

APA-1

### Transmittal Sheet For Notice Of Intended Action

Control: 810 Department or Agency: Revenue  
Rule Nos: 810-6-1-.125.01  
Rule Title: Amusement Tax Due On Fees Collected By Golf Courses Open To The Public

New;  Amended;  Repealed;  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does 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? No

Is the increase in cost, if any, more harmful to the public than the harm that result from the absence of the proposed rule? N/A

Are 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? Yes

Does 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? No

If 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.  
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#### 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 09/20/2021



REC'D & FILED  
SEP 20 2021  
LEGISLATIVE SVC AGENCY

**ALABAMA DEPARTMENT OF REVENUE  
Sales and Use Tax**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

810-6-1-.125.01

Amusement Tax Due On Fees Collected By Golf Courses Open To The Public

**INTENDED ACTION**

New, Repealed

**SUBSTANCE OF  
PROPOSED ACTION:**

In accordance with the Red Tape Reduction Act (2013-88), this rule has been reviewed and reformatted to detail the difference between public, private, and quasi public or quasi private golf courses.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be conducted at **01:30 PM on Tuesday, November 09, 2021** via web-conference. To participate in the upcoming web-conference public hearing please contact the Tax Policy and Governmental Affairs Division at [Taxpolicy@revenue.alabama.gov](mailto:Taxpolicy@revenue.alabama.gov) or 334-242-1380 to obtain the appropriate sign-in information for a specific public hearing date. 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 may present their views during the web-conference.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**

Tuesday, November 09, 2021

**CONTACT PERSON AT AGENCY:**

Meagan Barrett

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



Mary Martin Mitchell, Secretary  
Alabama Department of Revenue

**810-6-1-.125.01 Amusement Tax Due On Fees Collected By Golf Courses Open To The Public. (REPEAL)**

(1) The term "golf course open to the public" as used in this regulation shall mean any golf course, except those owned and operated by the State of Alabama or a county or incorporated municipality of the State of Alabama, which allows the public to use one or more of its facilities for a fee. However, the following policies or activities shall not cause an otherwise private golf course to be classified as a golf course open to the public:

- (a) reciprocal play agreements with other golf courses that are also not open to the public.
- (b) play by guests of a member (whether or not accompanied by the member).
- (c) hosting a tournament in compliance with the provisions of Section 4-23-4(a)(39), as amended.
- (d) periodically holding invitational or charitable tournaments.
- (e) the sale of condominium units the purchase of which carries with it the privilege of using the golf course facilities.

(2) Golf courses open to the public are liable for and shall collect and remit the amusement tax levied in Section 40-23-2(2) on fees paid by their customers including but not limited to the following fees as of the effective date of this regulation: membership dues tennis court fees initiation fees swimming pool fees golf cart fees driving range fees greens fees locker fees

(3) The gross proceeds from the sales of condominium units by golf course open to the public do not constitute gross receipts from places of amusement and, therefore, are not to be included in the measure of tax levied in Section 40-23-2(2).

(4) Golf courses owned and operated by the State of Alabama or a county or incorporated municipality of the State of Alabama are exempt from the amusement levy contained in Section 40-23-2(2). [City of Anniston v. State, 265 Ala. 303, 91 So. 2d 211 (1956)].

(5) Retail sales of tangible personal property by golf courses owned and operated by counties or incorporated municipalities of the State of Alabama are exempt from sales tax. Retail sales of tangible personal property by all other golf courses, public or private, are taxable.

(6) The provisions of this rule shall become effective October 1, 1993.

**Author:** Dan DeVaughn

**Authority:** §40-23-31, Code of Ala. 1975

**History:** **New Rule:** Filed June 18, 1993; effective October 12, 1993.

**Repeal and Replace:** September 20, 2021; effective

810-6-1-.125.01 Amusement Tax Due on Fees Collected by Golf Courses.

**(NEW)**

(1) Public Golf Course and Quasi Public or Quasi Private Golf Course.

(a) Public Golf Course - A golf course not owned or operated by the state or a county or incorporated municipality of the state that is open to the public for use of their facilities with a fee.

(b) Quasi Public or Quasi Private Golf Course - A quasi public or quasi private golf course that is open to the public or a semiprivate course that offers the public the option to join or use the facilities with a payment of green fees is considered a place of amusement under §40-23-2, Code of Ala. 1975.

(c) A public golf course and quasi public or quasi private golf course must collect and remit the amusement tax levied in §40-23-2, Code of Ala. 1975, on fees paid by their customers including but not limited to the following:

1. Tennis court fees.
2. Swimming pool fees.
3. Golf cart fees.
4. Driving range fees.
5. Greens fees.
6. Locker fees.

(d) Sales of tangible personal property are subject to sales tax under §40-23-2, Code of Ala. 1975.

(e) Sales or use tax is due on all purchases of equipment, fixtures, and supplies for use by the business. This would include the purchase of golf carts or

other equipment purchased for leasing purposes. (Starlite Lanes, Inc v. State, 214 So. 2d 324 (1968))

(f) The gross proceeds from the sales of condominium units by a public golf course and quasi public or quasi private golf course does not constitute gross receipts from places of amusement and, therefore, are not to be included in the measure of tax levied in §40-23-2, Code of Ala. 1975.

(2) Private Golf Course/Club.

(a) A private golf course/club is a golf course where only members and their guests can use the facilities of the golf course/club.

(b) A private golf course/club that allows guests to utilize the facilities are liable for and must collect and remit the amusement tax levied in §40-23-2, Code of Ala. 1975 on fees paid by guests including but not limited to the following:

1. Tennis court fees.
2. Swimming pool fees.
3. Driving range fees.
4. Green fees.
5. Locker fees.

(c) Membership and initiation fees are not subject to sales tax.

(d) Sales of tangible personal property, including restaurant sales, pro shop sales, and bar sales are subject to sales tax under §40-23-2, Code of Ala. 1975.

(e) Purchases of golf course maintenance equipment, furniture, fixtures, supplies, and other items used by the private golf course are subject to sales or use tax under §§40-23-2 or 40-23-61, Code of Ala. 1975.

(f) The receipts from the lease of golf carts, etc. to members or guests are subject to rental tax at the automotive rate of 1.5 % under §40-12-222, Code of Ala. 1975. Purchases of golf carts and repair parts for golf carts would not be subject to sales or use tax in accordance with §40-23-1(a)(9), Code of Ala. 1975.

(3) Government Owned Golf Courses.

(a) A golf courses owned and operated by the state or a county or incorporated municipality of the state is exempt from the amusement tax levied in § 40-23-2, Code of Ala. 1975. (City of Anniston v. State, 91 So. 2d 211 (1956))

(b) A public or quasi private golf course operated by a city or county is exempt from the sales tax under §40-23-2, Code of Ala. 1975. (City of Anniston v. State, So. 2d 211 (1956))

(c) Retail sales of tangible personal property by golf courses owned and operated by counties or incorporated municipalities of the state are exempt from sales tax.

**Author:** Lee Ann Rouse and Christy Vandevender

**Authority:** §§40-2A-7(a)(5), 40-23-2, 40-23-4, and 40-23-31, Code of Ala. 1975. City of Anniston v. State, 91 So. 2d 211 (1956), Starlite Lanes, Inc v. State, 214 So. 2d 324 (1968), Cypress Lakes Golf & Country Club, Inc v. State of Alabama Department of Revenue, Docket No. S. 06-174 (January 11, 2007).

**History:** Repeal and Replace: September 20, 2021; effective