

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-75-.04

Rule Title: Voluntary Withholding

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

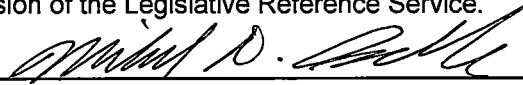
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

\*\*\*\*\*  
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.

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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

APA-6  
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-75-.04

Rule Title: Voluntary Withholding

           New   X   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:

APA-2  
11/96

**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



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Michael D. Gamble, Secretary  
Alabama Department of Revenue

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810-3-75-.04 Voluntary Withholding.

(1) Alabama income tax is not required to be withheld from retirement distributions, pensions, interest payments or other payments which are not wage payments. However, voluntary withholding of Alabama income tax from such payments is permissible. If the election to voluntarily withhold Alabama income tax is made, procedures outlined in this regulation rule must be followed.

(2) Remitting Tax Withheld. Tax withheld voluntarily must be remitted to the Department in the same manner and at the same time as described in §40-18-74, Code of Alabama 1975.

(3) Statement To Be Furnished Recipient. On or before January 31 of the year following a non-wage payment from which Alabama income tax was voluntarily withheld, the payer shall issue the recipient a Form 1099 statement showing the following information:

(a) Amount of payment.

(b) Amount of Alabama income tax withheld.

(c) Amount of federal income tax withheld.

(d) Name, address and social security number of recipient.

(e) Payer's name, address, Alabama withholding tax account number and social security number or federal identification number.

~~(4) (a) The statement required in paragraph (3) above, may be prepared on Form 99, copies of which are available on request from the Department.~~

~~(b) In lieu of Form 99, the combination state and federal Form 1099 may be used. If federal forms are used, such forms must contain the same information as described above in paragraph (3).~~

~~(c) Payers of non-wage payments may elect to produce their own forms. In such cases prior approval from the Department must be obtained. Specifications and instructions for producing such forms may be obtained from the Department.~~

~~(5) (4) Statement To Be Furnished Department.~~

(a) On or before the last day of ~~February~~ January of the year following a non-wage payment from which Alabama income tax was voluntarily withheld, the payer shall file with the Department a copy of the statement described above in paragraph (3). Such statement must be accompanied by Form A-3, Annual Reconciliation of Alabama

Income Tax Withheld. This statement must be filed in the same manner and at the same time as described in §40-18-75.

(b) If Alabama income tax has been withheld from wages and reported on Form W-2 and also withheld from non-wage payments and reported on ~~Form 99 or~~ Form 1099, such statements must be submitted in a combined report with the Form A-3 **as detailed in Rule 810-3-75-.03.**

Author: **Ewell F. Berry, Ann F. Winborne, CPA Neal Hearn**  
Authority: §§ 40-2A-5(a)(5) and 40-18-75, Code of Alabama 1975  
History: Filed April 21, 1993, effective November 6, 1993.  
Amended: Filed July 26, 1999, effective August 30, 1999.