

Transmittal Sheet For
Notice Of Intended ActionControl: 810Department or Agency: RevenueRule Nos: 810-6-3-.01Rule Title: Exemptions For Agricultural Products Sold By The Producer☐ New; ☒ Amended; ☐ Repealed; ☐ Adopt by ReferenceWould the absence of the proposed rule
significantly harm or endanger the public
health, welfare, or safety?NoIs there a reasonable relationship between
the state's police power and the protection
of the public health, safety, or welfare?YesIs there another, less restrictive method of
regulation available that could adequately
protect the public?NoDoes the proposed rule have the effect of
directly or indirectly increasing the costs of
any goods or services involved and, if so,
to what degree?NoIs the increase in cost, if any, more harmful
to the public than the harm that result from
the absence of the proposed rule?N/AAre all the facets of the rulemaking process
designed solely for the purpose of, and so
they have, as their primary effect, the
protection of the public?YesDoes the proposed rule relate to or effect any matter of
litigation which the agency is a party to concerning the
subject matter of the proposed rule?No*****
*****Does the proposed rule have any economic
impact?NoIf the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal
note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.*****

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of
Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of
the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Date 07/20/2018

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-3-.01

Rule Title: Exemptions For Agricultural Products Sold By The Producer

_____ New X Amend _____ Repeal _____ Adopt by Reference

- ☒ NO
☐ YES

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
3. EFFECT OF THIS RULE ON COMPETITION:
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH
IF THE RULE IS NOT IMPLEMENTED:
11. OTHER COMMENTS:

ALABAMA DEPARTMENT OF REVENUE
Sales and Use Tax

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-6-3-.01

Exemptions For Agricultural Products Sold By The Producer

INTENDED ACTION

Amend

SUBSTANCE OF

PROPOSED ACTION:

The department proposes to amend this rule in order to add language found in Act 2018-562 that updates 40-23-4(a)(45).

RULE NO. & TITLE

810-6-5-.27.02

Hospital Assessment For Medicaid

INTENDED ACTION

Amend

SUBSTANCE OF

PROPOSED ACTION:

The department proposes to update rule with changes in due date made by Act 2018-543.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **02:00 PM on Tuesday, September 11, 2018, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at <http://www.revenue.alabama.gov/tax-policy/>.

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also appear at the hearing to present their views.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, September 11, 2018

CONTACT PERSON AT AGENCY:

Meagan Barrett

Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael D. Gamble, Secretary
Alabama Department of Revenue

810-6-3-.01 Exemptions For Agricultural Products Sold By The Producer.

(1) There are two exemptions in the sales and use tax statutes relative to agricultural products sold by the producer. - ~~One~~ One is found in **Sections §§40-23-4(a)(5) and 40-23-62(8), Code of Ala. 1975**, and the other in **Section §40-23-4(a)(44 45) Code of Ala. 1975**. A sale of agricultural products that does not qualify for one of these exemptions may still qualify for the other.

(2) **Sections §§40-23-4(a)(5) and 40-23-62(8), Code of Ala. 1975**, exempt sales of products of the farm, dairy, grove, or garden from sales and use tax when the products (i) are sold by the producer, by members of the producer's immediate family, or by persons employed by the producer to assist in the production of the products and (ii) have not been processed, except to the extent that the products are customarily processed by operators of farms, dairies, groves or gardens in preparing products for market.

(a) This exemption does not apply to agricultural products sold by the producer through a store which the producer operates. (**Curry v. Reeves, 240 Ala. 14, 195 So. 428 (Ala. 1940)**).

(b) Unlike the exemption outlined in paragraph (3) below, this exemption is not limited to products that are planted, cultivated, and harvested by the producer. Examples of products that may qualify for this exemption but not the exemption in paragraph (3) include but are not limited to milk, eggs, catfish, minnows, bees, honey, rabbits, and hamsters produced on farms.

(3) **Section §40-23-4(a)44(45), Code of Ala. 1975**, exempts fruit or other agricultural products from sales and use tax when sold by the person or corporation that planted, or cultivated, and harvested the products on land owned or leased by them. Unlike the exemption outlined in paragraph (2) above, this exemption is not lost to the producer who sells qualifying agricultural products through a store operated by the producer.

(4) Sales of agricultural products which otherwise qualify for one or both ~~of~~ **the** exemptions outlined in paragraphs (2) and (3) above, do not lose their exempt status if the products, retain their raw, unprocessed form when prepared by the producer for marketing or merchandising. An agricultural product is no longer in its raw, unprocessed form if it is cooked, boiled, roasted, or mixed or compounded with ingredients other than additional exempt agricultural products.

(a) Examples of prepared agricultural products which do not lose their exempt status when they otherwise qualify for either or both ~~of the~~ exemptions outlined in paragraphs (2) and (3) are:

1. raw pecans when cracked or shelled

2. raw shelled peanuts
3. raw shelled peas, beans, or butterbeans
4. raw shucked corn
5. raw washed fruits or vegetables

(b) Examples of processed agricultural products which do not qualify for the exemptions outlined in paragraphs (2) and (3) above are:

1. apple cider
2. boiled or roasted peanuts
3. candy
4. cane or sorghum syrup
5. fruit pies
6. ice cream
7. jellies and jams
8. peanut butter
9. pickled peaches
10. pickles
11. roasted pecans

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Authority: §§40-2A-7(a)(5), 40-23-4(a)(5) 40-23-4(a)~~44(45)~~, ~~40-23-62(8)~~, 40-23-31, 40-23-83, Code of Ala. 1975.

History: Filed September 28, 1982. Filed January 15, 1993, certification filed April 15, 1993, effective May 20, 1993. Amended: Filed June 25, 1998; effective July 30, 1998. Amended: Filed June 25, 1998; effective July 30, 1998. Amended: July 20, 2018; effective