

ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODECHAPTER 810-3-26
INFORMATION FROM SOURCE OF INCOME

TABLE OF CONTENTS

810-3-26-.01	Information Returns
810-3-26-.02	Voluntary Withholding Of Alabama Income Tax From Nonwage Payments
810-3-26-.03	Reporting Requirements Of Payment Settlement Entities (PSE)

810-3-26-.01 Information Returns.

(1) All resident payers engaged in a trade or business and making nonwage payments of fifteen hundred dollars (\$1,500) or more within a calendar year to any person (whether a resident or nonresident) are required to issue an information return (Federal Form 1099) to the payee and file a copy of such return with the Department. Payments which are required to be reported include all nonwage payments exceeding \$1,500 which must be included in the gross income of the recipient under Title 40, Code of Ala. 1975.

(2) Information to be reported. Each Form 1099 must include the following information:

(a) The payer's name, address and taxpayer identification (federal employers identification number or social security number),

(b) The payee's name, address and taxpayer identification number,

(c) The amount of payments made during the calendar year, and

(d) The type of payment made during the year.

(3) Combined Federal/State Information Return Reporting Program. Under the Combined Federal/State Information Return Reporting Program a single filing containing the required payee information is submitted electronically to the I.R.S. by the payer. A separate filing is not required to be sent to the Department by the payer. The I.R.S. will then forward the information to the appropriate state's Revenue Department. Departmental approval to participate in the program is not required. Payer's should contact the I.R.S. for the appropriate approval and instructions.

(a) Payers who have elected to voluntarily withhold income tax from payments referred to in this section may not participate in the Combined Federal/State Information Return Reporting Program. See Rule 810-3-75-.04 and 810-3-26-.02 for filing requirements for payers who have voluntarily withheld Alabama income tax.

(4) Filing Dates.

(a) Statement to Payee. On or before January 31 of the year following a nonwage payment, payers shall provide to each payee a completed Form 1099 as described above.

(b) Duplicate to Department. A copy of each Form 1099 Form 1096 (Annual Information Return - Summary Reports of Income Payments of \$1,500 or More) must be filed with the Department on or before March 15th of the year following the year in which the payments were made.

(5) Miscellaneous Provisions.

(a) Noncash payments. If payment is made in a form other than cash, the fair market value of the noncash payment is the amount to be reported.

(b) Voluntary withholding. Withholding of Alabama income tax from payments described in this section is not mandatory. Voluntary withholding, however, is permitted. For reporting and remitting amounts voluntarily withheld, see §§40-18-74, 40-18-76, 40-18-77, 40-18-78, and Rules 810-3-75-.04 and 810-3-26-.02.

(6) 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 apply.

Author: Neal Hearn

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-18-26.

History: Adopted September 30, 1982. Amended September 7, 1988; Amended September 8, 1988; filed October 26, 1988; Amended February 8, 1989; filed March 20, 1989. Amended filed October 4, 1993; effective November 8, 1993. **Amended:** Filed March 31, 2000; effective May 5, 2000. **Amended:** Filed February 12, 2016; effective March 28, 2016.

810-3-26-.02 Voluntary Withholding Of Alabama Income Tax From Nonwage Payments.

(1) Alabama income tax is not required to be withheld from distributions from a retirement or pension plan, interest payments or other nonwage payments. However, voluntary withholding of Alabama income tax is permissible. If a payer of nonwage payments voluntarily withholds Alabama income tax, the following procedures must be followed:

(a) Payments of amounts withheld 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.

(b) On or before January 31 of the year following a nonwage payment from which Alabama income tax was withheld, the payer shall issue the recipient a statement showing the following information:

1. Year of payment.
2. Amount of payment.
3. Amount of Alabama income tax withheld.
4. Amount of federal income tax withheld.
5. Name and address of recipient.
6. Social security number of recipient.
7. Payer's name, address, and Alabama withholding tax account number.
8. Payer's federal employer identification number.

(2) See Rule 810-3-26-.01 for form requirements.

(3) On or before the last day of January of the year following a nonwage payment from which Alabama income tax was withheld, the payer shall file with the Department a copy of the statement described in the above paragraph (1)(b). 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 as described in §40-18-75.

Author: Neal Hearn

Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-18-26, 40-18-75.

History: New Rule: Filed August 26, 1999; effective August 30, 1999. **Amended:** Filed February 12, 2016; effective March 28, 2016.

810-3-26-.03 Reporting Requirements Of Payment Settlement Entities (PSE).

(1) Payment settlement entities, third party settlement organizations, electronic payment facilitators or other third parties acting on behalf of a payment settlement entity, all as defined in IRC Section 6050W who are required to file 1099-K information returns with the IRS relating to payments made in settlement of payment card and third-party network transactions must also file a duplicate of such returns with the Department.

(2) Such returns must be filed electronically with the Department and shall include one of the following in their electronic submission:

(a) a duplicate of all 1099-K information returns filed with the IRS, or

(b) a duplicate of all 1099-K information returns related to Alabama taxpayers or participating payees with an Alabama address.

(3) A copy of each Form 1099-K must be filed electronically with the Department on or before 30 days after the due date prescribed by IRC Section 6050W and regulations promulgated thereunder each year following the year in which the payments were made. If an extension has been granted by the IRS to the reporting entity, the extension will automatically apply for Alabama purposes. If a due date falls on a federal or state observed holiday, or the weekend, the next business day will be considered as timely filed.

(4) The duplicate 1099-K information returns received by the Department shall be restricted for use only to those taxes administered by the Department.

(5) Penalties for non-compliance.

(a) The first violation for any reporting entity failing to timely file the required duplicate 1099-K information with the Department shall result in a written warning advising the entity of their non-compliance, the penalty for future non-compliance, and will provide a 30-day period in which to file the information.

(b) Subsequent violations or non-compliance shall result in a penalty of \$1000 for each month or fraction of a month during which non-compliance continues.

(c) The Department has the authority to waive all or a portion of a penalty if it is shown that the failure to file was due to reasonable cause and not willful neglect.

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Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-2A-11(2)(a), 40-23-261.

History: New Rule: Filed January 5, 2018; effective February 19, 2018.