

APA-1

### Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-3-13-.01

Rule Title: Taxable Year

New;  Amended;  Repealed;  Adopt by Reference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

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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.

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#### 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 Services Agency.



Signature of certifying officer

Date 03/20/2018

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10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-13-.01

Rule Title: Taxable Year

           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:

**ALABAMA DEPARTMENT OF REVENUE  
Individual and Corporate Tax**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

810-3-13-.01	Taxable Year
810-3-2-.02	Corporations Subject to Alabama Income Tax
810-3-30-.01	Permission to Change Accounting Period.

**INTENDED ACTION**

Amended; Amended; Amended

**SUBSTANCE OF**

**PROPOSED ACTION:**

The department proposes to amend the above mentioned rules in compliance of the Red Tape Reduction Act 2013-88 to provide language clarification and updates.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at **01:45 PM on Tuesday, May 08, 2018, 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/tax-policy/>.


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, May 08, 2018

**CONTACT PERSON AT AGENCY:**

Meagan Barrett  
Alabama Department of Revenue  
4131 Gordon Persons Building  
Montgomery, Alabama 36132  
(334) 242-1380

  
Michael D. Gamble, Secretary  
Alabama Department of Revenue

(1) Taxable income shall be computed and a return shall be made for a period known as the "taxable year." The taxable year may be a calendar year, a fiscal year, an elected 52-53 week year, or an accounting period of less than twelve months resulting from a change in accounting periods. **The taxable year for Alabama purposes must tie to the same tax period the taxpayer utilizes for federal tax purposes.**

(2) A taxpayer elects a taxable year when the first **federal** return is filed. This election **should must** be consistently followed in filing subsequent returns, **and all Alabama returns. Any change in accounting period must have the approval of the Department of Revenue as described in Rule 810-3-30-.01.**

(a) A calendar year is the twelve consecutive month period beginning January 1 and ending December 31.

(b) A fiscal year is the twelve consecutive month period ending on the last day of any month other than December.

(c) There is no provision in Alabama ~~i~~Income ~~t~~Tax law for the 52-53 week year; however, the ~~D~~department does permit the election of the 52-53 week year. When this election is made, the ~~D~~department will follow the methods prescribed by the Internal Revenue Service pursuant to 26 U.S.C. §441(f).

(3) An accounting period of less than twelve months is one that results from changing the accounting period from the calendar year to the fiscal year, from fiscal year to calendar year, from one fiscal year to another, when the taxpayer is not in existence for the entire taxable year, when the taxpayer goes out of business, ~~or~~ when there is a change in entity, **or for any other reason required for federal purposes. These changes are further described in §40-18-30, Code of Alabama 1975.**

(4) Effect of election under §40-18-8(j), Code of Ala. 1975, (and 26 U.S.C. §338), for entities filing separate returns. **The making of an election for a deemed liquidation of a target corporation as provided in §40-18-8(j) does not operate to terminate the tax year of the target corporation.** If the target corporation must change its taxable year to conform to that of a new consolidated parent company for federal purposes, **the rules in paragraph (2) above for change in accounting period apply then the same changes will be made for Alabama purposes.**

(a) ~~Unlike the federal rules, the target corporation is not required to file a "one-day" return for taxable gains. Such gains are included in the return for the period which otherwise includes the "one-day" federal return period.~~

1. ~~For example, if the target corporation is filing on a calendar year basis, and will continue to file on a calendar year basis following the 26 U.S.C. §~~

~~338 deemed liquidation, there is only one taxable year for Alabama purposes, even though the corporation may have 3 taxable periods for federal purposes:~~

~~(i) the short period return from the beginning of the calendar year to the last day before the deemed liquidation,~~

~~(ii) the "one-day" return for the day of the deemed liquidation, and~~

~~(iii) the short period return from the first day after the deemed liquidation to the end of the calendar year.~~

(5) If the taxpayer's accounting period is other than the taxable year as described in this rule, or if the taxpayer has no accounting period or does not keep records, the net income shall be computed on the basis of the calendar year.

~~(6) For tax years beginning after December 31, 1989, a taxpayer must use the same accounting period for Alabama purposes as that used for federal income tax purposes, except as otherwise provided in paragraph (4) above.~~

~~(6) (7)~~ For tax years beginning after December 31, 1998, a taxpayer making an election to file an Alabama consolidated return, as provided in §40-18-39, must use the same taxable year as employed for ~~f~~Federal ~~i~~Income ~~t~~Tax purposes.

Authors: ~~Cindy D. Norwood, Jeffrey Taylor, Carmen Mills, Anne Glenn Angela Cumbie.~~

Authority: ~~§§40-2A-7(a)(5), 40-18-8(j), 40-18-13, and 40-19-39 Code of Ala. 1975, and 26 U.S.C. §§338 and 441.~~

History: Amended: Filed June 17, 1988; filed July 27, 1988.  
Amended: Filed October 30, 1992; effective December 4, 1992.  
Amended: Filed September 18, 1996; effective October 23, 1996.  
Amended: Filed March 31, 2000; effective May 5, 2000.  
Amended: Filed March 21, 2018