

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-3-37.02

Rule Title: Exemption from Lodgings Tax for Film Production Companies Approved by the Alabama Film Office

____ New; ____ Amend; XX 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

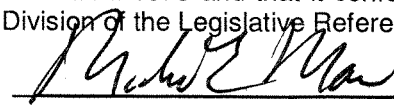
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

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 

Date 10/19/11

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-3-.37.02

Rule Title: Exemption From Lodgings Tax For Film Production Companies Approved by The Alabama Film Office

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE: The lodgings tax exemption in Section 40-26-1(b)(iii), Code of Alabama 1975, provided to projects through the Alabama Film Office expired February 23, 2006, and the sub-section was repealed by Act 2009-144. This proposal will repeal the rule pertaining to the exemption which is no longer available. Currently, film industry incentives are available under the provisions of Act 2009-144, the Entertainment Industry Incentive Act, codified in Article 3, Chapter 7A of Title 41. Rule 810-16-1-.01, State Sales, Use, and Lodgings Tax Exemption for Qualified Production Companies, explains the exemptions available under this act.
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE: N/A
3. EFFECT OF THIS RULE ON COMPETITION: N/A
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: N/A
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: N/A
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE: N/A
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: N/A

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON: N/A
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH: N/A
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED: N/A
11. OTHER COMMENTS: N/A

APA-2
11/96

ALABAMA DEPARTMENT OF REVENUE
Sales, Use & Business Tax Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE:

810-6-3-.37.02 Exemption from Lodgings Tax for Film Production Companies
Approved by the Alabama Film Office

810-6-3-.48.05 Exemption for Certain Purchases by Film Production Companies
Approved by the Alabama Film Office

INTENDED ACTION: Repeal the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rules due to changes in the statute. Currently, film industry incentives are available under the provisions of Act 2009-144, the Entertainment Industry Incentive Act, codified in Article 3, Chapter 7A of Title 41. Administrative Rule 810-16-1-.01, State Sales, Use, and Lodgings Tax Exemption for Qualified Production Companies, explains the exemptions available under this act.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:00 p.m. on Tuesday, December 6, 2011, 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:
Tuesday, December 6, 2011

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, appearing to read "Michael E. Mason", written over a horizontal line.

Michael E. Mason, Deputy Commissioner
Alabama Department of Revenue

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810-6-3-.37.02 Exemption from Lodgings Tax for Film Production Companies Approved by the Alabama Film Office. (REPEALED)

(1) Unless otherwise defined herein, the definitions of terms set forth in Act # 2001-975 are incorporated by reference herein.

(2) The term "department" as used in this rule shall mean the Department of Revenue.

(3) The term "agreement" as used in this rule shall mean a written agreement entered into between the Alabama Film Office, or its agent, and an approved company with respect to a film project.

(4) The term "approved company" as used in this rule shall mean a company or those directly involved in production decisions for an organization certified by the Alabama Film Office as approved to produce a film project in Alabama primarily using available state resources.

(5) The term "approved project" as used in this rule shall mean an Alabama film production to be undertaken by an approved company using Alabama resources to the extent possible.

(6) The term "approved costs" as used in this rule shall mean expenses of an approved company that are preapproved by the Alabama Film Office as those costs directly related to and essential to the production of an approved film project.

(7) The term "film" as used in this rule shall mean the following types of production, in film or digital form: motion picture, videography, music video, and television (all of which may be for commercial or non-commercial exploitation and distribution), and commercial advertising for television that is intended to promote specific products, brands, ideas, or positions, as well as ancillary services to the above named productions such as music for the production and animation added to the production. Film does not include productions not intended for public distribution or viewing, such as family or personal productions, recurring news, or current events shows, nor does it include the staging of music concerts to which tickets are sold and where a music video may be filmed as an ancillary activity to the staging of the concert.

(8) Code Section 40-26-1(b) provides an exemption from state, county, and municipal lodgings taxes for rooms, lodgings, or accommodations supplied in connection with the production of an approved project authorized by the Alabama Film Office and which meets the criteria established by the Alabama Film Office.

(9) In order to qualify for the lodgings tax exemption, an approved company that has obtained written approval from the Alabama Film Office, shall submit a written request for the lodgings tax exemption to the Department of Revenue. The following

information must be included with the written request for the department to consider it for the lodgings tax exemption:

(a) A copy of the agreement that indicates the name of the approved company and/or those directly involved in production decisions for an organization certified by the Alabama Film Office.

(b) The description and desired location of the project.

(c) The start date and end date of the project.

(d) The projection of capital and other anticipated expenditures for the project that indicates the total cost of the project including a projection of expenses that would be subject to Alabama lodgings tax absent the exemption.

(10) Upon review and approval of the written request for the exemption, the department shall issue a letter authorizing the lodgings tax exemption, which shall be used to claim the exemption when qualifying rooms, lodgings or accommodations are supplied. The letter will be issued by the department to those specifically named in the agreement. If the department denies the written request for the exemption, the applicant may appeal the denial in accordance with Section 40-2A-8, Code of Alabama 1975. An approved company shall maintain records sufficient to document the tax-exempt status of qualifying lodgings, rooms, or accommodations supplied.

(11) The exemption from lodgings taxes shall expire at the end of the fiscal year ending September 30, 2006, unless otherwise continued by an act of the Alabama Legislature.

Author: Ginger L. Buchanan, ~~Donna Joyner~~

Authority: Sections 40-2A-7(a)(5), 40-26-19, 40-26-1(b), Code of Alabama 1975

History: New rule: Filed March 25, 2002, effective April 29, 2002.

Amended: Filed January 19, 2006, effective February 23, 2006.