

**ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE**

CHAPTER 810-6-1

**GROSS PROCEEDS OF SALES; GROSS RECEIPTS; WHOLESALE SALES; SALES AT
WHOLESALE; RETAIL SALES, SALES AT RETAIL; AUTOMOTIVE VEHICLES**

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

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

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

(b) Where untreated cross ties or timbers are purchased from outside this state and brought into this state and creosoted within this state prior to their use, the measure of the use tax shall be the cost of the untreated ties and timbers since the materials used in creosoting the ties or timbers are taxable when purchased or withdrawn by the person performing the service. (Section 40-23-60(5)).

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

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

(e) Cross ties and timbers are taxable when sold under bulk contract with the purchaser inspecting and approving the material at the plant or yard of the seller and the seller segregating and allotting the approved material to the purchaser for future shipment according to subsequently issued shipping instructions. This material is to be reported by the

seller as subject to tax in accordance with the provisions of Section 40-23-8. (Sections 40-23-2(1) and 40-23-8).

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

(2) Cross ties and timbers sold F.O.B. an Alabama shipping point on a purchase order requiring the seller to ship to an out-of-state destination are sales in interstate commerce and are not subject to sales tax regardless of whether shipment is made by the use of purchaser's transportation facilities when the purchaser is a common carrier. (Sections 40-23-1(a)(5) and 40-23-4(a)(17)).

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Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-31, 40-23-83, 40-23-2(1), 40-23-2(3), 40-23-61(a), 40-23-61(b), 40-23-1(a)(5), 40-23-1(a)(6), 40-23-60(5), and 40-23-8.

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