

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-2-90.03

Rule Title: Requirements for Certain Out of State Sellers Making Significant Sales into Alabama

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 7/14/15

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-2-.90.03

Rule Title: Requirements for Certain Out-of-State Sellers Making Significant Sales into Alabama

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:**
The regulation establishes conditions under which certain out-of-state sellers must collect and remit sellers use tax. The regulation eases the filing burden on out-of-state sellers for filing and remitting sellers use tax by providing sellers with simplified, single return, single rate filing.
2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:**
Because the regulation allows for simplified filing and one rate remittance, revenues will increase, but in an unknown amount.
3. **EFFECT OF THIS RULE ON COMPETITION:**
The regulation attempts to equalize the tax burdens between in-state and out-of-state retailers thereby improving the competitive balance on behalf of our in-state retailers.
4. **EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**
Unknown
5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:**
Unknown
6. **SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:**
The Department of Revenue does not expect to incur unusual expenses or

need additional funds outside of its normal, reoccurring appropriation to implement and enforce the regulation.

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 cost to the out of state seller to comply is unknown, but will be greatly reduced by the simplified filing system allowed by the regulation.
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
Unknown
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
Unknown
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
None
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 provide clarification, guidance, and examples to photographers and others as to the taxation of various fees charged by this industry.

RULE NO. & TITLE

810-6-2-.90.02 Simplified Sellers Use Tax Remittance Program

INTENDED ACTION: Adopt rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above new rule to provide a definition of "Eligible Seller" found in Section 40-23-191, Code of Alabama 1975.

RULE NO. & TITLE

810-6-2-.90.03 Requirements for Certain Out-of-State Sellers Making Significant Sales into Alabama

INTENDED ACTION: Adopt rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above new rule that establishes conditions under which certain out-of-state sellers must collect and remit sellers use tax.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:30 p.m. on Wednesday, September 9, 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>

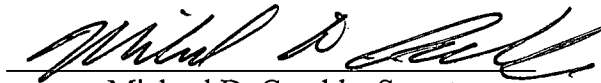
All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing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

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, September 9, 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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810-6-2-.90.03 Requirements for Certain Out-of-State Sellers Making Significant Sales into Alabama. **(NEW RULE)**

(1) Notwithstanding the provisions of Rule 810-6-2-.90.01, entitled Seller's Responsibility to Collect and Pay State Sales Tax and Seller's Use Tax, out-of-state sellers who lack an Alabama physical presence but who are making retail sales of tangible personal property into the state have a substantial economic presence in Alabama for sales and use tax purposes and are required to register for a license with the Department and to collect and remit tax pursuant to Section 40-23-67, Code of Alabama 1975, when,

(a) Seller's retail sales of tangible personal property sold into the state exceed \$250,000 per year based on the previous calendar year's sales; and

(b) Seller conducts one or more of the activities described in Section 40-23-68, Code of Alabama 1975;

(2) Sellers may satisfy the requirements described in (1) above by one of the following methods:

(a) Using the collecting, reporting and remitting provisions of Article 2, Chapter 23 of Title 40, Code of Alabama 1975, or

(b) Using the collecting, reporting and remitting provisions created by the Simplified Sellers Use Tax Remittance Act codified at §§ 40-23-191 through 40-23-199, Code of Alabama 1975.

(3) This rule shall apply to all transactions occurring on or after January 1, 2016.

Author: Christy Edwards

Authority: Sections 40-2A-7(a)(5), 40-23-83, 40-23-67, 40-23-68, 40-23-191 through 40-23-199, Code of Alabama 1975

History: