

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-3-137-.03

Rule Title: Historic Rehabilitation Tax Credit of 2017- Improperly Obtained Historic Rehabilitation Tax Credits.

New; Amended; Repealed; Adopt by Reference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 relate to or effect any matter of litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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 Services Agency.



Signature of certifying officer _____

Date 11/06/2018

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-137-.03

Rule Title: Historic Rehabilitation Tax Credit of 2017- Improperly Obtained Historic Rehabilitation Tax Credits.

 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

810-3-2-.02

Corporations Subject to Alabama Income Tax

INTENDED ACTION

Amended

**SUBSTANCE OF
PROPOSED ACTION:**

The department proposes to update the language in the rule to make the imposition of the S corporation to pay income tax at the corporate level not absolute.

RULE NO. & TITLE

810-3-79-.01

Overpayment of Tax

INTENDED ACTION

Amended

**SUBSTANCE OF
PROPOSED ACTION:**

During the Red Tape Reduction Act (Act 2013-88) rule reviewal process, the department determined that language updates were needed.

RULE NO. & TITLE

810-3-81-.01

Optional Short Form Returns

INTENDED ACTION

Repealed

**SUBSTANCE OF
PROPOSED ACTION:**

During the Red Tape Reduction Act (Act 2013-88) rule reviewal process, the department determined that the information in rule is incorrect and no longer relevant.

RULE NO. & TITLE

810-3-137-.03

Historic Rehabilitation Tax Credit of 2017- Improperly Obtained Historic Rehabilitation Tax Credits.

INTENDED ACTION

Amended

**SUBSTANCE OF
PROPOSED ACTION:**

The department proposes to Rule is being amended to update the code section chapters that were not available at the time the rule was written, but are now codified in the law.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **01:30 PM on Tuesday, January 08, 2019, 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, January 08, 2019

810-3-137-03 Historic Rehabilitation Tax Credit of 2017 - Improperly
Obtained Historic Rehabilitation Tax Credits and Recapture of Historic Rehabilitation Tax
Credits.

(1) This rule sets forth guidelines and procedures to be used by the Department of Revenue in the administration of the Historic Rehabilitation Tax Credit of 2017, as codified in Article 2 of Chapter 9F of Title 40, Code of Alabama 1975, which provides for a tax credit under Chapter 18 of Title 40 to Alabama taxpayers for the rehabilitation of certain historic and certain non-historic buildings in Alabama.

(2) The Department shall have the right to audit and assess 100% of any credit improperly obtained by the Owner. Any liability resulting therefrom shall apply against the Owner initially awarded the Tax Credit Certificate and not any subsequent Transferee of the tax credit pursuant to Section 40-9F-~~X33~~.

(3) Recapture of the credit shall apply against the taxpayer who utilizes the credit. The Owner shall report any recapture event to the Department, the Commission and the taxpayer. In the case of a Project which meets the requirements of, and a taxpayer in fact claims, the rehabilitation credit associated with the Project under Title 26, Section 47 of the Internal Revenue Code (the "Federal Historic Credit"), recapture and any related adjustments of basis due to recapture shall occur when and if recapture occurs with respect to the Federal Historic Credit and the amount of the recapture of the credit, and any required basis adjustments shall be proportionate to the recapture of the Federal Historic Credit. In all other cases, recapture occurs when the Project fails to meet the definitions of a Certified Historic Structure or a Certified Historic Residential Structure pursuant to Section 40-9F-~~X31~~, and recapture and any related adjustments of basis due to recapture shall be governed by principles which correspond to those applicable to the Federal Historic Credit under Title 26 Section 50 of the Internal Revenue Code.

Author: Kelly Graham
Authority: Section 40-2A-7(a)(5) and Title 40, Chapter 9F, Article 2, Code of Alabama 1975.
History: New Rule: Filed January 5, 2018; Effective February 19, 2018.
Amended: Filed November 19, 2018; Effective