

APA-3

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on Friday, October 18, 2024, and filed with the agency secretary on Friday, October 18, 2024.

AGENCY NAME: Alabama Department of Revenue Sales, Use & Business Tax Division

INTENDED ACTION: Amend

RULE NO.: 810-6-5-.03
(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

RULE TITLE: Contractors' Gross Receipts Tax

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted without changes

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLII, ISSUE NO. 11, AAM,
DATED FRIDAY, AUGUST 30, 2024.

STATUTORY RULEMAKING 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)

REC'D & FILED
(Date Filed)
(For LRS Use Only)
OCT 21, 2024
LEGISLATIVE SVC AGENCY

Vernon Barnett

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Certifying Officer or his or her
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

Contractors' Gross Receipts Tax.

(1) Definitions

(a) Contractor's Gross Receipt Tax- The privilege or license tax levied 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.

(b) Reconstruct- To construct again or repair an existing public highway, road, bridge, street, or tunnel.

(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.

(b) Applies to any contract between a contractor or contract assignee and the 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 not limited to contracts for:

(i) Earthwork

(ii) Bases

(iii) Surfacing

(iv) Pavements

(v) Structures

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

(vii) Traffic control devices

(viii) Highway lighting

(ix) Materials

(x) Bridge scouring and painting,

(xi) Installation or repair of overhead signs

(xii) Installation or repair of structure footings

(xii) Sign rehabilitation

(3) Exemptions

The contractor's gross receipts tax 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, or labor.

(c) Gross receipts received by a contractor or contract assignee from contracts with the 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 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))

(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 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 file a contractors gross receipts tax return for each calendar month, compute the tax due, and pay the amount of tax due to the department.

(b) A discount is allowed pursuant to Administrative Rule 810-3-5-.03.01 entitled Contractors Gross Receipts Tax Discount.

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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).

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 October 31, 2024; effective December 15, 2024.