

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-8-7-.07

Rule Title: Application of the Tax

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 7/20/12

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-8-7-.07

Rule Title: Application of the Tax

New 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:

APA-2
11/96

**ALABAMA DEPARTMENT OF REVENUE
Business & License Tax Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-8-7-.01	Scope of Rules
810-8-7-.02	Definitions
810-8-7-.03	Exemptions
810-8-7-.04	Sales Subject to the Tax
810-8-7-.05	Producer's Responsibility to Collect and Remit the Tax
810-8-7-.06	Purchaser's Responsibility to Remit the Tax
810-8-7-.07	Application of the Tax
810-8-7-.08	Conversion of Cubic Yards to Tons

INTENDED ACTION: Adopt the above new rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rules to comply with the provisions of Act 2012-318 (Alabama Uniform Severance Tax).

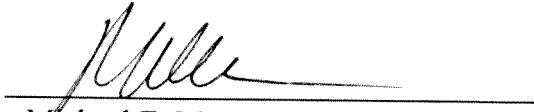
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Wednesday, September 12, 2012, in the Office of the Legal Division, Room 3114**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the **Deputy Commissioner of the Alabama Department of Revenue, Room 4112, 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:
Wednesday, September 12, 2012

CONTACT PERSON AT AGENCY:

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



Michael E. Mason, Deputy Commissioner
Alabama Department of Revenue

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810-8-7-.07 Application of the Tax. **(NEW RULE)**

(1) **MANUFACTURED OR PROCESSED SEVERED MATERIALS:** Severed materials are subject to the severance tax if used by the operator, producer or purchaser in a manufacturing process to produce a product which is later sold by the operator, producer or purchaser as tangible personal property. A producer/first purchaser must measure or otherwise calculate the tons of each severed natural mineral contained in the sold product and report that amount on the severance tax return.

(2) **MATERIALS SOLD FOR USE OUTSIDE THE STATE:**

(a) Materials sold to a purchaser for use outside the State must be reported by the producer on the monthly severance tax return.

(b) If such materials are not transported on the public roads in the State, the producer may subtract the quantities of such materials from the total sales amounts shown on the monthly tax return in calculating the taxable quantities.

(c) Materials must be loaded into a non-highway conveyance at the producer's site to qualify for the exemption. If the materials are transported any distance on the public roads in the State, the tax is due and no exemption may be claimed.

(d) The producer must maintain records documenting the method of transportation of all materials for which an exemption is claimed.

(e) Such materials are subject to audit verification.

(3) **MATERIALS STOCKPILED BY THE PRODUCER:**

(a) Materials which are moved from one place to another on the same site or transported to another site owned by the same operator or producer are not subject to the severance tax while in the possession of the producer.

(b) The materials become subject to the severance tax and must be reported on the monthly tax returns at the time the products are sold, delivered or transferred to a purchaser and is transported on the public roads of this State.

(4) **MATERIALS USED BY THE PRODUCER/PURCHASER:**

(a) Severed materials which are used by the producer/first purchaser and never transferred or sold, as tangible personal property, are not subject to the severance tax; including severed materials which are used by the producer to perform a furnish-and-install contract.

(b) Materials not from a commercial quarry, such as from a borrow pit, which are both, severed and used by a producer, operator, or any other person for fill, are not subject to the severance tax. The severance tax is due if any severed products are sold by the producer and used for fill by a purchaser.

(5) **MATERIALS TRANSFERRED WITHOUT SALE:**

(a) Severed materials which are donated or otherwise transferred without sale, in a bona fide transaction, to an unrelated person for no consideration, are not subject to the severance tax provided such materials are not transported on the public roads of this State.

(b) Materials which are transferred for any consideration or economic benefit, such as in a barter transaction, are deemed to be sold for severance tax purposes.

(c) Materials transferred from a producer to a related person, such as a parent, subsidiary or sister company, are deemed to be sold at the time of the transfer.

(6) **COMMINGLED MATERIALS:**

(a) If natural minerals severed from more than one county are commingled at one site, the tax shall be allocated to the individual counties using the first-in, first-out (FIFO) accounting method.

(b) Severed materials which are sold from the site must be allocated between counties in the same order that the materials are received at the site.

(c) Producers/first purchasers receiving exempt product must keep records to show the amount of natural minerals stockpiled by county, the withdrawal date by county, and the amount of taxes paid by county.

Author: Alisa G. Johnson

Authority: Title 40, Code of Alabama 1975, Sections 40-2A-7(a)(5) and 40-13-55

History: