

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-3-24

Rule Title: Foreign Government

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 2/19/15

APA-6  
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-3-24

Rule Title: Foreign Government

           New   x   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**

810-6-3-.24                      Foreign Government

**INTENDED ACTION:**        Amend rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to reflect changes that have been made to the Government purchasing law for purchases made by tax exemption cards. In addition, the title of the rule will be amended to better reflect the items covered by the rule.

**RULE NO. & TITLE**

810-6-3-.24.01                      Foreign Diplomatic and Consular Officials

**INTENDED ACTION:**        Repeal rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to repeal the above rule due to the fact that the language is outdated according to the federal tax exemption card program.

**RULE NO. & TITLE**

810-6-5-.09                      Leasing and Rental of Tangible Personal Property

**INTENDED ACTION:**        Amend rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to remove the reference to an old Act and replace the reference with the code section; to clarify that streaming services and other digital transmissions are subject to rental tax, and to include multifunctioning cable television boxes.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at **1:30 p.m. on Wednesday, April 8, 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>

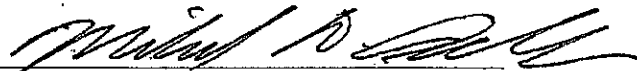
All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**

Wednesday, April 8, 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

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810-6-3-.24 Sales to Foreign Governments, Diplomatic and Consular Officials.

(1) Unless otherwise provided herein, Sales to a foreign government or to its agents for use of a foreign government are subject to the sales tax unless they are immune because of a treaty between the foreign government and the United States. The Alabama tax should be collected on such sales in the absence of proof that the foreign power is immune because of such a treaty. (Section 40-23-4(a)(17))

~~(2) The immunity does not extend to the members of the armed services of foreign governments who are purchasing tangible personal property for their own use.~~

(2) Sales and use tax does not apply to sales of tangible personal property to foreign diplomatic and consular officials, to the extent that such persons have been identified by the U.S. Department of State or American Institute in Taiwan (AIT) as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States. (U.S. Constitution, Article VI, and Code of Alabama 1975, Sections 40-23- 4(a)(17) and 40-23-62(2))

(3) Lodgings tax does not apply to rooms, lodgings, or accommodations rented or furnished to foreign diplomatic and consular officials, to the extent that such persons have been identified by the U.S. Department of State or AIT as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States. (U.S. Constitution, Article VI)

(4) Pursuant to U. S. law, the Taipei Economic and Cultural Representative Office in the United States (TECRO), the Taipei Economic and Cultural Offices (TECOs), their designated employees, and their qualifying dependents are entitled to tax exemption privileges. Accordingly, the American Institute in Taiwan (AIT) issues tax exemption cards that incorporate the same features and design elements as the Office of Foreign Mission's tax exemption cards. Other than the exception noted in (5) below, persons identified as exempt from taxation pursuant to treaties or other diplomatic agreements with the United States are issued a tax exemption card by the U.S. Department of State or AIT which identifies the bearer as exempt from tax and specifies the extent of the exemption. Tax exemption cards may be personal tax exemption cards, mission tax exemption cards, or official tax exemption cards.

(a) Personal tax exemption cards bear the photograph and identification of a duly accredited consulate, embassy employee, or dependent who is entitled to tax exemption privileges as stated on the card and are for the personal use of the bearer whose picture appears on the front of the card. The cards are not transferable and cannot be loaned to any other person, regardless of that person's eligibility for exemption from taxation. There is no restriction on the form of payment that can be used with this type of card.

(b) Mission tax exemption cards and official tax exemption cards bear the photograph and identification of a consulate, or embassy employee who is the official purchasing agent for that office and are for use by foreign missions (including TECRO and TECO) to obtain exemption from taxes on purchases in the United States that are necessary for the mission and function of the foreign consulate or embassy. The individual pictured is the point of contact and need not be present at the purchase. However, all purchases must be paid for with a check, credit card, or wire transfer transaction in the name of the foreign government or mission, TECRO, or TECO. The cards may not be used for personal purchases of tangible personal property or personal rentals of rooms, lodgings, or accommodations.

(5) Tax exemptions allowed on vehicle purchases by all diplomatic missions and members in the United States must be approved or denied by the U.S. Department of State, Office of Foreign Missions, before the transaction is completed. Prior to completing the transaction, vendors selling vehicles pursuant to a diplomatic tax exemption must follow these procedures:

(a) The purchaser should present a mission tax exemption card, a personal tax exemption card, or a protocol identification card to the seller. Members of the United Nations (UN), Organization of American States (OAS), World Bank (WB), and the International Monetary Fund (IMF) requesting a diplomatic exemption on the purchase of a vehicle must present their personal tax exemption card.

(b) The vendor must contact the U.S. Department of State, Office of Foreign Missions, at (305) 442-4943 or by e-mail at OFMMICustomerService@state.gov for a determination on the tax-exempt status of the purchaser.

(c) The U.S. Department of State, Office of Foreign Missions, will determine the tax-exempt status of the purchaser and provide a letter to the vendor setting forth that determination.

(6) Sales, use, and lodgings taxes apply to the following:

(a) Sales of tangible personal property to, and the rental or furnishing of rooms, lodgings, or accommodations to, foreign diplomatic and consular officials who do not hold a tax exemption card issued by the U.S. Department of State or the American Institute in Taiwan (AIT).

(b) Sales of tangible personal property to, and the rental or furnishing of rooms, lodgings, or accommodations to, persons holding tax exemption cards where their total purchases in a single transaction do not exceed the minimum level of exemption as specified on the tax exemption card. With respect to minimum purchase requirements, the total of all items purchased in a single transaction must equal or exceed the minimum purchase

level shown on the card. For example, if a foreign official has a card with a minimum purchase requirement of \$150, the official is required to pay sales or use tax on a bill of \$145. However, the same official would be exempt from all sales or use taxes on a bill of \$175. Also, if two foreign officials are traveling together but they have separate rooms and separate bills, they cannot combine the room bills under one total in order to qualify for a lodgings tax exemption.

(c) Sales of tangible personal property to, and the rental or furnishing of rooms, lodgings, or accommodations to, nationals of the United States even though such persons may perform consular functions for foreign governments.

(6) Sellers making sales to, or renting or furnishing rooms, lodgings, or accommodations to, foreign diplomatic and consular officials shall retain a copy of the invoice or other written evidence of the transaction to support any deductions claimed on their sales, use, or lodgings tax returns for tax-exempt sales or room rentals to foreign diplomatic and consular officials. These invoices shall show the name of the purchaser, the name of the mission, the tax exemption number, the expiration date of the tax exemption card, and the minimum level of exemption specified on the tax exemption card. When a personal tax exemption card is presented, the seller may ask the purchaser for an additional form of identification such as the purchaser's drivers license or his or her diplomatic or consular identification card, which many holders of personal tax exemption cards are also issued.

Author: Ginger Buchanan  
Authority: Sections 40-2A-7(a)(5), 40-2A-7(a)(1), 40-23-9, 40-23-83 40-23-4(a)(17), 40-23-9; 40-23-62 and 40-23-83, Code of Alabama, 1975  
History: Amended: June 12, 1978.  
Adopted through APA effective 1982.