

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-3-2-.02

Rule Title: Corporations Subject to Alabama Income Tax

New; Amended; Repealed; Adopt by Reference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

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-2-.02

Rule Title: Corporations Subject to Alabama Income Tax

 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:

**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.

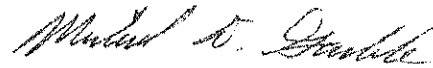
FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, January 08, 2019

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

810-3-2-.02. Corporations Subject to Alabama Income Tax.

(1) Corporations, associations, or joint-stock companies subject to tax only in the state of Alabama are taxable on income from all sources, both inside and outside the state of Alabama. Corporations, associations, or joint-stock companies subject to tax in multiple states, shall allocate and apportion their income as defined in the statute and rules under §40-27-1, Code of Ala. 1975.

(2) For a corporation acting in a fiduciary capacity in Alabama, see Rule 810-3-2-.03.

(3) A corporation qualified to do business or doing business in this state and having a valid S election under 26 U.S.C. § 1362 shall be an Alabama S corporation under the provisions of §40-18-160, Code of Ala. 1975, et seq. **Generally, Aan S** corporation will not pay income tax at the corporate level, but will act as a conduit to pass through income to its shareholders. See §40-18-160 Code of Ala. 1975, and related rules.

(4)(a) Every organization described in §40-18-32, Code of Ala. 1975, which receives "unrelated business taxable income" as defined in 26 U.S.C. §512, shall file Form 20C reporting such "unrelated business taxable income" and pay any tax due thereon.

(b) Any organization, whether incorporated or not, which receives such "unrelated business taxable income" shall file Form 20C and report income and deductions in the same manner as a corporation. Any organization subject to income tax which receives such "unrelated business taxable income" shall file Form 20C and report the income and deductions attributable to Alabama. See the statute and rules under §40-27-1, Code of Ala. 1975, for guidance on apportionment and allocation of income and deductions.

Author: Christina Hall and Chris Sherlock.
Authority: §§40-2A-7(a)(5), 40-18-2, and 40-27-1, Code of Ala. 1975, and 26 U.S.C. §§512 and 1362.
History: Filed with LRS, July 22, 1992.
Amended: Filed March 4, 1997; effective April 8, 1997.
Amended: Filed March 21, 2018; Effective August 27, 2018.
Amended: Filed November 19, 2018; Effective