

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-3-42.02

Rule Title: Nonresidents, Sales to

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?

Yes

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 9/16/15

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-3-42.02

Rule Title: Nonresidents, Sales to

 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:**
Alabama dealers will now be allowed to collect tax on the sales of automobiles to nonresidents in a manner that parallels the way their state collects tax on these types of sales to Alabama residents who purchase vehicles in another state
2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:**
The law actually creates this change. The rule is simply being updated to incorporate the changes made to the law
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:
State funds will benefit from this change in the law and rule. Dealers in Alabama will now be able to collect the state portion of sales tax due on sales to nonresidents of automobiles that will be titled or registered outside the state if the state in which the nonresident will title or register the automobile does not allow Alabama customers to purchase a vehicle without the payment of tax to that state for first titling and registration in Alabama.

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-.46 Contractor's Liability

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to include information from various court cases related to contractors and to clarify when the contractor's provision applies to additions to realty.

RULE NO. & TITLE

810-6-3-.42.02 Nonresidents, Sales to
810-6-3-.42.03 Sales of Certain Automotive Vehicles to Nonresidents for First
Use and Registration or Titling Outside Alabama

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rules to incorporate the changes in the drive out provision in Section 40-23-2(4) as amended by Act 2015-503, and provide an effective date for the change.

RULE NO. & TITLE

810-6-5-.02 State Sales and Use Tax Certificate of Exemption (Form STE-1) -
Responsibilities of Certificate Holder - Burden of Proof - Liability
for Taxes Later Determined to be Due

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to reflect changes created by Act 2015-534 that require entities having a statutory exemption from the payment of sales, use and lodgings tax to obtain an annual certificate of exemption, reference the new rule relating to those changes, and to change the title of this rule.

RULE NO. & TITLE

810-6-5-.02.01

State Sales and Use Tax Certificate of Exemption for Entities Having a Statutory Exemption from the Payment of Sales, Use, and Lodgings Taxes

INTENDED ACTION: Adopt rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above new rule to comply with the provisions of Act 2015-534.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **10:30 a.m. on Thursday, November 12, 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>

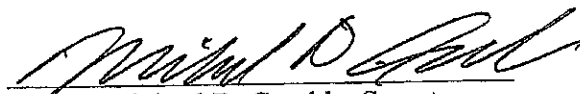
All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing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

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, November 12, 2015

CONTACT PERSON AT AGENCY:

Patricia Thomas
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-.42.02 Nonresidents, Sales to.

(1) Other than the exceptions noted in (2) and (3) below, sales to nonresidents are sales at retail subject to the tax even though such purchasers claim that the property purchased is for use outside of Alabama, except where the seller delivers the property outside Alabama or to the U.S. Postal Service or to a common carrier for transportation outside Alabama. (Sections 40-23-1(a)(5), 40-23-4(a)(17) and 40-23-62(2))

(2) Sales of automobiles, motorcycles, trucks, truck trailers, or semitrailers that (i) will be registered or titled outside Alabama and (ii) are exported or removed from Alabama within 72 hours by the purchaser or the purchaser's agent for first use outside Alabama are not subject to Alabama sales tax when the sales tax laws of the state in which the purchaser will title or register the vehicle allows an Alabama resident to purchase a motor vehicle for first titling and registering in Alabama without the payment of tax to that state. To be exempt from Alabama sales tax, the information relative to the exempt sale must be documented on forms approved by the Revenue Department. (See Sales and Use Tax Rule 810-6-3-.42.03 entitled Sales of Certain Automotive Vehicles to Nonresidents for First Use and Registration or Titling Outside Alabama.) Sales of other vehicles such as mobile homes, motor bikes, all terrain vehicles, motor homes, and boats do not qualify for this export exemption provision and are subject to Alabama sales tax unless the seller can provide factual evidence that the vehicle was delivered outside Alabama or delivered to a common carrier for transportation outside Alabama. (Section 40-23-2(4))

(3) ~~Effective October 1, 1997, t~~ 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.

(4) Effective January 1, 2016, sales of automobiles, motorcycles, trucks, truck trailers, or semitrailers that (i) will be registered or titled outside Alabama and (ii) are exported or removed from Alabama within 72 hours by the purchaser or the purchaser's agent for first use outside Alabama are subject to the Alabama state sales tax rate of two percent (2%) unless the sales tax laws of the state in which the purchaser will title or register the vehicle allows an Alabama resident to purchase a motor

vehicle for first titling and registering in Alabama without the payment of tax to that state.

(a) The tax collected on sales outlined in paragraph (4) above shall be Alabama sales tax and shall exclude county and municipal sales tax.

(5) A list of states that do not allow a reciprocal drive-out provision for Alabama residents purchasing automotive vehicles for first titling and registration in Alabama may be viewed on the Department's website at: <http://www.revenue.alabama.gov/salestax/>. Such list will be published by December 1, 2015, and will be updated each December 1 thereafter. Sellers that have relied on list information that is later determined to be incorrect shall not be held liable for the non-collection of the state automotive sales tax.

Author: Ginger Buchanan Dan DeVaughn
Authority: Sections 40-2A-7(a)(5) 40-23-39(b), Section 40-23-2(4), 40-23-31, Code of Alabama 1975 and Act 2015-503
History: Readopted through APA effective October 1, 1982.
Amended January 24, 1989.
Amended March 10, 1998.