

APA-1

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-6-5-.02.02

Rule Title: Informational Report for Entities Having a Statutory Exemption from the Payment of Sales, Use, and Lodgings Taxes

New; Amended; Repealed; Adopt by Reference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 result from the absence of the proposed rule? N/A

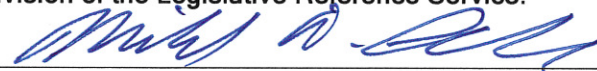
Are all the facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

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 06/15/2016

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-5-.02.02

Rule Title: **Informational Report for Entities Having a Statutory Exemption from the Payment of Sales, Use, and Lodgings Taxes**

 New x 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:

**ALABAMA DEPARTMENT OF REVENUE
Sales and Use Tax Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-6-5-.02.02 Informational Report for Entities Having a Statutory Exemption
from the Payment of Sales, Use, and Lodgings Taxes

INTENDED ACTION: Amend rule

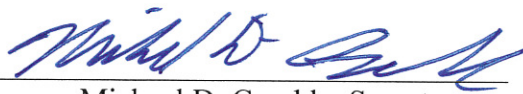
SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to correct a discrepancy caused by a statement in the rule that denies an exemption certificate to statutorily exempt entities which collect and remit sales tax.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Wednesday, August 10, 2016, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at <http://www.revenue.alabama.gov/analysis/rules.cfm>.

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 following publication of the notice up until the conclusion of the hearing. Interested parties may also appear at the hearing to present their views.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Wednesday, August 10, 2016

CONTACT PERSON AT AGENCY:
Timothy Sanders
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael D. Gamble, Secretary
Alabama Department of Revenue

810-6-5-.02.02 Informational Report for Entities Having A Statutory Exemption from The Payment Of Sales, Use, And Lodgings Taxes.

(1) The term "state sales tax" as used in this rule shall mean the privilege or license tax levied in Section 40-23-2, Code of Alabama, 1975, upon the sale of tangible personal property in Alabama.

(2) The term "state use tax" as used in this rule shall mean the excise tax levied in Sections 40-23-61 and 40-23-63, Code of Alabama, 1975, upon the storage, use, or other consumption of tangible personal property in Alabama.

(3) The term "state lodgings tax" as used in this rule shall mean the transient occupancy tax levied in Section 40-26-1, Code of Alabama, 1975, upon all charges made for the use of rooms, lodgings, or other accommodations in Alabama.

(4) Persons or companies, including but not limited to those cited in Title 40, Chapter 9, other than governmental entities, which have a statutory exemption from the payment of Alabama sales, use, or lodgings taxes, shall be required to obtain a sales and use tax certificate of exemption to be renewed on an annual basis by applying for same on a form provided by the Department. Upon receipt of a properly completed application and approval of same by the Department, the applicant will be issued a state sales and use tax certificate of exemption (Form STE-1) which can be copied, completed, and provided to vendors as documentation for tax-exempt purchases. **A form STE-1 will not be issued to persons, firms, or corporations who have a sales tax license pursuant to Section 40-23-6, Code of Ala. 1975.** (See Rule 810-6-5-.02.01, entitled *State Sales and Use Tax Certificate of Exemption for Entities Having a Statutory Exemption from the Payment of Sales, Use and Lodgings Taxes.*)

(5) A certificate of exemption shall be valid for one year from the date of issuance and shall be renewed annually each subsequent year before the end of the month in which the certificate expires. Any person or company that fails to obtain or renew a certificate of exemption prior to its expiration will no longer be allowed to make tax exempt purchases or be provided tax-exempt rooms, lodgings or other accommodations until such time as the application for renewal is made, and the certificate is reinstated.

(6) All persons or companies required to obtain a certificate of exemption as described herein, ~~shall be~~ **are** required to file an informational report with the Department.

(a) Such **required** informational reports shall be a prerequisite for the renewal of certificates of exemption.

(b) Any person or company that does not comply with the reporting requirements may be barred from the use of any certificate of exemption until such time as the required informational report is filed with the Department, not to exceed six

months for the first offense and not to exceed one year for the second offense. On the third offense, such person or company shall be barred from the use of any certificate of exemption until such time as the person or company is authorized to obtain a certificate of exemption pursuant to a joint resolution by the Alabama legislature. Pursuant to this provision, such person or company will not be able to renew the certificate until the time period for which they are barred from such use has expired. However, this provision does not void any properly issued certificate during the period for which it was issued.

(7) The Department may assess any person or company with state and local sales, use, and lodgings tax for any transaction conducted with a certificate of exemption not properly accounted for and reported in accordance with the provisions of this rule.

(8) Any person or company required to file an informational report as a prerequisite for the renewal of a certificate of exemption shall prepare and forward to the Department, within the time prescribed, the Report of Exempt Purchases for the fiscal year (October 1 through September 30) using forms prescribed by the Department.

(9) For persons or companies having a Certificate of Exemption issued by the Department effective on or after January 1, 2016, and required to meet the filing requirement, the first report required to be filed will be for the fiscal year ended September 30, 2017.

(a) Thereafter, informational reports will be required to be filed by October 31, 2021, and each quadrennial October 31st thereafter for the prior year period from October 1 through September 30. The Report of Exempt Purchases shall require the following information:

1. Exemption certificate number, federal employer identification number, legal name, trade or business name, and complete address,
2. Fiscal year covered by the report (October 1 through September 30),
3. Whether the certificate holder is a for-profit or non-profit entity,
4. Certificate holders NTEE (National Taxonomy of Exempt Entities) Code on file with the IRS, or equivalent if for-profit,
5. Revenue reported on line 12 of IRS Form 990, Return of Organization Exempt from Income Tax, if certificate holder is a non-profit entity required to file Form 990, or total gross receipts, as reported on federal income tax return, times the Alabama apportionment factor if certificate holder is a for profit entity. For-profit entities not required to complete an unconsolidated federal income tax return or Alabama apportionment schedule must prepare the appropriate pro-forma return and/or schedule for this calculation. If a certificate holder is a nonprofit entity and is not required to file Form 990, such entity shall disclose its gross receipts for its most recent accounting

year,

6. Expenses reported on line 18 of IRS Form 990, Return or Organization Exempt from Income Tax, if certificate holder is a non-profit entity required to file Form 990, or total expenditures, as reported on federal income tax return, times the Alabama apportionment factor if certificate holder is a for profit entity. For-profit entities not required to complete an unconsolidated federal income tax return or Alabama apportionment schedule must prepare the appropriate pro-forma return and/or schedule for this calculation. If the certificate holder is a non-profit entity and is not required to file Form 990, such entity shall disclose its total expenditures for its most recent accounting period,

7. A breakdown, by applicable tax rate, of the total purchase price of tangible personal property purchased or consumed in Alabama during the tax reporting period for which the exemption certificate was valid,

8. Total amount of charges resulting from the use of rooms, lodgings, or other accommodations in Alabama for which the exemption certificate was used to obtain tax-exempt lodgings, and

9. Signature, printed name, title, telephone number of certificate holder or certificate holder's duly authorized representative and the date signed.

10. Informational reports shall be filed electronically through the Department's electronic filing system, My Alabama Taxes.

Author: Ginger Buchanan

Statutory Authority: ~~Code of Ala. 1975, §§ Sections~~ 40-2A-7(a)(5), 40-23-31, 40-23-120, Code of Alabama 1975.

History: New Rule: Filed April 20, 2016, effective June 4, 2016.