

810-6-5-.04.02 Sellers's Responsibility to Collect County and Municipal Sales and Use Taxes. (NEW RULE)

(1) Scope. The provisions of this rule are limited to describing a business's obligation to collect and remit a local jurisdiction's sales or use tax. The provisions of this rule have no bearing on a business's other local tax or fee obligations including specifically a local jurisdiction's business license tax. An obligation to collect and remit a local jurisdiction's sales or use tax under the provisions of this rule does not obligate the business to file a return for or pay any other local tax or fee.

(2) Under the provisions of Sections 11-51-200 and 11-51-202, Code of Alabama 1975, as amended, the governing body of any municipality in the state may provide by ordinance for the levy of municipal sales and use taxes, parallel to the state levy of sales and use taxes. Under the provisions of Section 40-12-4, Code of Alabama 1975, as amended, or any general, special or local enabling act of the Legislature, the governing body of any county in the state may provide for the levy of county sales and use taxes. As used in this rule, the term "local jurisdiction" means a municipality or county in Alabama.

(3) Any seller responsible for collecting and remitting state sales or use tax must collect and remit the corresponding sales or use tax for the appropriate local jurisdiction(s). A seller can only avoid the responsibility for collecting and remitting local sales and use tax when the seller lacks minimum contacts with the local jurisdiction.

(4) A seller has minimum contacts with a local jurisdiction when the seller has a physical presence in the local jurisdiction, or when the seller has otherwise purposefully directed business activities toward the consumers of that jurisdiction.

(5) The following business activities will establish minimum contacts with a local jurisdiction and require a seller to collect and remit the local sales or use tax. The list is intended to provide examples of the types of activities that would establish minimum contacts with a local jurisdiction. It does not address every business activity conducted by a seller that could establish minimum contacts and impose on the seller the requirement to collect the local tax.

(a) The seller maintains an office, place of distribution, sales or sample room, warehouse or storage place, or any other place of business in the local jurisdiction;

(b) The seller has an employee, representative, agent, salesperson, canvasser, solicitor (either permanent or temporary), installer, repairman, or independent contractor who operates under the authority of the seller or its subsidiary inside the taxing limits of the local jurisdiction for any purpose, including repairing, selling, delivering, installing, or soliciting orders for the retailer's goods or services;

(c) The seller delivers merchandise to customers in the local jurisdiction by use of equipment owned or leased by the seller or use of carriers acting as an agent for the seller, or vehicles owned by any related entity to the seller;

(d) The seller owns or leases real property or tangible personal property in the local jurisdiction;

(e) The seller distributes catalogs or other advertising materials and by reason thereof receives and accepts orders from consumers in the local jurisdiction;

(f) The seller contracts with a broadcaster or publisher located in the local jurisdiction for advertising disseminated primarily to consumers located in the local jurisdiction to solicit sales orders;

(g) The seller solicits sales orders from consumers in the local jurisdiction by mail;

(h) The seller investigates, handles, or otherwise assists in resolving customer issues or complaints on items previously sold by the seller, while inside the taxing limits of a local jurisdiction;

(i) The seller makes repairs, does warranty work, or approves or arranges for maintenance or service work on items previously sold by the seller, inside the taxing limits of a local jurisdiction;

(j) The seller engages in convention or trade shows, or conducting seminars or similar events for the purpose of promoting or conducting business activity while inside the taxing limits of a local jurisdiction;

(k) The seller conducts business activity inside the taxing limits of a local jurisdiction by owning, leasing or maintaining tangible personal property or real property located inside the taxing limits of a local jurisdiction;

(l) The seller provides customers with any kind of service or technical assistance on items previously sold by the seller, inside the taxing limits of a local jurisdiction, including but not limited to, engineering assistance, consulting service, training, design service, quality control, product inspection, or similar services;

(m) The seller warehouses, stores, installs, assembles or manufactures any tangible personal property inside the taxing limits of a local jurisdiction;

(n) The seller engages in any other activity to purposefully avail itself of the benefits of the economic markets in the local jurisdiction.

(o) The seller has otherwise purposely directed business activities toward the consumers of that jurisdiction.

Author: Christy Vandevender

Authority: Sections 40-2A-7(a)(5), 40-23-2, 40-23-68, 11-51-180, 11-51-200, Code of Alabama 1975

History: