

810-6-1-.45 Contractors Furnishing and Erecting Building Materials Under Contract With the United States.

(1) Sections 40-23-4(a)(17) and 40-23-62(2) specifically exempt the United States government from paying sales or use tax on its purchases of tangible personal property. These exemptions, however, do not apply to purchases by a contractor where the contractor has a construction contract with the United States government to furnish all materials and labor for use in the performance of the contract. The contractor is the consumer of all the materials which the contractor purchases and uses in the performance of the construction contract and which become a part of real property. The United States Supreme Court in *State of Alabama v. King & Boozer*, 314 U.S. 1, 62 S.Ct. 43 (1941), and in *Curry v. U.S., et al.*, 314 U.S. 1, 62 S.Ct. 48, held that the Alabama sales and use taxes on building materials used by building contractors for the United States government were due by such contractors even though the costs of such taxes were passed on to the United States government. The court held that these taxes were levied on the contractors and not on the United States. (Sections 40-23-1(a)(10) and 40-23-60(5))

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Authority: Sections 40-2A-7(a)(5), 40-23-1(a)(10), 40-23-4(a)(17), 40-23-31, 40-23-60(5), 40-23-62(2), 40-23-83, and Act 2013-205, Code of Alabama 1975

History: Readopted through APA effective October 1, 1982.

Amended: Filed February 20, 2001, effective March 27, 2001.

Amended: Filed May 6, 2005, effective June 10, 2005.

Amended: Filed November 20, 2013, effective December 25, 2013.