ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE

CHAPTER 810-3-176
COMPOSITE RETURNS

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810-3-176-.01 Composite Returns Of Alabama S Corporations

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(1) Definitions:

(a) A "composite return" means an information return similar to the federal Schedule K-1 which contains information concerning one or more nonresident shareholder's distributive share of income, deductions, and losses.

(b) A "composite payment" means a payment of estimated individual income tax by the Alabama S corporation on behalf of the nonresident shareholders described in the accompanying composite return. The payment shall be considered a loan from the corporation to the shareholder, payable on demand, bearing interest from the date of the loan to the date of its payment, at the minimum applicable federal rate with respect to demand instruments, as provided under 26 U.S.C. §7872.

(2) An Alabama S corporation may file a composite return and make composite payments on behalf of nonresident shareholders if there are one or more nonresident shareholders at any time during the taxable year.

(a) The composite return may be filed on behalf of some or all nonresident shareholders and must be filed on behalf of nonresident shareholders for whom a Schedule NRA consent agreement has not been filed.

(b) Resident shareholders may not be included in a composite return, and composite payments may not be made on behalf of resident shareholders.

(c) S corporations which choose to file composite returns or which are required to file composite returns must do so on Form PTE-C. Composite payments must be made on Form PTE-C.

(d) In computing the amount of the composite payment, the Alabama S corporation shall multiply each nonresident

shareholder's distributive share of income attributed to Alabama by 5%.

1. Each nonresident shareholder's distributive share of income is the sum of the shareholder's deemed distributive share of the Alabama portion of:

(i) Separately stated income, loss, deduction, or expense of the Alabama S corporation; provided that no deduction will be allowed for items of loss, deduction or expense which are subject to other limitations on the Alabama individual income tax return Form 40NR - including federal income tax, contributions, investment interest expense, and casualty losses; and

(ii) Nonseparately stated income, loss, deduction, or expense of the Alabama S corporation.

2. In computing the amount of the composite payment, a loss for one nonresident shareholder may not be used to offset income or gain of any other nonresident shareholder.

3. In computing the amount of the composite payment, a net operating loss carry forward may not be used to offset income or gain.

(3) Composite returns and composite payments are due on the fifteenth day of the third month following the close of the Alabama S corporation's taxable year.

(a)1. The entity will be granted a six-month extension of time for filing the composite return.

2. An extension of time granted to file the return pursuant to this section is not an extension of time for payment of tax. The amount of tax due must be paid on or before the due date of the return without regard to the extension to file the composite return.

(i) Payment of the tax shall be made via the paper Pass Through Entity Payment Voucher or by Electronic Funds Transfer (EFT).

(ii) However, payment must be made via EFT if the payment exceeds $750. Please refer to Rules 810-13-1-.01 and 810-13-1-.03.

(iii) Underpayment of tax penalties plus any applicable interest will be imposed as provided by law without regard to any extension granted under this section.

(b) Amended composite returns for refund or additional tax due for a taxable year will be accepted up to the extended due date for filing the Alabama S corporation return for the same taxable year.

(c) Refund requests or additional payments made after the extended due date for filing the Alabama S corporation return must be made on Alabama individual income tax Form 40NR by the nonresident shareholder(s).

(4) The S corporation is required to file a Schedule NRA consent agreement for each nonresident shareholder that does not participate in the composite filing.

(a) A Schedule NRA for each nonresident shareholder shall be due at the same time as the first S corporation return is due.

(b) If, during any subsequent taxable year, the Alabama S corporation has any nonresident shareholders for whom a Schedule NRA has not previously been filed, then a Schedule NRA is due for those nonresident shareholders at the same time as the annual return is due for that taxable year.

(c) The Alabama S corporation shall include each shareholder for whom a Schedule NRA is not timely filed in a composite return and make a composite payment as specified in paragraphs (2) & (3) above.

(d) The consent agreement must be signed by the shareholder, and must contain the following information:

1. The name, address and social security number of the shareholder,

2. A recitation of the agreement to report and pay tax to Alabama on the shareholder's share of the Alabama S corporation income in exchange for the benefits of allowing the corporation to file an Alabama S Corporation return, and

3. An agreement appointing the Alabama resident agent of the corporation and any agent or officer of the corporation present in Alabama as agent of the shareholder for service of process in any matter before the Department relating to the income tax returns of the shareholder and/or the corporation.

(e) If the stock is held by multiple owners (such as joint owners), each owner must execute a separate consent agreement.

(f) Each nonresident shareholder may designate any other person or firm present in Alabama as agent for service of

process, in addition to the agents required to be appointed in subparagraph (d) 3, above.

(g) Any nonresident shareholder may, by power-of-attorney, authorize anyone to execute the required consent agreement on behalf of the shareholder. Such power-of-attorney, to be effective, must be filed with the Department on or before the due date (with extensions) of the first return in which a consent agreement is being executed under the power-of-attorney. The power-of-attorney need be filed only once and remains valid until the expiration date specified therein or until notice of revocation, cancellation or modification is received by the Department. Such power-of- attorney may be in any form sufficient to indicate the intent of the parties, and must be notarized or otherwise authenticated before some officer authorized to administer oaths.

(h)1. A nonresident is any person who is a legal resident of any state other than Alabama, or of any territory, possession, district, or foreign country.

2. The status as a resident or nonresident will be determined as of the date of any distribution or deemed distribution.

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