

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

**810-6-3-.25. Fuel Oil Used in Firing Kilns.**

(1) The term "kiln" as used in Code of Alabama 1975, Sections 40-23-4(a)(14) and 40-23-62(15) and in this regulation shall mean an oven, stove, chamber, or other device or enclosure to provide thermal processing of nonmetallic articles or substances in a controlled temperature environment or atmosphere, often by direct convection or radiation heat transfer. A "kiln" is used in the high temperature treatment of nonmetallic materials and generally operates at sufficiently high temperatures to require that its walls be constructed of refractory materials. The term "kiln" as used in the aforementioned Code sections and in this regulation shall not include a furnace, oven, chamber, or other device or enclosure used in the melting, fusing, or manufacture of metal. Examples of devices which qualify as "kilns" are brick kilns, lime kilns, dry kilns (for lumber), and cement kilns. Examples of devices which do not qualify as "kilns" are blast furnaces, basic oxygen furnaces, and open hearth furnaces used in steel manufacturing. (State of Alabama v. American Brass, Inc., Court of Civil Appeals, decided November 5, 1993)

(2) Sales of fuel oil purchased as fuel for kilns used in manufacturing establishments are exempt from sales and use tax. (Sections 40-23-4(a)(14) and 40-23-62(15))

(3) Where a manufacturer uses fuel oil for both taxable and nontaxable purposes, the supplier of fuel oil must collect and pay the state sales tax on all of the fuel oil he delivers to a storage facility from which withdrawals are made for a taxable use regardless of the fact that some part of the fuel oil withdrawn is for an exempted use. In these instances where a manufacturer maintains separate facilities for storing fuel oil for taxable and nontaxable uses, the supplier is authorized to deliver tax free to the facility maintained for storing fuel oil for a nontaxable use. The supplier is burdened with the responsibility of knowing the usual and customary use made of the fuel oil delivered to his customers. (Adopted March 9, 1961, amended September 18, 1964, amended July 2, 1975, readopted through APA effective October 1, 1982, amended May 4, 1994)