

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-3-.32

Rule Title: Historical Preservation Authorities

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

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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.

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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 D. Barber

Date 9/23/13

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-.32

Rule Title: Historical Preservation Authorities

\_\_\_\_\_ 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-.77	Exemption for Certain Purchases by Contractors and Subcontractors in Conjunction with Construction Contracts with Certain Governmental Entities Public Corporations, and Educational Institutions
810-6-1-.45	Contractors Furnishing and Erecting Building Materials Under Contract With the United States
810-6-1-.46	Contractor's Liability
810-6-1-.46.01	Bleacher Systems, Lockers, Backstops, and Other Fixtures Installed in Gymnasiums
810-6-1-.97	Materials Used on Road and Bridge Projects

**INTENDED ACTION:** Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rules to comply with the provisions of Act 2013-205 which exempts the sale to, or the storage, use or consumption by, any contractor or subcontractor of any tangible personal property to be incorporated into realty pursuant to a contract awarded on or after January 1, 2014 with certain qualifying governmental entities who are exempt from all state, county, and municipal sales and use taxes. In addition, the department proposes to amend the title of Rule 810-6-3-.77.

**RULE NO. & TITLE**

810-6-1-.133	Pump Installed for a County or Municipality by a Contractor
810-6-3-.32	Historical Preservation Authorities

**INTENDED ACTION:** Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to delete references to earlier laws passed in 2000 which are no longer in effect.

**RULE NO. & TITLE**

810-6-5-.36	Prepaid Wireless 9-1-1 Charge
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**INTENDED ACTION:** Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule due to the fact that the CMRS Board set a statewide emergency 9-1-1 charge of \$1.60. This new rate is effective 10/1/2013 and will include prepaid wireless transactions changing the rate per transaction from \$.70 to \$1.60.

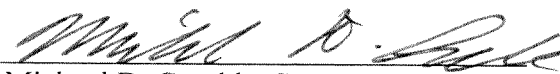
**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at **10:00 a.m. on Thursday, November 7, 2013, Room 1203, First Floor,** Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at [www.revenue.alabama.gov/rulehear.html](http://www.revenue.alabama.gov/rulehear.html).

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:**  
Thursday, November 7, 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

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810-6-3-.32 Historical Preservation Authorities.

(1) A historical preservation authority organized pursuant to Article 5 of Chapter 10 of Title 41, Code of Alabama 1975, as amended, is exempt from the payment of sales and use tax on any tangible personal property purchased by the authority provided the purchases are made in the name of the authority, the authority's credit is obligated, and the purchases are paid for with funds belonging to the authority. (Section 41-10-147, Code of Alabama 1975)

(2) (a) The exemption in Section 41-10-147 does not apply to a contractor where the contractor has a construction contract with a historical preservation authority to furnish all materials and labor for use in the performance of the contract. The contractor is the consumer thereof of all materials used in the performance of the construction contract which becomes part of real property. (Sections 40-23-1(a)(10) and 40-23-60(5))

~~(b) The sale to, or the storage, use, or consumption by, any contractor or subcontractor of any tangible personal property to be incorporated into realty pursuant to a contract awarded after October 1, 2000 but prior to July 1, 2004, with a historical preservation authority organized pursuant to Article 5 of Chapter 10 of Title 41, Code of Alabama 1975, is exempt from all state, county, and municipal sales and use taxes provided the contractor or subcontractor has complied with Rule 810-6-3-.77 entitled Exemption of Certain Purchases by Contractors and Subcontractors in conjunction with Construction Contracts with Certain Governmental Entities, Public Corporations, and Educational Institutions. (Section 40-9-33, Code of Alabama 1975, repealed by Act 2004-638, effective July 1, 2004)~~

(3) Notwithstanding any of the exemptions outlined above, an individual, partnership, or corporation organized for profit that is or will be treated for federal income tax purposes as the owner of property to which a historical preservation authority has title to, or a possessory right in, is liable for sales or use taxes as if the for-profit entity held title to the property unless the individual, partnership, or corporation would be entitled to use the property pursuant to a lease or other agreement entered into before May 21, 1992, or would be entitled to use the property at some future time pursuant to an inducement agreement entered into or adopted before May 21, 1992. For-profit entities, however, may qualify for abatements of certain sales and use taxes pursuant to Chapter 9B of Title 40 of the Code of Alabama 1975. Section 40-9B-7 only pertains to private users of private use property. Private user is defined in 40-9B-3. Therefore, Section 40-9B-7 does not change the tax exempt status of a non-profit entity for sales and use tax purposes. (Section 40-9B-7, Code of Alabama 1975)

Author: Traci Floyd, Deborah Lee, Ginger L. Buchanan

Authority: Sections 40-2A-7(a)(5), 40-9B-7, 40-23-1(a)(10), 40-23-31, 40-23-60(5), 40-23-83, 41-10-147, ~~and 40-9-33~~, Code of Alabama 1975

History: Adopted November 3, 1980.

Readopted through APA effective October 1, 1982.

Amended: Filed April 15, 1993, effective May 22, 1993.

Amended: Filed February 20, 2001, effective March 27, 2001.

Amended: Filed May 6, 2005, effective June 10, 2005.

Amended: Filed June 30, 2009, effective August 4, 2009.