

# PUBLICATION

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## Spotlight on Alabama: Retailers Will be Subject to Sales Tax Because of Deliveries into Local Jurisdictions

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For many years, retailers subject to Alabama's sales tax have correctly avoided collecting sales taxes for those Alabama cities and counties where the retailer is not located but where the retailer nevertheless makes deliveries and installations. Alabama retailers and their advisors have relied on *Yelverton's, Inc. v. Jefferson County* for the proposition that delivery into such a locality did not create sufficient nexus to force the retailer to collect sales taxes for the locality. The rule has been controversial and often criticized by the Alabama Department of Revenue (Department) and its Administrative Law Division. As many tax advisors familiar with the situation have expected, the Department has issued a new regulation designed to overturn the rule in *Yelverton's*.

Under new Rule 810-6-5-.04.02 delivery of goods in one's own vehicle (or the vehicle of an affiliated entity) will constitute nexus with the jurisdiction of delivery in Alabama. Presumably delivery by U.S. mail or common carrier still does not result in local jurisdiction nexus.

The new rule adopts the same standards for local nexus as those used to determine Alabama state nexus for out-of-state retailers under Rule 810-6-2-.90.01.

Both in-state and out-of-state retailers are to start collecting local city and county sales taxes under the standards of these new rules starting January 1, 2014.

Please contact one of the attorneys in the Firm's Tax Group if you wish to discuss these changes or other state and local tax matters.