

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-75-.03

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

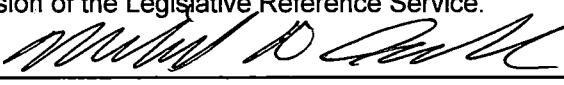
Does the proposed rule have any economic impact?

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: 810-3-75-.03

Rule Title: Annual Returns of Withholding Tax Information

 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 also 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 by detecting refund fraud sooner.
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



Michael D. Gamble, Secretary
Alabama Department of Revenue

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

(1) On or before the last day of January each year, every withholding tax agent who has paid Alabama wages of \$1,500 or more or has withheld Alabama income tax, must file with the Department of Revenue the wage and tax information as described in Rule 810-3-75-.01 for the previous calendar year. This submission consists of two parts:

(a) Form A-3, Annual Reconciliation of Alabama Income Tax Withheld, and

(b) A copy of Form W-2 for each employee (see Rule 810-3-75-.01), and/or a copy of each statement required by Rule 810-3-75-.01 to be furnished to a recipient of proceeds from a wager subject to withholding pursuant to §40-18-91, Code of Alabama 1975. If tax has been withheld from a non-wage payment, a copy of the Form 1099 used to report this payment must be submitted. See Rule 810-3-75-.04.

1. All employers and withholding agents submitting 25 or more Forms W-2 and/or information returns, if Alabama income tax has been withheld, must submit this information and Form A-3 electronically through the Department's web site.

(i) Withholding agents submitting less than 25 wage and tax statements and/or information returns may voluntarily submit this information electronically.

~~(ii) If a withholding tax agent is not required to file wage and tax information electronically and elects to send copies of Forms W-2, an adding machine tape or other tabulation of amounts withheld, as shown on Forms W-2, must be included. Employers or withholding 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.~~

(2) Penalties.

(a) Any person who fails to comply with the requirements of this section shall be subject to the penalties provided for in §40-2A-11, Code of Alabama 1975.

(b) In addition to the penalties provided for in §40-2A-11, the \$50 civil penalty provided for in §40-29-74, Code of Alabama 1975, shall also apply.

Author: Neal Hearn

Authority: §§40-2A-7(a)(5), 40-2A-11, 40-18-75, 40-18-91, and 40-29-74,
Code of Alabama 1975

History: Filed with LRS December 1, 1987.
Amended: Filed March 20, 1989, effective April 24, 1989.
Amended: Filed May 3, 2000, effective June 7, 2000.
Amended: Filed September 6, 2006, effective October 11, 2006.
Amended: Filed September 15, 2014, effective October 20, 2014.
Amended: Filed January 27, 2015, effective March 3, 2015.