

APA-1

TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 810

Department or Agency: Alabama Department of Revenue Sales, Use & Business
Tax Division

Rule No.: 810-6-5-.03

Rule Title: Contractors' Gross Receipts Tax

Intended Action Amend

Would the absence of the proposed rule significantly harm or
endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police
power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available
that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly
increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm
that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the
purpose of, and so they have, as their primary effect, the
protection of the public? Yes

Does the proposed action relate to or affect in any manner any
litigation which the agency is a party to concerning the subject
matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be
accompanied by a fiscal note prepared in accordance with subsection (f) of Section
41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance
with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it
conforms to all applicable filing requirements of the Administrative Procedure
Division of the Legislative Services Agency.

Signature of certifying officer

Cameran Clark
Cameran Clark

Date

Monday, August 19, 2024

REC'D & FILED
AUG 19, 2024
LEGISLATIVE SVC AGENCY

**ALABAMA DEPARTMENT OF REVENUE
SALES, USE & BUSINESS TAX DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Revenue

RULE NO. & TITLE: 810-6-5-.03 Contractors' Gross Receipts Tax

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Pursuant to the Red Tape Reduction Act 2013-88, this rule has been reviewed and is being amended to provide titles, definitions, and greater clarity of the provisions of contractor's gross receipts tax for taxpayers.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

A public hearing will be conducted at 1:30 P.M. on Tuesday, October 08, 2024, via web-conference. To participate in the upcoming web-conference public hearing please contact the Tax Policy and Governmental Affairs Division at Taxpolicy@revenue.alabama.gov or 334-242-1380 to obtain the appropriate sign-in information for a specific public hearing date. Copies of the rule(s) can be obtained at <http://www.revenue.alabama.gov/tax-policy/>.

All interested parties may present their views in writing to the Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132 at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also may present their views during the web-conference.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, October 8, 2024

CONTACT PERSON AT AGENCY:

Nicci Adams
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380

Cameran Clark

Cameran Clark

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

(1) Definitions

(a) Contractor's Gross Receipt Tax- ~~The privilege or license tax levied~~Code of Ala. 1975, Section 40-23-50, levies a ~~privilege or license tax~~ upon every person, firm, or corporation engaged, or continuing within this state in the business of contracting to construct, reconstruct, or build any public highway, road, bridge, or street, ~~an amount equal to 5 percent of the gross receipts of any such business.~~

~~(2) The term "reconstruct" as used in this rule means to~~ (b) Reconstruct- To construct again or repair an existing public highway, road, bridge, street, or tunnel.

~~(3) The contractors gross receipts~~ (2) Contractors Gross Receipts Tax

(a) Applies to all payments made to the contractor or contract assignee whether the payments are made pursuant to a contract, purchase order, supplemental agreement, change request, or other agreement to construct, reconstruct, or build any public highway, road, bridge, street, or tunnel. ~~tax referenced in (1) above applies~~

(b) Applies to any contract between a contractor or contract assignee and the ~~State of Alabama or between a contractor and any city, town, or county if the State of Alabama~~ state or between a contractor and any city, town, or county if the state is a joint party with the city, town, or county to construct, reconstruct, or build any public highway, road, bridge, street, or tunnel, including but ~~and includes but is~~ not limited to contracts for:

~~(a) Earthwork,~~ (i) Earthwork

~~(b) Bases,~~ (ii) Bases

~~(c) Surfacing,~~ (iii) Surfacing

~~(d) Pavements,~~ (iv) Pavements

~~(e) Structures,~~ (v) Structures

~~(f)~~ (vi) Incidentals, which become a part of the highway, road, bridge, street, or tunnel,

~~(g) Traffic control devices,~~ (vii) Traffic control devices

~~(h) Highway lighting,~~ (viii) Highway lighting

~~(i) Materials,~~ (ix) Materials

~~(j)~~ (x) Bridge scouring and painting,

~~(k)~~ (xi) Installation or repair of overhead signs

(xii) Installation or repair of structure footings ~~and/or structure footings, and~~

~~(l) Sign rehabilitation.~~ (xii) Sign rehabilitation

(4) (3) Exemptions

~~The contractors gross receipts tax referenced in (1) above applies to all payment made to a contractor or contract assignee by the State of Alabama whether the payments are made pursuant to a contract, purchase order, supplemental agreement, change~~

~~request or other arrangement to construct, reconstruct, or build any public highway, road, bridge, street, or tunnel.~~contractor's gross receipts tax

~~(5) The contractors gross receipts tax referenced in (1) above~~ does not apply to the following:

(a) Contracts between a contractor or contract assignee and the federal government, when the state is not a party to the contract.

(b) That portion of the gross receipts received by the contractor or contract assignee constituting additional amounts paid to the contractor or contract assignee under contractual escalation provisions allowing for an increase in the contract price for escalations in the cost of fuels, materials, ~~and/or~~ labor.

(c) Gross receipts received by a contractor or contract assignee from contracts with the ~~State of Alabama~~state to construct, reconstruct, or build rest areas or welcome stations.

(d) Contracts between a contractor or contract assignee and any city, town, or county when the ~~State of Alabama is not a party to the contract, and~~state is not a party to the contract.

(e) Contracts that do not include or require the construction, reconstruction, or building of a public highway, road, bridge, street, or tunnel. (Misener Marine Construction, Inc. V. Eagerton, 423 So.2d 161 (1982))

~~(6)~~ (4) Return Due Date and Discount.

(a) The contractor's gross receipts tax shall be due and payable in monthly installments on or before the 20th~~The contractors gross receipts tax shall be due and payable in monthly installments on or before the twentieth~~ day of the month next succeeding the month in which a payment subject to this tax is received by the contractor or contract assignee. Every person, firm, or corporation on whom the tax is levied shall ~~prepare and forward to the Department of Revenue within the time fixed and prescribed by law, a contractors gross receipts tax return for each calendar month and shall compute the tax due and shall pay to the Department of Revenue the amount of tax shown to be due. Contractors gross receipts tax returns shall require the following information:~~file a contractors gross receipts tax return for each calendar month, compute the tax due, and pay the amount of tax due to the

~~(a) Taxpayer's contractors gross receipts tax account number and legal name,~~department.

~~(b) Period covered by the return and due date of the return,~~

~~(c) A project schedule showing each taxable project number for which a payment was received by the taxpayer from the Alabama Transportation Department, the total amounts of the~~

~~payments received on each taxable project, any escalation payments included in the gross amounts received, and the taxable amount received for each taxable project,~~A discount is allowed pursuant to Administrative Rule 810-3-5-.03.01 entitled

~~(d) Total taxable receipts from all contracts, purchase orders, supplemental agreements, and change requests,~~

~~(e) Gross tax on total taxable receipts,~~Contractors Gross Receipts Tax

~~(f) Applicable discount for prompt payment,~~

~~(g) Penalties and interest due, if applicable, (h) Credits claimed, if any,~~

~~(i) Total amount due, and~~

~~(j) Total amount remitted~~Discount.

Author: Ginger Buchanan and Christy Vandevender

Statutory Authority: §§40-2A-7(a)(5), 40-23-31, and 40-23-50, Code of Ala. 1975. Misener Marine Construction, Inc. V.

Eagerton, 423 So.2d 161 (1982)., ~~§§40-23-31, 40-23-50, as amended.~~

History: Adopted September 20, 1963. **Amended:** April 12, 1973.

Amended: October 29, 1976. Readopted under APA October 31, 1982. **Amended:** December 5, 1984, effective January 10, 1985.

Amended: February 8, 1989. Notice of Intended Action filed March 22, 1989; adopted May 9, 1989. Certification filed June 2, 1989; effective July 7, 1989. **Amended:** Filed February 26, 1996; effective April 1, 1996. **Amended:** Filed January 19, 2006; effective February 23, 2006. **Amended:** Published ; effective .