

# Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-14-1-.18

Rule Title: Petitions for Refund Allowed.

New;  Amended;  Repealed;  Adopt by Reference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

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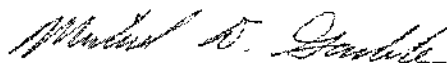
Does the proposed rule have any economic impact? No

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.

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### 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 09/18/2018

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

Control No. 810 Department or Agency REVENUE

Rule No: 810-14-1-.18

Rule Title: Petitions for Refund Allowed.

           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  
Tax Policy and Governmental Affairs**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

810-14-1-.18                      Petitions for Refund Allowed

**INTENDED ACTION**            Amend

**SUBSTANCE OF PROPOSED ACTION:**    The department proposes to amend this rule to reflect statutory updates as per Act 2018-180 and to provide taxpayer guidance.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:**    A public hearing will be held at **01:45 PM on Tuesday, November 13, 2018, 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/>.

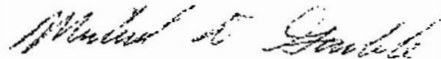
All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also appear at the hearing to present their views.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**

Tuesday, November 13, 2018

**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

(1) Any taxpayer or consumer/purchaser may file a **written** petition for refund of any taxes erroneously paid to the Department. Such petition should include the following:

(a) a **written** statement that the taxpayer or consumer/purchaser is requesting a refund;

(b) the taxpayer's name and/or consumer/purchaser name, social security number or FEIN, and address;

(c) the type of tax;

(d) the tax periods or years involved;

(e) the amount of refund requested;

(f) a statement of the relevant facts and the reason the payment was erroneous; and

(g) an attachment of any documentation sufficient to provide proof of an erroneous payment. (Examples of documentation may include: invoices, receipts, check copies, accrual records, copies of returns, etc.)

(2) Any petition for refund providing the foregoing information shall be sufficient to satisfy the statutory time limits for requesting refunds. However, the Department may subsequently require the taxpayer to provide additional information as necessary. An amended tax return reflecting a refund of taxes due shall be considered a petition for refund.

(3) **A petition for refund of public utility tax, sales and use tax, and transient occupancy tax that is equal to twenty-five dollars (\$25.00) or more and otherwise satisfies the requirements of paragraphs (1) and (2) shall be processed upon submission. Petitions of refunds of less than twenty-five dollars (\$25.00) shall be requested by the taxpayer or consumer/purchaser on an annual basis by either a single petition for refund or multiple combined petitions for refunds. Joint petitions for refund must be filed for taxes in which the taxpayer collects and remits the tax on behalf of the purchaser/consumer. Such taxes include, but may not be limited to the following: sales or use taxes, public utilities taxes, and any transient occupancy tax. Joint petitions for refund should include the following:**

~~(a) a written statement that the taxpayer and the consumer/purchaser are requesting a refund, such statement must be signed by both the taxpayer and the consumer/purchaser;~~

~~(b) the taxpayer's and the consumer's/purchaser's names, social~~

~~security number or FEIN, and addresses;~~

~~(c) the type of tax;~~

~~(d) the tax periods or years involved;~~

~~(e) the amount of refund requested; and~~

~~(f) a statement of the relevant facts and the reason the payment was erroneous~~

~~(g) an attachment of any documentation sufficient to provide proof of an erroneous payment. (Examples of documentation may include: invoices, receipts, check copies, accrual records, copies of returns, etc.)~~

~~Any joint petition for refund providing the foregoing information shall be sufficient to satisfy the statutory time limits for requesting refunds. However, the Department may subsequently require the taxpayer and/or the consumer/purchaser to provide additional information as necessary. Any amended tax return reflecting a refund of taxes due shall be considered a petition for refund.~~

(4) In the case of a refund request by a seller, the seller may file a direct petition for refund if the seller remitted in excess of the tax due, but never collected the tax from the consumer/purchaser, or if the seller has previously refunded, credited, or repaid the tax directly to the consumer/purchaser.

(5) In the case of an individual, refunds requested in a petition for refund required to be filed annually under the provisions of paragraph (3) shall first be reduced by the amount of the state use tax due to be reported on the individual's income tax return for the calendar year in which the refund is requested.

(6) The Department shall develop and make available forms for annual refund petitions required to be filed under paragraphs (3) and (4).

Author: George Mingledorff and Cameran L. Clark

Authority: §§40-2A-3, 40-2A-7(a)(5), and 40-2A-7(c), Code of Ala. 1975 Act 92-186

History: Filed with LRS May 20, 1993.

Certification filed with LRS July 16, 1993, effective August 19, 1993.

Amended: Filed August 20, 2018; Effective