

APA-1

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-3-136-.01

Rule Title: Historic Rehabilitation Tax Credit.

New; Amended; Repealed; Adopt by Reference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 09/20/2017

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10/96

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-136-.01

Rule Title: Historic Rehabilitation Tax Credit

 New X Amend Repeal Adopt by Reference

<input checked="" type="radio"/> NO
<input type="radio"/> 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

ALABAMA DEPARTMENT OF REVENUE
Individual and Corporate Tax

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-3-26-.03

Reporting Requirements of Payment Settlement Entities (PSE).

INTENDED ACTION

New

**SUBSTANCE OF
PROPOSED ACTION:**

The department proposes to create the above mentioned rule to reflect the provisions established in Act 2017-294. Payment settlement entities who are required to file 1099-K information returns with the IRS must also file with the Department within 30 days of the IRS due date.

RULE NO. & TITLE

810-3-136-.01

Historic Rehabilitation Tax Credit

810-3-136-.02

Availability, Claiming and Transferability.

810-3-136-.03

Improperly Obtained Tax Credits and Recapture of Tax Credits.

INTENDED ACTION

Amend

**SUBSTANCE OF
PROPOSED ACTION:**

The department proposes to amend the above mentioned rules to reflect the appropriate Historic Rehabilitation Tax Credit year of passage due to the enactment of 2017-380.

RULE NO. & TITLE

810-3-137-.01

Historic Rehabilitation Tax Credit of 2017 - General Guidelines.

810-3-137-.02

Historic Rehabilitation Tax Credit of 2017 - Availability, Claiming and Transferability of the Historic Rehabilitation Tax Credit.

810-3-137-.03

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

INTENDED ACTION

New

**SUBSTANCE OF
PROPOSED ACTION:**

The department proposes to create the above mentioned rules to provide guidance regarding the statutory requirements of the Historic Rehabilitation Tax Credit of 2017 to be used by the Department of Revenue in the administration of the Historic Rehabilitation Tax Credit of 2017.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **01:45 PM on Tuesday, November 14, 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, November 14, 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

810-3-136-.01 Historic Rehabilitation Tax Credit of 2013 – General Guidelines.

(1) **Purpose.** This rule sets forth guidelines and procedures to be used by the Department of Revenue in the administration of ~~Act 2013-241, as amended by Act 2014-452~~ **the Historic Rehabilitation Tax Credit of 2013**, as codified in **Article 1 of** Chapter 9F of Title 40 of the Code of Ala. 1975, which provides for a tax credit under Chapters 16 and 18 of Title 40 to Alabama taxpayers for the rehabilitation of certain historic and certain non-historic buildings in Alabama.

(2) **Definitions.** In addition to the following definitions, for purposes of this rule, all terms shall have the same meanings as provided by Alabama Historical Commission Rule 460-X-23-.02 or as defined in the Act.

(a) **Department.** The Alabama Department of Revenue.

(b) **Commission.** The Alabama Historical Commission.

(c) **Tax Credit Certificate.** A written form or letter issued by the Commission to the Owner of the Project awarded a historic rehabilitation credit providing information about the Project and the total amount of credit issued to the Project.

(d) **Transfer Tax Credit Certificate.** A certificate issued by the Department to a Transferee providing information about the Project for which a Historic Rehabilitation Tax Credit Certificate has been issued and the amount of credit allocated to the Transferee.

(e) **Allocation Schedule.** A list identifying the Owners, or if the Owner is a pass through entity, its members or partners, and the amount of credit allocated to each partner, member or owner. If there is more than one Owner or if the Owner is a pass-through entity, the Allocation Schedule is required to be filed with the Department as part of the Tax Credit Certificate or the Transfer Statement.

(f) **Recipient Tax Credit Certificate.** A form, promulgated by the Department that is issued to an Owner, partner or member identifying the amount of credit allocated to the taxpayer. This form shall be issued by the Owner if there is more than one Owner of the Project or if the Owner is a pass-through entity (or issued by a pass-through entity that is a partner or member of the Owner), and is required to be filed with the taxpayer's tax return.

(g) **Transferor.** Any Owner, partner, or member of a Project for which a Historic Rehabilitation Tax Credit Certificate was issued, which transfers all or part of their portion of the credit.

(h) **Transferee.** Any taxpayer that is transferred all or a portion of a historic rehabilitation tax credit.

(i) **Transfer Statement.** A statement to be filed with the Department by the Transferor prior to the effectiveness of the transfer that identifies the Transferor and each Transferee, the

amount of tax credit to be transferred to each Transferee, and the date the Project was placed in service.

(j) Transfer Agreement. A written contract between the Transferor and the Transferee that provides the following information, but may also contain such other information as the Department may from time to time require:

1. Description and address of the Project that has been issued a Historic Rehabilitation Tax Credit Certificate;
2. The date the Project was placed in service;
3. The amount of credit being transferred to Transferee;
4. The Transferee acknowledges that the recapture of a credit, other than a credit that is improperly obtained by the Owner, shall apply against the Transferee or any person to whom the tax credits have been passed through and utilized pursuant to Rule ~~810-3-136-.03(2)~~ 810-3-136-.03(2) , and
5. The Transferor is required to notify the Transferee of any recapture or related adjustments of the credit within 30 days after the Transferor is notified that the credit has been recaptured or adjusted.

Author: Kelly Graham, Neal Hearn, **and Cameran Clark**

Statutory Authority: ~~Code of Ala. 1975, §§ Section~~ 40-2A-7(a)(5); **and** Title 40, Chapter 9F, **Article 1, Code of Alabama 1975.**

History: New Rule: Filed March 25, 2015; effective April 29, 2015.