

ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE

CHAPTER 810-3-75
STATEMENT TO BE FURNISHED EMPLOYEE

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810-3-75-.01	<u>Statement Furnished Employees.</u>

(1) (a) Each employer, on or before January 31 of each year or within thirty days after termination of the employment, shall furnish each employee a withholding statement (Form W-2) for the preceding year, in duplicate, showing:

1. The total wages paid,
2. The amount of Alabama income tax withheld,
3. The amount of job development fee (JDF) withheld, which must be shown separately from the amount of Alabama income tax withheld,
4. The amount of federal income tax withheld,
5. The name and address of the employee,
6. The social security number of the employee, and
7. The employer's name, address, and Alabama withholding tax account number.
8. Qualifying severance payments exempt from Alabama income tax pursuant to §40-18-19.1, Code of Ala. 1975, must be not be shown on the Form W-2 as Alabama wages, but must be disclosed on the form as "Exempt Severance Payments," which can be abbreviated as "ESP."

(b) Each person paying proceeds from a wagering transaction subject to withholding as described in §40-18-91, shall furnish the recipient a statement of the amount of winnings subject to withholding and the amount of tax withheld in the same manner and at the same time as required by U.S. Treasury Department Regulation 31.3402(q)-1(f). A true and correct copy of such statement required to be furnished by said Treasury regulation, together with a statement of the amount of Alabama income tax withheld pursuant to §40-18-91, shall be sufficient.

(2) The statement required by paragraph (1)(a) above, may be prepared on Form A-2, copies of which are available on request from the Department.

(a) In lieu of Forms A-2 furnished by the Department, combination state and federal employee wage and tax statements may be used. Employers may print their own forms; however, the employer must obtain permission from the Department to print such forms.

(b) Any substitute form used must be identified as an Alabama withholding statement and must contain all the information required by this section.

(c) The following forms should be prepared:

1. A copy to be filed with the employer's annual return, as indicated in Rule 810-3-75-.03.
2. Copies to be furnished the employee to file with his individual income tax returns and to retain for his records.
3. A copy to be retained by the employer.

(3) If it becomes necessary to correct a Form W-2 after it has been delivered to an employee, the new statement should be marked "Corrected by Employer." IRS Form W-2C may be used for this purpose. If the withholding statement is lost or destroyed, the employer is authorized to furnish substitute copies to the employee; however, each substitute must be marked "Reissued by Employer." A copy of each corrected statement must be filed promptly with the Department. A copy of reissued statements should not be filed with the Department.

Authors: Ewell Berry, Ann F. Winborne, CPA, Neal Hearn, CPA

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 41-10-44.8(a)(2), 41-10-44.8(b), 40-18-74, 40-18-91.

History: Adopted September 30, 1982. **Amended** June 17, 1988; amended February 8, 1989, filed March 20, 1989. **Amended:** Filed

August 26, 1994; effective September 30, 1994. **Amended:** Filed May 3, 2000; effective June 7, 2000.

810-3-75-.02 Extensions Of Time For Filing Reports Under Withholding Laws.

On written application by the taxpayer, extensions of thirty days may be granted with respect to required reports under §40-18-75, Code of Ala. 1975. Requests for extension should state the reason the extension is needed, Montgomery, Alabama 36130, and should be mailed in time to receive consideration by the Department prior to the due date for the report.

Author: Ewell Berry

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-18-75(c).

History: Amended: Filed May 3, 2000; effective June 7, 2000.

810-3-75-.03 Annual Returns Of Withholding Tax Information.

(1) On or before the last day of February each year, every withholding tax agent who has paid Alabama wages of \$1,500 or more or has withheld Alabama income tax, must file with the Department of Revenue the wage and tax information as described in regulation 810-3-75-.01 for the previous calendar year. This submission consists of two parts:

(a) Form A-3, Annual Reconciliation of Alabama Income Tax Withheld, and

(b) A copy of Form W-2 for each employee (see Rule 810-3-75-.01), and/or a copy of each statement required by Rule 810-3-75-.01 to be furnished to a recipient of proceeds from a wager subject to withholding pursuant to §40-18-91, Code of Ala. 1975. If tax has been withheld from a non-wage payment, a copy of the Form 99 or Form 1099 used to report this payment must be submitted. See Rule 810-3-75-.04.

1. Beginning January 1, 2007, all employers and withholding agents submitting 250 or more Forms W-2 and/or information returns, if Alabama income tax has been withheld, must submit this information and Form A-3 electronically through the Department's web site.

2. Beginning January 1, 2009, all employers and withholding agents submitting 100 or more Forms W-2 and/or information returns, if Alabama income tax has been withheld,

must submit this information and Form A-3 electronically through the Department's web site.

3. Beginning January 1, 2010, all employers and withholding agents submitting 50 or more Forms W-2 and/or information returns, if Alabama income tax has been withheld, must submit this information and Form A-3 electronically through the Department's web site.

(i) Withholding agents submitting less than 50 wage and tax statements and/or information returns may voluntarily submit this information electronically.

(ii) If a withholding tax agent is not required to file wage and tax information electronically and elects to send copies of Forms W-2, an adding machine tape or other tabulation of amounts withheld, as shown on Forms W-2, must be included.

(iii) If a withholding tax agent is not required to file wage and tax information electronically, the Forms W-2 may be filed with the Department via a listing containing all the information required by Regulation 810-3-75-.01 in columnar format, with each column totaled.

(2) Penalties.

(a) Any person who fails to comply with the requirements of this section shall be subject to the penalties provided for in §40-2A-11, Code of Ala. 1975.

(b) In addition to the penalties provided for in §40-2A-11, the \$50 civil penalty provided for in §40-29-74, Code of Ala. 1975, shall also apply.

Authors: Ewell Berry, Ann F. Winborne, CPA

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-2A-11, 40-18-75, 40-18-91, 40-29-74.

History: Filed December 1, 1987. **Amended** February 8, 1989, filed March 20, 1989. **Amended:** Filed May 3, 2000; effective June 7, 2000. **Amended:** Filed September 6, 2006; effective October 11, 2006. **Amended:** Filed November 26, 2008; effective December 31, 2008.

810-3-75-.04 Voluntary Withholding.

(1) Alabama income tax is not required to be withheld from retirement distributions, pensions, interest payments or other payments which are not wage payments. However, voluntary withholding of Alabama income tax from such payments is

permissible. If the election to voluntarily withhold Alabama income tax is made, procedures outlined in this regulation must be followed.

(2) Remitting Tax Withheld. Tax withheld voluntarily must be remitted to the Department in the same manner and at the same time as described in §40-18-74, Code of Ala. 1975.

(3) Statement To Be Furnished Recipient. On or before January 31 of the year following a non-wage payment from which Alabama income tax was voluntarily withheld, the payer shall issue the recipient a statement showing the following information:

- (a) Amount of payment.
- (b) Amount of Alabama income tax withheld.
- (c) Amount of federal income tax withheld.
- (d) Name, address and social security number of recipient.
- (e) Payer's name, address, Alabama withholding tax account number and social security number or federal identification number.

(4) (a) The statement required in paragraph (3) above, may be prepared on Form 99, copies of which are available on request from the Department.

(b) In lieu of Form 99, the combination state and federal Form 1099 may be used. If federal forms are used, such forms must contain the same information as described above in paragraph (3).

(c) Payers of non-wage payments may elect to produce their own forms. In such cases prior approval from the Department must be obtained. Specifications and instructions for producing such forms may be obtained from the Department.

(5) Statement To Be Furnished Department.

(a) On or before the last day of February of the year following a non-wage payment from which Alabama income tax was voluntarily withheld, the payer shall file with the Department a copy of the statement described above in paragraph (3). Such statement must be accompanied by Form A-3, Annual Reconciliation of Alabama Income Tax Withheld. This statement must be filed in the same manner and at the same time as described in §40-18-75.

(b) If Alabama income tax has been withheld from wages and reported on Form W-2 and also withheld from non-wage payments and reported on Form 99 or Form 1099, such statements must be submitted in a combined report with the Form A-3.

Authors: Ewell F. Berry, Ann F. Winborne, CPA

Statutory Authority: Code of Ala. 1975, §§40-2A-5(a)(5); 40-18-75.

History: New rule: Filed October 4, 1993; effective November 8, 1993. **Amended:** Filed July 26, 1999; effective August 30, 1999.

810-3-75-.05 Third-Party Reporting Requirements.

(1) Third-party payers are generally insurance companies who have made a wage payment (i.e., sick pay) to an employee on behalf of the employer. The third-party payer remits the tax withheld under the third-party payer's withholding tax account number.

(2) If the third-party payer has remitted tax on behalf of an employer, the payer must submit a listing to the Department of appropriate accounts to be credited for withholding tax payments. After receiving this list, the Department will transfer tax withheld from the third-party payer's withholding tax account to the appropriate employer's withholding tax account. The listing submitted by the third-party payer must include the following information for each employer's withholding tax account to be credited:

- (a) Name of employer,
- (b) Federal employer identification number,
- (c) Alabama withholding tax account number,
- (d) Amount to be transferred, and
- (e) Year to which payment should be transferred.

(3) The information required by paragraph (2), above, must be filed by the last day of February of the year following the calendar year in which the tax was withheld.

(4) If a third-party payer has paid wages and withheld tax on behalf of an employer and has notified the Department as described in paragraph (2), above, the employer must include such wages and tax withheld on W-2 forms issued by the employer.

(5) Third-party payers who have paid wages and withheld tax on behalf of an employer and have properly notified the Department, as described in the above paragraphs, are not required to submit W-2 forms to the Department.

Author: Ewell Berry

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-18-75.

History: New Rule: Filed May 3, 2000; effective June 7, 2000.