

810-6-1-.46 Contractor's Liability

(1) Contractors or builders must pay either to the seller or directly to the department sales or use tax on the following:

(a) All of the materials, equipment, tools, and supplies which they use or consume in the operation of their business.

(b) All building materials attached by them to real property except property qualifying for a specific exemption. See Rule 810-6-1-.27.

(2) Prior to January 1, 2014, contractors or builders may not claim any immunity or exemption from the sales or use tax laws on account of property purchased and used in connection with contracts with the state, county, or city governments. (Lone Star Cement Corporation v. State, Curry v. U.S. et al., 314 U.S. 1, 62 S.Ct. 48 and State v. King & Boozer, 314 U.S. 1, 62 S.Ct. 43 (1941)). (§§40-23-1(a)(10) and 40-23-60(5))

(3) On and after January 1, 2014, the sale to, or the storage, use, or consumption by, any contractor or subcontractor of any tangible personal property to be incorporated into realty pursuant to a contract awarded on or after January 1, 2014, with a governmental entity, as defined in Rule 810-6-3-.77, is exempt from all state, county, and municipal sales and use taxes provided the contractor or subcontractor has complied with all provisions of said rule.

(4) The contractor provision provided in §40-23-1(a)(10), Code of Ala. 1975, applies if all of the following criteria are met:

(a) The taxpayer must be a contractor.

(b) The materials must be building materials.

(c) The materials must become a part of the real estate.

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Authority: §§40-2A-7(a)(5), 40-23-1, 40-23-31, 40-23-60, 40-23-83, and 40-9-14.1, Code of Ala. 1975. Department of Revenue v. James A. Head & Co., 306 So.2d 5 (Ala. Civ. App. 1974), cert. denied 306 So.2d 12 (1975). Lone Star Cement Corporation v. State, Curry v. U.S. et al., 314 U.S. 1, 62 S.Ct. 48 and State v. King & Boozer, 314 U.S. 1, 62 S.Ct. 43 (1941)).

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