

810-27-1-.15 Sales Factor.

(1) *Sales Factor: In General.*

(a) Code of Alabama 1975, §40-27-1, Article IV.1(g) defines the term "sales" to mean all gross receipts of the taxpayer not allocated under paragraphs (5) through (8) of §40-27-1, Article IV.1(g) . Thus, for the purposes of the sales factor of the apportionment formula for each trade or business of the taxpayer, the term "sales" means all gross receipts derived by the taxpayer from transactions or activity in the regular course of the trade or business. The following are rules for determining "sales" in various situations:

1. In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, "sales" includes all gross receipts from the sales of such goods or products (or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the tax period) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales less returns and allowances, and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to such sales. Federal and state excise taxes (including sales taxes) shall be included as part of such receipts if the taxes are passed on to the buyer or included as part of the selling price of the product.

2. In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, "sales" includes the entire reimbursed cost plus the fee.

3. In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency or the performance of equipment service contracts or research and development contracts, "sales" includes the gross receipts from the performance of such services, including fees, commissions, and similar items.

4. In the case of a taxpayer engaged in renting real or tangible property, "sales" includes the gross receipts from the rental, lease, or licensing the use of the property.

5. In the case of a taxpayer engaged in the sale, assignment, or licensing of intangible personal property such as patents and copyrights, "sales" includes the gross receipts therefrom.

6. If a taxpayer derives receipts from the sale of equipment used in its business, those receipts constitute sales. For example, a truck express company owns a fleet of trucks and sells its trucks under a regular replacement program. The gross receipts from the sales of the trucks are included in the sales factor.

(b) *Exceptions.* In some cases certain gross receipts should be disregarded in determining the sales factor in order that the apportionment formula will operate fairly to apportion to Alabama the income of the taxpayer's trade or business. See Rule 810-27-1-.18(4).

(c) *Year to year consistency.* In filing returns with Alabama, if the taxpayer departs from or modifies the basis for excluding or including gross receipts in the sales factor used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(2) *Sales Factor: Denominator.* The denominator of the sales factor shall include the total gross receipts derived by the taxpayer from transactions or activity in the regular course of its trade or business except receipts excluded under Rule 810-27-1-.18(4).

(3) *Sales Factor: Numerator.* The numerator of the sales factor shall include gross receipts from sales attributable to Alabama and derived by the taxpayer from transactions or activity in the regular course of its trade or business. All interest income, service charge, carrying charges, or time-price differential charges incidental to such gross receipts shall be included regardless of (1) the place where the accounting records are maintained or (2) the location of the contract or other evidence of indebtedness.

(4) *Sales Factor: Under the Completed Contract Method of Accounting.* For taxpayers utilizing the completed contract method of reporting income, the receipts from such contracts completed during the tax period shall be included in the sales factor. Other receipts not directly attributable to the completed contracts shall be included in the sales factor as otherwise provided in this rule.

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Authority: Sections 40-2A-7(a)(5) and 40-18-57, Code of Alabama 1975.

History: New Rule: Filed May 11, 2016, effective June 25, 2016.