

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-8-1-06

Rule Title: Statement of Gross Sales Exclusion

 New Amend X 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:

**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due to the fact that they were originally adopted under the Interstate Motor Carrier Tax Program and that program has been replaced by the International Fuel Tax Agreement (IFTA); therefore, these rules are no longer necessary.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.

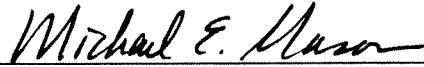
All interested parties may present their views in writing to the **Deputy Commissioner of the Alabama Department of Revenue, Room 4112, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by 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-.06 Statement of Gross Sales Exclusion. **(REPEALED)**

(1) According to Code of Alabama 1975, Section 40-17-2, motor fuel shall not be subject to any other excise tax. The Alabama Department of Revenue concedes that the wholesale oil license fee levied under Code Section 40-17-174 is an excise tax. Therefore, based upon an Administrative Law Judge Ruling, if the excise tax levied under Code Section 40-17-2 is ultimately paid to the State of Alabama then the diesel fuel would not be subject to the wholesale oil license fee levied under Code Section 40-17-174.

(a) However, the burden of establishing the right to this exclusion is on the taxpayer claiming the exclusion.

(b) This exclusion will be allowed under any of the following circumstances:

1. The clear diesel fuel is sold tax-paid by the initial wholesaler and the state excise tax is remitted to the State of Alabama on the monthly motor fuel excise tax return.

2. The initial wholesaler is the sole supplier of the clear diesel fuel sold tax-free to a licensed distributor. The licensed distributor must remit the motor fuel excise tax to the State of Alabama and list the initial wholesaler as the only supplier on the monthly motor fuel excise tax returns. As documentation for this exemption, the initial wholesaler is required to obtain and keep a copy of the monthly State of Alabama motor fuel excise tax returns in its files. If a petition for a refund of tax is based upon this situation, the initial wholesaler is required to submit copies of the customer's monthly tax returns along with the petition for refund. In addition, the refund petition must include documentation as to the sales price for each load of fuel sold to the customer.

3. The initial wholesaler is not the "sole" supplier for the licensed distributor of the clear diesel fuel sold tax-free to the licensed distributor and the licensed distributor remits the state excise tax to the Department of Revenue. The initial wholesaler is required to obtain and furnish the following documentation to the Department of Revenue:

(i) Copies of the licensed distributor's monthly State of Alabama motor fuel excise tax returns.

(ii) Copies of each bill of lading and invoice that shows the sales price of the fuel and point of delivery.

(iii) Copies of each of the licensed distributor's bills of lading and invoices showing the excise tax billed to the licensed distributor's customer(s). The invoices must balance back to the initial wholesaler's invoice for the total gallons billed.

(iv) If this product is commingled with fuel purchased from other suppliers in the licensed distributor's bulk storage facility, no exclusion will be allowed. However, if the licensed distributor that the initial wholesaler sells to has several suppliers and pays the excise tax on 100% of receipts the exclusion will be allowed. As documentation for this exemption, the initial wholesaler is required to obtain and keep a copy of the monthly State of Alabama motor fuel excise tax returns in its files. If a petition for a refund of tax is based upon this situation, the initial wholesaler is required to submit copies of the customer's monthly tax returns along with the petition for refund. In addition, the refund petition must include documentation as to the sales price for each load of fuel sold to the customer.

Author: Steve DuBose

Authority: Sections 40-2A-7(a)(5), 40-17-2 and 40-17-174, Code of Alabama 1975

History: New rule: Filed September 6, 2006, effective October 11, 2006.