

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-3-.48.05

Rule Title: Exemption For Certain Purchases by 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 sales and use tax exemptions provided in Sections 40-23-4(a)(16) and 40-23-62(35), Code of Alabama 1975, to projects through the Alabama Film Office expired February 23, 2006, and these sub-sections have been repealed (Act 2009-144). This proposal will repeal the rule pertaining to these exemptions which are 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.

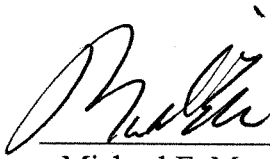
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Tuesday, December 6, 2011, in the Office of the Legal Division, Room 3114, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama.** Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

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



Michael E. Mason, Deputy Commissioner
Alabama Department of Revenue

0862APC.INT

810-6-3-48.05 Exemption For Certain Purchases by 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 sales and use taxes available for an approved company which is actively engaged in the production of an approved project authorized by the Alabama Film Office and which meets the criteria established by the Alabama Film Office for certain purchases of approved costs.

(9) Approved costs may include any or all of the following:

(a) Purchases for the construction, equipping, and installation of necessities for the location of a film project

(b) Purchases of vehicles, equipment, supplies, props, and other necessities for the film project.

(c) Purchases to replace, restore, recycle, or return to the owner equipment, props, and other property that was used or altered in the process of the film project.

(d) Purchases for the installation of utilities in connection with a film project, including, but not limited to, water, sewer, sewage treatment, gas, electricity, and communications, and including off-site construction of utility extensions paid for by the approved company.

(e) Any other purchases deemed unique and essential by the Alabama Film Office for the approved film project.

(10) In order to qualify for the sales and use tax exemptions, an approved company that has obtained written approval from the Alabama Film Office shall apply to the Department of Revenue for a Sales Tax Certificate of Exemption (Form STE-1) by completing and submitting application Form ST:EX-A1. (See Sales & Use Tax Rule 810-6-5-.02.) The following information must be included with the ST:EX-A1 application for the department to consider it for the sales and use tax exemptions:

(a) A copy of the agreement which 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 indicate the total cost of the project including a projection of expenses that would be subject to Alabama sales and use tax absent the exemption.

(11) Upon review and approval of the application, the department shall issue the applicant a Form STE-1 which shall be used by the certificate holder to claim the exemption when making qualifying tax-exempt purchases. The STE-1 will be issued by the department to those specifically named in the agreement. If the department denies the application, the applicant may appeal the denial in accordance with Section 40-2A-8, Code of Alabama 1975. An approved company who obtains a Form STE-1 shall comply with all the provisions of Rule 810-6-5-.02 and shall maintain records sufficient to document the tax-exempt status of qualifying purchases.

(12) The exemption from sales and use 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), 40-23-31, 40-23-83, 40-23-4(46), 40-23-62(35), Code of Alabama 1975
History: New rule: Filed March 25, 2002, effective April 29, 2002.
Amended: Filed January 19, 2006, effective February 23, 2006.