

APA-1

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-3-80-.01

Rule Title: Penalties

New; Amended; Repealed; Adopt by Reference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 result from the absence of the proposed rule? N/A

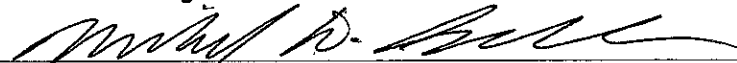
Are all the facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

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 

Date 11/14/2016

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10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-80-.01

Rule Title: Penalties

 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
Individual and Corporate Tax Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-3-80-.01 Penalties

INTENDED ACTION: Repeal rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rule due to the repeal of Section 40-18-82, Code of Alabama 1975, which serves as the basis of the rule.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Thursday, January 12, 2017, 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://www.revenue.alabama.gov/analysis/rules.cfm>.

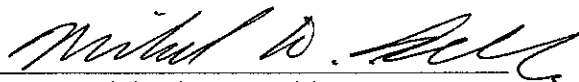
All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also appear at the hearing to present their views.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, January 12, 2017

CONTACT PERSON AT AGENCY:

Timothy Sanders
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael D. Gamble, Secretary
Alabama Department of Revenue

810-3-80-.01 Penalties. (Repeal)

(1) Penalties are provided for failure to file declarations of estimated tax, failure to pay installments of estimated tax, and for certain substantial underestimations of tax on declarations.

(a) Any person, required under the provisions of § 40-18-82, Code of Ala. 1975, to file a declaration of estimated tax and pay the amount estimated in installments, who fails to file such declaration at the time and in the manner prescribed shall be subject to a penalty. For the purpose of this penalty, the amount and due date of each installment shall be the same as if a declaration had been filed within the time prescribed, showing an estimated tax equal to the correct tax reduced by the credits allowed by §§ 40-18-78 and 40-18-21. The penalty shall be five (5) percent of each installment due but unpaid for one (1) month, or any fraction thereof, plus one (1) percent of the installment due but unpaid for each month thereafter. In no event shall the penalty exceed ten (10) percent of the unpaid portion of any installment due but unpaid.

(b) Any person, required under the provisions of § 40-18-82 to file a declaration of estimated tax and pay the amount estimated in installments, who files the required declaration but fails to pay the installments timely shall be subject to a penalty. The penalty shall be five (5) percent of each installment due but unpaid for one month, or any fraction thereof, plus one (1) percent of the installment due but unpaid for each month thereafter. In no event shall the penalty exceed ten (10) percent of the unpaid portion of any installment due but unpaid.

(c) Any individual, required under the provisions of § 40-18-82 to file a declaration of estimated tax and pay the amount estimated in installments, who substantially under-estimates his tax shall be subject to a penalty. The penalty shall be the lesser of:

1. In the case of an individual other than a farmer, the amount by which ninety (90) percent of the correct tax (after credits allowed by § 40-18-21, if any) exceeds the amount prepaid by estimated tax payments and/or withholding, or

2. In the case of an individual farmer, the amount by which sixty-six and two-thirds ($66 \frac{2}{3}$) percent of the correct tax (after credits allowed by § 40-18-21, if any) exceeds the amount prepaid by estimated tax payments and/or withholding, or

3. Six (6) percent of the correct tax (after credits allowed by § 40-18-21, if any) reduced by the amount of tax prepaid by estimated tax payment and/or withholding.

(i) The underestimation penalty shall not apply to the taxable year in which:

(l) falls the death of the taxpayer, or

(II) the taxpayer files an estimate and makes timely payments of an amount equal to or greater than the tax for the prior year.

I. If the liability for the previous year was zero (-0-) (except for a net operating loss carryback to such year), it will not be necessary to file a declaration of zero (or to make payments) to qualify for the exception to the penalty in sentence (II) above.

(d) 1. Any corporation, required under the provisions of § 40-18-82 to file a declaration of estimated tax and pay the amount estimated in installments, who substantially under-estimates its tax shall be subject to a penalty. The penalty shall be the lesser of:

(i) The amount by which ninety (90) percent of the correct tax (after credits allowed by § 40-18-21, if any) exceeds the estimated tax, or

(ii) Six (6) percent of the correct tax (after credits allowed by § 40-18-21, if any) reduced by the amount of the estimated tax payments.

2. The underestimation penalty shall not apply to the taxable year in which the corporation files an estimate and makes timely payments of an amount equal to or greater than the tax for the prior year.

(i) If the liability for the previous year was zero (-0-), it will not be necessary to file a declaration of zero (or to make payments) to qualify for the exception to the penalty in section 2. above.

(e) 1. Any person who issues the Department a bad check will, in addition to any other penalties provided by law, pay a penalty equal to:

(i) 10% of the amount of the bad check, if the bad check is for \$500 or more, or

(ii) \$10.00 or the amount of the bad check, whichever is lesser, if the bad check is less than \$500.

2. This penalty shall not apply if settlement is made by the payee within 10 days after notification by the Department. See § 40-29-70, Code of Ala. 1975.

(f) "Person" as used in this regulation includes an officer of a corporation or a member of a partnership whose duty it is to perform the act(s) required. See § 40-29-72(b).

Author: Ewell Berry
Authority: §§40-2A-7(a)(5), 40-18-80, 40-29-70, 40-29-72 and 40-29-73,
Code of Alabama 1975
History: Adopted September 30, 1982.

Amended June 17, 1988.

Amended: Filed March 20, 1989, effective April 24, 1989.

Amended: Filed May 3, 2000, effective June 7, 2000.