

810-3-73-.01 Withholding Exemption Certificates.

(1) Every employee is required to furnish his or her employer an Alabama withholding tax exemption certificate Form A4 at the time of employment showing the number of exemptions claimed. The number of exemptions claimed may not exceed the number of exemptions to which the employee is entitled to claim under Section 40-18-19, Code of Alabama 1975. A Form A4 exemption certificate is considered a component of payroll records and should be maintained in accordance with Rule 810-3-70-.02 Retention of Payroll Records. Exemption certificates should be kept with the employees personnel file.

(2) Federal Form W-4 will not be accepted as a substitute for Form A4 as the values of exemptions differ greatly between the Alabama and federal allowances.

(3) Failure by the employee to provide to his or her employer a signed, Alabama withholding exemption certificate will result in the employer withholding using zero ("0") exemptions.

(4) An employer is not required to deduct and withhold tax on the wages of an employee if the employee certifies on Form A4-MS that the employee qualifies for an exemption under the Military Spouses Residency Relief Act. This exemption applies to the spouse of a service member who is present in Alabama in compliance with military orders and who maintains domicile in another state. Employees must provide their employer with a valid military identification. Employers will report the employee's wages on Form W2 reflecting the state of legal residency shown on the spouses Form DD-2058 or current leave and earnings statement. Employers must keep a copy of these forms on file.

(5) Pursuant to the requirements of Section 40-18-73, Code of Alabama 1975, employers must provide to the Alabama Department of Revenue, no later than 60 days from the date the employee begins employment, a copy of any withholding exemption certificates where an employee claims eight (8) or more exemptions. Failure to provide this information within the above stated time period shall subject the employer to the "failure to timely file" penalty of \$50 per certificate.

(6) Penalties.

(a) In the event an employee inflates the number of exemptions allowed under Section 40-18-73, Code of Alabama 1975 on Form A4 in order to reduce their withholding or falsely claims an exemption from withholding tax on Form A4-MS, the employee shall be subject to a penalty of \$500 for such action pursuant to the provisions of Section 40-29-75, Code of Alabama 1975.

(b) Any person who fails to comply with the requirements of this section also shall be subject to the penalties provided in Section 40-2A-11, Code of Alabama 1975, and/or may be subject to criminal prosecution.

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Authority: Sections 40-2A-7(a)(5) and 40-18-73, Code of Alabama 1975.

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