

(1) Dentists or dental laboratories primarily render **professional** services and incidentally use tangible personal property in connection therewith. **The courts have ruled that dentists are not selling dentures and other prosthetic devices when they transfer such items to their patients, and in-state or out-of-state dental laboratories are not making retail sales when they transfer the finished dental appliances to dentists. Consequently, gross** Gross receipts of dentists or dental laboratories derived from these sources are not subject to the sales tax. **Rather, dentists and dental laboratories are using or consuming the items incidental to performing their professional services, and are required to pay tax on all tangible personal property purchased at retail for use in the practice of their profession. (Haden v. McCarty, 152 So.2d 141 (Ala. 1963), and Hamm v. Proctor, 198 So.2d 782 (Ala. 1967)). (Harry H. Haden, Commissioner of Revenue v. William L. McCarty, et al., and Phillip J. Hamm, as Commissioner of Revenue, etc. v. Robert O. Proctor, d/b/a Proctor Dental Studio.)**

(2) Dental supply houses within or without Alabama engaged in the business of selling tangible personal property such as platinum, gold, silver or cement for fillings, artificial teeth or other such materials to dentists or dental laboratories for use in the performance of such **professional** services are making sales at retail within the Sales and Use Tax Laws and incur a liability for the tax. This is true whether dental supply houses sell materials to a dentist whose services are rendered directly to a patient, or to a dental laboratory that uses them in producing plates, bridge-work, artificial teeth or prosthetic devices on prescription of a dentist, who then uses the latter items in connection with rendering dental services. Dental supply houses are likewise liable for tax with respect to receipts from **retail** sales of dental chairs, motors, instruments, drilling machines or other such items for use by dentists or dental laboratories.

~~(3) Dentists purchasing materials or prosthetic devices on prescriptions issued to out-of-state dental laboratories will owe use tax on the cost of materials used by the laboratories that become part of the prosthetic device sold to the dentists for use in providing service to their patients, provided the billing to the dentists by the dental laboratories shows materials separate from service. If a breakdown of materials and service is not shown, tax will be due on the total purchase price. If sales or use tax is legally due and paid to the state and any subdivision thereof in which the seller is located, credit shall be allowed against the use tax due Alabama and its subdivisions.~~

Author: **Donna Joyner Dan-DeVaughn**
Authority: Sections 40-2A-7(a)(5), 40-23-31 and 40-23-83
Code of Alabama 1975
History: Adopted May 18, 1967.
Readopted through APA effective October 1, 1982.
Amended January 10, 1985.
Amended April 2, 1997, effective date May 7, 1997.