

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-73-.01

Rule Title: Withholding Exemption Certificates

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

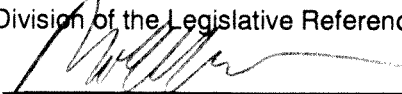
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? 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 5/21/12

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-73-.01

Rule Title: Withholding Exemption Certificates

 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:

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:

APA-2
11/96

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

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-3-73-.01 Withholding Exemption Certificates

INTENDED ACTION: Amend an existing rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule which updates the employee exemption certificate to allow an exemption from Alabama withholding tax based on the recently passed Public Law 111-97 entitled Military Spouses Residency Relief Act.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 10:00 a.m. on Thursday, July 12, 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:
Thursday, July 12, 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

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810-3-73-.01 Withholding Exemption Certificates.

(1) Every employee is required to furnish his or her employer an Alabama withholding exemption certificate (Form A-4) at the time of employment showing the number of exemptions claimed. The number of exemptions claimed may not exceed the number of exemptions to which the employee is entitled to claim under Section 40-18-19, Code of Alabama 1975.

(a) There are no exceptions to the above rule.

(b) Federal Form W-4 will not be accepted as the values of exemption differ greatly between Alabama and federal allowances.

(c) Failure by the employee to provide to his or her employer a signed, Alabama withholding exemption certificate will result in the employer withholding using zero ("0") exemptions.

(2) An employer is not required to deduct and withhold tax on the wages of an employee if the employee has certified to the employer on the withholding exemption certificate that the employee:

(a) Incurred no liability or income tax for the prior tax year (this requirement will not be met if the employee did not file a return for the prior year), and

(b) Does not expect to incur an income tax liability for the current year. , or

(c) Qualifies for exemption under the Military Spouses Residency Relief Act. This exemption applies to the spouse of a service member who is present in Alabama in compliance with military orders and who maintains domicile in another state. Employees should provide their employer with a valid military identification. Employers will report the employee's wages on Form W2 reflecting the state of legal residency shown on the spouses Form DD-2058 or current leave and earnings statement. Employers must keep a copy of these forms on file.

(3) If an employee is no longer entitled to an exemption from withholding tax as described in paragraph (2) above, the employee should submit to his or her employer a new Form A-4 exemption certificate reflecting the current number of exemptions to which they are entitled.

(3) (4) Pursuant to the requirements of Section 40-18-73, Code of Alabama 1975, employers must provide to the Alabama Department of Revenue, no later than 60 days from the date the employee begins **this** employment, a copy of any withholding exemption certificates where the employee claims eight

(8) or more exemptions. Failure to provide this information within the above stated time period shall subject the employer to the "failure to timely file" penalty of \$50 per certificate.

(4) (5) Penalties.

(a) In the event the employee inflates the number of exemptions allowed by this Chapter on Form A-4, **or falsely claims an exemption from withholding**, the employee shall be subject to a penalty of \$500 for such action pursuant to the provisions of Section 40-29-75, Code of Alabama 1975.

(b) Any person who fails to comply with the requirements of this section also shall be subject to the penalties provided in Section 40-2A-11, Code of Alabama 1975.

Author: Michael Mason, ~~Ewell Berry~~, and Ann F. Winborne, CPA
Authority: ~~Act 2007-199~~, Sections 40-2A-7(a)(5) and 40-18-73, Code of Alabama 1975
History: Adopted September 30, 1982; amended June 17, 1988.
Amended: Filed March 20, 1989, effective April 24, 1989.
Amended: Filed May 3, 2000, effective June 7, 2000.
Amended: Filed March 13, 2007, effective April 18, 2007.
Amended: Filed June 6, 2008, effective July 11, 2008.