

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-61-.02

Rule Title: Credits for Contributions to Scholarship Granting Organizations (SGOs)

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

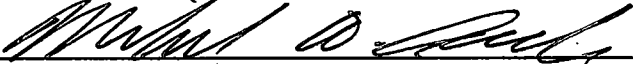
Does the proposed rule have any economic impact?

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 7/17/15

APA-2
11/96

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

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-2-8-.16 Alabama Requirements for Mandatory E-File of Business Privilege
Tax Returns

INTENDED ACTION: Adopt new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule to explain the electronic filing mandate requirements for business privilege tax returns prepared by financial institution groups.

RULE NO. & TITLE

810-3-61-.01 Definition of Terms and Phrases used in Connection with the Scholarship
Program
810-3-61-.02 Credits for Contributions to Scholarship Granting Organizations (SGOs)
810-3-61-.03 Application of Scholarship Granting Organizations (SGOs) for
Participation in the Scholarship Program
810-3-61-.04 Receipt, Maintenance and Disbursement of Scholarship Funds by
Scholarship Granting Organizations (SGOs)
810-3-61-.05 Annual Report of Scholarship Granting Organizations (SGOs)
810-3-61-.06 Notice of Nonpublic School to the Department of its Intention to
Participate in the Scholarship Program
810-3-61-.07 Continuing Eligibility of Scholarship Granting Organization (SGO) to
Participate in the Tax Credit Scholarship Program

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rules to comply with the provisions of Act 2015-434, concerning Scholarship Granting Organizations (SGOs).

RULE NO. & TITLE

810-3-61-.08 Percentage of Low-Income Eligible Students in a County

INTENDED ACTION: Repeal rule

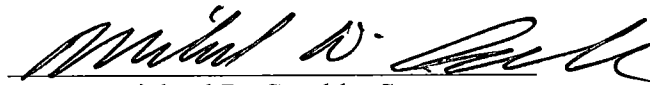
SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rule to comply with the provisions of Act 2015-434, concerning Scholarship Granting Organizations (SGOs).

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Wednesday, September 9, 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, September 9, 2015

CONTACT PERSON AT AGENCY:
Patricia Thomas
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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10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-61-.02

Rule Title: Credits for Contributions to Scholarship Granting Organizations (SGOs).

 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:
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:**

810-3-61-.02 Credits for Contributions to Scholarship Granting Organizations (SGOs).

(1) Scope: Act 2013-64, as amended by Acts 2013-265 **and 2015-434**, provides for income tax credits to individuals and corporations making scholarship donations to SGOs. This rule prescribes procedures for making scholarship donations and claiming income tax credits.

(2) Credits will be limited to scholarship donations which are bona-fide gifts.

(a) The donor may not receive anything of value from the SGO in return for the gift **nor place any restrictions on the end use of the scholarship.**

(b) No relative of the donor may receive a scholarship from the SGO to which the donation was made.

(c) A child, grandchild or sibling will be considered a relative, as will a child or grandchild of a sibling, parent or grand parent.

(3) Allowable scholarship donations must be in cash. They cannot be services, forgiveness of debt, barter or non-cash assets.

(4) A donor must enter the donation into the Department's system for tracking scholarship donations and credits. The credits will be reserved on a first-come, first-served basis, subject to verification by the SGOs. A donor failing to enter the donation into the Department's system to reserve the amount of the credit may lose the right to claim the tax credit if the **\$25 30** million of maximum available credits has been reached.

(5) A donor may not claim an income tax deduction on the Alabama tax return for the same contribution for which a credit is allowed on the current year's tax return nor for which the credit is carried forward to a future tax year.

(6) The allowable credit for a corporation is limited to 100% of the amount of its donation. The maximum allowable credit for an individual taxpayer is **\$7,500.00 50,000.00** or 100% of his/her donation, whichever is less. **The maximum allowable credit for an individual taxpayer who is claiming the credit as the result of a donation to an SGO by an Alabama S corporation or a Subchapter K entity is limited to 100% of the individual's pro rate or distributive share of the donation by the Alabama S corporation or Subchapter K entity, or \$50,000 whichever is less.**

(7) The actual credit used to offset a taxpayer's tax liability for a given tax year, is limited to 50% of the tax liability of the **donor taxpayer**, or the amount of the allowable credit, whichever is less.

(8) The allowable credit may be claimed only once. If the allowable credit exceeds 50% of the tax liability in the tax year the donation is made, the unused portion may be carried over for up to three years. Any unused allowable credit carried over from

a prior year may be added to the allowable credit for the current year, and may be claimed for the current year, subject to the overall limitation of 50% of the tax liability of the donor, **and in the case of individual taxpayers, \$50,000.00.**

(9) Other than the credits claimed by individual taxpayers who are shareholders of Alabama S corporations or partners or members of Subchapter K entities, credits Credits may only be claimed by the donating individual or corporate entity, and may not be assigned or transferred to any other taxpayer. ~~A taxpayer may not claim credit for a donation made by any other entity, including an entity taxed under subchapter S or subchapter K, of which the taxpayer is an owner, shareholder, partner or member.~~

Author: Curtis Stewart and Neal Hearn

Authority: Sections 40-2A-7(a)(5) and 16-6D-1, Code of Alabama 1975

History: New rule: Filed August 23, 2013, effective September 27, 2013.