

**ALABAMA DEPARTMENT OF REVENUE - SALES AND USE TAX RULES**  
**Code of Alabama 1975, Sections 40-23-31 and 40-23-83**

**810-6-3-.43. Nurserymen-Sales of Plants, Seedlings, Nursery Stock and Floral Products.**

(1) The gross proceeds of the sales of seedlings, plants, shoots and slips which are to be used for planting vegetable gardens or truck farms and other agricultural purposes are exempt from sales and use tax. (Section 40-23-4(a)(22))

(2) Sales of nursery stock and floral products by the nurseryman who planted, cultivated, and harvested said items are exempt from sales and use tax. Sales of nursery stock and floral products not planted, cultivated, or harvested by the seller are taxable (Sections 40-23-2(1), 40-23-4(a)(44), and 40-23-61(a))

(3) A nurseryman who claims the exemption outlined in paragraph (2) must keep sufficient records to document such claims; and, in the absence of sufficient documentation, shall be liable for the sales or use tax due on all sales for which exemption claims cannot be verified by the Revenue Department.

(4) The planting of trees, floral products, and shrubbery or other nursery stock on the real property of a customer pursuant to a contract to furnish such items and plant same does not constitute a retail sale by the person performing the contract; instead, the person is performing a contract for making additions, alterations, or improvements to realty and is deemed to be the user or consumer of the items which are planted. Accordingly, nurserymen who maintain an inventory of trees, floral products, and shrubbery or other nursery stock from which they make retail sales to customers and from which they also withdraw items for use in performing contracts for making additions, alterations, or improvements to realty shall purchase all such items tax-free and, in turn, remit sales tax collected from the customer on retail sales of items from inventory and compute and pay sales tax on items withdrawn from inventory for use or consumption in the performance of contracts. Nurserymen or landscapers who maintain no inventory and make no retail sales of trees, floral products, or shrubbery or other nursery stock shall remit the appropriate sales or use tax to the vendor at the time they purchase such items for use in performing contracts for making additions, alterations, or improvements to realty. Purchases or withdrawals of trees, floral products, and shrubbery or other nursery stock which qualify for the exemptions outlined in paragraphs (1) and (2) above are exempt from sales and use tax. (Sections 40-23-1(a)(6), 40-23-1(a)(8), 40-23-1(a)(10), 40-23-2(1), and 40-23-61(a)) (Adopted March 9, 1961, amended January 20, 1966, readopted through APA effective October 1, 1982, amended May 22, 1993, amended July 25, 1994)