

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-61-.07

Rule Title: Continuing Eligibility of Scholarship Granting Organization (SGO) to Participate in the Tax Credit Scholarship Program.

 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:

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).

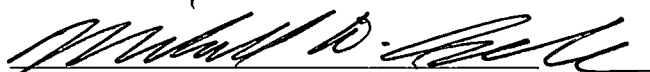
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:00 p.m. on Wednesday, September 9, 2015, Room 1203, First Floor, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at <http://revenue.alabama.gov/analysis/upcoming-rule-hearings.cfm>

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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810-3-61-.07 Continuing Eligibility of Scholarship Granting Organization (SGO) to Participate in the Tax Credit Scholarship Program.

(1) Scope: Act 2013-64, as amended by Acts 2013-265 **and 2015-434**, establishes certain requirements for the operation of Scholarship Granting Organizations (SGOs) and requires SGOs to report certain information to the Department of Revenue. The Acts also authorize the department to bar an SGO from participating in the Tax Credit Scholarship Program (program) if the department establishes that the SGO has intentionally and substantially failed to comply with the requirements of the program. This rule prescribes the process of notifying an SGO of its non-compliance with a requirement, the effect of such notice on the operation of the SGO, and the steps required of the SGO to be reinstated to the program.

(2) Each SGO shall file a reports with the department containing the information explained in Rule 810-3-61-.05, no later than the first day of **September June** for the previous **academic calendar** year **and no later than the 15th of the month following the end of the quarter for the previous calendar quarter.**

(3) The required reports shall be on a forms prescribed by the department.

(4) If **any the** required report for an SGO has not been received by the **above dates Department by June 30th**, the SGO will be deemed to have intentionally and substantially failed to comply with the requirements of the program. An SGO filing a delinquent annual report may attach an explanation of any circumstances preventing the timely filing of the report. Upon review of any explanations provided, the department may excuse the delinquency if warranted.

(5) The SGO shall complete the Summary of Compliance section of the **annual** report, based on the numbers, dollars and percentages reported elsewhere in the report. If the SGO answers "NO" to any compliance question, it may attach to the report documentation explaining any extraordinary circumstances preventing the requirement from being met.

(6) The review of the initial annual report, timely filed by an SGO, will not result in a determination of intentional and substantial failure to comply with the requirements of the program, solely because of "NO" answers shown in the Summary of Compliance section of the SGO's report. Such "NO" answers will indicate failure to comply with the requirements, but shall not be deemed to be intentional and substantial.

(7) Annual reports for years after the initial year of operation of an SGO will be reviewed for any answers that should be listed as "NO" in the Summary of Compliance section. Any such "NO" answers will indicate failure to comply with the requirements of the program. Any documentation of extraordinary circumstances attached to the report may be considered by the department in determining whether the failure to comply will be deemed intentional and substantial.

(8) If an SGO's answer to any particular compliance question is, or should be, reported as "NO" for two consecutive annual reports, the SGO will automatically be deemed to have intentionally and substantially failed to comply with the requirements of the program.

(9) Upon a determination that an SGO has intentionally and substantially failed to comply with the requirements of the program, or after ~~September~~ **June** 30th in the case of a missing annual report, the department will notify an SGO of its determination and of its intention to suspend the eligibility of the SGO to participate in the Tax Credit Scholarship Program. Unless appealed, as provided in (10) below, the suspension shall become effective 30 days from the date the notice is mailed to the SGO.

(10) The determination to suspend an SGO from participating in the Tax Credit Scholarship Program may be appealed by the SGO, in the same manner as the denial or revocation of licenses, permits, and certificates of title administered by the department, as provided in Code of Alabama 1975, Section 40-2A-8; within 30 days of the date notice of the department's determination is mailed to the SGO.

(11) An SGO whose participation in the Tax Credit Scholarship Program has been suspended will be removed from the department's website through which donors reserve tax credits for contributions under the program. No tax credits will be allowed for donations made to an SGO during a period of suspension.

(12) An SGO whose participation in the program has been suspended, and whose name has been removed from the department's website through which donors reserve tax credits for contributions must, nevertheless, account for funds and award scholarships in accordance with the requirements of the program. All annual reports due, regardless of any suspension, must be timely filed.

(13) Upon receipt and review of a timely filed annual report for a year ending during a period of suspension, the department may reinstate the SGO to participation in the program, if the answers to all questions in the Summary of Compliance section of the report are properly reportable as "YES". Tax credits may be allowed for donations made after reinstatement of the SGO.

(14) If the department concludes that any "YES" answer reported in the Summary of Compliance section of an annual report should have been reported as "NO" or if the department concludes that the SGO has failed to comply with the requirements of the program for another reason, the department will allow the SGO an opportunity to contest the department's conclusion, and to provide documentation explaining any extraordinary circumstances causing the failure to comply, before determining that the failure to comply with the requirements of the program will be considered intentional and substantial.

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 June 30, 2014, effective August 4, 2014.