

ALABAMA DEPARTMENT OF REVENUE - SALES AND USE TAX RULES
Code of Alabama 1975, Sections 40-23-31 and 40-23-83

810-6-5-.23. Temporary Storage and the Use Tax Law.

(1) Section 40-23-60(7), Code of Alabama 1975, defines storage to mean, "any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state".

(2) In the court case State v. Toolen, 277 Ala. 120, 167 So. 2d 546 (1964), the court states that the tax liability attaches after the act of transportation ends and the property comes to rest in this state for use or consumption unless there is a contractual intent to the contrary.

(3) In order for property to be claimed as tax free because of temporary storage for use solely outside of Alabama, records must reflect that it was the intent of the purchaser to use the property in another state at the time of its coming to rest in Alabama. Also, records must reflect that, in fact, the property was removed from Alabama.

(4) The qualified seller is required to collect tax on all retail sales in Alabama. If it is determined by the purchaser's records that temporary storage applies, the Department will process a petition for refund or allow credit for any overpayment of use tax on the subsequent use tax liability.

(5) No credits are to be allowed for property shipped out of state when such property is drawn from general stock. (Section 40-23-60(7))

(6) The temporary storage provisions outlined in this rule apply to all municipalities and counties as defined in the Local Tax Simplification Act of 1998, Act 98-192. Section 11-51-204, Code of Alabama 1975, provides that local governing bodies interpretations, rules, and regulations shall not be inconsistent with any rule and regulation which may be issued or promulgated by the Department of Revenue from time to time pursuant to the Alabama Administrative Procedure Act, for the corresponding state tax. (Adopted March 9, 1961, amended January 9, 1969, amended February 16, 1978, amended June 12, 1978, amended September 22, 1978, readopted through APA effective October 1, 1982, amended December 6, 1990, amended August 30, 2001)