

ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE

CHAPTER 810-3-27
INDIVIDUAL TAXPAYERS' RETURNS

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810-3-27-.01	<u>When An Individual Return Is Required.</u>

(1)(a) Each resident shall file a return for each tax year if single or married but not living with husband or wife, and having for the year a net income (as defined in §40-18-12) of \$1,500 or more; or if married and living with husband or wife and having a net income of \$3,000 or more for the tax year.

(b)1. A husband and wife, each having income for the tax year, may file separate returns reporting the income and deductions of each, or they may elect to file a joint return reporting their combined income and deductions. A joint return may only be filed when -

(i) both spouses have the same tax year (except when one spouse dies during the tax year), and

(ii) both spouses were residents of Alabama for the tax year.

2. A joint return must be signed by both husband and wife.

3. The election to file a joint return is irrevocable after the due date of the return for any tax year.

4.(i) If a husband and wife file a joint return, they shall be jointly and severally liable for the tax shown by said return, or as may be determined by the Department to be due by them.

(ii) Innocent Spouse Rule.

(I) General Rule. For tax years beginning after August 10, 1987, if a joint return was made for such tax year and -

I. on such return there is a substantial understatement of tax attributable to grossly erroneous items of one spouse, and

II. the other spouse (innocent spouse) establishes that in signing the return such innocent spouse did not know, and had no reason to know, that there was a substantial understatement, and

III. taking into account all the facts and circumstances, it is inequitable to hold such innocent spouse liable for the deficiency in tax for such tax year attributable to such substantial understatement by the other spouse, then the innocent spouse shall be relieved of liability for tax (including interest, penalties and other amounts) for such tax year to the extent such liability is attributable to such substantial understatement.

(II) Definitions. For purposes of this subsection (ii):

I. the term "grossly erroneous items" means, with respect to any spouse -

A. any item of gross income attributable to such spouse which is omitted from gross income, and

B. any claim of a deduction, credit, or basis by such spouse in an amount for which there is no basis in fact or law.

II. the term "substantial understatement" of tax means any understatement which exceeds \$500. (If the understatement of tax is not more than \$500, the innocent spouse is not relieved of joint liability.)

III. the term "understatement" means the excess of the amount of tax required to be shown on the return for the tax year (reduced by any credits allowed by §40-18-21) over the amount shown on the return as filed by the taxpayer (reduced by any credits allowed by §40-18-21).

IV. the term "preadjustment year" means the most recent tax year of the innocent spouse ending before the date an assessment is issued pursuant to §40-18-40. (If the assessment is not issued in the first year following the year of the understatement, the "preadjustment year" will be a year which occurs after the year of the understatement.)

V. the term "inequitable" means the innocent spouse received no benefit, directly or indirectly, from the understatement by the other spouse.

(III) Limitations And Exceptions.

I. This subsection (ii) shall apply only (the innocent spouse will be relieved of joint liability for the understatement by the other spouse) if -

A. the adjusted gross income of the innocent spouse for the preadjustment year is more than \$5,000 but not more than \$20,000, and the understatement is greater than ten percent (10%) of such adjusted gross income, or

B. the adjusted gross income of the innocent spouse for the preadjustment year is greater than \$20,000 and the understatement is greater than twenty-five percent (25%) of such adjusted gross income.

(A) If the innocent spouse is married to another spouse at the close of the preadjustment year, the innocent

spouse's adjusted gross income shall include the income of the new spouse, whether or not they file a joint return.

II. The limitation in subsentence I. above shall not apply to any liability attributable to the omission of an item from gross income. (The relief from joint liability for an innocent spouse may be available, regardless of the ratio of the understatement to the innocent spouse's adjusted gross income in the preadjustment year if the understatement resulted from the omission of an item of gross income by the other spouse.)

(c) If the taxable period is less than twelve months a return is required if the net income is more than the exemption computed for the fractional part of the year. See Reg. 810-3-19-.02(3) for proration of exemptions.

(d) If the taxpayer is unable to make a return, his duly authorized agent or guardian is required to file the return.

(2)(a) Every nonresident individual, receiving income from property owned or business transacted within Alabama, which is more than his prorated Alabama personal exemption is required to file a return. For income from property owned or business transacted in the state, see Reg. 810-3-14-.05. For deductions allowable to nonresidents, see Reg. 810-3-15-.21. For proration of the exemptions of a nonresident, see Reg. 810-3-19-.02(4). In order to receive the deductions authorized by §40-18-15, a nonresident shall make a complete return of his gross income both from within and from without Alabama.

(b)1. A nonresident individual may file a joint return with his spouse as provided in subparagraph (1)(b) above, even if only one spouse has income from sources within Alabama.

2. If both spouses have income from sources within Alabama, each may file a separate return reporting their separate income and deductions, or they may file a joint return if (i) both spouses have the same tax year and (ii) both were nonresidents of Alabama for the entire tax year.

3. The provisions of section (1)(b)4. above (innocent spouse rule) are applicable to joint returns filed by nonresidents.

Authors: Mary L. Gifford, John H. Burgess

Statutory Authority: Code of Ala. 1975, §40-18-27.

History: Adopted: September 30, 1982. **Amended:** June 17, 1988; filed July 27, 1988.

810-3-27-.02 Preparation And Filing Of Individual Taxpayer's Return.

(1) Every resident individual taxpayer required to file a return should do so using Form 40 or Form 40A, copies of which may be obtained from the Department. Nonresidents should file using Form 40NR. For use of Form 40A, see Rule 810-3-81-.01.

(a) Alabama individual income tax returns can also be filed electronically. See the Electronic Tax Return Filing Act, §§40-30-1 through 40-30-6, Code of Ala. 1975. See also Rules 810-3-27-.04 through 810-3-27-.08.

(2) Every person who prepares a tax return for another shall show his name, address, and social security number. However, this information may be provided pursuant to the provisions of IRS Notice 2004-54.

(3) The return must be signed or otherwise validated under penalty of perjury by the taxpayer and the person who prepares the return. A joint return must be signed or otherwise validated by both spouses. Each spouse included in a joint return will be jointly and severally liable for any tax due on such return, or as may be determined to be due by the Department.

(4) (a) Returns of income must be filed on or before the fifteenth day of the fourth month following the close of the taxable year. In the case of a final return of a decedent for a fractional part of a year, the return must be filed on or before the fifteenth day of the fourth month following the close of the twelve-month period which began with the first day of such fractional part of the year.

(b) Any return which is postmarked on or before the due date will be deemed timely filed. See Rule 810-1-5-.01.

Authors: Richard Henninger, Patricia L. Wilborne, CPA, Ann F. Winborne, CPA, Ed Cutter, CPA

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-18-27.

History: Adopted: September 30, 1982. **Amended:** June 17, 1988; filed July 27, 1988. **Amended:** Filed July 26, 1999; effective August 30, 1999. **Amended:** Filed January 19, 2006; effective February 23, 2006.

810-3-27-.03 Extension Of Time For Filing Of Individual Taxpayer's Return.

(1) An individual will be granted an automatic six-month extension of time for filing an individual income tax return.

(2) Except in the case of taxpayers who are outside the United States, extensions will not be granted for more than six months.

(3) An individual who fails to file the required return by the extended due date may not be granted an automatic extension the following (ensuing) year, but may be required to request the extension in writing. If a written request is required, the request must be made to the Commissioner of Revenue or to his designee, and must explain the reason for the request and the reason for failing to timely file the return in the previous year. The request also must state that the individual has no outstanding debts owed to the Department.

(4) An extension of time granted pursuant to this section is not an extension of time for payment of tax. The amount of tax due must be paid on or before the due date of the return without regard to the extension to file the return.

(a) Payment of the tax shall be made via the paper Payment Voucher or by Electronic Funds Transfer (EFT).

(b) However, payment must be made via EFT if the payment exceeds \$25,000. Please refer to Regulations 810-13-1-.01 and 810-13-1-.02.

(c) Underpayment of tax penalties plus any applicable interest will be imposed as provided by law without regard to any extension granted under this section.

Authors: Richard H. Henninger, Ann F. Winborne, CPA

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-18-27.

History: **Adopted:** September 30, 1982. **Amended:** June 17, 1988; filed July 27, 1988. **Amended:** Filed May 3, 2000; effective June 7, 2000. **Repealed:** Filed October 12, 2001; effective November 16, 2001. **Amended:** Filed November 7, 2005; effective December 12, 2005. **Amended:** Filed November 26, 2008; effective December 31, 2008.

810-3-27-.04 Election To Participate In The Federal/State Electronic Filing Program.

(1) The Department will participate with the Internal Revenue Service in the Federal/State Electronic Filing Program for the joint electronic filing of individual income tax returns, effective for tax year(s) 1997 and after.

Authors: Ed Cutter, Tavares Matthews

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-30-4.

History: New Rule: Filed April 23, 1998; effective May 28, 1998. **Amended:** Filed April 9, 2018; effective May 24, 2018.

810-3-27-.05 Requirements For The Alabama Electronic Individual Income Tax Return.

(1) SCOPE - This regulation explains the requirements for an electronic Individual Income Tax Return to be complete and timely filed. Terms are defined to clarify when an electronic return is considered to be timely filed for accepted and rejected returns.

(2) Definitions:

(a) XML Schema - A single file or collection of files that describe the structure of an XML instance document along with rules for data content and semantics such as what fields an element can contain, which sub elements it can contain, and how many items can be present. It can also describe the type and values that can be placed into each element or attribute.

(b) XML instance document - The actual return data defined by the XML Schema. This document is validated against the XML schema to ensure the contents and structures are correct.

(c) Business Rules - A document that defines the criteria that needs to be met for an electronic return to be accepted based on the filing instructions and system requirements for a specific tax return.

(d) Individual Income Tax - The tax levied by Sections 40-18-2, Code of Ala. 1975.

(e) Software Developer - An Authorized IRS e-file Provider that develops software for the purposes of (a) formatting the electronic portions of returns according to Publication 4164 or Department specifications and/or (b)

transmitting the electronic portion of returns directly to the IRS. A Software Developer may also sell its software.

(f) Electronic Return Originator (ERO) - A firm, organization, or individual who is an authorized IRS e-file provider that originates the electronic submission of returns. Because the electronic filing process is a joint program between the IRS and the Department, an ERO must be approved by the Internal Revenue Service to qualify for this program.

(g) AL8453 - A document used to satisfy signature requirements for electronically filed Individual Income Tax Returns submitted to the State of Alabama by an Electronic Return Originator (ERO).

(h) AL84530L - A document used to satisfy signature requirements for electronically filed Individual Income Tax Returns submitted to the State of Alabama by an Online Filer.

(i) Accepted return - An Alabama Individual Electronic Income Tax Return that has successfully completed the schema and business rules validation process and the Department has sent an acknowledgement with an Acceptance Status of "Accepted" for MeF (Modernized e-File) returns.

(j) Rejected Return - An Alabama Individual Electronic Income Tax Return that was received, but failed to complete the schema and or business rule validation process and the Department has sent an acknowledgement with an Acceptance Status of "Rejected" for MeF returns.

(k) Transmission Perfection Period - A ten (10) calendar day period from the date of the first transmission of an Individual MeF (Modernized E-file) Income Tax Return that a taxpayer has to correct and resubmit a rejected electronically transmitted Individual MeF Income Tax Return that was originally timely filed.

(l) Electronic Postmark - A record of the date and time (in a particular time zone) that an authorized electronic return transmitter receives the transmission of a taxpayer's electronically filed document on its host system. However, if the taxpayer and the electronic return transmitter are located in different time zones, it is the taxpayer's time zone that controls the timeliness of the electronically filed document.

(m) Timely Filed Return - An electronic return that is received and accepted by the due date or within the six-month automatic extension period. It also includes a timely filed

rejected return that is resubmitted and accepted during the transmission perfection period.

(n) Electronic Return Transmitter - An authorized IRS e-file Provider that transmits the electronic portion of a return directly to the IRS or the Department. An entity that provides a "bump up" service is also a Transmitter. A bump up service provider increases the transmission rate or line speed of formatted or reformatted information that it is sending to the IRS.

(o) Standard Letter of Intent (LOI) - A form which must be completed to request approval from the Department to provide tax preparation software for electronic forms submissions. By completing this form, the software developer agrees to comply with all national security summit standards and requirements in addition to the specific Alabama requirements included in the LOI.

(p) Acceptable Individual Income Tax Return - Any original Individual 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 Ala. 1975.

(q) Submission Error Rate - A Software Developer's percentage of business rule rejections compared to the total amount of returns submitted. This will be calculated by taking the total amount of business rule rejections per form type for a particular form year divided by the total amount of returns transmitted for that same form type with regards to the form year in question.

(r) Original Individual 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 Ala. 1975.

(s) Tax Preparation Software - Any computer software program intended for accounting, tax preparation, and or tax compliance.

(t) Electronic Signature Pad - An electronic device with a touch sensitive LCD screen which allows users to acquire and register a signature or any other physical signature capture device that captures and converts a signature into an electronic format.

(u) Suitability - A check conducted on all software developers including rebranded and white labeled products, when an application is initially processed and on a regular basis thereafter. The suitability check may include background and

personal tax compliance checks conducted by the department to ensure the software developers are eligible for participation in the Department's e-file program.

(v) Acceptance or Assurance Testing (ATS) - Required testing for software developers that participate in the Department's Individual e-file program. This testing is used to assess their software and transmission capability with the department prior to live processing.

(2) Return Filing Requirements:

(a) A complete Alabama Electronic Individual Income Tax Return will consist of XML data transmitted electronically and supporting binary documents (such as .pdf documents, if applicable) as required by the Alabama Individual Modernized Electronic Filing (MeF) schemas, business rules, and Handbook for Software Developers and Transmitters (Publication 4164). A complete Alabama electronic return must contain the same information as a comparable Alabama Individual Income Tax Return as if filed entirely on paper.

(3) Timely Filed Information for Accepted and Rejected Returns:

(a) The electronic postmark or IRS received date of an accepted Alabama Electronic Individual Income Tax Return will be used to determine timely filing of an electronic return in the same manner that the postmarked date is used to determine timely filing of a paper Alabama Individual Income Tax Return.

(b) The electronic postmark (based on the taxpayer's time zone) will be used as the received date of the electronic transmission if the electronic postmark is within three (3) days of the IRS received date. However, if there is no electronic postmark date or if the electronic postmark date is greater than three (3) days of the IRS received date, then the IRS received date will be used.

(c) If a timely filed electronic return is rejected, the filer has the later of 10 calendar days from the date of the first transmission or the due date of the return (with extensions) to correct the errors and resubmit the return. In order for the Department to acknowledge the transmission date of the original return, the submission ID of the original return must be transmitted in each subsequent filing. If the return is resubmitted and accepted after the due date (with extensions) or the transmission perfection period, the received date will be the transmission date of the accepted resubmitted (perfected)

return and not the date that the original rejected return was submitted.

(d) Perfection of a return for electronic re-transmission is generally required when the original timely filed electronic return had errors in the XML format, or errors that caused the return to fail Alabama Individual Income tax MeF schema validation and/or business rules. Therefore, the transmission perfection period is not an extension of time to file; it is a period of time to correct errors in the electronic file.

(e) If a filer is unable to correct a rejected Alabama Individual income tax electronic return to an accepted status, the filer must submit their paper return with a copy of the last rejection notification from the Department. To be considered timely filed, this paper return must be postmarked by the later of the due date of the return (including extensions) or 10 calendar days after the date that Alabama last gives notification that the return was rejected. If the return is received after the due date or the transmission perfection period, the received date will be the transmission date of the return.

Author: Tavares Mathews

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-30-5.

History: New Rule: Filed April 23, 1998; effective May 28, 1998. **Repealed and New Rule:** Filed February 6, 2018; effective March 23, 2018.

810-3-27-.06 Requirements For The Individual Income Tax Declaration For Electronic Filing.

(1) SCOPE - This rule defines the information required for the Individual Income Tax declaration for electronic filing which includes forms 40 and 40NR that are filed through the Alabama Individual Modernized E-File Program.

(2) The Individual Income Tax Declaration for Electronic Filing requires the following information:

(a) The taxpayer's first name, middle initial and last name.

(b) The taxpayer's social security number.

(c) If a joint return, the spouse's first name, middle initial, last name and social security number.

- (d) The taxpayer's address.
- (e) The Alabama taxable income reported by the electronic return.
- (f) The net tax liability reported by the electronic return, which is computed by adding the net tax due Alabama to the voluntary contributions to the Alabama Election Campaign Fund and the Neighbors Helping Neighbors Fund.
- (g) The total tax payments reported by the electronic return.
- (h) The amount of the refund reported by the electronic return.
- (i) The signature of the taxpayer and date of the signature.
- (j) If a joint return, the signature of the spouse and date of the signature.
- (k) The signature of the electronic return originator and date of the signature.
- (l) An indication whether the electronic return originator is self-employed.
- (m) The firm name of the electronic return originator.
- (n) The address, including the zip code, of the electronic return originator.
- (o) The federal employer identification number of the electronic return originator.
- (p) If the paid preparer is different from the electronic return originator, the following information is required:
 - 1. The signature of the paid preparer and date of the signature.
 - 2. An indication whether the paid preparer is self-employed.
 - 3. The firm name of the paid preparer.

4. The address, including the zip code, of the paid preparer.

(3) The signatures of the taxpayer(s), the electronic return originator, and the paid preparer (if the paid preparer is different from the electronic return originator) must be affixed to the Alabama Form AL8453 - Individual Income Tax Declaration for Electronic Filing before the return is electronically transmitted.

(4) Consent to the disclosure of all information pertaining to the user of the computer system and software used to create the individual return and to the electronic transmission of the Individual Income Tax Return to the Department.

(5) An Electronic Signature Pad may be used to sign the Individual Income Tax Declaration for Electronic Filing document.

Authors: Ed Cutter, Tavares Mathews

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-30-5.

History: New Rule: Filed April 23, 1998; effective May 28, 1998. **Amended:** Filed February 6, 2018; effective March 23, 2018.

810-3-27-.07 Acceptance, Monitoring, And Revocation Of Acceptance Into The Alabama Individual Modernized E-File Program For Software Developers - Individual Income Tax Returns.

(1) SCOPE - This rule explains the requirements for software developers to obtain and sustain active approval to provide software that allows individual income tax returns to be electronically filed through the Alabama Individual Modernized E-File program.

(2) Software developers must be approved on an annual basis and maintain good standing with the Department. The Department has the right to deny an applicant acceptance into the Alabama Individual Modernized E-File Program. To obtain approval software developers must adhere to the following guidelines:

(a) Be accepted by and in good standing with the Internal Revenue Service (IRS) Electronic Filing Program.

(b) Have satisfactorily completed the Department's software developer suitability approval process.

(c) Have an approved Letter of Intent, with original officer signature, on file with the Department.

(d) Have satisfactorily completed the Individual Acceptance Testing System (ATS) with the Department.

(3) XML Schemas (record layouts), specifications, and business rules for a complete Alabama electronic individual income tax return are issued annually by the Department. In addition, the Department annually releases the Alabama Individual Modernized E-file Program: Handbook for Software Developers and Transmitters (Publication AL4164), which provides supplemental information pertinent to electronic return development.

(4) Software developer testing will occur in conjunction with IRS testing in accordance with Publication AL4162, Alabama Individual MeF Test Package.

(5) Alabama electronic individual income tax returns received by the Department that are prepared by a software developer who has not completed the Department's software developer testing and has not been approved by the Department will be rejected by the Department. Paper Alabama Individual Income Tax Returns must then be submitted by the taxpayer or the taxpayer may electronically file the tax return using an approved software from another software developer.

(6) The Department will conduct random monitoring visits with software developers to verify that the requirements of the Alabama Electronic Filing Program are being met.

(7) The Department reserves the right to request a copy of the most current copy of the software product that is utilized in production.

(8) The Department reserves the right to revoke the acceptance of a software developer for cause. Failure to comply with the guidelines set forth in Alabama Individual Modernized E-file Program: Handbook for Software Developers and Transmitters (Publication AL4164) is considered cause.

(9) Any of the following can result in the revocation of a software developer's acceptance into the Alabama Individual Modernized E-File Program:

(a) Conviction of a criminal offense under the revenue laws of any state or of any offense involving dishonesty or breach of trust.

- (b) Failure to file timely and accurate tax returns, both personal and business.
- (c) Failure to pay personal tax liabilities or business tax liabilities.
- (d) Failure or refusal to effect corrective action as required by the Department.
- (e) Other facts or conduct of a disreputable nature that would reflect adversely on the Alabama Individual Modernized E-File Program.
- (f) Unethical practices in return preparation.
- (g) Suspension by IRS.
- (h) Prior year submission error rate of 70% or greater.
- (i) Failure to comply with any of the items listed in section 2 of this rule.

Author: Tavares Mathews

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-30-6.

History: New Rule: Filed April 23, 1998; effective May 28, 1998. **Repealed and New Rule:** Filed February 6, 2018; effective March 23, 2018.

810-3-27-.08 Acceptance, Monitoring, And Revocation Of Acceptance Into The Alabama Individual Modernized E-File Program For Electronic Return Originators And Transmitters.

(1) SCOPE - This rule explains the requirements for electronic return originators and transmitters (not to include software developers and transmitters - See Rule 810-3-27-.07) to obtain and sustain active approval to serve as an Alabama Department of Revenue electronic filing agent in order to transmit returns through the Alabama Individual Modernized E-File Program.

(2) Electronic return originators and transmitters accepted by and in good standing with the Internal Revenue Service (IRS) Electronic Filing Program are automatically accepted into the Alabama Electronic Filing Program. This does not include software developers. They must complete the approval

process with the Alabama Department of Revenue (See Rule 810-3-27-.07).

(3) Electronic return originators and transmitters accepted into the Alabama Electronic Filing Program serve as agents of the Alabama Department of Revenue, and must comply with the requirements of the program as stated in the Alabama Handbook for Modernized e-File (MeF) for Individual Preparers (Publication AL4163).

(4) The Alabama Department of Revenue will conduct random monitoring visits with Electronic Return Originators and Transmitters to verify that the requirements of the Alabama Electronic Filing Program are being met.

(5) The Alabama Department of Revenue reserves the right to revoke the acceptance of an electronic return originator or transmitter for cause. Failure to comply with the guidelines set forth in Alabama Handbook for Modernized e-File (MeF) for Individual Preparers (Publication AL4163) is considered cause.

(6) Any of the following can result in the revocation of an electronic return originator's or transmitter's acceptance into the program:

(a) Conviction of a criminal offense under the revenue laws of any state or of any offense involving dishonesty, or breach of trust.

(b) Failure to file timely and accurate tax returns, both personal and business.

(c) Failure to pay personal tax liabilities or business tax liabilities.

(d) Failure or refusal to effect corrective action as required by the Alabama Department of Revenue.

(e) Other facts or conduct of a disreputable nature that would reflect adversely on the Alabama Electronic Filing Program.

(f) Unethical practices in return preparation.

(g) Suspension by IRS.

Authors: Ed Cutter, Tavares Mathews

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-30-6.

History: New Rule: Filed April 23, 1998; effective May 28, 1998. **Amended:** Filed February 13, 2018; Effective March 30, 2018.

810-3-27-.09 Alabama Requirements For Mandatory E-File And Application Of Two-Dimensional (2-D) Barcode On Original Individual Income Tax Returns.

(1)(a) If an income tax return preparer prepares 11 or more acceptable, original individual 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 individual 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 Ala. 1975.

(b)1. If a paid, income tax return preparer prepares individual income tax returns using tax preparation software and is not required under subparagraph (a) to electronically file the returns, then the paper returns must include the technology commonly referred to as two-dimensional (2-D) barcode technology if such returns using this technology conform to the format prescribed by the Department.

2. If a paid, income tax return preparer prepares individual income tax returns using tax preparation software and is required under subparagraph (a) to electronically file the returns, but does not submit the returns electronically, then the paper returns must include a signed, election form to "opt out" of electronic filing in addition to including the 2-D barcode technology.

(2) For purposes of this rule, the following definitions apply:

(a) "Income tax preparer" means a person that meets both the following:

1. Any person that prepares an Alabama individual income tax return in exchange for compensation.

2. Or any person who employs another person to prepare, in exchange for compensation, any current year Alabama individual income tax return.

(b) "Original individual income tax return" means any return that is required, to be filed with respect to the tax imposed as defined by Section 40-18-2, Code of Ala. 1975. For purposes of paragraph (1)(a) and (1)(b) above, a "timely" original individual tax return means any original individual tax return that is filed, without regard to extensions, during the calendar year for which that tax return is required to be filed.

(c) "Acceptable individual income tax return" means, for the purposes of the mandatory individual income tax filing program, any original individual 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 Ala. 1975.

(d) "Tax preparation software" means any computer software program intended for accounting, tax return preparation, or tax compliance.

(3)(a) Paragraph (1)(a) of this rule, applies to acceptable individual income tax returns required to be filed for taxable years beginning on and after January 1, 2004 and—may not be interpreted to require electronic filing of acceptable individual income tax returns that are required to be filed on or before January 1, 2004.

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

Authors: Veronica Jennings, Kathleen Campbell, Ann F. Winborne, CPA, Michael E. Mason, CPA

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-18-40, 40-30-1 through 6.

History: New Rule: Filed June 4, 2004; effective July 9, 2004.

Amended: Filed November 7, 2005; effective December 12, 2005.

Amended: Filed November 26, 2008; effective December 31, 2008.

Amended: Filed January 17, 2013; effective February 21, 2013.

810-3-27-.10 Alabama Requirements For Compliance With Administrative Rule 810-3-27-.09.

(1) An income tax preparer may be subject to a random monitoring visit for not electronically filing returns or for submitting returns without a two-dimensional (2-D) barcode containing the tax return information in a standard format as prescribed by the Department.

(2) If it is shown that failure to electronically file or print a 2-D barcode on an acceptable original individual income tax return is due to willful neglect and not due to reasonable cause, then that tax preparer's acceptance in the Alabama e-file program shall be revoked, and that tax preparer shall be unable to electronically transmit individual income tax returns to the Department.

(3) For purposes of this rule, reasonable cause includes, but is not limited to:

(a) A taxpayer may elect not to electronically file an acceptable original individual income tax return by filing an election form to "opt out" of electronic filing. This form must be prescribed by the Department, and must be signed by the taxpayer, or taxpayers in the case of a joint return, and by the preparer. The form must be attached and filed with the paper, original individual income tax return.

(b) Any electronically prepared original individual income tax return that cannot be filed or transmitted electronically by the tax preparer, or any original individual income tax return that cannot be accepted by the Department.

(3) Any original individual income tax return prepared, including those not electronically filed due to "reasonable cause," as indicated in subparagraphs (a) and (b) of this rule, will be included in the total mandate return count as defined in 810-3-27-.09.

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Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-18-40, 40-30-1 through 6.

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