

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-8-1-18

Rule Title: Procedure for Issuing Refund of Gasoline and Motor Fuel Excise Taxes for Agricultural Purposes and for the Delivery of Biomass Products

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-.18

Rule Title: Procedure for Issuing Refund of Gasoline and Motor Fuel Excise Taxes for Agricultural Purposes and for the Delivery of Biomass Products

 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.

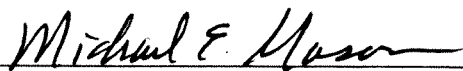
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 10:00 a.m. on Wednesday, May 9, 2012, in the Office of the Legal Division, Room 3114, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

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-.18 Procedure for Issuing Refund of Gasoline and Motor Fuel Excise Taxes for Agricultural Purposes and for the Delivery of Biomass Products. (REPEALED)

(1) With respect to gasoline and motor fuel taxes which are required to be added to the price of gasoline and undyed (clear) diesel fuel and which are paid over to the State by the distributor and not the consumer, those taxpayers exempt from the tax under the provisions of Section 40-17-300, Code of Alabama 1975, shall pay the appropriate tax at the time of purchase and shall be refunded a portion of the tax at a rate of \$.11 per gallon for gasoline and undyed (clear) diesel fuel. The refund will be applied for on an annual basis and must be filed on or before March 31 of the year following the twelve (12) month period ending December 31.

(a) For the period covering January 1, 2008 through August 5, 2008, taxpayers can apply for a refund of the gasoline excise tax for gasoline used in tractors and farm machinery. The amount of the refund allowed is \$.15 per gallon.

(b) Effective August 6, 2008, taxpayers can apply for the refund of the excise taxes on gasoline and motor fuel for fuel used in tractors and farm machinery and for vehicles transporting biomass from a farm to a facility that uses the biomass to produce electricity. The amount of the refund allowed is \$.11 per gallon. However, the portion pertaining to the transportation of biomass is capped at \$1,000 annually.

(2) Claims for refund shall be made on forms furnished by the Department of Revenue, properly attested to, along with a copy of the original purchase invoices and the other information listed in item (4) below. The purchase invoice must show the following:

(a) Date of sale,

(b) Name and address of vendor,

(c) Type of fuel,

(d) Number of gallons purchased,

(e) Tax as a separate line item or statement that the state excise tax is included in the price per gallon.

(3) The claimant shall maintain a daily withdrawal log of all gasoline and undyed (clear) diesel fuel. The log must include:

(a) Date of withdrawal,

(b) Type of equipment and equipment identification number,

(c) Number of gallons of fuel placed in qualifying vehicles or tractors.

(4) When filing a claim for refund, the claimant must submit the following:

- (a) Purchase invoices,
- (b) List of all tractors and farm machinery for which refund applies,
- (c) List of on-road vehicles that transport biomass to a facility that generates electricity including year, make and model of each vehicle, the vehicle identification number and tag number,
- (d) Withdrawal log or other documentation showing the amount of fuel placed in qualifying vehicles and/or tractors,
- (e) If applicable, the name and address of the facility that the biomass is delivered to for the generation of electricity and the number of miles from the farm to the facility that biomass is delivered to and documentation from the facility showing the date the biomass was delivered. (Refund is not allowed for the fuel used from the facility to the farm)

Author: Steve DuBose
Authority: Sections 40-2A-7(a)(5) and 40-17-152, Code of Alabama 1975
History: New rule: Filed April 15, 2009, effective May 20, 2009.