

ALABAMA DEPARTMENT OF REVENUE - SALES AND USE TAX RULES
Code of Alabama 1975, Sections 40-23-31 and 40-23-83

810-6-1-.29. Building Materials Manufactured by Contractors.

(1) Section 40-23-1(b) provides that the use of building materials in the performance of a contract by a person who manufactures them is equivalent to making a retail sale of such materials and that such use must be reported by such person as subject to sales tax to be measured by the reasonable and fair market value at the time and place where used.

(2) Where the contractor-manufacturer also sells the same kind of materials to others for installation by them, the reasonable and fair market value would be the same as the sales price. Where no such sales are made by the contractor-manufacturer, the sales price of the same kind of materials when sold by other manufacturers during the same period and under the same circumstances would be the reasonable and fair market value.

(3) Where no sales price can be found to be used as the measure of the tax, the following formula should be used:

(a) Manufactured cost of materials, plus transportation to job site, plus proportionate part of general overhead, selling cost, and profit equals reasonable and fair market value of materials.

(4) Section 40-23-1(b) applies to fabricated or manufactured items of tangible personal property permanently attached to real property when the components are prefabricated into a standard item at the shop, plant, or mill of the manufacturing contractor. This subsection does not apply when the materials are cut and fitted on the job site for attachment as construction progresses or to items prefabricated to job specifications at the shop, plant, or mill of the manufacturing contractor.

(5) The courts of this State have held that the manufacturing contractor provision of the Sales Tax Law does not apply when a contractor manufactures an item to specifications for a special job. To come within Section 40-23-1(b), the item manufactured must be standard, that is, it can be used on any job.

(6) Where the contractor is the manufacturer or compounder of ready-mix concrete or asphalt plant mix used in the performance of a contract, whether the ready-mix concrete or asphalt plant mix is manufactured or compounded at the job site or at a fixed or permanent plant location, the tax applies only to the cost of the ingredients that become a component part of the ready-mix concrete or the asphalt plant mix. (Section 40-23-1(b)) (Amended August 16, 1974, readopted through APA effective October 1, 1982, amended July 7, 1989)