

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-3-79-.01

Rule Title: Overpayment of 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New; Amended; Repealed; Adopt by Reference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

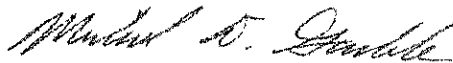
Does the proposed rule relate to or effect any matter of litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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

**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

810-3-79-.01.

Overpayment of Tax.

(1) (a) If the ~~income tax return~~ **Income Tax Return** of a taxpayer shows an overpayment of tax because of withholding from ~~his~~ wages and/or payments of ~~declarations~~ of estimated tax, the overpayment will first be applied against any income tax **liability** of earlier years owed by the taxpayer. The balance, at the election of the taxpayer, will be refunded ~~to him~~ or credited as a **first** payment ~~on his declaration~~ of estimated tax for the following year. ~~See Reg. 810-3-82-.01 as to the irrevocability of the election.~~

(b) Refunds of less than one dollar are made only on written request of the taxpayer who has made the overpayment. ~~Filing a declaration of estimated tax for the following year together with a request or election that the overpayment be credited thereon will be treated as such a written request. Alternatively, a refund claim may be filed on Form 40X.~~

(2) ~~Through May 31, 1981, interest on overpayment of taxes was at the annual rate of 6%. Act 81-258, now codified at § 40-1-44, provided that effective June 1, 1981, interest~~ **Interest rates are would be** equal to the rate set by the United States Secretary of the Treasury pursuant to Internal Revenue Code Section 6621.

(3) Interest on overpayment of tax shall not begin to accrue until 90 days after the due date for filing the return or the date the return is filed, whichever is later.

Authors: George E. Mingledorff, III, Ecta B. Spicer, Anne Simms and Carmen Mills
Authority: §§ 40-1-44, 40-2A-7(a)(5), and 40-18-79 Code of Ala. 1975.
History: Adopted September 30, 1982; amended February 8, 1989, filed with LRS March 20, 1989, Effective April 24, 1989
Amended November 19, 2018; Effective