

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-1-.112

Rule Title: Outdoor Advertising Signs

 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

810-6-1-.103 Metal Name Plates

INTENDED ACTION: Repeal above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rule due to the fact that it is a duplication of Sales & Use Tax Rule 810-6-1-.109; therefore, it is not necessary.

RULE NO. & TITLE

810-6-1-.109 Name Plates, Metal

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes amend title of the above rule to be more in line with current industry trends.

RULE NO. & TITLE

810-6-1-.112 Outdoor Advertising Signs

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule in order to provide further guidance and clarification. In addition, the title of the rule will be amended.

RULE NO. & TITLE

810-6-3-.47.02 Private Schools, Sales to

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to clarify the exemption in the law for sales to schools, specifically, private schools.

RULE NO. & TITLE

810-6-5-.36 Prepaid Wireless 9-1-1 Charge

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to notify taxpayers that the Emergency 9-1-1 Board has increased the rate applied to each retail sale of prepaid wireless minutes and to provide historical rates.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:30 p.m. on Wednesday, August 6, 2014, Room 1203, First Floor, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at ww.revenue.alabama.gov/rulehear.html.

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, August 6, 2014

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

0932APC.INT

810-6-1-.112 Outdoor Advertising Signs.

(1) ~~Outdoor advertising signs~~ Signs are to be considered subject to tax on the full sales price when such signs are standard, prefabricated by the seller or his supplier and delivered as a complete unit to the point where set up.

(2) When the signs are custom built into a building or otherwise affixed to real property, they come within the building materials provision with the tax being due from the person who erects the sign to his supplier on the cost of materials used to construct the sign, in which case no tax would be due from the person installing the sign on his service in attaching the materials to the building and/or real property. The same rule will apply when a builder constructs an outdoor advertising sign that will become affixed to real property from the ground up using lumber, nails, sheetmetal, etc.

(3) In the instances whereby the sign company subcontracts the installation or subcontracts a portion of the construction of the sign, taxation of the materials will be as described above in paragraph (2), with tax being due on the cost of the materials used by the contractor and/or subcontractor that builds the custom-made signs.

(4) In recent court decisions in this State, the courts have held that the contractor provision provided in Section 40-23-1(a)(10) applies if the following criteria are met: (i) the taxpayer must be a contractor; (ii) the materials must be building materials; and (iii) the materials must become a part of the real estate. See Department of Revenue v. James A. Head & Co., 306 So.2d 5 (Ala. Civ. App.1974), cert. denied 306 So.2d 12 (1975).

(5) It has also been determined that the taxpayer was a contractor even though actual installation was performed by a third party:

(a) "...the 'contractor' provision also applied to those materials provided by the taxpayer but installed by the electrical contractors, citing Montgomery Woodworks ("The court holding in Montgomery Woodworks illustrates, however that actual installation by the taxpayer is not required." Hunter Security at 5.) Hunter Security, Inc. v. State of Alabama, Docket S. 05-1309.

(b) "Therefore, the failure of the taxpayer to actually install the cabinets after they have been fabricated does not prevent the taxpayer from being a 'contractor' within the meaning of §40-23-1(a)(10)." State of Alabama v. Montgomery Woodworks, Inc., 389 So.2d 512 (Ala. Civ. App. 1980)

~~(3)~~ (6) In some instances the sign dealer will be in a dual business, both selling and building signs. When both parts of the business are substantial rather than incidental, the dealer should be set up to purchase all material at wholesale, tax free, and pay tax directly to the Department of Revenue on sales and withdrawals. See Rule

~~D21-011~~, (810-6-1-.56), Dual Business. See, also, ~~B27-081~~, (810-6-1-.29), Building Materials Manufactured by Contractors.

~~(4)~~ (7) The providing of billboard advertising is a service; and, the receipts therefrom are not subject to sales tax. The provider of billboard advertising services must pay sales or use tax on purchases of supplies, materials, and equipment used in the operation of the business.

Author: ~~Joe Cowen~~ Ginger Buchanan
Authority: Sections 40-2A-7(a)(5), 40-23-1(a)(6), 40-23-30, 40-23-31, 40-23-83
History: Adopted March 9, 1961. amended November 1, 1963.
Readopted through APA effective October 1, 1982.
Filed November 1, 1990, effective December 6, 1990.