

**ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE**

**CHAPTER 810-3-75
STATEMENT TO BE FURNISHED EMPLOYEE**

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 810-3-75-.01	 <u>Withholding 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 federal income tax withheld,
4. The name and address of the employee,
5. The social security number of the employee, and
6. The employer's name, address, Federal Identification Number and Alabama withholding tax account number.
7. Qualifying severance payments exempt from Alabama income tax pursuant to Section 40-18-19.1, Code of Ala. 1975, must 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."
8. Qualifying overtime wages exempt from Alabama income tax pursuant to Act 2023-421 and Act 2024-437 must not be shown on the Form W2 as Alabama wages, but must be disclosed on the form as "Exempt Overtime Wages," which can be abbreviated as "EX OT WAGES."

(b) Each person paying proceeds from a wagering transaction subject to withholding as described in Section 40-18-91, Code of Ala. 1975, 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 Section 40-18-91, Code of Ala. 1975, shall be sufficient.

(c) 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.

Author: Neal Hearn

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. **Amended:** Filed July 17, 2015; effective August 21, 2015. **Amended:** Filed December 4, 2017; effective January 18, 2018. **Amended:** Published October 31, 2024; effective December 15, 2024.

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

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

Author: Ewell Berry, Neal Hearn

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.

Amended: Filed December 4, 2017; effective January 18, 2018.

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

(1) On or before the last day of January 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 Rule 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 1099 used to report this payment must be submitted. See Rule 810-3-75-.04.

1. All employers and withholding agents submitting 10 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 10 wage and tax statements and/or information returns may voluntarily submit this information electronically.

(ii) Employers or withholding agents who electronically file their monthly or quarterly withholding tax returns and payment during the year are also required to submit their wage and tax information electronically through the Department's website.

(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.

Author: Neal Hearn

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. **Amended:** Filed September 15, 2014; effective December 20, 2014. **Amended:** Filed January 27, 2015; effective March 3, 2015. **Amended:** Filed July 17, 2015; effective August 21, 2015. **Amended:** Published January 31, 2025; effective March 17, 2025.

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 rule 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 Form 1099 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) Statement To Be Furnished Department.

(a) On or before the last day of January 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 1099, such statements must be submitted in a combined report with the Form A-3 as detailed in Rule 810-3-75-.03.

Author: Neal Hearn

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.

Amended: Filed July 17, 2015; effective August 21, 2015.

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 January 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: Neal Hearn

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.

Amended: Filed July 17, 2015; effective August 21, 2015.