

APA-1

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-3-17-.01

Rule Title: Items Not Deductible

New; Amended; Repealed; Adopt by Reference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.

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-17-.01

Rule Title: Items Not Deductible

 New X 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:
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

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-3-32-.01.01	Political Organizations
810-3-32-.03	Unrelated Business Taxable Income
810-3-38-.01	Additional Deductions Allowed for Corporations
810-3-39-.04	Incentive Rules for Alabama Affiliated Groups Filing
810-3-39-.06	Mechanics of Consolidated Filing

INTENDED ACTION

Repealed; Repealed; Repealed; Repealed; Repealed

SUBSTANCE OF PROPOSED ACTION:

The department proposes to repeal the above mentioned rules because during reviewal of the rule required by the Red Tape Reduction Act they were determined to be superfluous to the Alabama statute.

RULE NO. & TITLE

810-3-17-.01	Items Not Deductible
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INTENDED ACTION

Amended

SUBSTANCE OF PROPOSED ACTION:

The department proposes to amend the above mentioned rule to include items that are now deductible and to add clarification on others that are not deductible.

RULE NO. & TITLE

810-3-32-.02	Proof of Exemption
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INTENDED ACTION

Amended

SUBSTANCE OF PROPOSED ACTION:

The department proposes to amend the above mentioned rule, because during the reviewal required by the Red Tape Reduction Act, it was determined that within the rule there is a reference to 810-3-32-.03 which is being recommended for repeal.

RULE NO. & TITLE

810-3-39-.02	Extension of Time for Filing a Corporation Return
810-3-39-.05	Taxable Years Following an Election Period for an Alabama Affiliated Group.
810-3-71-.01	Employers Required to Withhold Tax from Wages
810-3-71-.02	Computing Tax Withheld
810-3-72-.01	Included and Excluded Wages
810-3-75-.01	Withholding Statement Furnished Employees
810-3-75-.02	Extensions Of Time for Filing Reports Under Withholding Tax Laws

INTENDED ACTION Amended; Amended; Amended; Amended; Amended; Amended; Amended

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above mentioned rule to comply with the Red Tape Reduction Act 2013-88 consisting of non technical clarifications.

RULE NO. & TITLE
810-9-1-.05 Apportionment and Allocation of Net Income of Financial Institutions

INTENDED ACTION Amended

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above mentioned rule pursuant to Alabama Act 2017-165 that requires multi-state financial institutions to include loans and credit card receivables in the calculation of their Alabama property factor, which will be sourced consistent with the interest receipts associated with such loans.

RULE NO. & TITLE
810-3-39-.03 Consolidated Filing

INTENDED ACTION New, Repealed

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal and create a new rule as required by the Red Tape Reduction Act. Proposed repealed rule has been deemed outdated due to changes to Alabama statute. Therefore, a new updated rule is also proposed.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **02:30 PM on Tuesday, October 10, 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:

Tuesday, October 10, 2017

CONTACT PERSON AT AGENCY:

Meagan Barrett

Alabama Department of Revenue
4131 Gordon Persons Building



Michael D. Gamble, Secretary
Alabama Department of Revenue

810-3-17-.01 Items Not Deductible.

(1) Costs and expenses which are not deductible for income tax purposes include, but are not limited to:

(a) Personal, living, and family expenses such as:

1. Premiums paid for life insurance by the insured.
2. Cost of insuring a dwelling owned and occupied by the taxpayer as a personal residence.
3. Expenses of maintaining a household, including amounts paid for rent, water, utilities, domestic services, home repairs or improvements, etc.
4. Expenses incurred for care of dependent children including child support, even if both spouses work.
5. Losses sustained by the taxpayer upon the sale or other disposition of property held for personal, living, and family purposes.
6. Travel expenses or automobile expenses not deductible under ~~Section~~ 40-18-15.
7. Cost of wearing apparel unless such wearing apparel is required as a condition of employment and is not suitable for street wear.
8. Amounts paid as damages, attorneys' fees and other costs of suit to recover such damages. However, damages in settlement of a suit, claim or judgement arising out of a trade or business or transactions entered into for profit are deductible.
9. Attorneys' fees paid in a suit for separation or divorce.
10. Losses sustained and expenses incurred in illegal transactions.
11. Dues to fraternal and social organizations, etc.
12. Gambling losses in excess of gains.

~~13. Job hunting expenses, other than fees paid to employment agencies.~~

~~14~~ **13.** Adoption expenses - for tax years prior to January 1, 1991 are not deductible. For tax years subsequent to December 31, 1990, see ~~Reg. 810-3-15-.23~~ Rule 810-3-15-.24.

(b) Capital expenditures. No deduction shall be allowed for:

1. Any amount paid for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, or
2. Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made in the form of a deduction for depreciation, amortization, or depletion.

(c) Premiums paid on life insurance. Premiums paid on a life insurance policy covering the life of any officer or employee of the taxpayer, or any person (including the taxpayer) who is financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary of the policy.

(d) Organization ~~And Financing Expenses~~ and financing expenses.

1. For tax years beginning before January 1, 1985, expenses in connection with the organization or reorganization of a business enterprise, such as fees for incorporating, attorneys, accountants, appraisers, and commissions or other expenses in the issuance or sale of capital stock are properly capitalized when incurred or paid. Such expenses are not deductible from gross income until the business for which the expenses were incurred is abandoned and the business organization itself, or, in the case of a reorganization, the successor to the business organization, has been dissolved, or has completely wound up its affairs, whichever is later.

2. For tax years beginning after December 31, 1984, organizational expenditures incurred by a corporation may be amortized over a period of not less than 60 months. See **Reg. Rule** 810-3-35-.01(7).

3. For tax years beginning after December 31, 1989, certain start-up costs may, if the taxpayer so elects, be amortized over a period of not less than 60 months even if the costs do not qualify for amortization as organization fees. See **Reg. Rule** 810-3-15-.23.

(e) Amortization of bond premiums. Premiums paid on bonds purchased by individuals are part of the cost of such bonds, and no portion of such premiums will be allowed as a deduction from gross income until the bonds are sold or redeemed. An exception to this general rule occurs in the case of estates and trusts where the trustee has no alternative other than to protect the corpus of the estate or the trust. In such cases the Department will permit the premium to be amortized over the life of the bond.

(f) Fines and penalties.

1. Fines imposed for violations of law, or penalties imposed for legal infractions, misconduct or failure to adequately or timely comply with laws or regulations are not deductible. Such nondeductible items include:

(i) penalties for late payment or nonpayment of taxes.

(ii) punitive damages imposed by a court for violations of civil or criminal laws (including overweight or speeding fines or penalties).

2. "Penalties" imposed by contract as liquidated damages are deductible. Such items include:

(i) penalties for early withdrawal of savings certificates.

(ii) penalties for failure to complete a construction contract within a specified time.

(c) Premiums paid on life insurance. Premiums paid on a life insurance policy covering the life of any officer or employee of the taxpayer, or any person (including the taxpayer) who is financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary of the policy.

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Author: Mary L. Gifford, Yeteva Johnson, and Kathy Alabi.

Authority: Sections 40-2A-7(a)(5) & 40-18-17, Code of Ala-bama 1975, 40-18-17.

History: Adopted: September 30, 1982.

Amended: June 17, 1988, filed July 27, 1988.

Amended: Filed July 22, 1992, filed October 30, 1992.