

### 810-3-70-.03 Provisional Construction Employers

(1) Subsequent to August 1, 2007, and pursuant to Act 2007-199, there is created a provisional construction employer, as defined in Section 40-18-70, Code of Alabama 1975, and the below regulations. A provisional construction employer is any employer (including members of its affiliated group as that term is defined in the Internal Revenue Code), that:

(a) Employs fifty (50) or more employees in Alabama within the first twelve months of a contract in a construction project, the cost of which is part of the capital cost of a qualifying entity defined in Section 40-9D-3, Code of Alabama 1975, and

(b) Has not registered in the tax year preceding the current tax year with the Alabama Department of Revenue for withholding tax purposes. If the provisional construction employer reports and pays all past withholding taxes due the State and continues to report and pay for a one-year period all withholding taxes due to Alabama, the employer will no longer be deemed a provisional construction employer.

(2) In addition to all other requirements contained in Title 40 relating to employers, provisional construction employers must provide the Withholding Section of the Department with a bond that is acceptable by the Commissioner of Revenue. Such bonds may include a surety bond, cash bond, or other acceptable bonding or credit instrument.

(3) The required bond may be filed on forms provided by or approved by the department. Please refer to Rules 810-3-73.1-.01 and 810-3-73.1-.02 for compliance requirements for provisional construction employers.

Author: Michael Mason

Authority: Sections 40-18-73.1 (Act 2007-199) and 40-2A-7(a)(5), Code of Alabama 1975

History: New rule: Filed June 6, 2008, effective July 11, 2008.