

810-6-1-.119 **Professional Photography Sales and Services, including Blueprints.**

(1) The retail sales of photographs, blueprints and other similar articles are subject to sales or use tax, whether delivered in final printed form or delivered in digital form via telephone lines, over the Internet, by e-mail, or by another alternative form of transmission. The transfer of digital images of these items from a seller to a purchaser for a price constitutes the sale of tangible personal property. The form in which tangible property is delivered by the seller to the purchaser is of no consequence. (Sections 40-23-2(1) and 40-23-61(a)) (Robert Smith FlipFlopFoto v. State of Alabama (Admin. Law Div. Docket No. S. 05-1240, Final Order entered April 30, 2007))

(a) In cases where negatives belonging to the customer are developed, the charge for developing the negatives is not subject to sales or use tax if a separate charge is made to the customer.

(b) In cases where an airplane is chartered for use in making aerial photographs, the charge for use of the airplane is not subject to sales or use tax if a separate charge is made to the customer.

(c) In cases where individuals deliver pictures to photographers or photographic studios for tinting or coloring, the receipts from such tinting or coloring are not subject to tax, since such receipts result from services rendered and do not result from sales of tangible personal property. (Section 40-23-2(1))

(2) The materials which become a physical part of the photographic prints, blueprints, etc., are purchased tax free at wholesale by the seller of the photographic print, blueprint, etc. (Sections 40-23-1(a)(9)b and 40-23-60-(4)b

(3) The materials and chemicals used or consumed by the seller of photographic prints, blueprints, etc., but not becoming a component thereof, are purchased at retail by the seller and are subject to the sales or use tax, whichever may apply at the time of such purchase. (Sections 40-23-1(a)(10) and 40-23-60-(5))

(4) The mechanical equipment used in the production of photographic negatives, photographic prints, and blueprints including cameras are subject to the reduced machine rate of sales or use tax. (Sections 40-23-2(3) and 40-23-61-(b))

(5) Photographic prints, blueprints, or other images sold to an advertising agency for use in the performance of a contract are purchased at retail by the advertising agency and are subject to the sales or use tax, whichever may apply at the time of such purchase. (See Rule 810-6-1-.02, entitled Advertising Agencies.)

(6) The gross proceeds of services provided by photographers, including but not limited to sitting fees and consultation fees, even when provided as part of a transaction ultimately involving the sale of one or more photographs are exempt from sales and use 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. For transactions occurring before October 1, 2017, neither the Department of Revenue nor the local tax officials may seek payment for sales or use tax not collected. With regard to such transactions in which sales or use tax was collected and remitted on services provided by photographers, neither the taxpayer nor the entity remitting the tax shall have the right to seek a refund of such tax.

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Authority: Sections 40-2A-7(a)(5), 40-23-1(a)(9)b, 40-23-2(1), 40-23-2(3), 40-23-1(a)(10), 40-23-31, 40-23-60(4)b, 40-23-60(5), 40-23-61(a), 40-23-61(b), and 40-23-83, **Code of Alabama 1975.**

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