

~~810-6-1-.196 Withdrawals From Inventory.~~

~~(1) Except as noted in paragraphs (2), (3) and (4) below, all withdrawals of tangible personal property from inventory are taxable under the withdrawal provisions of the sales tax statute unless the property has been previously withdrawn from the inventory and the sales tax has been paid because of the previous withdrawal or unless the property withdrawn enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of the person withdrawing same. (Ex parte Sizemore, 605 So. 2d 1221 (Ala. 1992)) (Sections 40-23-1(a)(6), 40-23-1(a)(8), 40-23-1(a)(10), and 40-23-60(5), Code of Ala. 1975).~~

~~(2) The transactions in (a) and (b) below shall not be deemed or considered to constitute a transaction subject to sales tax. Qualified charitable entities listed in 26 U.S.C. Sections 170(b) or (c) are defined in (c) below.~~

~~(a) Pursuant to Section 40-23-1(e), the withdrawal, use, or consumption of a manufactured product by the manufacturer thereof in quality control testing performed by employees or independent contractors of the manufacturer, nor a gift by the manufacturer of a manufactured product, withdrawn from the manufacturer's inventory, to an entity listed in 26 U.S.C. Sections 170(b) or (c).~~

~~(b) Pursuant to Section 40-23-23-1(f), effective July 1, 2006, a gift by a retailer of a product or products withdrawn from the retailer's inventory to a qualified charitable entity listed in 26 U.S.C. Sections 170(b) or (c), where the aggregate retail value of any single gift is equal to or less than \$10,000.00.~~

~~(c) Qualified charitable entities listed in 26 U.S.C. Sections 170(b) or (c) include, but are not limited to the following:~~

- ~~1. a church, or a convention or association of churches;~~
- ~~2. an educational organization which normally maintains a regular faculty, curriculum, and enrolled body of students;~~
- ~~3. a hospital or a medical research organization which provides medical or hospital care, medical education, or medical research as their primary purpose or function;~~
- ~~4. an organization which normally receives a substantial part of its support from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public, and which is organized and operated for the benefit of a college or university referenced in 2. above;~~
- ~~5. a governmental unit that is a State or a possession of the United States and any political subdivision of any of the foregoing, the United States, or the District~~

~~of Columbia, which uses the gift exclusively for public purposes;~~

~~6. a corporation, trust, or community chest, fund, or foundation created or organized in the United States or in any possession thereof or under the laws thereof, and organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, and which normally receives a substantial part of its support from governmental units referenced in 5. above or from direct or indirect contributions from the general public;~~

~~7. a private foundation described in 26USC170(b)(1)(E); and~~

~~8. an organization described in 26USC509(a)(2).~~

~~(3) Sales of equipment, accessories, fixtures, and other similar tangible personal property used in connection with a sale of commercial mobile services as defined in Section 40-23-1(a)(6) or in connection with satellite television services, at a price below cost, are not taxable as a withdrawal. Instead, sales of this nature are retail sales and are taxable measured only by the seller's stated retail selling price. (Sections 40-23-1(a)(6) and 40-23-1(a)(10)).~~

~~(4) Refinery, residue, or fuel gas, whether in a liquid or gaseous state, that has been generated by, or is otherwise a by-product of, a petroleum refining process, which gas is then utilized in the process to generate heat or is otherwise utilized in the distillation or refining of petroleum products is not taxable under the withdrawal provisions of the sales or use tax statutes. (Sections 40-23-1(a)(6), 40-23-1(A)(8), and 40-23-7=60(5)).~~

~~(5) The sales tax due on taxable withdrawals shall be computed and paid by the person, firm, or corporation withdrawing the property. The measure of the sales tax due on taxable withdrawals is the price paid for the property by the person, firm, or corporation withdrawing same. Alabama sales tax becomes due at the time and place of the withdrawal of tangible personal property from inventory. Alabama sales tax is due on tangible personal property withdrawn from inventory in Alabama regardless of where the property so withdrawn is used or consumed.~~

~~(6) Withdrawals of building materials by a contractor who makes retail sales of building materials and who also withdraws building materials from the same stock of goods for use in fulfilling a contract for making additions, alterations, or improvements to realty are taxable to the person, firm, or corporation making the withdrawals. The measure of sales tax due on these withdrawals is the price paid for the building materials by the person, firm, or corporation withdrawing same.~~

~~Alabama sales tax becomes due on these of building materials at the time and place of the withdrawals. Alabama sales tax is due on building materials withdrawn from stock in Alabama for use in fulfilling contracts both inside and outside the State of Alabama.~~

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~~**Statutory Authority:** Code of Ala. 1975, §§40-2A-7(a)(5), 40-23-1(a)(6), 40-23-1(a)(8), 40-23-1(a)(10), 40-23-1(e), 40-23-31, 40-34-60(5), 40-23-83.~~

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(1) Taxable Transactions. Unless specifically exempted by law, withdrawals of tangible personal property from inventory are taxable under the withdrawal provisions of the sales tax statute.

(a) The sales tax due on taxable withdrawals are computed and paid by the person, firm, or corporation withdrawing the property.

(b) The measure of the sales tax due on taxable withdrawals is the price paid for the property by the person, firm, or corporation making the withdrawal.

(c) Alabama sales tax becomes due at the time and place that tangible personal property is withdrawn from inventory.

(d) Alabama sales tax is due on tangible personal property withdrawn from inventory in Alabama, regardless of where the withdrawn property is used or consumed.

(e) Withdrawals of building materials by a contractor who makes retail sales of building materials and who also withdraws building materials from the same stock of goods for use in fulfilling a contract for making additions, alterations, or improvements to realty are taxable to the person, firm, or corporation withdrawing the property. The measure of sales tax due on these withdrawals is the price paid for the building materials by the person, firm, or corporation making the withdrawals. Alabama sales tax becomes due on these building materials at the time and place of the withdrawals. Alabama sales tax is due on building materials withdrawn from stock in Alabama for use in fulfilling contracts both inside and outside of the state.

(2) Exemptions. The transactions in this paragraph shall not be deemed or considered to constitute a transaction subject to sales tax.

(a) The withdrawal, use, or consumption of a manufactured product by the manufacturer of such product in quality control testing performed by employees or independent contractors of the manufacturer.

(b) A gift by the manufacturer of a manufactured product, withdrawn from the manufacturer's inventory to an entity listed in 26 U.S.C. Section 170(b) or (c).

(c) A gift by a retailer of a product or products withdrawn from the retailer's inventory to a qualified charitable entity listed in 26 U.S.C. Section 170(b) or (c), where the aggregate retail value of any single gift is equal to or less than \$10,000.

(d) Refinery, residue, or fuel gas, whether in a liquid or gaseous state, that has been generated by, or is otherwise a by-product of, a petroleum-refining process, which gas is

then utilized in the process to generate heat or is otherwise utilized in the distillation or refining of petroleum products.

(e) The property has been previously withdrawn from the inventory and the sales tax has been paid because of the previous withdrawal.

(f) The property withdrawn enters into and becomes an ingredient or component part of tangible personal property.

(g) Products manufactured or compounded for sale and not for the personal and private use or consumption of the person making the withdrawal.

(3) Exceptions. Sales of equipment, accessories, fixtures, and other similar tangible personal property used in connection with a sale of commercial mobile services as defined in §40-23-1, Code of Ala. 1975, or in connection with satellite television services, at a price below cost, are not taxable as a withdrawal. Instead, sales of this nature are retail sales and are taxable measured only by the seller's stated retail selling price.

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