

APA-1

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-3-28-.07

Rule Title: Alabama Requirements for Mandatory E-File of Original Partnership/Limited Liability Company Income Tax Returns.

New; Amended; Repealed; Adopt by Reference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 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 10/20/2017

APA-6
10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-28-.07

Rule Title: Alabama Requirements for Mandatory E-File of Original Partnership/Limited Liability Company Income Tax Returns.

 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

810-2-8-.12	Requirements for the Alabama Electronic Business Privilege Tax Return.
810-3-27-.05	Requirements for the Alabama Electronic Individual Income Tax Return.
810-3-27-.07	Requirements for Electronic Filing Software.
810-3-28-.05	Requirements for Electronic Filing Software - Partnership/LLC Returns.

INTENDED ACTION

Repeal, New

**SUBSTANCE OF
PROPOSED ACTION:
RULE NO. & TITLE**

The department proposes to repeal and replace the above mentioned rules in order to comply with the Red Tape Reduction Act 2013-088.

810-3-27-.06	Requirements for the Individual Income Tax Declaration for Electronic Filing.
810-3-27-.08	Acceptance into the Alabama Electronic Filing Program, Monitoring, and Revocation of Acceptance into the Program.
810-3-28-.02	Participation in the Federal/State Electronic Filing Program - Partnership/LLC Returns of Income.
810-3-28-.03	Requirements For The Alabama Electronic Partnership/LLC Return Of Income.
810-3-28-.04	Requirements for the Partnership/LLC Return of Income Declaration for Electronic Filing.
810-3-28-.06	Acceptance Into The Alabama Electronic Filing Program, Monitoring, And Revocation Of Acceptance Into The Program.
810-3-28-.07	Alabama Requirements for Mandatory E-File of Original Partnership/Limited Liability Company Income Tax Returns.
810-3-29-.08	Alabama Requirements for Mandatory E-File of Fiduciary Income Tax Returns.
810-3-176-.01	Composite Returns of Alabama S Corporations.

INTENDED ACTION

Amend

**SUBSTANCE OF
PROPOSED ACTION:**

The department proposes to amend the above mentioned rules in compliance of the Red Tape Reduction Act 2013-088. To add and remove applicable language.

RULE NO. & TITLE

810-3-28-.08	Alabama Requirements for Compliance with Administrative Rule 810-3-28-.07.
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INTENDED ACTION

Repeal

**SUBSTANCE OF
PROPOSED ACTION:**

The department proposes to repeal the above mentioned rules in compliance of the Red Tape Reduction Act 2013-088. The rules language is no longer

applicable.

RULE NO. & TITLE

810-3-28-.09

Requirements for the Alabama Electronic Partnership/LLC Return of Income Tax Return.

INTENDED ACTION

New

**SUBSTANCE OF
PROPOSED ACTION:**

The department proposes to create the above mentioned rule to define the filing and payment requirements of an Alabama electronic partnership/LLC return of income.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **01:45 PM on Tuesday, December 12, 2017, 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, December 12, 2017

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

810-3-28-.07 Alabama Requirements for Mandatory E-File of Original Partnership/Limited Liability Company Income Tax Returns.

(1) Scope – This rule explains the electronic filing mandate requirements and exclusions for both an income tax return preparer and the Partnership/Limited Liability Company.

(2) Definitions.

(a) Income tax **return** preparer - a person, firm or company who meet one of the following:

1. Any person who prepares an Alabama corporate/partnership income tax return in exchange for compensation.

2. Any person who employs another person to prepare, in exchange for compensation, any current year Alabama corporate/partnership income tax return.

3. Any accounting firm or company who employs a person or group of people who prepare, in exchange for compensation, any current year Alabama corporate/partnership income tax return.

~~(b) —“Original” corporate/partnership income tax return – any return that is required, to be filed with respect to the tax imposed as defined by Section 40-18-2, Code of Alabama 1975.~~

~~(c) —“Timely” original corporate/partnership tax return – any original corporate/partnership tax return that is filed, without regard to extensions, during the calendar year for which that tax return is required to be filed.~~

~~(d) —“Acceptable” corporate/partnership income tax return – for the purposes of the mandatory corporate/partnership income tax filing program, any original corporate/partnership tax return that is authorized by the Department to be filed solely using electronic technology as defined in Section 40-30-3(2), Code of Alabama 1975.~~

~~(e) —Tax preparation software – any computer software program intended for accounting, tax return preparation, or tax compliance.~~

(3) Income Tax Return Preparer Mandate.

(a) If an income tax return preparer prepares 25 or more acceptable, original corporate/partnership income tax returns using tax preparation software in a calendar year, then for that calendar year and for each subsequent calendar year thereafter, all acceptable corporate/partnership income tax returns prepared by that income tax

preparer must be filed using electronic technology, as defined in the "Electronic Tax Return Filing Act," as codified in Chapter 30 of Title 40, Code of Alabama 1975.

(b) Paragraph (3a) of this rule, applies to acceptable corporate/partnership income tax returns required to be filed for taxable years beginning on and after January 1, 2009.

(c) Paragraph (3a) shall cease to apply to an income tax preparer if, during that calendar year and all subsequent years, the income tax preparer prepared no more than 15 original corporate/partnership income tax returns.

(d) Paragraph (3a) of this rule, may not be interpreted to require electronic filing of acceptable corporate/partnership income tax returns that are required to be filed on or before January 1, 2009.

(4) Partnership/Limited Liability Company Mandate.

(a) Corporations with assets of \$5 million or more, or partnerships with 50 or more partners at the end of the corporation/partnership's taxable year are mandated to e-file Alabama corporate/partnership income tax returns, for that calendar year and all subsequent tax years.

(5) Compliance with the E-File Mandate.

(a) An income tax return preparer may be subject to a random monitoring visit for not electronically filing returns.

(b) If it is shown that failure to electronically file corporate/partnership income tax returns is due to willful neglect and no prior approval from the Department has been obtained to paper file, then that tax preparer's acceptance in the Alabama Business MeF Program shall be revoked. The tax preparer will be unable to electronically transmit corporate/partnership income tax returns to the Department.

(5)(6) Exclusions from the E-file Mandate.

(a) If an entity is exempt from filing the federal 1065 as stated in the IRS publication 4164 for the tax year of the Alabama return being filed, then they are exempt from the Alabama e-file mandate.

(b) Opting to paper file the federal 1065 does not exclude an income tax preparer or partnership/limited liability company from the Alabama e-file mandate. To be in compliance with the Alabama e-file mandate, an accepted current tax year federal

return must be transmitted electronically with the mandated electronic Alabama return.

Authors: Melissa Gillis and Veronica Jennings.

Authority: Sections 40-2A-7(a)(5), 40-18-40, and 40-30-2,
Code of Alabama 1975.

History: New rule: Filed November 10, 2015, effective December 15,
2015.