

**ALABAMA DEPARTMENT OF REVENUE  
Sales and Use Tax**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

810-6-2-.90.02 Simplified Sellers Use Tax Remittance Program

**INTENDED ACTION** Amend

**SUBSTANCE OF**

**PROPOSED ACTION:**

The department proposes to update the above mentioned rule pertaining to Section 40-23-193(e), Code of Alabama 1975, to provide further guidance regarding the delivery of the statement required to be provided to purchasers under this section.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at **02:00 PM on Tuesday, August 13, 2019, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at <http://www.revenue.alabama.gov/tax-policy/>.

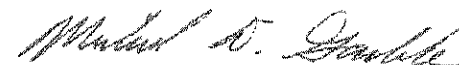
All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also appear at the hearing to present their views.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**

Tuesday, August 13, 2019

**CONTACT PERSON AT AGENCY:**

Meagan Barrett  
Alabama Department of Revenue  
4131 Gordon Persons Building  
Montgomery, Alabama 36132  
(334) 242-1380



Michael D. Gamble, Secretary  
Alabama Department of Revenue

**Simplified Sellers Use Tax Remittance Program**

- (1) Unless otherwise defined herein, the definitions of terms set forth in §40-23-191, Code of Ala. 1975, are incorporated by reference herein.
- (2) The term “eligible seller” shall mean (a) A seller that sells tangible personal property or a service, but
  - (i) Does not have a physical presence in this state; or
  - (ii) Is not otherwise required to register with the Department pursuant to §§ 41-4-116 or 40-23-190, Code of Ala. 1975.(b) A marketplace facilitator for all sales made through the marketplace facilitator’s marketplace by or on behalf of a marketplace seller.
- (3) The terms “marketplace facilitator” and “marketplace seller” shall be as defined in § 40-23-199.1. See Rule 810-6-2-.90.04 Requirements for Certain Marketplace Facilitators.
- (4) The term “locality” shall mean a county, municipality, or other local governmental taxing authority which levies a local sales and/or use tax.
- (5) The term “most recent federal census” shall mean the decennial population count conducted by the U. S. Census Bureau.
- (6) The term “municipality” shall mean any incorporated city or town located in the state.
- (7) The term “otherwise delivered” shall mean delivery by a method other than in equipment owned or leased by the seller. Delivery in the seller’s own vehicle or in equipment leased by the seller establishes a physical presence and disqualifies the seller from participation in the program.
- (8) The term “participating eligible seller” shall mean a seller that has been admitted into and is in good standing in the program.
- (9) The term “program” shall mean the Simplified Sellers Use Tax Remittance Program.
- (10) The term “seller” shall be as defined in § 40-23-191, Code of Ala. 1975.
- (11) The term “simplified sellers use tax return” shall mean the monthly report of tax due from eligible sellers participating in the program.
- (12) The term “state” shall mean the State of Alabama.

(13) Pursuant to §40-23-193, Code of Ala. 1975, the program is designed to allow an eligible seller who participates in the program to collect, report, and remit a statewide eight percent (8%) tax on sales made into Alabama. Participation in the program is voluntary. Only those eligible sellers accepted into the program shall collect and remit the simplified sellers use tax. The collection and remittance of simplified sellers use tax relieves the eligible seller and the purchaser from any additional state or local sales and use taxes on the transaction.

(a) No participating eligible seller shall be required to collect the tax at a rate greater than eight percent (8%), regardless of the combined actual tax rate that may otherwise be applicable.

(b) No sales for which the simplified sellers use tax is collected shall be subject to any additional sales or use taxes from any locality levying a sales or use tax with respect to the purchase or use of the property, regardless of the actual tax rate that might have otherwise been applicable.

(c) The participating eligible seller shall collect the tax on all purchases shipped or otherwise delivered into the state unless the purchaser furnishes the eligible seller with a valid exemption certificate, sales tax license, or direct pay permit issued by the department.

(14) A participating eligible seller shall provide the purchaser with **an a statement or invoice showing that the simplified sellers use tax was collected and is to be remitted on the purchaser's behalf. The statement may be included in an order confirmation e-mail to the purchaser, in a notice on the seller's website, or by any other means approved by the department as sufficient to provide reasonable notice to the customer.**

(15) To participate in the program, an eligible seller shall complete the required application and provide other information as necessary to certify that the seller

(a) Meets the definition of an eligible seller,

(b) Agrees to collect, report, and remit the simplified sellers use tax for all sales shipped or otherwise delivered into the state while participating in the program,

(c) Agrees to provide the department with information related to sales to Alabama customers as required by law or requested by the department, and

(d) Agrees to comply with all program reporting requirements established under program procedures.

(16) Subject to constitutional limitations, a participating eligible seller shall be removed from the program if:

(a) The eligible seller substantially fails to collect, report, and remit the simplified sellers use tax.

(b) The eligible seller fails to submit required reports on a timely basis.

(c) It is determined that the seller is no longer an eligible seller, as defined by §40-23-191, Code of Ala. 1975.

(d) There is any other finding by the department that the participant is not in compliance with the terms authorizing participation in the program.

(17) Participating sellers remain eligible for participation in the program unless the seller establishes a presence through a physical business address for the purpose of making instate retail sales within the state or becomes otherwise required to collect and remit sales or use tax pursuant to § 40-23-190, Code of Ala. 1975, through an affiliate making retail sales at a physical business address in Alabama. A participating eligible seller that establishes a substantial nexus in this state only though the acquisition of an in-state business may continue in the program to satisfy the requirements to collect and remit tax for its Alabama sales.

(18) Any participating eligible seller who fails to report that he or she is no longer eligible to participate in the program or falsely certifies eligibility on any report or application shall be subject to the negligence and/or fraud penalties in accordance with §40-2A-11, Code of Ala. 1975.

(19) Participating eligible sellers shall file monthly a simplified sellers use tax return reporting all sales shipped or otherwise delivered into the state.

(a) The return shall be due on or before the 20th day of the month next succeeding the month in which tax accrues.

(b) The return shall be due even in months where no tax liability is incurred.

(c) Returns and payments are required to be submitted via the Department's electronic online filing and payment system, My Alabama Taxes (MAT).

(d) Returns required to be submitted shall only include statewide totals of the simplified sellers use tax collected and remitted and shall not require information related to the location of purchasers or amounts of sales into a specific city or county.

(e) Returns and payments submitted after the due date will be subject to penalties and interest in the same manner as those applied to other tax returns due the department and in accordance with the provisions of §§40-2A-11 and 40-1-44, Code of Ala. 1975, respectively.

(20) Participating eligible sellers shall be entitled to a discount of two percent (2%) of the simplified sellers use tax collected and timely reported and remitted to the department. For tax periods beginning on or after January 1, 2019, the allowance for discount shall not apply to any taxes collected and remitted in excess of four hundred thousand dollars (\$400,000) and is limited to \$8,000 per tax period. No discount shall be allowed for any taxes which are not timely reported and remitted to the department pursuant to the program.

(21) The proceeds of the simplified sellers use tax paid shall be appropriated to the department, which shall retain the amount necessary to cover the amounts paid

for refunds authorized in §40-23-196, Code of Ala. 1975. The balance of the amounts collected shall be distributed as follows:

(a) Fifty percent (50%) to the state treasury allocated as seventy-five percent (75%) to the General Fund and twenty-five percent (25%) to the Education Trust Fund.

(b) Twenty-five percent (25%) to each county in the state on a prorated basis according to population as determined in the most recent federal census prior to the distribution for all tax periods prior to January 1, 2019. For tax periods beginning on or after January 1, 2019, the amount distributed on a prorated basis according to population as determined in the most recent federal census prior to the distribution to each county shall be twenty percent (20%).

(c) Twenty-five percent (25%) to each municipality in the state on a prorated basis according to the population as determined in the most recent federal census prior to the distribution for all tax periods prior to January 1, 2019. For tax periods on or after January 1, 2019, the amount distributed on a prorated basis according to population as determined in the most recent federal census prior to the distribution to each municipality shall be thirty percent (30%).

(22) The distribution of the proceeds from the simplified sellers use tax paid to counties and municipalities shall be made electronically and shall be deposited in the most current banking account for each county and municipality on file with the department. Proceeds shall be paid to counties and municipalities monthly, for proceeds received during each preceding calendar month.

(23) Participating eligible sellers shall maintain records of all sales shipped or otherwise delivered into Alabama, including copies of invoices showing the purchaser's name, address, purchase amount, and the amount of simplified sellers use tax collected. Such records shall be made available for review and inspection upon request by the department.

(24) Eligible sellers participating in the program shall not be subject to audit or review by any Alabama locality for simplified sellers use tax. The Department holds the sole authority for audit and review of eligible sellers participating in the program.

Authors: Christy Edwards, Ginger Buchanan and Michelle Mayberry

Authority: §§40-2A-7(a)(5), 40-23-191 through 40-23-199.1, Code of Ala. 1975.

History: New Rule: Filed September 17, 2015; effective October 22, 2015.

Amended: Filed March 9, 2016; effective April 23, 2016.

Amended: Filed September 1, 2017; effective October 16, 2017.

Amended: Filed July 20, 2018; effective November 30, 2018.