

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

810-6-3-.32. Historical Preservation Authorities.

(1) A historical preservation authority organized pursuant to Article 5 of Chapter 10 of Title 41, Code of Alabama 1975, as amended, is exempt from the payment of sales and use tax on any tangible personal property purchased by the authority provided the purchases are made in the name of the authority, the authority's credit is obligated, and the purchases are paid for with funds belonging to the authority. (Section 41-10-147, Code of Alabama 1975)

(2) The exemption in Section 41-10-147 does not apply to a contractor where the contractor has a construction contract with a historical preservation authority to furnish all materials and labor for use in the performance of the contract. The contractor is the consumer thereof of all materials used in the performance of the construction contract which becomes part of real property. (Sections 40-23-1(a)(10) and 40-23-60(5))

(3) Notwithstanding any of the exemptions outlined above, an individual, partnership, or corporation organized for profit that is or will be treated for federal income tax purposes as the owner of property to which a historical preservation authority has title to, or a possessory right in, is liable for sales or use taxes as if the for-profit entity held title to the property unless the individual, partnership, or corporation would be entitled to use the property pursuant to a lease or other agreement entered into before May 21, 1992, or would be entitled to use the property at some future time pursuant to an inducement agreement entered into or adopted before May 21, 1992. For-profit entities, however, may qualify for abatements of certain sales and use taxes pursuant to Chapter 9B of Title 40 of the Code of Alabama 1975. Section 40-9B-7 only pertains to private users of private use property. Private user is defined in 40-9B-3. Therefore, Section 40-9B-7 does not change the tax exempt status of a non-profit entity for sales and use tax purposes. (Section 40-9B-7, Code of Alabama 1975) (Sections 40-2A-7(a)(5), 40-9B-7, 40-3-1(a)(10), 40-23-31, 40-23-60(5), 40-23-83, 41-10-147, Code of Alabama 1975) (Adopted November 3, 1980, readopted through APA effective October 1, 1982, amended May 22, 1993, amended March 27, 2001, amended June 10, 2005, amended August 4, 2009, amended December 25, 2013)