

810-3-29-.08 Alabama Requirements for Mandatory E-File of Fiduciary Income Tax Returns.

(1) **Scope** – This rule explains the electronic filing mandate requirements and exclusions for both an Income Tax Return preparer and an Estate/Trust.

(2) **Definitions.**

(a) Income Tax Return preparer - a person, firm or company who meet one of the following:

1. Any person who prepares an Alabama Fiduciary Income Tax Return in exchange for compensation.

2. Any person who employs another person to prepare, in exchange for compensation, any current year Alabama Fiduciary Income Tax Return.

3. Any accounting firm or company who employs a person or group of people who prepare, in exchange for compensation, any current year Alabama Fiduciary Income Tax Return.

(3) **Income Tax Return Preparer Mandate.**

(a) If an Income Tax Return preparer prepares 25 or more acceptable original Fiduciary 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 Fiduciary 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 Alabama 1975.

(b) Paragraph (3a) of this rule applies to acceptable Fiduciary Income Tax Returns required to be filed for taxable years beginning on and after January 1, 2016.

(c) Paragraph (3a) shall cease to apply to an income tax preparer if, during that calendar year and all subsequent years, the income tax preparer prepared no more than 15 original Fiduciary Income Tax Returns.

(d) Paragraph (3a) of this rule may not be interpreted to require electronic filing of acceptable Fiduciary Income Tax Returns that are required to be filed on or before January 1, 2016.

(4) **Estate/Trust Fiduciary Income Tax Mandate.**

(a) Estates/Trusts with 20 or more beneficiaries at the end of the Estate/Trust’s taxable year are mandated to e-file Alabama Fiduciary Income Tax Returns, for that calendar year and all subsequent tax years.

(5) **Compliance with the E-File Mandate.**

(a) An Income Tax Return preparer may be subject to a random monitoring visit for not electronically filing returns.

(b) If it is shown that failure to electronically file Fiduciary Income Tax Returns is due to willful neglect and no prior approval from the Department has been obtained to paper file, then that tax preparer's acceptance in the Alabama Business MeF Program shall be revoked. The tax preparer will be unable to electronically transmit Fiduciary Income Tax Returns to the department.

(6) Exclusions from the E-file Mandate.

(b) If an entity is exempt from filing the federal 1041 as stated in the IRS publication 4164 for the tax year of the Alabama return being filed, then they are exempt from the Alabama e-file mandate.

(c) Opting to paper file the federal 1041 does not exclude an income tax preparer or Estate/Trust from the Alabama e-file mandate. To be in compliance with the Alabama e-file mandate, an accepted current tax year federal return must be transmitted electronically with the mandated electronic Alabama return.

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Authority: Sections 40-2A-7(a)(5), 40-18-40, and 40-30-1 through 6,
Code of Alabama 1975.

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