



# State of Alabama Department of Revenue

Montgomery, Alabama 36132

**GEORGE E. MINGLEDORFF III**  
Assistant Commissioner

**LEWIS A. EASTERLY**  
Secretary

**H. E. "GENE" MONROE, JR.**  
Commissioner

## ALABAMA DEPARTMENT OF REVENUE REVENUE RULING 96-006

This document may not be used or cited as precedent. Code of Alabama 1975, §40-2A-5(a) (1993 Replacement Volume).

TO:

FROM: Commissioner of Revenue  
Alabama Department of Revenue

DATE: March 18, 1997

RE: Revenue Ruling 96-006

### ISSUES AND FACTS

Company A is in the process of leasing certain real property located in ABC County. A portion of the property lies within the city limits of XYZ City and a portion of the property lies within the police jurisdiction. Company A will manufacture crushed stone and other quarry products at the property site. The products manufactured at the quarry will be used in Company A's construction projects. Company A also intends to sell quarry products to customers who will either pick up the product in their own trucks or who will contract with a third party for transportation of the products. The manufactured products will be sorted, graded and placed in inventory. The products will be loaded into trucks, weighed and the buyer invoiced.

Generally, the point of sale determines the taxes due on the sale of crushed stone and other products. The point of sale could be the loading of the trucks from inventory, at the scale where the amount of the sales is determined and invoice incurs, when the truck leaves the property, or at the destination.

The products that Company A sells are loaded onto the purchaser's trucks or trucks of a third party. Generally, the Taxpayer considers that the risk of loss passes to the purchaser when the trucks are loaded. The determination of the amount sold and the necessary documentation of the sale are prepared when the truck passes the scale.

Alabama Department of Revenue Rule 810-6-.51(3) states, in

part, "if a sale or delivery of tangible personal property is made within the city or town, the tax is due."

Under the facts as stated, you have asked whether the point of sales and the incurring of sales tax occurs:

- (A) WHEN THE TRUCKS ARE LOADED
- (B) AT THE SCALE WHERE INVOICING OCCURS, OR
- (C) WHEN THE TRUCKS LEAVE THE QUARRY PROPERTY?

#### LAW AND ANALYSIS

Under Code of Alabama 1975, as amended, §40-23-1(a)(5), every closed transaction constitutes a sale. The statute also provides that a transaction is not deemed closed, or a sale completed, until the time and place where the title is transferred by the seller or seller's agent to the purchaser or the purchaser's agent. For purposes of determining the transfer of title, the statute provides that a common carrier is deemed to be the agent of the seller, regardless of any F.O.B. point and regardless of who selects the method of transportation, and regardless of by whom or the method by which the transportation charges are paid. The statute further provides that when billed as a separate item and paid by the purchaser, the freight or transportation charge paid to a common carrier is not a part of the selling price.

Under the facts as presented in your request for a Revenue Ruling, §40-23-1(a)(5) establishes that the point of sale is when title to the quarry products passes to the purchaser or the purchaser's agent. Under the statute, a common carrier is deemed to be the agent of the seller, i.e. Company A, and title, for purposes of the sales tax, passes to the purchaser when the quarry products are delivered to the purchaser at the point of destination by the common carrier.

Therefore, the point of sale is statutorily established as the point of delivery or destination when quarry products are delivered by common carrier to the purchaser at the purchaser's place of business or job site. However, in the absence of documentation to establish where the quarry products are actually delivered, for audit purposes, the point of sale will be deemed to be the point where the product is actually loaded onto the trucks in XYZ City. This is consistent with the requirement that the sellers are required to maintain sufficient records to allow the Department to determine the correct amount of tax that is due. In addition, quarry products used by Company A in fulfilling its construction contracts are subject to sales tax at the point of withdrawal from the inventory in XYZ City. Company A, as the ultimate consumer of the quarry products, is deemed to have taken possession of the quarry products at the point of withdrawal. City of Huntsville v. City of Madison, 628 So.2d 584 (Ala. 1993). Also, if the purchaser picks up the quarry products at Company A's facility in XYZ City in its own trucks, the transaction is deemed closed in XYZ City at the time the quarry products are loaded onto

the trucks and delivered to the purchaser.

RULING

When tangible personal property, such as quarry products, is sold at retail are delivered by a common carrier to the purchaser, title to the products and the point of sale for sales tax purposes is the point of actual delivery to the purchaser at the purchaser's place of business or the purchaser' designated job site.

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H. E. Monroe, Jr. <sup>U</sup>  
Commissioner of Revenue

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