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-.183.02 Sales Of Tangible Personal Property Through Vending Machines.

(1) Sales tax is due on sales of tangible personal property sold through vending machines operated by coins, currency, credit cards, slugs, tokens, or other media of exchange. The retail operator of vending machines shall report and pay sales tax on the operator's total gross receipts from sales through vending machines without any deduction for commissions or rental charges paid to a person on whose property the machines are located. Sales tax may be removed from the retail vending machine operator's total gross receipts from vending machine sales before computing sales tax due. (State of Alabama v. Automatic Sales, 277 Ala. 63, 167 So.2d 146 (1964)) (Sections 40-23-1(a)(6), 40-23-1(a)(8), 40-23-2(1), and 40-23-2(5), Code of Ala. 1975).

(2) Sales of tangible property through vending machines are taxable as follows:

(a) Vending machine sales of food and food products for human consumption, coffee, milk, milk products, and substitutes for these products are taxable at 3 percent of the retail sales price. Items which qualify for this special rate include, but are not limited to, sandwiches, candy, potato chips, and crackers. (Section 40-23-2(5)).

(b) All other tangible personal property sold through vending machines is taxable at 4 percent of the retail sales price. Items which are taxable at the 4 percent general rate include, but are not limited, to soft drinks, fruit juices, bottled water, cigarettes, health and beauty aids, and chewing gum. (Section 40-23-2(1)).

(3) Except as noted in (a) below, the wholesale supplier of property sold through vending machines sells the property at wholesale and is not required to collect sales tax from the retail operator provided the operator is a retailer licensed pursuant to Section 40-23-6, Code of Ala. 1975. The licensed retail operator is required to report and pay the sales tax due on vending machine sales. The wholesale supplier shall charge tax to all customers who do not have a sales tax license number or who are not otherwise exempted by law. The measure of tax is the amount received by the supplier for the sale of the property. (Section 40-23-1(a)(9)a).

(a) Where a licensed or unlicensed retail operator purchases property for resale through vending machines and retains title to the property in the vending machines, the wholesale supplier and the retail operator may agree that the wholesale supplier will service the machines, collect the receipts from the machines, and collect and pay sales tax to the Department of Revenue on the vending machine sales. The payment of all applicable sales tax to the Department of Revenue by the wholesale supplier shall discharge both the supplier and the licensed or unlicensed retail operator from any additional sales tax liability with respect to sales through the vending machines covered by the agreement. The payment of a rental fee on the machines by the retail operator to the wholesale supplier shall not affect the validity of the agreement.

(4) A wholesale supplier of property sold through vending machines shall maintain records which show the sales tax license number of every purchaser who purchases property at wholesale. These records may be maintained on a ledger or other suitable book, in a separate card index, on each individual invoice, or in a computerized record keeping system. Each wholesale invoice shall show the complete name and address of the wholesale purchaser. Invoices made out to "cash" shall always be considered retail sales invoices. (Section 40-23-9).

(5) A wholesale supplier who places vending machines on location, retains title to the property in the vending machines, pays the location owner a certain percentage of the gross sales as a rental charge for conducting business in the space occupied by the vending machines, services the machines, and collects the receipts is the retail operator of the vending machines and is required to report and pay the sales tax due on the sales through the machines. (Sections 40-23-2(1) and 40-23-2(5)).

(6) The provision in paragraph (2)(a) regarding the proper measure of tax to be used in computing the 3 percent sales tax applicable to vending machine sales of food and food products for human consumption, coffee, milk, milk products, and substitutes for these products shall be effective January 1, 2000.

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History: **New Rule:** Filed June 25, 1998; effective July 30, 1998. **Repealed:** Filed November 2, 1998; effective December 7, 1998. **New Rule:** Filed November 18, 1999, effective December 23, 1999.