

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-3-.51

Rule Title: Municipal Sales and Use Taxes and Gross Receipts Taxes

New; Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? N/A (See Attached)

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? N/A

Is there another, less restrictive method of regulation available that could adequately protect the public? N/A

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? N/A

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? N/A

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 *Michael R. Campbell*

Date 4/23/13

APA-1 ATTACHMENT

RULE 810-6-3-.51 Municipal Sales and Use Taxes and Gross Receipts Taxes

As the taxing agency for the State of Alabama and in accordance with Title 40 of the Code of Alabama, the Department of Revenue has the authority to issue rules to provide guidance to taxpayers regarding Alabama tax laws. This rule is not issued pursuant to the state's policing powers. This rule is issued pursuant to the Department's rule authority found in Title 40 to administer the tax laws of the state.

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-.51**

Rule Title: **Municipal Sales and Use Taxes and Gross Receipts Taxes**

 New Amend X Repeal Adopt by Reference

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

1. NEED/EXPECTED BENEFIT OF RULE:

This rule explains the authority of counties and municipalities (local jurisdictions) to impose the requirement to collect the local sales and use taxes on Alabama sellers who are located outside the local jurisdiction but have a substantial connection with the local jurisdiction.

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

This rule allows local jurisdictions to utilize a more effective and efficient method of administering their sales and use taxes by having the sellers collect and remit the taxes on purchases, rather than placing that burden on consumers.

3. EFFECT OF THIS RULE ON COMPETITION:

This rule equalizes the impact of sales tax collections for sellers located in a local jurisdiction as compared to sellers located outside the jurisdiction.

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

N/A

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA

WHERE THE RULE IS TO BE IMPLEMENTED:

N/A

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

No additional revenue needed.

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:

The primary economic impact is a substantial increase in the collection of local sales and use taxes. The rule has no impact on state sales and use taxes. The increase in use tax revenues will directly benefit the municipalities and counties for both short-term and long-term purposes. This increase will be the direct result of local use tax collections by Alabama retailers that sell into remote local jurisdictions in Alabama, but whose sales to customers in those jurisdictions may have otherwise gone untaxed.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

N/A

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

N/A

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

N/A

11. OTHER COMMENTS: None

APA-2
11/96

**ALABAMA DEPARTMENT OF REVENUE
Tax Policy & Research Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-6-5-.04.02 Seller's Responsibility to Collect County and
Municipal Sales and Use Taxes

INTENDED ACTION: Adopt a new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above new rule which will establish the authority of local jurisdictions to impose the requirement to collect the local sales or use taxes on Alabama sellers who are located outside the local jurisdiction.

RULE NO. & TITLE

810-6-3-.51 Municipal Sales and Use Taxes and Gross Receipts Taxes

INTENDED ACTION: Repeal an existing rule

SUBSTANCE OF PROPOSED ACTION: The above rule has been interpreted as the Department's local nexus rule; however, the rule does not adequately describe the circumstances under which a seller would be required to collect and pay local taxes. Therefore, the department proposes to repeal the above rule in its entirety and replace it with proposed new Rule 810-6-5-.04.02.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **10:00 a.m. on Tuesday, June 11, 2013, in the Office of the Legal Division, Room 3114,** Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the **Deputy Commissioner of the Alabama Department of Revenue, Room 4112, 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:

June 11, 2013

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

0893APC.INT

810-6-3-.51 Municipal Sales and Use Taxes and Gross Receipts Taxes.
(REPEALED)

(1) The Department of Revenue is the collecting agency for many municipalities in Alabama levying a true sales and use tax or a gross receipts tax.

(2) Where a municipality levies a true sales and use tax under the provisions of Section 11-51-200, Code of Alabama 1975 as amended, the sellers located in the municipality are required to collect the municipal sales tax on retail sales of tangible personal property in the same manner as the state sales tax as the tax is a consumer tax. If the sale is made and as a part of the sales agreement the seller is required to deliver the item purchased outside the taxing jurisdiction of the municipality, the sale is exempt from the tax. If the seller whose place of business is located outside the municipality has salesmen soliciting orders within the municipality, the seller is required to collect and remit the sellers use tax on retail sales of tangible personal property in the same manner as an out-of-state seller who has salesmen soliciting orders in Alabama and who files a state sellers use tax return. It does not matter how delivery is made.

(3) The gross receipts tax which the department is required to collect under the provisions of Section 11-51-180, Code of Alabama 1975 as amended, is more commonly referred to as sales tax. This tax is levied upon the seller for the privilege of making retail sales of tangible personal property in the municipality levying the tax. If a sale and delivery of tangible personal property is made within the municipality, the tax is due. If the sale is made and as part of the sales agreement the seller is required to deliver the item purchased outside the taxing jurisdiction of the municipality, the tax is not due. If a seller who is located outside the municipality levying the tax has salesmen soliciting orders within the municipality, the seller is required to remit tax on retail sales of tangible personal property provided the seller delivers the item in his or her own equipment or by common carrier F.O.B. destination, title passing in the taxing jurisdiction of the municipality. If the sale is made F.O.B. point of origin, title passing outside the taxing jurisdiction of the municipality, the gross receipts tax is not due.

(4) A municipality that levies a gross receipts tax does not levy a use tax. Therefore, purchaser does not owe use tax on purchases if in a gross receipts jurisdiction.

Author: **Christy Vandevender**, Dan DeVaughn
Authority: Sections 40-2A-7(a)(5), 40-23-31, 40-23-83, 11-51-180, 1151-200
Code of Alabama 1975
History: Adopted August 15, 1974.
Readopted October 31, 1982 under APA.
Amended January 10, 1985
Amended May 4, 1994.
Amended September 15, 1998, effective October 20, 1998.