

APA-1  
11/96

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-82-01

Rule Title: Declarations of Estimated Tax for Individuals

New;  Amend;  Repeal;  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 might result from the absence of the proposed rule?

N/A

Are all 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 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.

\*\*\*\*\*  
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 Reference Service.

Signature of certifying officer 

Date 4/21/14

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-82-.01

Rule Title: Declarations of Estimated Tax for Individuals

           New            Amend   X   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:**

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**ALABAMA DEPARTMENT OF REVENUE  
Individual & Corporate Tax Division**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

810-3-24.2-.02                      Qualified Investment Partnerships

**INTENDED ACTION:**        Amend an existing rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to allow an entity to make the asset test's calculations as of the beginning and end of each tax period, instead of making the calculations for each month within the tax period. This provides for consistency with the guidance provided in the 2012 instructions for Schedule QIP-C.

**RULE NO. & TITLE**

810-3-73-.01                      Withholding Exemption Certificates

**INTENDED ACTION:**        Amend an existing rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to clarify the requirement that an employer is required to request verification of all Forms A4E with the Department before taking effect.

**RULE NO. & TITLE**

810-3-82-.01                      Declarations of Estimated Tax for Individuals

**INTENDED ACTION:**        Repeal an existing rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to repeal the above rule due to the fact that the Section 40-18-82, Code of Alabama 1975 was repealed effective for tax years beginning December 31, 2009.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at 10:00 a.m. on Thursday, June 12, 2014, Room 1203, First Floor, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at [www.revenue.alabama.gov/rulehear.html](http://www.revenue.alabama.gov/rulehear.html).

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 during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

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

Thursday, June 12, 2014

**CONTACT PERSON AT AGENCY:**

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



Michael D. Gamble, Secretary  
Alabama Department of Revenue

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810-3-82-.01 Declarations of Estimated Tax for Individuals. (REPEALED)

(1) (a) Every individual is required to file Form 40-ES "Declaration of Estimated Tax" if reasonably expected to have net income from sources other than wages in excess of:

1. \$1,500 if single or married filing a separate return, or
2. \$3,000 if married filing a joint return.

(i) No substitute for Form 40-ES will be accepted unless prior approval has been obtained from the Department.

(ii) Payments must be accompanied by a properly completed Form 40-ES or 40-ES voucher in order to be properly credited.

(b) If the amount of estimated tax due under subparagraph (a) above is less than one hundred dollars (\$100), no declaration of estimated tax is required to be filed.

(c) Amounts included in composite returns filed under the provisions of S 40-18-176 shall not be included in income in computing the amount of estimated tax due under subparagraph (a) above.

(2) The declaration (Form 40-ES) required under paragraph (1) above shall be filed on or before April 15th of the taxable year, except:

(a) if the requirements of paragraph (1) are first met after April 1st and before June 2nd, Form 40-ES shall be filed on or before June 15th of the taxable year;

(b) if the requirements of paragraph (1) are first met after June 1st and before September 2nd, Form 40-ES shall be filed on or before September 15th of the taxable year;

(c) if the requirements of paragraph (1) are met after September 1st of the taxable year, Form 40-ES shall be filed on or before January 15th of the succeeding taxable year.

(3) A Taxpayer may elect to have all or part of an overpayment shown on the income tax return credited to a declaration of estimated tax. The amount indicated will be credited to the earliest installment of the declaration due on or after the date the return is filed. The election to credit an overpayment to estimated tax is irrevocable after the return is filed.

(4) Amounts paid on declarations of estimated tax, including overpayments credited from prior years, must be claimed as credits on the return for the tax year of the

declaration, and will not otherwise be refunded or credited.

(5) (a) If, at the time a declaration of estimated tax is required to be filed, a taxpayer is eligible to file a joint income tax return for the year of the declaration, a joint declaration may be made.

(b) The election to file a joint declaration does not require that a joint income tax return subsequently be filed for the year of the declaration.

(c) 1. If a joint declaration is filed, and separate returns are subsequently filed, the amount of estimated tax paid on the joint declarations may be divided between the spouses in any manner they choose. If no division is made by the spouses, the amounts paid on the declarations will be divided equally between the spouses.

2. In the event separate returns are filed, any applicable penalties for underestimation will be computed on each return after crediting the estimated payments as provided in section 1. above.

(6) (a) If, after a declaration of estimated tax is filed, the estimated liability changes, an amended declaration should be filed. An amended declaration may be made by filing Form 40-ES marked "Amended."

(b) 1. If the amended declaration indicates an increase in the estimated liability, payment should be submitted with the amended declaration in an amount equal to all payments that would have been due to date had the amount of the amended estimate been estimated originally.

(i) EXAMPLE: On April 15th, taxpayer filed a declaration of estimated tax in the amount of \$1,000. Payments of \$250 were made on April 15th and June 15th. On August 20th the taxpayer sold 100 acres of land. As a result of the gain on this sale, the taxpayer should reasonably expect his tax liability to be \$2,000 for the current taxable year. The taxpayer should file an amended declaration of estimated tax on or before September 15th and pay \$1,000 with the amended estimate (\$1,500 the amount of payments that would have been due, if the amended estimate had been originally estimated, less \$500 previously paid). He should pay \$500 on or before January 15th of the following year.

2. If the amended declaration results in a decrease in the estimated liability, the subsequent payments should be reduced accordingly.

(7) If a taxpayer files his income tax return for a taxable year on or before the fifteenth 15th day of the month following the close of the year, and pays in full the amount of tax shown by the return to be due, the return will be considered an amended declaration or original declaration which otherwise would have been due on that date.

(8) No declaration of estimated tax is required for estates, trusts, or partnerships.

However, a partner or beneficiary of an estate or trust must take into account the distributive share of such income in determining the requirements for filing a declaration and paying estimated tax.

(9) (a) An individual must file Form 40-ES for a period of less than one year, but four (4) or more months, if required to file an income tax return for such period, and can reasonably expect to have income during such period from sources other than wages, prorated by the ratio which the number of months in the taxable year bears to twelve (12), in excess of:

1. \$1,500 if single or married filing a separate return, or
2. \$3,000 if married filing a joint return.

(i) EXAMPLE: A single taxpayer is changing his taxable year, with the permission of the Department, from a fiscal year ending July 31 to a calendar year. A tax return would be required for the period August 1 through December 31. If the taxpayer can reasonably expect to have income from sources other than wages in excess of \$625 (5/12 of \$1,500) he is required to file Form 40-ES and pay the amount estimated in installments.

(b) If the requirements of subparagraph (a) are met on or before the 1st day of the 4th month, Form 40-ES must be filed on or before the 15th day of the 4th month of the taxable period. Payments on the declaration will be made in equal installments on the 15th day of the 4th, 6th, and 9th month of the taxable period (or as many of those dates as falls within the taxable period.) and the 15th day of the 1st month after the end of the taxable period.

1. EXAMPLE: For a taxable period January 1 through May 31, a Form 40-ES must be filed on or before April 15th and the amount estimated paid in two (2) equal installments on April 15th and June 15th.

2. EXAMPLE: For a taxable period January 1 through June 30, Form 40-ES must be filed on or before April 15th and the amount estimated paid in three (3) equal installments on April 15th, June 15th, and July 15th.

3. EXAMPLE: For a taxable period January 1 through October 31, Form 40-ES must be filed on or before April 15th and the amount estimated paid in four (4) equal installments on April 15th, June 15th, September 15th, and November 15th.

(c) If the requirements of subparagraph (a) above are met after the 1st day of the 4th month but before the 2nd day of the 6th month, Form 40-ES must be filed on or before the 15th day of the 6th month and the amount estimated paid in equal installments on the 15th day of the 6th and 9th month of the taxable period (or on as many of those dates as falls within the taxpayer period) and the 15th day of the 1st



months after the end of the taxable period.

1. EXAMPLE: For a taxable period January 1 through July 31, the requirement to file a declaration was first met on May 1st. Form 40-ES must be filed on or before June 15th and the amount estimated paid in two (2) equal installments on June 15th and August 15.

2. EXAMPLE: For a taxable period January 1 through November 30, the requirement to file a declaration was first met on May 15th. Form 40-ES must be filed on or before June 15th and the amount estimated paid in three (3) equal installments on June 15th, September 15th, and December 15th.

(d) If the requirements of subparagraph (a) are first met after the 1st day of the 6th month but before the 2nd day of the 9th month, Form 40-ES must be filed on or before the 15th day of the 9th month and the amount estimated paid in equal installments on the 15th day of the 9th month of the taxable period and the 15th day of the 1st month after the end of the taxable period.

1. EXAMPLE: For a taxable period January 1 through September 30, the requirement to file a declaration was met on July 30th. Form 40-ES must be filed on or before September 15th and the amount estimated paid in two (2) equal installments on September 15th and October 15th.

(e) If the requirements of subparagraph (a) are met after the 1st day of the 9th month of the taxable period, Form 40-ES must be filed on or before the 15th day of the 1st month after the end of the taxable period together with payment of the amount estimated.

(f) All declarations of estimated tax for a period of less than twelve (12) months should be clearly marked "Short Tax Period". The taxable period should be clearly indicated.

Author: Neal Hearn Ewell Berry  
Authority: §§ 40-2A-7(a)(5) and 40-18-82, Code of Alabama 1975  
History: Filed with LRS November 19, 1991, filed May 15, 1992, effective June 19, 1992