

ALABAMA DEPARTMENT OF REVENUE
REVENUE RULING 2019-002

This document may not be used or cited as precedent. Ala. Code 1975, § 40-2A-5(a).

To: Taxpayer Company

From: Vernon Barnett
Commissioner of Revenue

Date: December 18, 2019

FACTS¹

Company X sells a range of tangible personal property and services at retail. The tangible personal property and services are currently offered on a stand-alone basis. Company X plans to offer consumers the opportunity to purchase bundled packages of the tangible personal property and services. The bundles will vary in which tangible personal property and services they contain, allowing customers to mix-and-match the product offerings. Customers will pay Company X one, non-itemized price for a bundled package of products.

QUESTION PRESENTED

Does Alabama sales tax apply to the full charges of the packages described above when at least one of the items included in the package is taxable and there is no separate itemization or price breakout on the invoice for items that may be nontaxable?

ANALYSIS

Alabama law imposes a privilege or license tax upon gross sales or gross receipts from the sale of tangible personal property at retail. See § 40-23-2(1), Ala. Code 1975. The sales tax is applied to all retail sales of tangible personal property that are not specifically excepted. Conversely, with certain enumerated exceptions, the sales of services at retail are not subject to Alabama's sales tax.

When a retailer sells at retail a combination of taxable tangible personal property and non-taxable personal property or non-taxable services, the charges for the sales of any non-taxable products or non-taxable services must be separately stated and must not be incidental to the provision of taxable tangible personal property. Otherwise, the total amount is treated as taxable.

For example, where a customer has contracted with an entity to provide both tangible personal property and services, such as installation services, the services portion of the contract is non-taxable only if the charges for services are separately stated. See Ala. Admin. Code 810-6-1-

¹ The facts upon which this revenue ruling is based are stated herein. To the extent that any relevant facts asserted by the requestor were omitted or were misstated or if stated, were misleading, this revenue ruling may be invalidated by the Department in whole or in part or withdrawn as the circumstances may require.


.81(1) (“Where the quoted or advertised price is a lump sum for both property and installation or where billing and other records do not show separate charges for property and for installation, the measure of the tax is the total amount received by the seller.”). As stated in Ala. Admin. Code r. 810-6-1-.84(2), the services must be separately stated on the invoices to the customer. If the contractor invoices the tangible personal property and services as a combined charge, then sales and use tax is owed on the entire invoiced amount.

Another example is the sale of photographic products and accompanying services. The retail sale of photographs is considered a sale of taxable personal property; however, § 40-23-4(50), Ala. Code 1975, provides that the services provided by photographers, such as sitting fees, consultations fees, etc., are exempt from sales tax “so long as the exempt services are separately stated to the customer on a bill of sale, invoice, or like memorialization of the transaction.”

Company X has indicated that it will not be separately stating the price of each product within the bundled packages. Company X has also stated that it does not have a reasonable means to identify and allocate the charges between taxable and non-taxable items in each bundled package, as the individual item amounts would vary depending on the relative percentage value attributed to the other items in the chosen package. Therefore, if a package contains at least one taxable item, the entire charge for the package is subject to Alabama sales tax. In contrast, if a package contains only non-taxable or exempt items, it is not subject to Alabama sales tax.

CONCLUSION

The total invoiced amount for a package of bundled products and services offered by Company X is subject to Alabama sales tax when at least one item in the invoiced package is taxable and the invoice does not provide separate itemization or price breakout of the charges included on the invoice.



VERNON BARNETT, Commissioner
Alabama Department of Revenue