first purchaser is located outside the State of Alabama.

3. Lime or limestone used for pollution control or abatement purposes - Producers or first purchasers selling lime or limestone in a transaction which is exempt from the State of Alabama's sales tax because the lime or limestone qualifies for the pollution control exemption may claim an exemption from the severance tax.

4. Rock dust used for settling coal dust in underground mines or similar uses.

5. Processed sand used in the foundry cores, molds, and linings.

6. Severed materials that are further processed into a finished aggregate or limestone product without being transported on a public road in the State.

**(c) Exempt Sales:**

1. Product sold for use outside the State provided product is not transported on public roads in the State.

2. Product moved from one place to another on the same site, or transported to another site owned by the operator or producer.

3. Product used for fill by an operator, producer or other person other than product from a commercial quarry.

4. Product sold by a producer to a purchaser without being transported on a public road in the State provided such product will be processed into a finished aggregate or limestone product for resale.

5. Product sold to exempt purchasers that is wasted during the manufacturing process provided the material is not transported on a public road in the State or sold to another entity.

6. Sales by producers directly to governmental agencies including, federal, state, county and municipal governments to include city and county school boards.

**Author:** Alisa G. Johnson

**Statutory Authority:** Code of Ala. 1975, 40-2A-7(a)(5), 40-13-55.

**History: New Rule:** Filed December 7, 2012; effective January 11, 2013.

#### **810-8-7-.04      Sales Subject To The Tax.**

(1) Purchases made by a "person" as defined in Title 40, Section 13 are subject to the tax. A person is any individual or individuals, partnership, limited partnership, corporation, limited liability company, limited liability partnership, business trust, or any other association of persons. The following sales of natural minerals are subject to the tax:

(a) Severed material sold as tangible personal property unless specifically exempted,

(b) Sales between separate legal entities regardless of common ownership or other affiliations, and

(c) Product severed and sold as tangible personal property which is transported on public roads in the State.

**Author:** Alisa G. Johnson

**Statutory Authority:** Code of Ala. 1975, 40-2A-7(a)(5), 40-13-55.

**History: New Rule:** Filed December 7, 2012; effective January 11, 2013.

#### **810-8-7-.05      Producer's Responsibility To Collect And Remit The Tax.**

(1) It is the producer's responsibility to collect the tax from the first purchaser at the time of sale or delivery unless the severed materials qualify for an exemption. The tax attaches at the point the products are sold or delivered by a producer to the first purchaser.

(2) The producer must identify the tax on a bill of sale, invoice or other similar sales document to the purchaser of the severed materials unless said product qualifies for exemption.

(3) Producers failing to identify the tax on the sales document or failing to collect the identified tax from the purchaser must remit the tax to the Department as if it was identified and collected.

(4) Purchasers claiming an exemption must provide the following information to the producer.

- (a) Name,
- (b) Address,
- (c) Date of sale,
- (d) Type of product,
- (e) Product usage,
- (f) Reason for the exemption,
- (g) Mode of transportation (if claiming product was not transported on the public roads in this State), and
- (h) A statement that the severed materials will be used by an exempt entity or used for an exempt purpose.

(5) Producer must maintain copies of the required exemption documentation and submit this information to the Department upon request. The exemption documentation may be in the form of a written contract signed by the purchaser, an invoice, or any other form that the purchaser provides to the producer that contains the above-described information. The exemption documentation may include a statement that the purchaser understands that he/she is assuming the tax liability if the exemption is later disallowed. Producers which fail to obtain the exemption documentation are responsible for the tax if it is later determined that the product was not used by an exempt entity or used for an exempt purpose.

**Author:** Alisa G. Johnson

**Statutory Authority:** Code of Ala. 1975, 40-2A-7(a)(5), 40-13-55.

**History: New Rule:** Filed December 7, 2012; effective January 11, 2013.

#### **810-8-7-.06      Producer's Responsibility To Remit The Tax.**

(1) First purchasers receiving exempt product which will be processed into a finished aggregate or limestone product for resale are required to remit the tax when the product is sold and transported on a public road in this State.

- (a) Purchasers claiming an exemption must provide identifying information to the producer as outlined in Rule 810-8-7-.05 to document the exemption.
- (b) Purchasers using the materials for other than an exempt purpose shall be liable for the tax.

(c) Purchasers must maintain records documenting the right to all claimed exemptions.

(d) Purchasers claiming exemption from the tax are subject to audit by the Department.

(e) If a purchaser maintains inadequate information to document the claimed exemption or if an exemption is disallowed as a result of an audit; the Department will collect the tax, penalty and interest from the purchaser.

**Author:** Alisa G. Johnson

**Statutory Authority:** Code of Ala. 1975, 40-2A-7(a)(5), 40-13-55.

**History: New Rule:** Filed December 7, 2012; effective January 11, 2013.

#### **810-8-7-.07      Application Of The Tax.**

(1) **MANUFACTURED OR PROCESSED SEVERED MATERIALS:** Severed materials are subject to the severance tax if used by the operator, producer or purchaser in a manufacturing process to produce a product which is later sold by the operator, producer or purchaser as tangible personal property. A producer/first purchaser must measure or otherwise calculate the tons of each severed natural mineral contained in the sold product and report that amount on the severance tax return.

(2) **MATERIALS SOLD FOR USE OUTSIDE THE STATE:**

(a) Materials sold to a purchaser for use outside the State must be reported by the producer on the monthly severance tax return.

(b) If such materials are not transported on the public roads in the State, the producer may subtract the quantities of such materials from the total sales amounts shown on the monthly tax return in calculating the taxable quantities.

(c) Materials must be loaded into a non-highway conveyance (i.e. barge or train car) at the producer's site to qualify for the exemption with the exception of quarries or mines that are contiguous to or overlap the State line when materials are not transported on the public roads in Alabama. If the materials are transported any distance on the public roads in the State, the tax is due and no exemption may be claimed.

(d) The producer must maintain records documenting the method of transportation of all materials for which an exemption is claimed.

(e) Such materials are subject to audit verification.

(3) **MATERIALS STOCKPILED BY THE PRODUCER:**

(a) Materials which are moved from one place to another on the same site or transported to another site owned by the same operator or producer are not subject to the severance tax while in the possession of the producer.

(b) The materials become subject to the severance tax and must be reported on the monthly tax returns at the time the products are sold, delivered or transferred to a purchaser.

(4) **MATERIALS USED BY THE PRODUCER/PURCHASER:**

(a) Severed materials which are used by the producer/first purchaser and never transferred or sold, as tangible personal property, are not subject to the severance tax; including severed materials which are used by the producer to perform a furnish-and-install contract.

(b) Materials not from a commercial quarry, such as from a borrow pit, which are both, severed and used by a producer, operator, or any other person for fill, are not subject to the severance tax. The severance tax is due if any severed products are sold by the producer and used for fill by a purchaser.

(5) **MATERIALS TRANSFERRED WITHOUT SALE:**

(a) Severed materials which are donated or otherwise transferred without sale, in a bona fide transaction, to an unrelated person for no consideration, are not subject to the severance tax.

(b) Materials which are transferred for any consideration or economic benefit, such as in a barter transaction, are deemed to be sold for severance tax purposes.

(c) Materials transferred from a producer to a related person, such as a parent, subsidiary or sister company, are deemed to be sold at the time of the transfer.

(6) **COMMINGLED MATERIALS:**

(a) If natural minerals severed from more than one county are commingled at one site, the tax shall be allocated to the individual counties using the first-in, first-out (FIFO) accounting method.

(b) Severed materials which are sold from the site must be allocated between counties in the same order that the materials are received at the site.



(c) Producers/first purchasers receiving exempt product must keep records to show the amount of natural minerals stockpiled by county, the withdrawal date by county, and the amount of taxes paid by county.

**Author:** Alisa G. Johnson

**Statutory Authority:** Code of Ala. 1975, 40-2A-7(a)(5), 40-13-55.

**History: New Rule:** Filed December 7, 2012; effective January 11, 2013.

**810-8-7-.08****Conversion Of Cubic Yards To Tons.**

All natural minerals which are severed by the producer or received by a first purchaser that will later process the materials into a finished aggregate or limestone product for resale measured by the ton must be reported by the ton to the Department on the monthly severance tax returns. If a producer severs and sells the natural minerals by the cubic yard or cubic foot in the normal course of business and there are no records available that indicate the tons severed and sold, the producer may convert the cubic yards to tons using a formula of  $\text{Cu. Yd.} \times \text{Lb./Cu. Ft.} \times 0.0135 = \text{TONS}$ . The density of the natural mineral varies by product based on the specific gravity and moisture content. The acceptable loose unit mass by producer is published annually by the Alabama Department of Transportation and may be used to convert cubic yards to tonnage. Producers not having a specific measure of the density of the severed materials may estimate the density to be 150 Lb./Cu. Ft., or 2 Tons/Cu. Yd.

**Author:** Alisa G. Johnson

**Statutory Authority:** Code of Ala. 1975, 40-2A-7(a)(5), 40-13-55.

**History: New Rule:** Filed December 7, 2012; effective January 11, 2013.