ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE

CHAPTER 810-27-1
MULTISTATE TAX COMPACT

810-27-1-.18.01 Special Rules: Airlines.

(1) In General. Where an airline has income from sources both within and without Alabama, the amount of business income from sources within Alabama shall be determined pursuant to §§40-27-1 and 40-27-1.1, Code of Ala. 1975, except as modified by this rule.

(a) Apportionment of Business Income. Business income is determined in accordance with §40-27-1.1, Code of Ala. 1975.

(b) All business income must be apportioned to Alabama in accordance with the calculation provided in §40-27-1, Code of Ala. 1975, and Rule 810-27-1-09.

1. For tax periods beginning on or after January 1, 2021, the property factor and the payroll factor are no longer considered in calculating a taxpayer's Alabama apportionment factor.

2. The industry specific definitions and guidance provided in this rule for property and payroll are applicable for tax periods beginning on or after January 1, 2021, when:

(i) A taxpayer petitions and is granted approval from the department to employ an alternative apportionment method in accordance with 40-27-1, Code of Ala. 1975.

(ii) Measuring against nexus thresholds pursuant to §40-18-31.2, Code of Ala. 1975.

(2) General Definitions. The following definitions are applicable to the terms used in the apportionment factor descriptions.

(a) "Value" of owned real and tangible personal property shall mean its original cost. (See Section 40-27-1, Article IV.11, Code of Ala. 1975, and Alabama Rule 810-27-1-.11)

(b) "Cost of aircraft by type" means the average original cost or value of aircraft by type which are ready for flight.

(c) "Original cost" means the initial federal tax basis of the property plus the value of capital improvements to such property, except that, for this purpose, it shall be assumed that Safe Harbor Leases are not true leases and do not affect

the original initial federal tax basis of the property. (See Rule 810-27-1-.11)

(d) "Average value" of the property means the amount determined by averaging the values at the beginning and ending of the income year, but the Commissioner may require the averaging of monthly values during the income year if such averaging is necessary to reflect properly the average value of the airline's property. (See §40-27-1, Code of Ala. 1975, and Alabama Rule 810-27-1-.12)

(e) The "value" of rented real and tangible personal property means the product of eight (8) times the net annual rental rate. (See §40-27-1, Code of Ala. 1975, and Rule 810-27-1-.11)

(f) "Net annual rental rate" means the annual rental rate paid by the taxpayer.

(g) "Property used during the income year" includes property which is available for use in the taxpayer's trade or business during the income year.

(h) "Aircraft ready for flight" means aircraft owned or acquired through rental or lease (but not interchange) which are in the possession of the taxpayer and are available for service on the taxpayer routes.

(i) "Revenue service" means the use of aircraft ready for the production of revenue.

(j) "Transportation revenue" means revenue earned by transporting passengers, freight and mail as well as revenue earned from liquor sales, pet crate rentals, etc.

(k) "Departures" means, for purposes of these rules, all takeoffs, whether they be regularly scheduled or charter flights, that occur during revenue service.

(3) Sales (Transportation Revenue) Factor. The transportation revenue derived from transactions or activities in the regular course of the trade or business of the taxpayer and miscellaneous sales of merchandise, etc., are included in the denominator of the revenue factor. (See §40-27-1.1, Code of Ala. 1975, and Rule 810-27-1-.01) Passive income items such as interest, rental income, dividends, etc., will not be included in the denominator nor will the proceeds or net gains or losses from the sale of aircraft be included. The numerator of the revenue factor is the total revenue of the taxpayer in Alabama during the income year. The total revenue of the taxpayer in Alabama during the income year is the result of the following calculation: The ratio of departures of aircraft in Alabama weighted as to the cost and value of aircraft by type, as compared to total departures similarly weighted multiplied by the total transportation revenue.

The product of this calculation is to be added to any non-flight revenues directly attributable to Alabama.

(4) Property Factor. The following applies for tax years prior to January 1, 2021, or if the taxpayer is granted approval from the Commissioner to employ an alternative apportionment method that includes the use of the property factor.

(a) Property valuation. Owned aircraft shall be valued at its original cost and rented aircraft shall be valued at eight (8) times the net annual rental rate in accordance with Alabama Rule 810-27-1-.11. The use of the taxpayer's owned or rented aircraft in an interchange program with another air carrier will not constitute a rental of such aircraft by the airlines to the other participating airline. Such aircraft shall be accounted for in the property factor of the owner. Parts and other expendables, including parts for use in contract overhaul work, will be valued at cost.

(b) The denominator and numerator of the property factor. The denominator of the property factor shall be the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the income year. The numerator of the property factor shall be the average value of the taxpayer's real and tangible personal property owned or rented and used in Alabama during the income year.

(c) Determining the numerator of the property factor. In determining the numerator of the property factor, all property except aircraft ready for flight shall be included in the numerator of the property factor in accordance with Section 40-27-1, Code of Ala. 1975, inclusive. Aircraft ready for flight shall be included in the numerator of the property factor in the ratio calculated as follows: Departures of aircraft from locations in Alabama weighted as to the cost and value of aircraft by type compared to total departures similarly weighted.

(5) The Payroll Factor. The following applies for tax years prior to January 1, 2021, or if the taxpayer is granted approval from the Commissioner to employ an alternative apportionment method that includes the use of the payroll factor. The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the income year. The numerator of the payroll factor is the total amount paid in Alabama during the income year by the taxpayer for compensation. With respect to non-flight personnel, compensation paid to such employees shall be included in the numerator as provided. With respect to flight personnel (the air crew aboard an aircraft assisting in the operations of the aircraft or the welfare of passengers while in the air), compensation paid to such employees shall be included in the ratio of departures of aircraft from locations in this state, weighted as to the cost and value of aircraft by type compared to total

departures similarly weighted, multiplied by the total flight personnel compensation.

(6) Records. The taxpayer must maintain the records necessary to arrive at departures by type of aircraft as used in these rules. Such records are to be subject to review by the respective state taxing authorities or their agents.

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