ALABAMA DEPARTMENT OF REVENUEINDIVIDUAL AND CORPORATE TAX ADMINISTRATIVE CODE

CHAPTER 810-3-161
COMPUTING TAXABLE INCOME OF AN ALABAMA S CORPORATION

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810-3-161-.01 Computation Of Taxable Income.

(1) Nonseparately Stated Income. Nonseparately stated income for Alabama S corporations will be computed in the same manner as for individuals, except for those deductions and exemptions which are not applicable to nonindividuals, such as:

(a) The personal exemption and credit for dependents allowed by §40-18-19, Code of Ala. 1975,

(b) Charitable contributions allowed by §40-18-15,

(c) The net operating loss deduction allowed by §40-18-15.2,

(d) Medical expenses allowed by §40-18-15,

(e) Moving expenses allowed by §40-18-15,

(f) Alimony allowed by §40-18-15,

(g) Contributions to an Individual Retirement Account (IRA) allowed by §40-18-15,

(h) The deduction for certain expenses of producing income and determining taxes, allowed by §40-18-15, and

(i) Depletion on oil and gas wells allowed by §40-18-15.

(2) Separately Stated Income. Certain items of income, loss and deductions are to be passed through to the individual returns of the shareholders, rather than being deducted in computing the nonseparately stated income of the S corporation on the Alabama S corporation return. Separately stated items are those the separate treatment of which could affect the liability for tax of any shareholder. These items include:

(a) Income taxes paid to the United States,

(b) Charitable contributions,

(c) Depletion on oil and gas wells, and

(d) All items of income, loss, expense or deduction, which for the purpose of computing a net operating loss deduction for an individual would be classified as "nonbusiness" as defined in Rule 810-3-15-.22. These items classified as "nonbusiness" for Alabama net operating loss deduction purposes are usually classified as "portfolio income and expense" on the federal S corporation return and supporting schedules.

(3) Net Operating Losses. The net operating loss carryback/ carryforward provision for individuals and the net operating loss carryforward provision for corporations are not applicable to Alabama S corporations. The yearly losses, if any, of the S corporation are passed through to the shareholders, and thus are not available at the corporate level for carryforward. Any losses incurred by a corporation in any years in which the corporation was not an Alabama S corporation, may not be carried forward to any years in which the corporation is an Alabama S corporation.

(4) Multistate Operations.

(a) For tax years beginning before January 1, 1990, Alabama S corporations which conducted business in more than one state were required to compute the income and deductions attributed to Alabama by allocating and apportioning the income and deductions to Alabama in accordance with the rules and regulations applicable to foreign corporations at that time. This includes Alabama S corporations which were created under Alabama law (domestic corporations).

(b) For tax years beginning after December 31, 1989 and before January 1, 1997, the following rules applied for Alabama S corporations which conducted business in more than one state:

1. The Alabama S corporation was required to compute each resident shareholder's pro rata share of the entire income and deductions of the Alabama S corporation.

(i) In computing taxable income under subparagraph 1., the Alabama S corporation was allowed a deduction for income taxes paid to states in which it was not treated as an S corporation.

2. The Alabama S corporation was required to compute each nonresident shareholder's pro rata share of income and deductions apportioned and allocated to Alabama in accordance with the rules and regulations applicable to foreign corporations at that time. For simplicity, compliance with the requirements of the Multistate Tax

Compact, Chapter 27, Title 40, Code of Ala. 1975, will satisfy the requirement of this subparagraph.

(c) For tax years beginning after December 31, 1996, Alabama S corporations which conduct business in more than one state shall compute the income, loss, deductions and credits to be attributed to Alabama in the same manner as provided in accordance with the Multistate Tax Compact, Chapter 27, Title 40, Code of Ala. 1975.

(d) An Alabama S corporation is conducting business in more than one state if it meets the provisions for being taxable in more than one state set out in Rule 810-27-1-4-.03.

(e) Allocation and Apportionment Reporting Requirements.

1. For tax years beginning before January 1, 1990, an Alabama S corporation which did business in more than one state was required to complete the necessary schedules of Form 20S to compute the apportionment ratios and to apportion and allocate income, loss, deductions and credits among the states in which the corporation did business.

2. For tax years beginning on or after January 1, 1990 and before January 1, 1997, an Alabama S corporation which did business in more than one state and which had one or more nonresident shareholders was required to complete the necessary schedules of Form 20S to compute the apportionment ratios and to apportion and allocate income, loss, deductions and credits among the states in which the corporation did business.

3. For tax years beginning on or after January 1, 1997, an Alabama S corporation doing business in more than one state shall complete the necessary schedules of Form 20S to compute the apportionment ratios and to apportion and allocate income, loss, deductions and credits among the states in which the corporation does business.

(5) Elections. Any election required or permitted to be made with respect to the computation of income, deductions, credits or allowances shall be made by the Alabama S corporation.

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810-3-161-.02 LIFO Recapture.

(1) Definitions. For purposes of this regulation, the following definitions shall apply:

(a) "LIFO recapture amount" means the excess of the inventory's value using the FIFO method over its value using the LIFO method.

1. For purposes of subparagraph (a), the inventory value means the aggregate amount of the inventory assets determined as of the end of the last tax year before the corporation converts to S status.

2. For purposes of subparagraph (a), the FIFO amount shall be determined by using the retail method if the corporation uses the retail method to determine the LIFO amount. If the corporation does not use the retail method to determine the LIFO amount, then the lower of cost or market method must be used to determine the FIFO amount.

(b) "LIFO method" means the method authorized by 26 U.S.C. §472. For interpretation of federal statutes adopted by the Alabama legislature, see Rule 810-3-1.1-.01, Operating Rules.

(c) "Inventory assets" means property which would normally be included in inventory of the corporation at the close of the taxable year.

(2) LIFO Recapture Amount.

(a) Any C corporation which converts to S corporation status, and which used the LIFO inventory method for its last C corporation tax year, must include the LIFO recapture amount in gross income for the last taxable year for which it was a C corporation.

(b) Any amount included in gross income under paragraph (a) shall be included in the value of inventory by making the appropriate adjustments to basis.

(3) Payment of Tax. The tax attributable to the inclusion in income of the LIFO recapture amount is payable in four equal installments.

(a) The first installment must be paid on or before the unextended due date for filing the C corporation return for the last tax year before conversion to S corporation status.

(b) The three remaining installments are due on or before the unextended due dates of the corporation's tax returns for the three succeeding tax years.

(c) No interest will be charged if the installments are paid on or before their respective due dates.

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