

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 810 Department or Agency REVENUE

Rule Nos. 810-8-1-.56

Rule Title: Sales Records of a Licensed Distributor

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

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-8-1-.56

Rule Title: Sales Records of a Licensed Distributor

 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:**

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

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-8-1-.11	Stated and Uniform Policy Pertaining to the Exemption of Certain Organizations from State Gasoline and Motor Fuel Excise Taxes
810-8-1-.17	Dyed Motor Fuel for a Motor Vehicle used Exclusively "Off the Highway"
810-8-1-.20	Motor Fuel Sales to the United States. Reference: § 40-17-31(b)
810-8-1-.22	Exemptions Pertaining to the Additional Excise Tax on Gasoline, Motor Fuel and Lubricating Oil
810-8-1-.29	Deposits in Lieu of Surety Bonds
810-8-1-.31	Sale-Reference: Section 40-17-2
810-8-1-47.01	Dyed Motor Fuels Sold for Exclusive Off-Road Use
810-8-1-.53	Internet-Based Electronic Filing of Tax Returns and Schedules
810-8-1-.56	Sales Records of a Licensed Distributor

INTENDED ACTION: Amend the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rules due to the passage of the Alabama Terminal Excise Tax Act (Act 2011-565). In addition, the titles of the above rules will also be amended with the exception of Rule 810-8-1-.29 and Rule 810-8-1-.56.

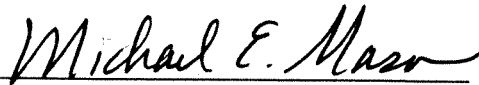
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Wednesday, May 9, 2012, in the Office of the Legal Division, Room 3114, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama.** Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

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

A handwritten signature in black ink that reads "Michael E. Mason". The signature is written in a cursive style and is positioned above a horizontal line.

Michael E. Mason, Deputy Commissioner
Alabama Department of Revenue

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810-8-1-.56 Sales Records of a Licensed Distributor.

(1) Every licensed distributor must keep a sales record showing each sale of motor fuel, the person to whom each sale was made and the address, the commodity sold, date and invoice number, gallonage, and value of each sale. The sales record must show the gallonage subject to excise tax and sold tax-free.

(2) The distributor shall prepare a serially numbered invoice for each sale of fuel whether the fuel is sold for highway use motor vehicles or for off-road use. A single invoice covering multiple deliveries of fuel made during a period of time not to exceed a calendar month shall constitute an invoice for each sale. If the multiple invoice includes taxed and tax-free sales, the taxed sales must be so designated. The invoice shall be delivered to the purchaser and a copy retained by the distributor.

(3) A sales invoice shall contain the following information:

(a) The name and address of the distributor,

(b) The date of sale,

(c) The name and address of the purchaser,

(d) Whether the sale is a credit or cash sale,

(e) The number of gallons of motor fuel sold, the price per gallon and the total amount of the sale,

(f) The amount of excise tax or other taxes such as sales tax charged. The amount of excise tax charged need not be shown if the price per gallon includes the tax and the invoice so states. The excise tax on motor fuel is to be paid only once by the distributor or supplier and excise tax paid motor fuel is not subject to any other excise tax levied by the state such as sales tax, and

(g) The location/destination where the fuel is delivered if other than purchaser's business address.

(4) A sales invoice from a licensed distributor showing a purchase of excise tax-paid fuel constitutes a receipt for the purchaser of excise tax included on the invoice.

(a) If a licensed distributor sells undyed motor fuel tax-free to an exempt entity, the sales invoice must contain the following statement: "FUEL SOLD AT A TAX-EXCLUDED PRICE - WE CERTIFY THAT THE DIESEL FUEL DOES NOT CONTAIN VISIBLE EVIDENCE OF DYE."

(5) A sales invoice for dyed motor fuel must contain the following statement - "Dyed Diesel Fuel, Nontaxable Use Only-Penalty for Taxable Use".

(6) Records must be maintained in a form satisfactory to the department and shall be made available for inspection and audit by the department, **including adequate documentation of tax-free sales of gasoline and diesel fuel to licensed exempt entities.**

~~(7) All excise tax exempt sales which result in a credit on the excise tax return must have adequate documentation attached to the excise tax return and must be submitted to the Department of Revenue or the exemption will be disallowed. This information must also be maintained in the distributor's or supplier's office. Examples of adequate documentation are as follows:~~

EXEMPTIONS

DOCUMENTATION

~~Educational and Governmental Entities Form MFD or listing of sales~~

U.S. Government

Listing of sales or invoices

~~If adequate documentation is not attached, the exemption will be disallowed and the distributor or supplier will be billed tax, penalty, and interest as provided for under Title 40 of the Code of Alabama 1975.~~

Author: Steve DuBose
Authority: §§ 40-2A-7(a)(5), ~~40-17-9, 40-17-18 and 40-17-221(b)~~ 40-17-323,
Code of Alabama 1975
History: Amended: Filed April 29, 1996, effective June 3, 1996.
Amended: Filed November 8, 1999, effective December 13, 1999.
Emergency Rule: Filed January 5, 2000, expires May 3, 2000.
Permanent Rule: Filed April 10, 2000, effective May 15, 2000.
Amended: Filed December 18, 2008, effective January 22, 2009.