

APA-1

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-3-32-.02

Rule Title: Proof of Exemption

New; Amended; Repealed; Adopt by Reference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 08/21/2017

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-32-.02

Rule Title: Proof of Exemption

 New X Amend 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:

810-3-32-.02.

Proof of Exemption.

(1) (a) An organization is not exempt from tax merely because it is not organized and operated for profit. It must establish its exemption by filing an affidavit showing the character of the organization, the purpose for which it was organized, its actual activities, the sources of its income and the disposition of such income, whether or not any of its income is credited to surplus or may inure to the benefit of any private shareholder or individual, and in general all facts relating to its operations which affect its right to exemption. To the affidavit shall be attached a copy of the articles of incorporation, declaration of trust, or other instrument of similar import, setting forth the permitted powers or activities of the organization, the by-laws or other code or ~~regulations-rules~~, and the latest financial statement showing the assets, liabilities, receipts, and disbursements of the organization.

(b) In addition to the information specifically called for in the preceding subparagraph, the Department may require additional information necessary for a proper determination of entitlement to an exemption pursuant to § Section 40-18-32, Code of Alabama 1975.

(c) The status of a corporation claiming exemption under ~~§Section 40-18-32,~~ Code of Alabama 1975 will be determined by the Department on the basis of the facts in each individual case, and the taxpayer will be notified of the findings of the Department. The exemption statute will be strictly construed, and an organization not qualifying under a specific subsection of § Section 40-18-32, Code of Alabama 1975 will be held to be subject to tax.

(d) If an organization is exempt under both federal and state law, approved federal forms establishing exemption for federal income tax purposes will be acceptable as proof of exemption for state income tax purposes.

(2) Subject to revocation as a result of changes in the law, ~~regulations-rules~~, or other good cause, an organization that has once established its exemption may rely upon this determination and need not reestablish its exemption so long as there are no substantial changes in the organization's character, purposes, or methods of operation.

(3) This exemption does not extend to unrelated business taxable income of an exempt organization. ~~See Reg. 810-3-32-.03.~~

(4) An organization is organized exclusively for one or more exempt purpose only if its articles of organization:

(a) limit the purposes of such organization to one or more exempt purposes; and

(b) do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance

of one or more exempt purposes.

(5) An organization will be regarded as "operated exclusively" for one or more exempt purpose only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in **§ Section 40-18-32, Code of Alabama 1975**; and no more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

(6) The Federal Internal Revenue Code contains provisions similar to those in ~~this section~~ **Section 40-18-32, Code of Alabama 1975 and this rule**. Decisions and interpretations of the federal courts and agencies will be given due weight in interpreting ~~this section~~ **Section 40-18-32, Code of Alabama 1975 and this rule**.

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Authority: Sections 40-2A-7(a)(5), and 40-18-32, **Code of Alabama 1975**
History: Adopted September 30, 1982.
Amended: June 17, 1988.
Filed with LRS: July 27, 1988.