

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-29-.07

Rule Title: Fiduciary Income 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 7/21/14

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-29-.07

Rule Title: Fiduciary Income Tax

New Amend Repeal Adopt by Reference

- NO This rule has no economic impact.
 YES 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

810-3-29-.07 . Fiduciary Income Tax

INTENDED ACTION: Adopt a new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule to provide guidelines regarding the treatment of resident estates and trusts versus nonresident estates and trusts.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:30 p.m. on Wednesday, September 10, 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 ww.revenue.alabama.gov/rulehear.html.

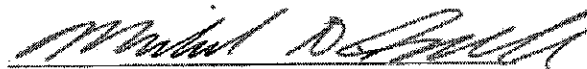
All interested parties may present their views in writing to the Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132 at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, September 10, 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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(1) For purposes of the taxes imposed upon the income of estates and trusts and paid by the fiduciary thereof, estates and trusts are classified as either resident or nonresident.

(2) **Resident Estate or Trust**

(a) "Resident estate" means the estate of an Alabama resident decedent.

(b) A "resident trust" means any trust created: (1) by the will of an Alabama resident decedent or (2) by a person who was an Alabama resident at the time such trust became irrevocable and that has a fiduciary or beneficiary that either resides in or is domiciled in Alabama for more than seven (7) months during the respective taxable year.

(c) The fiduciary of a trust is domiciled in Alabama if the individual, or group of individuals, who carry out the fiduciary responsibilities of the trust are located in Alabama. If the trustee is a corporate fiduciary engaged in interstate trust administration, the fiduciary is treated as being domiciled in Alabama if the trustee conducts the major part of its administration of the trust in Alabama.

(d) The fiduciary of a resident estate or trust must file a return: (1) if the estate or trust has net income over \$1,500 for the taxable year or (2) if the estate or trust is claiming a qualifying net operating loss for the year.

(e) Resident estates and trusts must report all income from all sources and are allowed a credit for taxes paid to other states.

(3) **Nonresident Estate or Trust**

(a) "Nonresident estate or trust" means any estate or trust that does not meet the criteria of a resident estate or trust.

(b) The fiduciary of a nonresident estate or trust must file a return if the estate or trust generates income from Alabama sources.

(c) Nonresident estates or trusts must report Alabama source income in accordance with Section 40-18-14, Code of Alabama, 1975.

Author: Dennice Hillard, CGFM, CPA

Authority: Sections 40-2A-7(a)(5) and 40-18-29, Code of Alabama 1975

History: