

All building materials that are attached by the contractor or builder to real property are taxable to the contractor or builder at the time these materials are purchased by the contractor or builder.

### What are “tax-exempt” entities?

Tax-exempt entities include those organizations or charities which are specifically exempted from Alabama sales and use taxes as well as the federal government, the State of Alabama, the counties of the State of Alabama, and the incorporated municipalities of the State of Alabama, and the agencies, departments and instrumentalities of such governments.

### Need More Information?

For more information concerning any sales or use tax liabilities that you may have as a contractor or builder, contact the Alabama Department of Revenue’s Sales and Use Tax Division or visit the nearest Taxpayer Service Center listed on the back page.

**IMPORTANT NOTE:** Contractors purchasing property to be incorporated into a private use industrial project or major addition for which a sales and use tax abatement has been granted to the private user of the project pursuant to Chapter 9B of Title 40 (the Tax Incentive Reform Act of 1992) should disregard this brochure and contact the Revenue Department’s Economic Development Section at (334) 242-1175 to obtain a copy of the publication entitled **Abatement Booklet** for information concerning sales and use tax exemptions for property purchased by contractors to be incorporated into the project.

### Alabama Department of Revenue Sales and Use Tax Division

Room 4303, Gordon Persons Building  
50 North Ripley Street  
Montgomery, AL 36132

Telephone (334) 242-1490  
1-800-576-6531

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### Taxpayer Service Centers

#### ■ Auburn/Opelika

3300 Skyway Drive (36830)  
P.O. Box 2929, Auburn (36831-2929)  
Phone: (334) 887-9549

#### ■ Dothan

344 North Oates Street (36303)  
P.O. Box 5739 (36302-5739)  
Phone: (334) 793-5803

#### ■ Gadsden

235 College Street (35901)  
P.O. Drawer 1190 (35902-1190)  
Phone: (256) 547-0554

#### ■ Huntsville

4920 Corporate Drive, Suite H (35805)  
P.O. Box 11487 (35814-1487)  
Phone: (256) 837-2319

#### ■ Jefferson/Shelby

2020 Valleydale Road, Suite 208  
Hoover (35244)  
P.O. Box 1927, Pelham (35124-1927)  
Phone: (205) 733-2740

#### ■ Mobile

955 Downtowner Boulevard (36609)  
P.O. Drawer 160406 (36616-1406)  
Phone: (251) 344-4737

#### ■ Montgomery

1021 Madison Avenue (36104)  
P.O. Box 327490 (36132-7490)  
Phone: (334) 242-2677

#### ■ Muscle Shoals

874 Reservation Road (35661)  
P.O. Box 3148 (35662-3148)  
Phone: (256) 383-4631

#### ■ Tuscaloosa

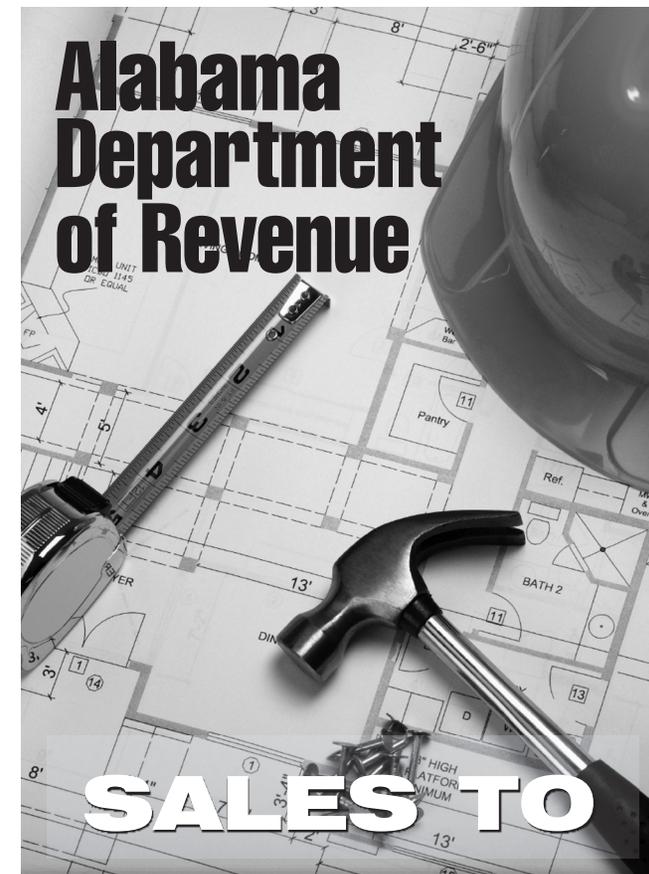
518 19th Avenue (35401)  
P.O. Box 2467 (35403-2467)  
Phone: (205) 759-2571

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(334) 242-3061



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# TAX-EXEMPT ENTITIES

An informational guide  
published for contractors  
and builders who  
perform services for  
or make sales to  
Alabama tax-exempt entities.

## **Taxable or not Taxable?**

Alabama Sales and Use Tax laws provide for numerous tax exemptions or tax exceptions. There are certain organizations, agencies and entities that are specifically exempted from payment of sales and use taxes. In addition, there are certain types of sales transactions that are exempt from sales and use taxes. How to determine if a sales transaction is exempt from sales or use taxes poses problems for both the seller and the buyer.

One particular type of sales transaction which is often confusing for both the seller and the buyer involves sales of materials made to contractors and builders for use in fulfilling contracts for making additions or improvements to real property.

## **Who is a contractor?**

For general sales and use tax purposes, a contractor is any person, firm or corporation who contracts to make additions, alterations, or improvements to real property.

Contractors are deemed not to be reselling building materials which they purchase and affix to realty, but rather to be using or consuming such materials in performing their contracts.

A contractor who buys building materials and supplies for use or "consumption" in completing the construction, repair, or alteration to real property must pay sales tax to the Alabama vendor at the point of sale on materials so used or consumed or pay use tax directly to the Revenue Department on purchases of materials from out-of-state vendors who do not collect the tax.

## **What are building materials?**

Building materials include such tangible personal property as lumber, timber, nails, screws, bolts, structural steel, reinforcing steel, cement, lime, sand, gravel, slag, stone, telephone poles, fencing, wire, electric cable, brick, tile, glass, plumbing supplies, plumbing fixtures, pipe, pipe fittings, electrical fixtures, built-in cabinets, sheet-metal, paint, roofing materials, road-building materials, sprinkler systems, built-in fans, heating

systems, flooring, carpet, floor furnaces, crane ways, crossties, railroad rails, railroad track accessories, tanks, builders hardware, doors, door frames, windows, window frames, water meters, gas meters, well pumps and any and all other tangible personal property which becomes a part of real property.

## **If the contract is with a tax-exempt entity, are materials purchased by the contractor or builder subject to sales or use taxes?**

Yes. Contractors and builders cannot claim any exemption on their part from Alabama sales or use taxes because of property that is purchased and used by the contractor or the builder in fulfilling contracts with tax-exempt entities.

Building supplies or equipment that is used by the contractor or builder in completing contracts with tax-exempt entities or building materials "consumed" by the contractor or builder and which become a part of or are "affixed to" the real property are not exempt from sales or use tax.

Contractors and builders do not "sell" the building materials they use. They are not dealers who habitually and constantly, as a business, deal in and sell any given commodity. Sales to contractors and builders are considered to be sales to consumers.

However, a tax-exempt entity may appoint as its agent a contractor to act on its behalf to order materials or to order and pay for the materials that are to be incorporated into real estate pursuant to a construction contract with its particular tax-exempt entity. Purchases made by the agent on behalf of the tax-exempt entity will be exempt from the payment of state and local sales or use tax provided that the procedures outlined in Alabama Department of Revenue Rule 810-6-3-.69.02 are followed.

The appointment of the contractor as purchasing agent of the tax-exempt entity must be made in

writing and may, but is not required to take the form of a completed Purchasing Agent Appointment, Form ST: PAA1. The appointment must be made prior to the contractor's purchase of materials that are claimed to be tax-exempt. In the absence of a written appointment the contractor must pay the sales and use taxes otherwise due.

Purchases made by the purchasing agent on behalf of the tax-exempt entity are exempt from the payment of sales and use taxes, provided that funds belonging to the tax-exempt entity are directly obligated and payment is made with funds belonging to the tax-exempt entity. When the contractor is also appointed as agent to pay for the materials on behalf of the tax-exempt entity, payment must be made from an account designated for this specific purpose and funded by the tax-exempt entity.

## **What are a contractor's or builder's reporting responsibilities?**

Some contractors operate a retail business in addition to performing contract work, and, in conjunction therewith, buy building materials at wholesale, tax-free for resale. Such contractors who make more than isolated or accommodation sales of building materials in conjunction with their retail business may withdraw building materials from their inventories of goods for sale and use them in performing a contract. The contractor or builder who withdraws building materials which were purchased tax-free for resale and uses them in fulfilling a construction contract must report and pay sales tax directly to the Revenue Department on such withdrawals. The measure of sales tax in such instances is the cost of the materials to the contractor or builder.

All of the materials, equipment, tools and supplies which a contractor or a builder uses or "consumes" in the operation of his/her business are taxable to the contractor or builder at the time the items are purchased.