ALABAMA DEPARTMENT OF REVENUE INDIVIDUAL AND CORPORATE TAX ADMINISTRATIVE CODE

CHAPTER 810-3-21
CREDIT FOR TAXES PAID ON INCOME FROM SOURCES OUTSIDE THE STATE

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810-3-21-.01 Credit For Taxes Paid To Another State Or Territory.

(1) For all taxable years beginning after the Multistate Tax Compact became effective in 1977, and taxable years beginning before January 1, 1997, resident taxpayers, including individuals, engaged in multistate business in such a manner as a to subject their income to allocation and apportionment provided by the Multistate Tax Compact were not allowed a credit for taxes paid to other states or territories. For tax years beginning after December 31, 1996, resident individuals are not required to allocate and apportion income and the credit for taxes paid to other states and territories, as provided in this section, is allowable for all individuals.

(2) See Reg. 810-3-162-.01 for credit allowed to shareholders of an Alabama S corporation for taxes paid by the shareholders to other states on S corporation earnings.

(3) For all individuals with taxable years beginning after December 31, 1996:

(a) Any Alabama resident individual with income from sources outside Alabama which is includable in Alabama gross income and also in another state or a territory of the United States, is entitled to a credit against the income tax due to Alabama, as described below.

1. The amount of credit will be the lesser of the amount of income tax actually paid to another state on the same income, or the tax computed on the same taxable income in the other state using Alabama tax rates.

(i) When income tax is paid to more than one other state, the tax credit must be computed separately for each state.

(ii) When a state allows credits against its tax in lieu of exemptions, the taxable income in that state will be determined after a deduction computed by converting the credit at the lowest rates applicable in that state.

(I) EXAMPLE: Taxpayer, a resident of Alabama, has taxable income in Alabama, in State X and in State Y. Taxpayer is filling a joint return with his spouse.

	Taxable Income	**Tax on Taxable Income**	**Tax on Taxable Income at Alabama Rates**	**Credit Allowable**
State X	$ 9,000.00	$500.00	$ 373.00	$373.00
State Y	4,000.00	60.00	142.00	60.00
Alabama	$23,000.00		1,073.00	$560.00
Total Credit Allowable				433.00
Total Alabama income tax			1,073.00	
Less credit for tax paid to other states			433.00	
Tax due Alabama			$ 640.00	

(II) EXAMPLE: Taxpayer, a single individual and a resident of Alabama, has gross gambling income of $50,000 and $50,000 gambling losses in State A. State A only allows a deduction for a percentage of gambling losses ($30,000 in this example) but Alabama allows a deduction for gambling losses up to the amount of gambling income ($50,000 in this example). Taxpayer pays tax to State A on $20,000 net gambling income but does not pay tax to

Alabama on any gambling income. In this situation, there is no credit for tax paid to State A because the new income from gambling on the Alabama return is zero and, therefore, there is no double taxation.

(III) EXAMPLE: Same situation as (II) above, except gambling losses are $40,000, with a net taxable income from gambling of $10,000 on the Alabama return and $20,000 in State A. In this instance, the credit allowed will be the lesser of tax at the Alabama rate on $10,000 or tax in State A on $10,000. Credit is allowed for tax on $10,000 only because this is the amount of income that otherwise would be subject to double taxation without the credit.

(2) Credit for taxes paid other states will be administratively applied as if payment were made on the due date of the applicable return against any liability due Alabama. The amount of any estimated taxes due under §40-18-82 will be reduced by the amount of any credit allowed under this regulation.

(b) A resident claiming the credit for taxes paid to another state must attach to his Alabama income tax return a copy of each nonresident return filed showing the amount of the tax payment claimed as credit. The Department may require a certified copy of the return or a certificate showing the amount of tax paid.

(c) The credit is allowed to a taxpayer who reports on the cash basis even though the tax due to another state was not actually paid during the year for which the credit is claimed, as long as the tax is actually paid to the other state. The credit is allowed only on the return for the year in which the income is taxable by the other state. For instance, a credit will be deducted on a 1997 return for tax due on 1997 income which is payable in 1998.

(d) If a resident individual is included in a joint return in another state, the credit allowable for taxes paid the other state must be apportioned to each individual. The allowable share will be a fraction, the numerator of which is the tax the individual would have paid the other state on his separate income, and the denominator of which is the total amount that each would have paid the other state; applied to the tax liability due the other state. If either individual has a negative or zero tax liability, no credit will be allowed that individual. The allowable credit in any instance will not be more than the amount due at Alabama rates.

(e) Taxable income of a nonresident includes only income derived from sources within the state, and therefore, no credit is allowable for taxes paid to other states.

Author: Rebecca S. Whisenant
Statutory Authority: Code of Ala. 1975, §40-18-21.
History: Adopted September 30, 1982. Amended September 7, 1988; filed October 26, 1988. **Amended:** Filed March 26, 1998; effective April 30, 1998. **Amended:** Filed April 28, 1999; effective June 2, 1999.

810-3-21-.02 Credits For Job Development Fees.

(1) Any taxpayers who is subject to the personal income tax imposed by Section 40-18-2 and has had a Job Development Fee withheld from the taxpayer's wages by an Approved Company pursuant to Section 41-10-44.8(b) is allowed a credit against the taxpayer's state personal income tax liability for the year in which the Job Development Fee has been withheld. The credit is allowed to the taxpayer in an amount equal to the Job Development Fee withheld from the taxpayer's wages by the Approved Company during such year.

(a) The Job Development Fee credit allowed pursuant to paragraph (1) above shall be included in computing the taxpayer's total withholding tax liability pursuant to Section 40-18-71.

(b) In the event that the Job Development Fee withheld from a taxpayer's wages during the year by an Approved Company exceeds the taxpayer's state personal income tax liability for such year, the taxpayers shall be entitled to a refund. Such refund shall be issued to the taxpayer by the Department in an amount equal to the difference between the taxpayer's state personal income tax liability and the Job Development Fee withheld from the taxpayer's wages by the Approved Company.

Author: Tina M. Melancon, Ann F. Winborne, Income Tax Division
Statutory Authority: Code of Ala. 1975, §40-18-21; Act 93-852.
History: **New Rule:** Filed August 26, 1994; effective September 30, 1994.

810-3-21-.03 Maximum Credit For Tax Paid Other Jurisdictions.

(1) The credit for tax paid or incurred to other jurisdictions shall not be used to offset that portion of a taxpayer’s income tax liability which is attributable to Alabama sources. The credit for tax paid or incurred to other jurisdictions shall only be utilized against that portion of the taxpayer’s income tax liability which is attributable to income from other jurisdictions.

(2) As a general rule, that portion of a taxpayer's income tax liability which is attributable to non-Alabama sources shall be determined by multiplying the taxpayer's Alabama income tax liability before consideration of any credit described in Code of Ala. 1975, §40-18-21 by a fraction, the numerator of which is total non-Alabama source adjusted gross income and the denominator of which is total Alabama adjusted gross income.

(a) Example. Taxpayer reports $120,000 of adjusted gross income on his Alabama income tax return, of which $80,000 is attributable to another jurisdiction; his Alabama income tax liability before credits is $4,000. Taxpayer paid the other jurisdiction $4,000 of income tax on the $80,000 of income from the other jurisdiction.

Because one-third ($1,333) of Taxpayer's liability is attributable to Alabama sources, it is not subject to the credit for tax paid to other jurisdictions. The maximum credit that Taxpayer may utilize is $2,667, which is the portion of his liability attributable to other jurisdictions.

(b) Example. Taxpayer reports $120,000 of adjusted gross income on his Alabama income tax return, of which $80,000 is from non-Alabama sources. Of this $80,000 non-Alabama source income, $40,000 is attributable to State A and $40,000 is attributable to State B. Taxpayer's Alabama income tax liability before credit is $4,000. Taxpayer paid State A $2,000 of income tax on the $40,000 of income from State A; Taxpayer paid State B no income tax on the $40,000 of income from State B.

Because one-third ($1,333) of Taxpayer's liability is attributable to Alabama sources, it is not subject to the credit for tax paid to other jurisdictions; Taxpayer's remaining income tax liability of $2,667 is creditable. However, because the total of income tax paid by Taxpayer to both States A and B ($2,000) is less than the creditable portion of Taxpayer's income tax liability ($2,667), the maximum credit for tax paid to other jurisdictions does not limit Taxpayer's use of the credit.

(3) As an exception to the general rule described in (2), taxpayers with foreign (non U.S.) source income and federal foreign tax credits may use the following alternative methodology to determine the portion of the Alabama income tax liability attributable to Alabama and non-Alabama sources. The taxpayer may multiply Alabama source income by his or her effective Alabama income tax rate to determine the portion of his or her liability attributable to Alabama and therefore not creditable. For purposes of this calculation: the taxpayer's effective Alabama income tax rate equals the statutory rate of five percent (5%) multiplied by one (1) minus the taxpayer's effective federal income tax rate; the taxpayer's effective federal income tax rate equals the

taxpayer's federal income tax liability before foreign tax credit divided by his or her federal taxable income; and Alabama source income equals total Alabama adjusted gross income less income attributable to non-Alabama sources.

(a) Example. Taxpayer reports $200,000 of adjusted gross income on his Alabama income tax return, of which $30,000 is attributable to a foreign (non-U.S.) jurisdiction; his Alabama income tax liability before credit is $8,500. Taxpayer's federal taxable income is also $200,000; his federal income tax liability before subtracting any foreign tax credit is $40,000. Taxpayer paid the foreign jurisdiction $10,000 of income tax.

In determining the overall limit on the credit available for taxes paid to other jurisdictions, Taxpayer multiplies his Alabama source income of $170,000 by his effective Alabama income tax rate. Taxpayer determines the effective Alabama income tax rate by multiplying the five percent (5%) statutory Alabama income tax rate by one minus his or her effective federal income tax rate. His effective federal income tax rate before foreign tax credit is twenty percent (20%) or ($40,000 / $200,000) and his Alabama effective tax rate is four percent (4%) or (5% x (1-20%) or 80%). Taxpayer then multiplies his Alabama source income ($170,000) by his effective Alabama income tax rate (4%), which equals $6,800. The credit for tax paid to other jurisdictions cannot be used to reduce Taxpayer's liability below $6,800. Taxpayer's credit for tax paid to other jurisdictions cannot exceed $1,700 ($8,500 - $6,800).

(4) In addition to the methodologies described above, the taxpayer may use an alternative methodology by obtaining written approval from the Department before the original due date of the taxpayer's income tax return.

(5) This rule is applicable to tax years beginning on or after January 1, 2013.
Author: Brandee B. Tickle, CPA
Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), 40-18-21.
History: **New Rule:** Filed November 28, 2012, effective January 2, 2013.

810-3-21-.04 Rebated Allowed For Qualified Production Companies. Purpose.

This rule sets forth guidelines and procedures to be used by the department in the administration of rebates allowed for qualified production companies.

(1) Definitions. For purposes of this rule, the term "Notice of Rebate Available" means the written notice from the Alabama Entertainment Office certifying the amount of rebate determined to be available to a qualified production company. All other terms used in this rule have the same meaning provided in Alabama Entertainment Office Rule 281-3-1-.02.

(2) A qualified production company that satisfies the provisions of Article 3, Chapter 7A of Title 41 of the Code of Ala. 1975, and produces a state-certified production is entitled to claim a rebate, in an amount not to exceed the amount set forth in the Notice of Rebate Available on its Alabama Income Tax Return for the tax year during which production activities in Alabama on the state-certified production were completed.

(3) The rebate may be used to offset the Alabama Income Tax liability of the qualified production company for the tax year during which production activities in Alabama on the state-certified production were completed. The amount by which the rebate exceeds the qualified production company's Alabama Income Tax liability shall be refunded to the qualified production company. If production activities in Alabama on the state-certified production took place in more than one tax year, the qualified production company must be current in its income tax filings for all tax years during which production activities on the state-certified production took place in Alabama before a rebate can be claimed.

(4) The qualified production company's tax year must be closed before it can file its Alabama income tax return claiming the rebate.

(5) The Alabama Film Rebate must be pre-certified through the department's online portal before the taxpayer can claim the rebate on the qualified production company's Alabama income tax return. The qualified production company must upload the following items in their credit claim package:

(a) Approval letter (first letter) from the Alabama Entertainment Office.

(b) Notice of Rebate Available (second letter) from the Alabama Entertainment Office.

(c) The Certificate of Compliance from the department.

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Statutory Authority: Code of Ala. 1975, §§40-2A-7(a)(5), Article 3, Chapter 7A of Title 41, Alabama Entertainment Office Rule 281-3-1-.02.

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