

**TRANSMITTAL SHEET FOR
 NOTICE OF INTENDED ACTION**

Control 810 Department or Agency REVENUE

Rule Nos. 810-8-1-.03

Rule Title: Interstate Motor Carrier Fuel Tax Refund

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 Michael E. Mason

Date 3/13/12

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-8-1-.03

Rule Title: Interstate Motor Carrier Fuel Tax Refund

 New Amend X 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:

**ALABAMA DEPARTMENT OF REVENUE
Business & License Tax Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-8-1-.02	Fuel and Mileage Reporting in a Lessee-Lessor Arrangement will be the Responsibility of the Lessor
810-8-1-.03	Interstate Motor Carrier Fuel Tax Refund
810-8-1-.05	Motor Fuel Marker Enforcement
810-8-1-.07	IMC Fuel Permit Fees
810-8-1-.08	Miles Per Gallon Standard
810-8-1-.09	Purchase Invoice Requirements
810-8-1-.10	Quarterly Fuel Tax Return to be Filed with the Department of Revenue

INTENDED ACTION: Repeal the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rules due to the fact that they were originally adopted under the Interstate Motor Carrier Tax Program and that program has been replaced by the International Fuel Tax Agreement (IFTA); therefore, these rules are no longer necessary.

RULE NO. & TITLE

810-8-1-.15	Additional Motor Fuel Tax Rate
810-8-1-.16	Summary of Tax Rates for Motor Fuels Used in Motor Vehicles for Highway Operation
810-8-1-.25	Summary of the Rates Applying to State and Local Government

INTENDED ACTION: Repeal the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rules due to the fact that they are no longer necessary.

RULE NO. & TITLE

810-8-1-.01	Eligibility for Consideration of an Applicant for a Wholesale Gasoline License
810-8-1-.06	Statement of Gross Sales Exclusion
810-8-1-.18	Procedure for Issuing Refund of Gasoline and Motor Fuel Excise Taxes for Agricultural Purposes and for the Delivery of Biomass Products
810-8-1-.19	Tax-Free Sales of Motor Fuel
810-8-1-.21	Undyed Motor Fuel Used Exclusively for "Off-Road Vehicles" and "Off-Road Equipment"
810-8-1-.24	Credit Card Sales at Retail Outlets to Exempt Entities
810-8-1-.28	Distributor's License
810-8-1-.48	Termination of License
810-8-1-.49	Revocation of License
810-8-1-.51	Denial of License
810-8-1-.52	Returns and Payments, Monthly Report of Distributors
810-8-1-.55	Purchase Records of a Licensed Distributor
810-8-1-.61	Penalty for Sale or Use of Motor Fuel Without Payment of Motor Fuel Tax - Dyed Motor Fuel
810-8-1-.62	Stated and Uniform Policy Pertaining to the Exemption of Certain Taxpayers from State Motor Fuel Taxes

INTENDED ACTION: Repeal the above rules

SUBSTANCE OF PROPOSED ACTION: Due to the passage of the Alabama Terminal Excise Tax Act (Act 2011-565), the department finds it necessary to repeal the above rules as they are no longer necessary.

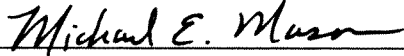
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 10:00 a.m. on Wednesday, May 9, 2012, in the Office of the Legal Division, Room 3114, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

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:
Wednesday, May 9, 2012

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

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810-8-1-.03 Interstate Motor Carrier Fuel Tax Refund. (REPEALED)

(1) Code of Alabama 1975, Title 40, Chapter 17, Section 142, sets forth the conditions and limitations of credit allowed for the tax paid on the over-purchase of motor fuels in Alabama. Any calendar quarter in which an interstate motor carrier purchases more fuel in Alabama than is used by the carrier's vehicles on Alabama highways in that same calendar quarter, it follows that the carrier must purchase less fuel in some surrounding state or states than is used in that state or states in that same calendar quarter. The over-purchase situation in Alabama makes it necessary for the interstate motor carrier to pay taxes to the state or states of under-purchase of fuel on which taxes were paid to Alabama at time of purchase. This creates dual taxation.

(2) The above condition causes the interstate motor carrier to be in a position to obtain a credit and/or refund for the overpayment of such tax payment provided the carrier furnishes proof of the following:

(a) When applying a credit against a tax liability, the proof must be a copy of a fuel tax return from the state or states to which the payment is made certified by either the appropriate state or states or by the motor carrier and a copy of the records, computer print-outs, lists, etc., of Alabama over the road fuel purchases and/or withdrawal of fuel from storage in Alabama. The certification by the motor carrier must be in the form of a notarized affidavit and must read "under penalties of perjury, I declare that the information provided in the accompanying schedules is true, correct and complete to the best of my knowledge and belief."

(b) When applying for a refund the proof of payment must be a copy of a fuel tax return from the state or states to which the payment has been made and a copy of the records, computer print-outs, lists, etc., of Alabama over the road fuel purchases and/or withdrawal of fuel from storage in Alabama. The application for refund must be notarized and must be signed by the person preparing the application. The person who signs the application for refund must be an authorized representative of the motor carrier. The notarized statement will be in lieu of certified copies of fuel tax returns from other states and shall read "under penalties of perjury, I declare that the information given in the application for refund and in accompanying schedules are true, correct and complete to the best of my knowledge and belief."

(3) The overpayment referred to in paragraph 2 above must be paid to the other state or states in the same calendar quarter in which the over-purchase situation existed in Alabama. The credit and/or refund made will be only to the extent of that tax paid to Alabama, but will in no case exceed the rate of tax applicable in Alabama. If the interstate motor carrier furnishes proof of payment as indicated above, such carrier can use that credit against a subsequent fuel tax liability occurring in any of the three succeeding calendar quarters, or, upon proper application, a refund can be made to the interstate motor carrier within three years.

Author: **Steve DuBose ~~Dwight Pridgen~~**
Authority: Sections 40-2A-7(a)(5), 40-17-152, 40-17-18, and 40-17-142, Code of Alabama 1975
History: Original author and adoption date unknown.
Readopted through APA effective October 1, 1982.
Amendment filed with Legislative Reference Service January 17 1986;
Amendment filed June 10, 1987.
Amendment filed December 14, 1987.
Filed with LRS September 10, 1993. Certification filed with LRS
November 19, 1993, Effective December 24, 1993.