

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-39-.12

Rule Title: Alabama Requirements for Mandatory E-File of Original Corporate Income Tax Returns

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?

Yes

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 9/20/12

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-39-.12

Rule Title: Alabama Requirements for Mandatory E -File of Original Corporate Income Tax Returns

 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:
N/A
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
This rule is being proposed to reduce the number of Corporate Income Tax Returns in order to be mandated to electronically file from 50 to 25.
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 HERE 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:
NONE

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**ALABAMA DEPARTMENT OF REVENUE
Individual & Corporate Tax Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-3-27-.09 Alabama Requirements for Mandatory E-File and Application of Two-Dimensional (2-D) Barcode on Original Individual Income Tax Returns

INTENDED ACTION: Amend an existing rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to conform to an electronic filing mandate from the Internal Revenue Service.

RULE NO. & TITLE

810-3-28-.07 Alabama Requirements for Mandatory E-File of Original Partnership/Limited Liability Company Income Tax Returns

810-3-39-.12 Alabama Requirements for Mandatory E-File of Original Corporate Income Tax Returns

INTENDED ACTION: Amend an existing rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rules to reduce the number of returns that are required to be filed electronically.

RULE NO. & TITLE

810-3-39-.11 Acceptance into the Alabama Electronic Filing Program, Monitoring, and Revocation of Acceptance into the Program

810-3-28-.06 Acceptance into the Alabama Electronic Filing Program, Monitoring, and Revocation of Acceptance into the Program

INTENDED ACTION: Amend an existing rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rules to require electronic return originators and transmitters to comply with the requirements of the Alabama Business Modernized E-file Program.

RULE NO. & TITLE

810-3-28-.05	Requirements for Electronic Filing Software
810-3-39-.10	Requirements for Electronic Filing Software

INTENDED ACTION: Amend an existing rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rules to require electronic filing software to be used with specifications issued by the Alabama Business Modernized E-file Program.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Monday, November 5, 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:
Monday, November 5, 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

810-3-39-.12 Alabama Requirements for Mandatory E-File of Original Corporate Income Tax Returns.

~~(1) (a) If an income tax return preparer prepares 125 or more acceptable, original corporate/partnership income tax returns using tax preparation software in calendar year 2009, and 50 or more acceptable corporate/partnership income tax returns using tax preparation software in calendar year 2010, then for the calendar year 2010 all acceptable corporate/partnership income tax returns prepared by that income tax preparer must be filed using electronic technology, as defined in the "Electronic Tax Return Filing Act," as codified in Chapter 30 of Title 40, Code of Alabama 1975.~~

(b) (1) If an income tax return preparer prepares 25 or more acceptable, original corporate/partnership income tax returns using tax preparation software in a calendar year, then for that calendar year and for each subsequent calendar year thereafter, all acceptable corporate/partnership income tax returns prepared by that income tax preparer must be filed using electronic technology, as defined in the "Electronic Tax Return Filing Act," as codified in Chapter 30 of Title 40, Code of Alabama 1975.

(2) For purposes of this rule, the following definitions apply:

(a) "Income tax preparer" means a person who meets both the following:

1. Any person who prepares an Alabama corporate/partnership income tax return in exchange for compensation.

2. Or any person who employs another person to prepare, in exchange for compensation, any current year Alabama corporate/partnership income tax return.

(b) "Original corporate/partnership income tax return" means any return that is required, to be filed with respect to the tax imposed as defined by Section 40-18-2, Code of Alabama 1975. For purposes of paragraphs (1) ~~(a) and (1)(b)~~ above, a "timely" original corporate/partnership tax return means any original corporate/partnership tax return that is filed, without regard to extensions, during the calendar year for which that tax return is required to be filed.

(c) "Acceptable corporate/partnership income tax return" means, for the purposes of the mandatory corporate/partnership income tax filing program, any original corporate/partnership tax return that is authorized by the Department to be filed solely using electronic technology as defined in Section 40-30-3(2), Code of Alabama 1975.

(d) "Tax preparation software" means any computer software program intended for accounting, tax return preparation, or tax compliance.

(3) Paragraph (1)(a) shall cease to apply to an income tax preparer if, ~~during the 2009 calendar year, the income tax preparer prepared no more than 30 original corporate/partnership income tax returns and~~ during the that calendar year and all subsequent years, the income tax preparer prepared no more than 15 original corporate/partnership income tax returns.

(a) Paragraph (1)(a) of this rule, applies to acceptable corporate/partnership income tax returns required to be filed for taxable years beginning on and after January 1, 2009.

(b) Paragraph (1)(a) of this rule, may not be interpreted to require electronic filing of acceptable corporate/partnership income tax returns that are required to be filed on or before January 1, 2009.

~~(4)(a) For a Tax Year 2008 Corporation with assets of \$10 million or more, or partnerships with 100 or more partners mandated to e-file with the IRS are mandated to e-file Tax Year 2009 Alabama corporate/partnership income tax returns, and all subsequent tax years.~~

~~(b) (a) For a Tax Year 2009~~ Corporations with assets of \$5 million or more, or partnerships with 50 or more partners at the end of the corporation/partnership's taxable year are mandated to e-file Alabama corporate/partnership income tax returns, for that calendar year and all subsequent tax years.

Author: Melissa Gillis, Veronica Jennings, ~~Jo Ann Ledbetter~~, **Richard Henninger**, and Ann F. Winborne, CPA

Authority: Sections 40-2A-7(a)(5), 40-18-40, and 40-30-1 through 6, Code of Alabama 1975

History: New rule: Filed January 28, 2010, effective March 4, 2010.