ALABAMA DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION
ADMINISTRATIVE CODE

CHAPTER 810-6-3
EXEMPTIONS FROM SALES AND USE TAX

810-6-3-.46 Air And Water Pollution Control Exemption.

(1) The term "pollution control facilities" shall mean any system, method, construction, device, or appliance appurtenant thereto acquired for the primary purpose of eliminating, preventing, or reducing air and water pollution, or acquired for the primary purpose of treating, pretreating, modifying, or disposing of any potential solid, liquid, or gaseous pollutant which, if released without such treatment, pretreatment, modification, or disposal, might be harmful, detrimental, or offensive to the public and the public interest.

(2) The term "air pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations of contaminants in such quantities and of such characteristics, location, and duration which are injurious to the public and the public interest, or which unreasonably interfere with the comfortable enjoyment of life or property or to the conduct of business within affected areas.

(3) The term "air contaminant" shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

(4) The term "air contamination source" shall mean any source at, from, or by reason of which there is admitted into the atmosphere any air contaminant regardless of who owns or operates the building, premises, or other property in, at, or on which source is located, or the facility, equipment, or other property by which the emission is caused or from which the emission comes.

(5) The term "water pollution" shall mean the discharge or deposit of sewage, industrial wastes, or other wastes of such condition, manner, or quantity as may cause ground or surface water to be contaminated, unclean, or impure to such an extent to make said waters detrimental to the public and the public interest.

(6) Sections 40-23-4(a)(16) and 40-23-62(18), Code of Ala. 1975, exempt from sales and use tax the sale, storage, use, or consumption of

(i) all devices or facilities, including all identifiable components of the devices or facilities and all materials used in the devices or facilities, which are acquired primarily for

the control, reduction, or elimination of air or water pollution and

(ii) all identifiable components of or materials used or intended for use in structures built primarily for the control, reduction, or elimination of air or water pollution.

(7) Noise pollution control devices are not exempt from the sales or use tax.

(8) To qualify for the pollution control exemption the primary purpose for acquiring tangible personal property purchased, stored, used, or consumed shall be the control, reduction, or elimination of air or water pollution. Property acquired for the primary purpose of controlling, reducing, or eliminating air or water pollution, qualifies for the exemption even though a secondary or incidental purpose may be its use in the production of goods or services. Property which is acquired primarily for the production of goods or services and is integral to a profit-motivated business purpose or activity does not qualify for the pollution control exemption even when the property controls, reduces, or eliminates air or water pollution. (Chemical Waste Management, Inc. v. State, 512 So. 2d 115 (Ala. Civ. App. 1987)).

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