

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 810
Department or Agency: Alabama Department of Revenue
Rule No.: 810-12-1-.01
Rule Title: General Rule - 100% Penalty For Willful Failure To Collect And Pay Over Tax Or Willful Attempt To Evade Or Defeat Tax
Intended Action: Repeal

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? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an 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.

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

Cameran Clark
Cameran Clark

Date

Thursday, June 13, 2024

REC'D & FILED

JUN 13, 2024

LEGISLATIVE SVC AGENCY

ALABAMA DEPARTMENT OF REVENUE

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Revenue

RULE NO. & TITLE: 810-12-1-.01 General Rule - 100% Penalty For
Willful Failure To Collect And Pay Over Tax Or Willful
Attempt To Evade Or Defeat Tax

INTENDED ACTION: Repeal

SUBSTANCE OF PROPOSED ACTION:

In compliance with Circuit Court decision 01-CV-2017-904133.00 STATE OF ALABAMA DEPT. OF REVENUE V. TY P. TAYLOR, the below rule has been reviewed and is being repealed.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

A public hearing will be conducted at 1:30 P.M. on Tuesday, August 06, 2024, via web-conference. To participate in the upcoming web-conference public hearing please contact the Tax Policy and Governmental Affairs Division at Taxpolicy@revenue.alabama.gov or 334-242-1380 to obtain the appropriate sign-in information for a specific public hearing date. 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 may present their views during the web-conference.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, August 6, 2024

CONTACT PERSON AT AGENCY:

Meagan Barrett
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380

Cameran Clark

Cameran Clark

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

810-12-1-.01

**General Rule - 100% Penalty For Willful
Failure To Collect And Pay Over Tax Or Willful
Attempt To Evade Or Defeat Tax (Repealed
)**.

~~(1) Any person required to collect, truthfully account for, and/or pay over any tax imposed by §40-17-2 (Motor Fuels Excise Tax), §40-17-220 (Gasoline, Motor Fuels and Lubricating Oil Excise Tax), §40-18-71 (Income Tax Withholding), §40-21-82 (Utility Gross Receipts Tax), §40-23-2 (State Sales Tax), §40-23-61 (State Use Tax), §40-26-1 (State Lodgings Tax), Code of Ala. 1975, as amended, or any other local sales, use, or gross receipts taxes collected by the Alabama Department of Revenue who willfully fails to collect such tax, or truthfully account for, and/or pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall in addition to other penalties, be liable for a penalty in an amount not to exceed the total amount (100%) of the tax evaded, or not collected, or not accounted for and paid over. These designated taxes may be referred to as trust fund taxes since they are collected in a fiduciary capacity on behalf of the Department of Revenue. (Repealed)~~

~~(2) The term "person" means an officer of a corporation or a member of a partnership who by virtue of such position held, is charged with a duty to perform the act of collecting, truthfully accounting for, and/or paying over any trust fund tax to which this penalty relates.~~

~~(3) The penalty imposed by this section is not assessed against the corporation or partnership which has the primary liability for the taxes required to be collected, accounted for, and/or paid over to the Department of Revenue. The 100% penalty is assessed against any corporate officer(s) or member(s) of a partnership who is under a duty on behalf of the corporation or partnership to collect, account for, and/or pay over the tax to the State of Alabama.~~

Author: Robert E. Brashears, Chief, Collections Division, Alabama Department of Revenue

Statutory Authority: Code of Ala. 1975., §§40-29-72, 40-29-73.

History: Adopted August 12, 1986; filed August 18, 1986.

Repealed: Published ; effective .