

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-3-76

Rule Title: Property Purchased for Export and Sales Tax Refunds on Certain Purchases of Tangible Personal Property in Alabama for Export to and Use in a Foreign Country

New; Amend; Repeal; Adopt by Reference

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 and, if so, to what degree?

No

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

N/A

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

Yes

Does the proposed rule have any 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 Reference Service.

Signature of certifying officer 

Date 4/13/15

APA-6
10/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-3-.76

Rule Title: Property Purchased for Export and Sales Tax Refunds on Certain Purchases of Tangible Personal Property in Alabama for Export to and Use in a Foreign Country

_____ New Amend _____ Repeal _____ Adopt by Reference

- NO
- YES

This rule has no economic impact.
This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

3. EFFECT OF THIS RULE ON COMPETITION:

4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
11. OTHER COMMENTS:

APA-2
11/96

**ALABAMA DEPARTMENT OF REVENUE
Sales & Use Tax Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-6-1-.119 Photographs, Photostats, Blueprints, etc.

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to provide clarification, guidance, and examples as to the taxation of various fees charged by photographers.

RULE NO. & TITLE

810-6-3-.76 Property Purchased for Export and Sales Tax Refunds on Certain Purchases of Tangible Personal Property in Alabama for Export to and Use in a Foreign Country

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to clarify code sections, remove a date reference and to provide that sales made within Alabama are made inside Alabama regardless of whether the tangible personal property purchased is to be exported.

RULE NO. & TITLE

810-6-3-.78 Sales of Aircraft Manufactured, Sold and Delivered in Alabama

INTENDED ACTION: Adopt rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule pertaining to the exemption for sales of aircraft manufactured, sold and delivered in Alabama that are not permanently domiciled in Alabama and are removed from Alabama.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Wednesday, June 10, 2015, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at <http://revenue.alabama.gov/analysis/upcoming-rule-hearings.cfm>

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 during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, June 10, 2015

CONTACT PERSON AT AGENCY:

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



Michael D. Gamble, Secretary
Alabama Department of Revenue

0957APC.INT

810-6-3-.76 Property Purchased for Export and Sales Tax Refunds on Certain Purchases of Tangible Personal Property in Alabama for Export to and Use in a Foreign Country.

(1) The definitions set forth in Code of Alabama 1975, Section 40-23-1(a), are incorporated herein by reference.

(2) Sales ~~are made outside Alabama and~~ are not subject to Alabama sales tax when the sales agreement requires the seller or the seller's agent to deliver the purchased property to the Port of Mobile marked for export and, in fact, delivery is made to the Port of Mobile and the property is exported. (Sections ~~40-23-4(a)(17) and 40-23-62(2)~~ 40-23-39). (Juan Hernandez, Caribbean Shipping, Inc. v. State of Alabama (Admin. Law Div. Docket No. S. 05-708 Final Order entered December 7, 2005))

(3) Alabama sales tax applies to sales of tangible personal property when the purchaser or the purchaser's agent takes delivery in Alabama for subsequent export and use of that property in a foreign country unless the following criteria are met:

(a) the purchaser's records reflect that it was the intent of the purchaser to use the property in a foreign country at the time of purchase and that, in fact, the property was exported from Alabama, and when ocean transportation is required and scheduled service to the desired port overseas is available through the port of Mobile, the Port of Mobile is used for shipment, and

(b) the purchaser provides to the vendor a duly executed Certificate of Exemption

– Merchandise Purchased for Export to a Foreign Country (Form STE-4)

(4) Purchasers who are entitled to make qualifying purchases at wholesale, tax free, shall obtain a sales and use tax Certificate of Exemption – Merchandise Purchased for Export to a Foreign Country (Form STE-4), by making application on a form provided by the Department. When the properly completed application is received and approved by the Department, the applicant will be issued a state sales and use tax Certificate of Exemption

– Merchandise Purchased for Export to a Foreign Country (Form STE-4), which may be copied, completed, and provided to vendors as documentation for tax-exempt purchases for export. The Form STE-4 may be used only by the person to whom it is issued.

(a) Certificate holders regularly engaged in making tax-exempt purchases of the kind and nature for which the Form STE-4 has been issued may furnish a properly executed certificate to the seller specifying that all tangible personal property subsequently purchased will be for the purpose shown on the certificate and thus be relieved of the burden of executing a separate certificate for each individual tax-

exempt purchase as long as there is no change in the character of their operations and the purchaser's intent is to export the tangible personal property being purchased.

(b) Certificate holders must maintain a list of all vendors to whom they furnish a copy of their exemption certificate. This list should be retained in their records available for inspection by the Department during regular business hours and should provide the name, address, and type of business of each vendor to whom a copy of the certificate has been furnished.

(c) Certificate holders must return their certificate to the Department if the business ceases export activity.

(d) Certificate holders must notify the Department immediately in writing of any change in name or address.

(e) The burden of proof that a sale is exempt is upon the person making the sale unless the seller takes from the purchaser a properly executed Form STE-4. Any such sale for which an exemption has been claimed but which is not supported by a Form STE-4 may be deemed a sale at retail by the Department and the seller held liable for the tax thereon.

(f) Any person selling tangible personal property tax free who relies on a properly executed Form STE-4 shall not be held liable for sales or use tax subsequently determined by the Department to be due on the sale for which the certificate was received. Instead, the Department will assess and collect the tax, along with applicable penalties and interest from the parties who made the illegal tax-free purchase with the Form STE-4 and the person or persons who benefited from the illegal use of the Form STE-4. (Sections 40-23-120 and 40-23-121)

(g) The state sales and use tax certificate of exemption for property purchased for export (Form STE-4) is the only exemption certificate or exemption number which relieves the seller, when acting in good faith and exercising reasonable care, of liability for any sales or use tax later determined by the Department to be due on a sale for which an exemption for export was originally claimed. (Section 40-23-39(a))

(5) With respect to purchases which qualify for the exemption outlined in paragraph (3), in the absence of the purchaser providing the properly executed Form STE- 4, the seller at retail must collect and remit sales tax to the Department and then, when the purchaser documents to the Department that the purchases qualify for the exemption, the purchaser may obtain a refund of the sales tax paid thereon.

(6) Refunds of sales taxes made pursuant to paragraphs (3) and (5) shall be made in accordance with the procedures outlined in Section 40-2A-7(c), Code of

Alabama 1975, including the joint petition requirement contained in Section 40-2A-7(c)(1).

(7) ~~Effective October 1, 1997, the~~ The purchase of a new truck with a gross weight not exceeding 8,000 pounds or a new passenger vehicle by a nonresident of the United States is exempt from sales or use tax when (i) the truck or passenger vehicle is manufactured in Alabama, (ii) the truck or passenger vehicle is delivered to the purchaser in Alabama by the manufacturer or an affiliated corporation, (iii) at the time of purchase the purchaser intends to export the truck or passenger vehicle to and permanently license the truck or passenger vehicle in a foreign country within 90 days after the date of delivery, and (iv) the purchaser obtains a temporary metal license plate and a temporary registration certificate from the probate judge or license commissioner of the county in which the manufacturer is located. ~~(Section 40-23-39(b))~~

Author: Ginger Buchanan
Authority: Sections 40-2A-7(a)(5), 40-23-9, 40-23-4(a)(17), 40-23-31, 40-23-39, 40-23-62(2), 40-23-83, 40-23-120, and 40-23-121 Code of Alabama 1975
History: Adopted through APA effective November 5, 1996.
Amended: Filed February 3, 1998, effective date March 10, 1998.
Amended: Filed August 5, 2005, effective September 9, 2005.
