

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-8-1-26

Rule Title: Licensed Distributor Refund for Sales to Licensed Exempt Entities

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 Michael E. Mason

Date 3/19/2012

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-8-1-.26

Rule Title: Licensed Distributor Refund for Sales to Licensed Exempt Entities

X 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:**

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

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-8-1-.04	Sales of Motor Fuel in the Bulk Transfer/Terminal System
810-8-1-.13	Miscellaneous Refund Provisions
810-8-1-.14	Loss of Taxable Fuel Petition for Refund for Losses and Contamination of Motor Fuel
810-8-1-.21.01	Refund of Diesel Fuel Excise Tax for Off-Road Use
810-8-1-.23	Exempt Entity Petition for Refund for Tax-Paid Gasoline & Undyed Diesel Fuel
810-8-1-.26	Licensed Distributor Refund for Sales to Licensed Exempt Entities
810-8-1-.27	Licensed Exporter Refunds
810-8-1-.54	Electronic Filing of Returns and Payments
810-8-1-.57	Net Gallons
810-8-1-.58	Motor Fuel Floor-Stocks Tax Return
810-8-1-.59	Motor Fuel Back Up Tax Report
810-8-1-.63	Supplier Twenty Day Notification

INTENDED ACTION: Adopt the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above new rules to comply with the provisions of Act 2011-565 known as the Alabama Terminal Excise Tax Act which becomes effective October 1, 2012.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **10:00 a.m. on Wednesday, May 16, 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, May 16, 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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810-8-1-26 Licensed Distributor Refund for Sales to Licensed Exempt Entities. (NEW RULE)

(1) A licensed distributor who has sold gasoline and/or undyed diesel fuel without the state excise tax to an exempt entity that is licensed with the department in accordance with Section 40-17-332(j), Code of Alabama 1975, can file for a refund on forms prescribed by the department. However, sales of taxable gasoline and diesel fuel to licensed exempt entities that occur at a fixed retail pump available to the general public and that are charged to a credit card issued to the exempt entity are not allowed to be claimed on the Licensed Distributor Refund form. These sales must be claimed on the Credit Card Issuer Refund form. However, the following sales to licensed exempt entities can be included on the Licensed Distributor Refund form:

(a) Distributor lockbox sales at fixed pumps not available to the general public, or

(b) Sales from a licensed distributor owned retail station on credit, not with a credit card, and billed directly to the licensed exempt entity by the licensed distributor.

(2) A summary listing of sales to licensed exempt entities must be attached to the petition for refund. The listing must include the licensed exempt entity name, exempt license number, and the number of gasoline and/or undyed diesel fuel gallons sold.

(3) The petition must be filed on a monthly basis with a separate petition for each month and cannot include sales for any other period.

(4) Licensed distributors will also be eligible to receive an administrative allowance of two cents (\$.02) on each gallon of gasoline and diesel fuel claimed on sales to licensed exempt entities. The administrative allowance does not cover sales of taxable gasoline and diesel fuel to exempt entities that occur at a fixed retail pump available to the general public and that are charged to a credit card issued to the exempt entity.

(5) The statute of limitations for filing a refund is within two (2) years from the date that the fuel was sold to the licensed exempt entity.

Author: Steve DuBose

Authority: Sections 40-2A-7(a)(5), 40-17-323 and 40-17-329(b), Code of Alabama 1975

History: