

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-74-.01

Rule Title: Withholding Returns and Payments

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?

Yes

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 3/20/15

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-74-.01

Rule Title: Withholding Returns and Payments

 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:**
Reduce income tax filing fraud and the Revenue Departments data processing costs by obtaining W2's from employers electronically which will reduce identity theft and speed up the refund process.
2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:**
This is the most effective and timely manner in which to receive employer W2's and match these W2's to the individual income tax returns that are electronically filed in order to reduce identity theft and speed up the refund process.
3. **EFFECT OF THIS RULE ON COMPETITION:**
NA
4. **EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**
NA
5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:**
NA
6. **SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:**
NA

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:
NA
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
NA
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
Reduce fraudulent filings.
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
None
11. OTHER COMMENTS:
By receiving the W2's electronically, we can further reduce income tax fraud by matching the W2's filed by employers to the W2's reported on individual income tax returns.

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

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-3-75-.01 Withholding Statement Furnished Employees

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to remove obsolete language and add FEIN requirement on employee wage and tax statement.

RULE NO. & TITLE

810-3-75-.04 Voluntary Withholding

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes amend the above rule to remove obsolete verbiage and to provide that the new due date for the W2's is January rather than February.

RULE NO. & TITLE

810-3-75-.05 Third Party Reporting Requirements

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to provide that the new due date for W2's is January rather than February.

RULE NO. & TITLE

810-3-78-.01 Credit for Tax Withheld

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to remove obsolete references to Form A-2 and Form 99.

RULE NO. & TITLE

810-3-74-.01 Withholding Returns and Payments

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The purpose of this action is to clarify that employers making payments of \$750 or more to the Department must do so electronically and that employers electronically filing must submit their W2's electronically to the Department as well.

RULE NO. & TITLE

810-3-75-.03 Annual Returns of Withholding Tax Information

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The purpose of this action is to require employers who currently file withholding tax returns and payments electronically to also file their W2's electronically.

RULE NO. & TITLE

810-3-24.1-.01 Composite Returns of Subchapter K Entities

INTENDED ACTION: Repeal rule

SUBSTANCE OF PROPOSED ACTION: The purpose of this action is to repeal the above rule due to the fact that it was superseded by Rule 810-3-24.2-.01. The former rule was applicable when the filing of a composite return was optional for partnerships with Nonresident partners, and is no longer applicable because of law changes. The latter rule correctly reflects today's law regarding composite returns/payments. As outlined in Ala. Code Section 40-18-24.2, partnerships with nonresident partners are required to file a composite return and remit payment on the income that is distributed to such partners.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **1:30 p.m. on Wednesday, May 13, 2015, 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://revenue.alabama.gov/analysis/upcoming-rule-hearings.cfm>

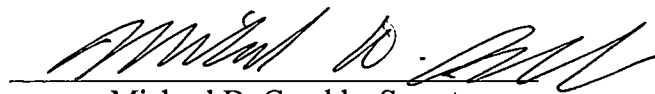
All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing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

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, May 13, 2015

CONTACT PERSON AT AGENCY:

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

A handwritten signature in black ink, appearing to read "Michael D. Gamble", is written over a horizontal line.

Michael D. Gamble, Secretary
Alabama Department of Revenue

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810-3-74-.01 Withholding Returns and Payments.

(1) Every employer required to deduct and withhold tax from the wages of employees under §40-18-71, Code of Alabama 1975, and those persons required to withhold income tax on proceeds of a wager pursuant to §40-18-91 and payers who have elected to voluntarily withhold income tax, shall remit such withheld taxes to the Department as follows:

(a) Form A-6 must be filed and the tax withheld remitted by every withholding tax agent if the amount withheld in either the first or second month of any calendar quarter exceeds one thousand dollars (\$1,000.00). Form A-6 must cover only one month. Monthly withholding tax returns (Form A-6) and monthly withholding tax payments are required only for those months in which the tax withheld in that month exceeds one thousand dollars (\$1,000.00). Amounts withheld which do not exceed one thousand dollars may also be remitted monthly; however, such payments must be accompanied by Form A-6. Unless prior approval has been obtained from the Department of Revenue, only one payment and one Form A-6 may be filed each month.

(b) Form A-1 "Employer's Quarterly Return of Income Tax Withheld" must be filed by every withholding tax agent and payment made of the total amount of tax withheld, less any tax previously remitted on Form A-6, on or before the last day of the month following the end of the calendar quarter. Form A-1 must accompany all quarterly payments of amounts withheld. Unless prior approval has been obtained from the Department of Revenue, only one payment and one Form A-1 may be filed each quarter.

(c) Unless prior approval has been granted by the Department, employers and withholding tax agents must use preprinted Forms A-1 and A-6 provided by the Department. Employers and withholding tax agents must contact the Department in order to obtain approval to produce their own forms.

(2) Form A-1 must not include more than one calendar quarter of the year. A portion of one calendar quarter may not be included with a portion of another calendar quarter in a single return, even though the entire period does not exceed three months.

(3) A withholding tax agent who temporarily ceases to withhold tax, including an employer engaged in seasonal activities, shall continue to file returns unless the withholding tax account is made inactive. A quarterly return shall be filed by the employer or withholding tax agent for each quarter even though no tax has been withheld.

(4) If an employer or withholding tax agent ceases to pay wages or withhold tax, the last Form A-1 or Form A-6 filed must be marked "Final Return" in the space provided on the return. "

(5) Employers or withholding tax agents may submit their monthly withholding tax returns (Form A-6) and payments and their quarterly withholding tax returns (Form A-1) and payments electronically. Electronic returns and payments must be submitted through the Department's website ~~web site or phone system provided by the Department~~. Employers or withholding tax agents making withholding tax payments of \$750 or more are required to file the payment and return electronically.

(6) Employers or withholding tax agents, who are required to submit their withholding tax electronically ~~via electronic funds transfer (EFT)~~, must also file their withholding tax returns electronically. Withholding tax payments may be voluntarily submitted electronically ~~voluntarily through EFT~~; however, if the payment is submitted electronically ~~through EFT~~, the withholding tax return must also be submitted electronically. Electronic payments submitted without an electronic return are subject to the failure to timely file return penalty. Employers and withholding tax agents who are not required to file electronically ~~via EFT~~ and choose to send a check must also send an approved paper withholding tax coupon.

(7) Accountants or tax filing services who file withholding tax returns and payments on behalf of employers must register with the Department as a bulk filer and must utilize their bulk filer registration when filing withholding tax returns on behalf of their clients.

(8) Employers or withholding tax agents who electronically file their monthly or quarterly withholding tax returns and payments during the year are also required to submit their wage and tax information electronically through the Department's website as required by Rule 810-3-75-.03.

Author: Ewell Berry-Neal Hearn and Kathleen Abrams
Authority: §§ 40-2A-7(a)(5), 40-18-74 and 40-18-91, Code of Alabama 1975
History: Adopted through APA September 30, 1982.
Amended June 17, 1988.
Amended: Filed with LRS March 20, 1989, effective April 24, 1989.
Amended: Filed July 10, 2003, effective August 14, 2003.
Amended: Filed July 22, 2004, effective August 26, 2004.
Amended: Filed March 3, 2008, effective April 7, 2008.