

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-5-.27.01

Rule Title: Nursing Facility Tax

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 

Date 7/20/11

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-5-27.01

Rule Title: Nursing Facility Tax

 New X Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE: This proposed amendment updates the rule in accordance with the amendments made to Sections 40-26B-22 and 40-26B-23 under the provisions of Act 2011-614 to change the monthly return (statement) and payment due date from the tenth day of the month next succeeding the month in which the tax accrues to the twentieth day of the month, effective for the filing period of September 1, 2011.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

It utilizes the Department's existing manuals and mailing or e-mail distribution lists to disseminate the information.

3. EFFECT OF THIS RULE ON COMPETITION: N/A

4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: N/A

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: N/A

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

The Department has the revenue 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: N/A
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
N/A
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED: N/A
11. OTHER COMMENTS: N/A

APA-2
11/96

ALABAMA DEPARTMENT OF REVENUE
Sales, Use & Business Tax Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE:

810-6-5-.26

Utility Privilege or License Tax

INTENDED ACTION:

Amend the above rule

SUBSTANCE OF PROPOSED ACTION: Under the provisions of Section 40-21-85, Code of Alabama 1975, Utility Privilege License Tax, a taxpayer whose average monthly utility privilege tax liability was at least \$10,000 for the preceding calendar year is required to remit estimated payments for the current month's liability in an amount at least equal to the actual tax liability for the same calendar month of the preceding year. Section 40-21-101 specifies that the Utility Service Use Tax is supplemental to and complementary with the utility gross receipts tax. The amount of the estimated payment required for utility privilege license tax and utility excise tax has previously been interpreted to be the amount of the actual payment made to the department on the prior year's return. The proposed amendment would require that the estimated payment equal the tax liability for the same calendar month of the preceding year, determined by the application of rates against gross sales net of any collection allowance, but without any consideration of the prior or current estimated payments reported on that return. This is accomplished by amending paragraph (8)(g)1.(iii) to instruct the taxpayer to report the amount from line 7 on the utility privilege license tax return filed for the same month of the preceding year and paragraph (8)(g)2.(iii) to instruct the taxpayer to report line 5 on the utility excise tax return filed for the same month of the preceding year.

RULE NO. & TITLE:

810-6-5-.26.01

Mobile Communication Services Tax

INTENDED ACTION:

Amend the above rule

SUBSTANCE OF PROPOSED ACTION: Under the provisions of Section 40-21-123, Code of Alabama 1975, which specifically incorporates the administrative procedures set forth in Section 40-21-85, a taxpayer whose average monthly mobile communication services tax liability was at least \$10,000 for the preceding calendar year is required to remit estimated payments for the current month's liability in an amount at least equal to the actual tax liability for the same calendar month of the preceding year. The amount of the estimated payment required for mobile communication services tax has previously been interpreted to be the amount of the actual payment made to the department on the prior year's return. The proposed amendment would require that the estimated payment equal the tax liability for the same calendar month of the preceding year, determined by the application of rates against taxable receipts, net any applicable collection allowance, without any consideration of the prior or current estimated payments reported on that return. This is accomplished by amending paragraph (18)(a)(3) to instruct the taxpayer to report the amount from line 4 on the mobile communication services tax return filed for the same month of the preceding year.

RULE NO. & TITLE:

810-6-5-.26.02

Utility Tax Direct Pay Permit

INTENDED ACTION: Amend the above rule

SUBSTANCE OF PROPOSED ACTION: Under the provisions of Section 40-21-85, Code of Alabama 1975, Utility Privilege License Tax, a taxpayer whose average monthly utility privilege tax liability was at least \$10,000 for the preceding calendar year is required to remit estimated payments for the current month's liability in an amount at least equal to the actual tax liability for the same calendar month of the preceding year. The amount of the estimated payment required for utility privilege license tax has previously been interpreted to be the amount of the actual payment made to the department on the prior year's return. The proposed amendment would require that the estimated payment equal the tax liability for the same calendar month of the preceding year, determined by the application of rates against taxable purchases, without any consideration of the prior or current estimated payments reported on that return. This is accomplished by amending paragraph (4)(c) to instruct the taxpayer to report the amount from line 5 on the utility privilege license tax return filed by the direct pay permit holder for the same month of the preceding year.

RULE NO. & TITLE:
810-6-5-.27.01 Nursing Facility Tax

INTENDED ACTION: Amend the above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to comply with Act 2011-614 which changed the monthly return (statement) and payment due date from the tenth day of the month next succeeding the month in which the tax accrues to the twentieth day of the month, effective for the filing period of September 1, 2011.

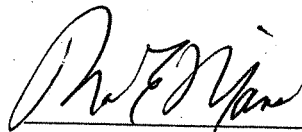
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 10:00 a.m. on Thursday, September 8, 2011, in the Office of the Legal Division, Room 3114, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

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:
Thursday, September 8, 2011

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

810-6-5-.27.01 Nursing Facility Tax.

(1) The term "nursing facility tax" as used in this regulation shall mean the privilege tax levied in Section 40-26B-21, Code of Alabama 1975, upon the business activities of nursing facilities in Alabama.

(2) Unless otherwise defined herein, the definitions of terms set forth in Section 40-26B-20, Code of Alabama 1975, are incorporated by reference herein.

(3) The nursing facility tax shall be due and payable in monthly installments on or before the ~~tenth~~ twentieth day of the month next succeeding the month in which the tax accrues. Every nursing facility shall prepare and forward to the Department, within the time prescribed by law, a nursing facility tax return for each calendar month using forms furnished by the Department and shall pay to the Department the amount of tax shown to be due. A separate nursing facility tax return shall be filed for each nursing facility location.

(4) Nursing facility tax returns shall require the following information:

(a) Taxpayer's tax account number, legal name, and complete address,

(b) Period covered by the return and due date of the return,

(c) The number of patient days utilized for the month,

(d) The number of patient days available for the month,

(e) The percent of occupancy,

(f) The number of licensed beds, if any, added since July 1, 1991, provided the monthly occupancy rate has not equaled or exceeded 85 percent since such beds were added,

(g) Number of licensed beds as of the last day of the month covered by the return excluding any licensed beds, if any, added since July 1, 1991, provided the monthly occupancy rate has not equaled or exceeded 85 percent since such beds were added,

(h) Total number of licensed beds,

(i) Tax due,

(j) Penalties due, if applicable,

(k) Interest due, if applicable,

- (l) Credits claimed, if any,
- (m) Total amount due,
- (n) Total amount remitted,
- (o) An indication if payment of tax is made through electronic funds transfer (EFT), and
- (p) Taxpayer's signature, title, and date signed.

(5) The nursing facility tax shall be administered and the tax shall be collected in accordance with the uniform procedures set forth in Title 40, Code of Alabama 1975, along with the procedures outlined in Sections 40-26B-20, et seq. No discount is allowed for timely payment of nursing facility tax.

Author: **Ginger Buchanan** ~~**Dan DeVaughn**~~

Authority: Sections 40-2A-7(a)(5), 40-26B-23(a), and 40-26B-24(c)
Code of Alabama 1975

History: Filed with LRS December 18, 1995. Certification filed February 26, 1996, effective April 1, 1996.