

RULES OF
DEPARTMENT OF REVENUE

CHAPTER 810-3-39

Corporation Returns

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810-3-39-.01 Corporation Returns.

(1) (a) Each corporation, joint stock company, or association, except as provided in (b), subject to Alabama income tax shall file a separate return for each tax year, including organizations subject to taxation on unrelated business taxable income as provided in § 40-18-32, Code of Alabama 1975. The return (Form 20C for corporations—and organizations with unrelated business taxable income, and Form 20S for an Alabama S corporation) shall be filled out completely and in accordance with the instructions. The return must be signed by one of the following officers: the president, vice-president, treasurer, assistant treasurer, secretary, assistant secretary, chief accounting or financial officer. The individual preparing the return, if not an officer or employee of the corporation or organization making the return, must also sign the return, and his address should be shown.

(b) An Alabama affiliated group may elect to file an Alabama consolidated return, in lieu of separate returns for the taxable year. The election is made on Form 20C-CRE (Consolidated Return Election) which shall be filed by the common parent on or before the due date, including extensions, of the Alabama consolidated return for the first taxable year for which the election is made. The Alabama consolidated return must be signed by one of the officers of the common parent listed in (1)(a) on behalf of the Alabama affiliated group. All pertinent and necessary data needed to compute the tax must be attached to the return. Form 20C-AS (Alabama Affiliations Schedule) should be attached to the Alabama consolidated return for each year the election is in effect.

(2) If the property or business of a corporation is operated by a receiver, trustee, or assignee, such person shall make a return for the corporation in the same manner as the corporation would otherwise make the return. Any tax due on the basis of such return shall be collected in the same manner as if collected from the corporation.

(3) All corporation returns shall be made on or before the fifteenth day of the third month following the close of the tax year of the corporation. The return of a corporation, or an Alabama affiliated group reporting for a calendar year is due the fifteenth day of March of the following year.

(4) Nexus. If an Alabama affiliated group elects to file an Alabama consolidated return, each and every member of the Alabama affiliated group has voluntarily agreed to nexus with the State of Alabama for income tax purposes. The election, once made, is conclusively binding on each and every member of the Alabama affiliated group as to nexus with the State of Alabama for income tax purposes - as long as the election is in effect.

(5) Extension of time for filing the return of a corporation may be granted under authority of § 40-18-39. See Rule 810-3-39-.02.

(6) Consolidated corporate returns were not permitted by the laws of Alabama for tax years beginning prior to January 1, 1999.

Author: Verlon Frost, C. McCary and M. Moncrief
Authority: §§ 40-18-39 and 40-2A-7(a)(5) Code of Alabama 1975
History: Adopted September 30, 1982.
Amended: June 17, 1988. Filed with LRS July 27, 1988.
Amended: Filed May 3, 2000, effective June 7, 2000.

810-3-39-.02 Extension of Time for Filing a Corporation Return.

(1) A corporation or an Alabama affiliated group will be granted an automatic extension up to a maximum of six months to file the Alabama corporation income tax return. An extension of time granted pursuant to this section is not an extension of time for payment of the 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 return. Any tax due, not paid on or before the unextended due date, will be subject to interest until paid at the rate provided in § 40-1-44, Code of Alabama 1975, and all applicable penalties.

(a) Payment of the tax shall be made via the paper Business Income Tax Payment Voucher or by Electronic Funds Transfer (EFT).

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

(2) (a) An entity that fails to file the required return by the extended due date may not be granted an automatic extension the following (ensuing) year, but may be required to request the extension in writing.

(b) If a written request is required, the request must be made to the Commissioner of Revenue or to his designee, and must explain the reason for the request and the reason for failing to timely file the return in the previous year. The request also must state that the entity has no outstanding debts owed to the Department.

(3) Estimated Payments. Those corporations with liabilities in excess of estimated payments or credits should remit the balance due on or before the due date of the return. Members of an Alabama affiliated group which have carryover payments from a prior year's filing of a separate return shall treat such carryover as a payment of estimated taxes on the Alabama consolidated return for the following year. Interest and penalties are due on all taxes not paid on or before the unextended due date. See Rule 810-3-42-.01.

Author: Catherine McCary, Melody Moncrief, Ann F. Winborne, CPA, and Richard H. Henninger

Authority: Sections 40-18-39 and 40-2A-7(a)(5), Code of Alabama 1975

History: Adopted September 30, 1982.

Amended: June 17, 1988. Filed with LRS July 27, 1988.

Amended: Filed May 3, 2000, effective June 7, 2000.

Amended: Filed November 26, 2008, effective December 31, 2008.

810-3-39-.03 Consolidated Filing.

(1) Making the Election. The election is made by the common parent of the Alabama affiliated group properly completing and filing Form 20C-CRE (Election to File Consolidated Corporate Income Tax Return), Form 20C-AS (Affiliations Schedule), and the Alabama consolidated return, Form 20C, with the annual fee by the due date (including extensions). If the election is not filed timely with payment of the annual fee, the election is invalid.

(2) Liability. Each corporation included in the Alabama consolidated return will be jointly and severally liable for the Alabama income tax liability of the Alabama affiliated group. If a corporation is a member of the Alabama affiliated group for only part of the tax year, then the corporation will be liable for only the portion of the Alabama consolidated tax liability attributed to that portion of the year that the corporation was a member of the Alabama affiliated group prorated on a daily basis. The tax liability of the Alabama affiliated group will be the Alabama tax rate specified in § 40-18-31 applied to the taxable income of the Alabama affiliated group.

(a) Part-year members. If an eligible corporation becomes a member of an Alabama affiliated group after the beginning of the Alabama consolidated return year or ceases to be a member of the Alabama affiliated group during the consolidated return year, two tax returns will be due for that taxable year. The Alabama consolidated return shall include amounts attributable to such corporation for the part of the year in which it was a member of the Alabama affiliated group. A separate return shall be filed and include (or if a member of a different Alabama affiliated group, such group's Alabama consolidated return shall include) amounts attributable to such corporation for the remainder of the taxable year. The method used to determine the federal taxable income of that member will be used to attribute amounts of taxable income or loss, modifications, business income or loss, apportionment factors, nonbusiness or partnership income or loss, and credits to the different portions of the taxable year.

(b) Ineligible members. If a part-year member is a taxpayer that is ineligible to be a member of an Alabama affiliated group it shall file a separate tax return for the respective period(s) using the accounting method used in determining federal taxable income of such member.

(c) Liability of corporation after withdrawal. If a corporation has ceased to be a member of an Alabama affiliated group and if such cessation resulted from a bona fide sale or exchange of its stock for fair value and occurred prior to the date upon which any deficiency is assessed, the Commissioner may, if the Department determines that the assessment or collection of the balance of the deficiency will not be jeopardized, make assessment and collection of such deficiency from such former member in an amount not exceeding the portion of such deficiency which the Commissioner may determine to be allocable to it. If the Commissioner makes assessment and collection of any part of a deficiency from such former member, then

for purposes of any credit or refund of the amount collected from such former member, the agency of the common parent will not apply.

(d) Effect of intercompany agreements. No agreement entered into by one or more members of the Alabama affiliated group with any other member of the group or with any other person will in any case have the effect of reducing the liability prescribed pursuant to § 40-18-39.

(3) Consolidated estimated tax.

(a) Generally. If an Alabama affiliated group files an Alabama consolidated return for two consecutive taxable years, it must make payments of estimated tax on a consolidated basis for each subsequent taxable year, until such time as separate returns are properly filed. Until such time, the Alabama affiliated group is treated as a single corporation for purposes of § 40-18-82 (relating to payment of estimated tax by corporations). If separate returns are filed by the members of an Alabama affiliated group for a taxable year, the amount of any estimated tax payments made with respect to a consolidated payment of estimated tax for such year will be credited against the separate tax liabilities of the members in any manner designated by the common parent which is reasonably satisfactory to the Department. For example, the manner of allocation will be satisfactory to the Department if it does not jeopardize the collection of any income tax liability.

(b) First two consolidated return years. For the first two years for which an Alabama affiliated group files a federal and a Alabama consolidated return, it may make payments of estimated tax on either a consolidated or separate basis. If a consolidated return is filed for such year, the amount of any estimated tax payments made for such year by any member will be credited against the tax liability of the Alabama affiliated group. The amount of any separate estimated tax payments made for such year will be credited against the combined income tax liability for the Alabama affiliated group.

(c) Example. Corporations P and S-1 file a federal and an Alabama consolidated return for the first time for calendar year 1999. Corporations P and S-1 also file Alabama consolidated returns for calendar years 2000 and 2001. For calendar years 1999 and 2000, Corporations P and S-1 may make payments of estimated Alabama income tax on either a separate or consolidated basis. For calendar year 2001, however, the Alabama affiliated group must pay its estimated tax on a consolidated basis.

(4) Records. In accordance with § 40-2A-7, taxpayers must maintain records to allow the Department to determine the correct amount of tax including support for deviations from federal to Alabama income, gain computations, elimination entries, etc.

(5) Federal statutes. For interpretation of federal statutes adopted by the Alabama Legislature, see Rule 810-3-1.1-.01, Operating Rules.

(6) Effective date. This rule is effective for tax periods beginning after December 31, 1998.

Author: Joe Garrett, Cathy McCary, Melody Moncrief, and Michael Mason, CPA
Authority: §§ 40-2A-7(a)(5) and 40-18-39, Code of Alabama 1975.
History: New rule: Filed December 15, 1999, effective January 19, 2000.
Amended: Filed October 15, 2010, effective November 19, 2010.

810-3-39-.04 Incentives Rules for Alabama Affiliated Groups Filing Consolidated Alabama Income Tax Returns.

(1) **Scope:** Alabama provides various business incentives in the form of tax credits and exemptions to specific taxpayers who register and qualify for specific programs. The rules and examples presented herein are to facilitate the computation of incentives for an Alabama affiliated group filing a consolidated Alabama income tax return.

(2)(a) **Consolidated Filing Fee:** Incentives in the form of credits may not be used to reduce the Alabama affiliated group's consolidated filing fee, however, estimated tax payments exceeding the current year's net tax liability may be applied to the yearly consolidated filing fee.

(b) **EXAMPLE:** The consolidated income tax return indicates a tax liability of \$50,000 after accounting for any net operating loss (NOL). The separate filing fee is \$2,500. The available incentives from various programs total \$55,000. Because the available tax credit exceeds the tax liability, the usable tax credit is limited to \$50,000. The taxpayer must remit the \$2,500 filing fee when the return is filed.

(3) **Separation from the Affiliated Group:** An incentive for which a member has qualified continues exclusively with such member upon separation from an Alabama affiliated group.

(4) **Applicability of Incentives:** Several members in an Alabama affiliated group may qualify for one or more of the various incentives provided by the state. Each qualifying member within the Alabama affiliated group must compute its incentives separately each year.

(a) Generally. The various usable incentives, as computed separately by each eligible member of the group, shall be added and that total shall be made available to reduce the consolidated income tax liability reflected on the consolidated income tax return. The use of incentives to reduce consolidated income of an Alabama affiliated group is limited by both the availability of allowable incentives to the qualifying member of the Alabama affiliated group and the consolidated income of the Alabama affiliated group.

(b) **Records Retention.** For each tax period for which a member qualifies for an incentive, the member must first compute its separate Alabama income tax liability as if it were filing a separate return using the format of Form 20C. Each member's separate income tax liability and incentives computations shall be retained by both the member and Common Parent corporation for a period of seven years. These records shall be made available to the Department in their entirety (including details pertaining to any tax credit, job development fees, or other incentives for each tax period) upon written request by the Department. The Department will disallow incentives for failure to retain the required detailed documentation.

(c) Carryovers. No incentive shall be available for carryover by the member to the following tax period of that member unless permitted by the code section providing the credit or incentive.

(d) Incentives Non-Refundable. No incentive may produce a refund of tax not paid by the member nor be carried over unless specifically permitted by the section of the Code of Alabama 1975 which grants the incentive. An NOL will therefore reduce the amount of available tax credit which each member computes. The resulting credit will be the usable credit.

(e) Net Operating Losses. The total amount of usable incentives from each member's calculation will be available for use on the consolidated return. The usability of such amount shall be further restricted by all NOLs used to reduce the consolidated income tax liability.

(5) **EXAMPLE:** Consolidated Group A has elected to file an Alabama consolidated income tax return for tax period ending December 31, 1999. Group A has Common Parent Y and Subsidiary Z. Common Parent Y is a coal producer and has qualified for the coal income tax credit pursuant to § 40-18-220, Code of Alabama 1975. Subsidiary Z is a manufacturer and has qualified for an income tax credit and job development fees under the State Industrial Development Authority program pursuant to §§ 41-10-44.8 and 40-18-200.

(a) Common Parent Y will compute its Alabama income tax liability and available coal credit as if filing a separate income tax return. In this instance Common Parent Y has computed its Alabama taxable income as \$10,000 before any NOL and its available coal credit as \$5,000. Common Parent Y has an NOL of \$9,000 attributable to Alabama operations. Common Parent Y's usable coal credit is computed as $(\$10,000 \text{ less } \$9,000 \text{ NOL}) \times 5\% = \50 . The credit may not exceed the liability of the Alabama affiliated group.

(b) Subsidiary Z will compute its Alabama income tax liability and available income tax credit as if filing a separate income tax return. Subsidiary Z has computed its Alabama taxable income as \$10,000,000 and income attributable to the project as \$5,000,000 (under a written agreement with the Department). Subsidiary Z withheld \$200,000 in job development fees (JDF) during this tax period. Subsidiary Z made principal and interest payments during this tax period of \$2,000,000 to satisfy its project obligations. Subsidiary Z has an available income tax credit of \$250,000 ($\$5,000,000 \text{ income from project} \times 5\% \text{ tax rate} = \$250,000$). Note: § 41-10-44.8(a)(1) provides that the income tax credit shall be the lesser of the income tax due from project income or the payments made to satisfy project obligations and § 41-10-44.8(a)(2) provides for JDF retention only to the extent that payments made to satisfy project obligations exceed the income tax credit permitted in § 41-10-44.8(a)(1) ($\$2,000,000 \text{ debt payments} - \$250,000 \text{ income tax credit} = 1,750,000 \text{ maximum job development fees, limited to Subsidiary Z's } \$200,000 \text{ actual job development fees withheld.}$) The credit for

the Alabama affiliated group would be limited to \$200,000 for the incentive relating to Subsidiary Z and the ability of the Alabama affiliated group to utilize this incentive is further limited by the consolidated tax liability of the Alabama affiliated group.

(c) Group A has consolidated taxable income attributable to Alabama of \$15,000,000 before any NOLs. Group A has a consolidated NOL of \$9,000 attributable to Alabama. Group A has an adjusted Alabama consolidated taxable income of \$14,991,000 (\$15,000,000 less \$9,000 NOL). Group A has an Alabama consolidated income tax liability of \$749,550 (\$14,991,000 consolidated taxable income x 5% tax rate). Group A has a credit available of \$250,050 (\$50 coal credit from Common Parent Y plus \$250,000 income tax credit from Subsidiary Z). Group A's net Alabama income tax liability is \$499,500 (\$749,550 income tax liability less \$250,050 usable credits).

(6) **EXAMPLE:** Consolidated Group G has Common Parent P and Subsidiaries A, B, C and D. Consolidated Group G has elected to file an Alabama consolidated income tax return for tax period ending December 31, 1999. Common Parent P and Subsidiary D do not qualify for any incentives in this state. Subsidiary A is a small business located in an Enterprise Zone and has qualified for certain tax incentives pursuant to § 41-23-30. Subsidiary B is a manufacturer and has qualified for the capital credit pursuant to § 40-18-194. Subsidiary C is qualified for the Basic Skills Education Program (BSEP) credit pursuant to § 40-18-136, and is also located in an Enterprise Zone and has qualified for tax credits pursuant to § 41-23-22.

(a) Subsidiary A computes its Alabama taxable income as \$100,000. Subsidiary A has a 50% income tax exemption (per agreement with the Alabama Department of Economic and Community Affairs). The income tax exemption is \$2,500 (\$100,000 taxable income x 5% = \$5,000 income tax x 50% exemption). The tax exemption is available as a \$2,500 credit.

(b) Subsidiary B computes its Alabama taxable income as \$10,000,000. Income from the project is computed at \$1,000,000 (per written agreement with Alabama Department of Revenue). Subsidiary B's available capital credit is \$75,000 (determined by total investment of project x 5% as computed on Form INT-2). Subsidiary B's tax liability generated from the project is \$50,000 (\$1,000,000 project income x 5% tax rate). The credit may not exceed the subsidiary's separately calculated Alabama tax liability; therefore, the credit is limited to \$50,000.

(c) Subsidiary C computes its Alabama taxable income as \$150,000. Subsidiary C computes its BSEP credit as \$800 and its Enterprise Zone Credit as \$3,000. Subsidiary C uses \$2,000 of the Enterprise Zone Credit to satisfy its Alabama franchise tax liability. Subsidiary C has available a potential income tax credit of \$1,800 (\$3,000 Enterprise Zone credit less \$2,000 used for franchise tax plus \$800 BSEP credit).

(d) Group G computes its consolidated Alabama taxable income as \$25,000,000. The group has no NOL available. Group G has an income tax liability of

\$1,250,000 (taxable income x 5% tax rate). Group G has income tax credits available of \$54,300 (\$2,500 from Subsidiary A, \$50,000 from Subsidiary B, and \$1,800 from Subsidiary C). Group G utilizes these income tax credits and has an adjusted Alabama income tax liability of \$1,195,700 (\$1,250,000 less income tax credits of \$54,300). Group G has made estimated income tax payments of \$1,200,000 using Form 20CD. Group G has an overpayment of \$4,300 (estimated payments of \$1,200,000 less adjusted income tax liability of \$1,195,600). Group G has a consolidated filing fee due of \$5,000. Group G may apply the overpayment of \$4,300 to the consolidated filing fee and remit \$700 at the time the return is filed.

(7) This rule is effective for all tax periods beginning after December 31, 1998.

Authors: Michael E. Mason, Commissioner's Office; Verlon Frost and Melody Moncrief, Individual and Corporate Tax Division.

Authority: §§ 40-2A-7(a)(5), 40-18-39 and 40-18-57, Code of Alabama 1975.

History: New rule: Filed May 3, 2000, effective June 7, 2000.

810-3-39-.05 Taxable Years Following an Election Period for an Alabama Affiliated Group.

(1) Except as provided in paragraph (2), for any taxable year beginning after the expiration of the election period set forth in § 40-18-39(c)(6), Code of Alabama 1975, each member of the Alabama affiliated group subject to Alabama income tax shall file a separate return unless the Alabama affiliated group elects to file an Alabama consolidated return and is not otherwise prohibited from doing so.

(2) The election to file an Alabama consolidated return on or before the date prescribed by Rule 810-3-39-.01 for filing the return or as extended pursuant to Rule 810-3-39-.01 for the first taxable year after the expiration of the 96 month election period, shall:

- (a) Constitute a new election to file an Alabama consolidated return; and
- (b) Establish a new election period under § 40-18-39(c)(6).

Authors: Michael E. Mason, Commissioner's Office; Verlon Frost,
Individual and Corporate Tax Division.

Authority: §§40-2A-7(a)(5), 40-18-39, and 40-18-57, Code of Alabama 1975.

History: New rule: Filed May 3, 2000, effective June 7, 2000.

810-3-39-.06 Mechanics of Consolidated Filing.

(1) In General. This rule is established in respect to the apportionment of income and loss from an Alabama Affiliated Group (AAG) that is taxable both in this state and in one or more other states.

(a) When an AAG has elected to file an Alabama consolidated return in lieu of separate returns and has income from sources both within and without this state, the taxable income or loss of the AAG and the business and nonbusiness income of each member shall be determined pursuant to Title 40, Chapter 18 and § 40-27-1, Article IV, Code of Alabama 1975, and regulations issued thereunder by the Alabama Department of Revenue (ADOR), except as modified by this regulation. The AAG shall be treated as a single corporation and all transactions between and among members of the AAG shall be eliminated in computing taxable income, loss, and in determining the Alabama property, payroll, and sales apportionment factors. See § 40-18-39(c)(3), Code of Alabama 1975.

(2) Business and Nonbusiness Income. The classification of business and nonbusiness income or loss shall be determined pursuant to § 40-27-1, Article IV, Code of Alabama 1975, and the regulations issued thereunder by the ADOR. For definitions, regulations, and examples for determining whether income shall be classified as "business" or "nonbusiness" income, see Rule 810-27-1-4-.01.

(a) The business and nonbusiness income or loss of each member is determined in accordance with Title 40, Chapter 18 and with the rules of allocation and apportionment under § 40-27-1, Article IV.

(3) Apportionment of Business Income.

(a) In General. The property factor shall be determined in accordance with Rules 810-27-1-4-.10, 810-27-1-4-.11, and 810-27-1-4-.12; the payroll factor in accordance with Rules 810-27-1-4-.13 and 810-27-1-4-.14; and the sales factor in accordance with Rules 810-27-1-4-.15, and 810-27-1-4-.16. The special rules stated in Rule 810-27-1-4-.18 apply to AAGs. The total AAG's combined business income is multiplied by the Alabama apportionment factor average percentage (commonly referred to as the Alabama apportionment factors - See Alabama Form 20C) which is the sum of the AAG's Alabama property factor, payroll factor, and sales factor, divided by three pursuant to § 40-27-1, Article IV.9.

(b) Alabama Property Factor.

1. In General. The AAG's Alabama property factor is a fraction, the numerator of which is the average value of the AAG's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the AAG's real and tangible personal property owned or rented and used during the tax period everywhere.

2. Property Factor Denominator. All real and tangible personal property of the AAG (the sum of the group's property everywhere), whether owned or rented and used everywhere during the tax period, shall be included in the denominator of the property factor as described in Rule 810-27-1-4-.10.

3. Property Factor Numerator. All real and tangible personal property owned or rented by the AAG and used in this state (the sum of each member's property employed in this state) during the tax period shall be included in the numerator of the property factor as provided in Rule 810-27-1-4-.10(d).

(c) Alabama Payroll Factor.

1. In General. The AAG's Alabama payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the AAG and the denominator of which is the total paid everywhere by the AAG during the tax period.

2. Payroll Factor Denominator. The denominator of the payroll factor shall include all compensation paid to employees for the production of business income during the tax period for the AAG everywhere as provided in Rule 810-27-1-4-.13(b).

3. Payroll Factor Numerator. The numerator of the payroll factor shall include all compensation paid to employees within this state by the AAG for the production of business income (the sum of each member's payroll within this state during the tax period) as may be determined by the application of the provisions of Rules 810-27-1-4-.13(c) and 810-27-1-4-.14.

(d) Alabama Sales Factor.

1. In General. The AAG's Alabama sales factor is a fraction, the numerator of which is the total sales of the AAG in this state during the tax period, and the denominator of which is the total sales of the AAG everywhere.

2. Sales Factor Denominator. The denominator of the sales factor is the total sales derived by the AAG from transactions and activity in the regular course of its trade or business everywhere as provided in Rule 810-27-1-4-.15(b).

3. Sales Factor Numerator. The numerator of the sales factor is the total sales of the AAG in this state (the sum of each member's sales within this state) during the tax period as provided in Rule 810-27-1-4-15(c).

(e) Application of Attributional Nexus. In determining activities within and without Alabama beyond the protection of P.L. 86-272, activities that are conducted by one or more members of the AAG shall be considered attributable to the AAG. See § 40-18-39(c)(3).

1. **EXAMPLE:** If a member of the AAG sells goods shipped to a purchaser in Alabama, and that member is not taxable in the state of shipment, the sale is assigned to Alabama, provided that no other member of the AAG is taxable in the state of shipment. Conversely, if a member sells goods to a purchaser in another state which are shipped from Alabama, and that member is not taxable in the state of destination, the sale is not assigned to Alabama, provided that another member of the AAG is taxable in the state of destination.

(4) Liability.

(a) In General.

1. Full-year members. Each full-year member of the AAG is jointly and severally liable for all of the Alabama consolidated income tax liability.

2. Part-year members. A corporation, not a member of the AAG for the entire taxable year, is jointly and severally liable only for the portion of the Alabama Consolidated Income Tax Liability attributable to that portion of the year during which the corporation was a member of the AAG prorated on a daily basis.

3. Liability for the Annual Fee. Each member, whether a full-year member or a part-year member, is jointly and severally liability for the full amount of the annual fee assessed in § 40-18-39(c)(7).

(b) **EXAMPLE:** Corporate Group X elected to become an AAG effective January 1, 1999. The Alabama Consolidated Income Tax Liability for AAG X for the calendar year 1999 is \$365,000. AAG X, which was in business during the entire calendar year, has three members, A, B, and C, as follows:

	Number of Days a Member of AAG X During Tax Year
Member A	90
Member B	365
Member C	365

The Total Prorated Alabama Consolidated Income Tax Liability for each member is computed as follows:

Member A

(90 days / 365 days) multiplied by \$365,000 = \$90,000

Member B

(365 days / 365 days) multiplied by \$365,000 = \$365,000

Member C

(365 days / 365 days) multiplied by \$365,000 = \$365,000

(c) The Common Parent has the responsibility of constructing and maintaining records to substantiate a member's liability.

Authors: Michael E. Mason, Commissioner's Office; Verlon Frost, Individual and Corporate Tax Division.

Authority: §§40-2A-7(a)(5), 40-18-57, Code of Alabama 1975.

History: New rule: Filed May 3, 2000, effective June 7, 2000.

810-3-39-.07 Participation in the Federal/State Electronic Filing Program.

(1) The Department will participate with the Internal Revenue Service in the Federal/State Electronic Filing Program for the joint electronic filing of corporate income tax returns, effective for tax years beginning on or after January 1, 2005.

(2) The requirements of the Alabama Electronic Filing Program for software developers, electronic return originators and transmitters are stated in the Software Developers and Transmitters Guidelines and Schemas for Alabama Corporate Income Tax Returns, which is issued on an annual basis by the Department.

Author: Kathleen F. Campbell

Authority: Sections 40-2A-7(a)(5) and 40-30-4, Code of Alabama 1975

History: New Rule: Filed February 13, 2006, effective March 20, 2006.

810-3-39-.08 Requirements for the Alabama Electronic Corporate Income Tax Return.

(1) A complete Alabama electronic corporate income tax return will consist of data and supporting binary documents (such as .pdf documents) transmitted electronically. A complete Alabama electronic return must contain the same information as a comparable Alabama corporate income tax return as if filed entirely on paper.

(2) Corporations that electronically file their Alabama corporate income tax return must also pay their tax liability electronically.

(3) The transmission date of an Alabama electronic corporate income tax return will be used to determine timely filing of an electronic return in the same manner that the postmarked date is used to determine timely filing of a paper Alabama corporate income tax return.

Author: Kathleen F. Campbell

Authority: Sections 40-2A-7(a)(5) and 40-30-5, Code of Alabama 1975

History: New Rule: Filed February 13, 2006, effective March 20, 2006.

810-3-39-.09 Requirements for the Corporate Income Tax Declaration for Electronic Filing.

(1) The Corporate Income Tax Declaration for Electronic Filing requires the following information:

- (a) The corporation's name.
- (b) The corporation's Federal Employer Identification Number.
- (c) The corporation's address.
- (d) The Alabama taxable income reported by the electronic return.
- (e) The net tax liability reported by the electronic return.
- (f) The total tax payments reported by the electronic return.
- (g) The amount of the refund reported by the electronic return.
- (h) The amount of the payment transmitted electronically and the method of transmission (Electronic Funds Transfer, Online Payment or Credit Card Payment).
- (i) The signature of an officer of the corporation, their title and date of the signature.
- (j) The signature of the electronic return originator and date of the signature.
- (k) An indication whether the electronic return originator is self- employed.
- (l) The firm name of the electronic return originator.
- (m) The address, including the zip code, of the electronic return originator.
- (n) The federal employer identification number of the electronic return originator.
- (o) If the paid preparer is different from the electronic return originator, the following information is required:
 - 1. The signature of the paid preparer and date of the signature.
 - 2. An indication whether the paid preparer is self-employed.
 - 3. The firm name of the paid preparer.

4. The address, including the zip code, of the paid preparer.

(2) The signatures of the corporate officer, the electronic return originator, and the paid preparer (if the paid preparer is different from the electronic return originator) must be affixed to the Alabama Form AL8453-C - Corporate Income Tax Declaration for Electronic Filing before the return is electronically transmitted.

(a) Members of the firm or designated employees may sign for the electronic return originator.

(b) If the taxpayer is unable to obtain the paid preparer's signature on the Alabama Form AL8453-C, in lieu of the paid preparer's signature the electronic return originator may attach to the Alabama Form AL8453-C a copy of the appropriate pages of the paper return with the paid preparer's signature.

(c) Electronic return originators and electronic return preparers are prohibited from allowing taxpayers to sign blank Alabama Forms AL8453-C.

(3) The completed and signed Alabama Form AL8453-C will serve as the filing declaration for the electronic Alabama corporate income tax return.

(4) The completed and signed Alabama Form AL8453-C must be retained by the electronic return originator for a period of three years from the due date of the return or three years from the date the return was filed, whichever is later. The electronic return originator will provide the Department with the original Alabama Form AL8453-C within five business days of receiving a written request for the documents from the Department.

Author: Kathleen C. Abrams, Jo Ann Ledbetter, and Ann F. Winborne, CPA
Authority: Sections 40-2A-7(a)(5) and 40-30-5, Code of Alabama 1975
History: New Rule: Filed February 13, 2006, effective March 20, 2006.
Amended: Filed January 28, 2010, effective March 4, 2010.

810-3-39-.10 Requirements for Electronic Filing Software.

(1) XML Schemas (record layouts), specifications and business rules for a complete Alabama electronic corporate income tax return are issued annually by the Department in Software Developers and Transmitters Guidelines and Schemas for Alabama Corporate Income Tax Returns.

(2) Software developers are required to obtain prior approval from the Department by submitting for testing sample Alabama electronic corporate income tax returns prepared by and transmitted by their software products.

(3) Software developer testing will occur in conjunction with IRS testing in accordance with IRS Publication 4162 Modernized e-File Test Package for Forms 1120/11205.

(4) Alabama electronic corporate income tax returns received by the Department which are prepared by software which has not completed the Department's software developer testing and which has not been approved by the Department will be rejected by the Department. Paper Alabama corporate income tax returns must then be submitted by the taxpayers.

Author: Kathleen F. Campbell

Authority: Sections 40-2A-7(a)(5) and 40-30-5, Code of Alabama 1975

History: New Rule: Filed February 13, 2006, effective March 20, 2006.

810-3-39-.11 Acceptance into the Alabama Electronic Filing Program, Monitoring, and Revocation of Acceptance into the Program.

(1) Electronic return originators and transmitters accepted by and in good standing with the Federal Electronic Filing Program are automatically accepted into the Alabama Electronic Filing Program.

(2) Electronic return originators and transmitters accepted into the Alabama Electronic Filing Program serve as agents of the Alabama Department of Revenue, and must comply with the requirements of the program as stated in the Software Developers and Transmitters Guidelines and Schemas for Alabama Corporate Income Tax Returns.

(3) The Alabama Department of Revenue will conduct random monitoring visits with Electronic Return Originators and Transmitters to verify that the requirements of the Alabama Electronic Filing Program are being met.

(4) The Alabama Department of Revenue reserves the right to revoke the acceptance of an electronic return originator or transmitter for cause. Failure to comply with the guidelines set forth in the Software Developers and Transmitters Guidelines and Schemas for Alabama Corporate Income Tax Returns is considered just cause.

(5) Any of the following can result in the revocation of an electronic return originator's or transmitter's acceptance into the program:

(a) Conviction of a criminal offense under the revenue laws of any state or of any offense involving dishonesty, or breach of trust.

(b) Failure to file timely and accurate tax returns, both personal and business.

(c) Failure to pay personal tax liabilities or business tax liabilities.

(d) Failure or refusal to effect corrective action as required by the Alabama Department of Revenue.

(e) Other facts or conduct of a disreputable nature that would reflect adversely on the Alabama Electronic Filing Program.

(f) Unethical practices in return preparation.

(g) Suspension by IRS.

Author: Kathleen F. Campbell

Authority: Sections 40-2A-7(a)(5) and 40-30-6, Code of Alabama 1975

History: New Rule: Filed February 13, 2006, effective March 20, 2006.

810-3-39-.12 Alabama Requirements for Mandatory E-File of Original Corporate Income Tax Returns.

(1) (a) If an income tax return preparer prepares 125 or more acceptable, original corporate/partnership income tax returns using tax preparation software in calendar year 2009, and 50 or more acceptable corporate/partnership income tax returns using tax preparation software in calendar year 2010, then for the calendar year 2010 all acceptable corporate/partnership income tax returns prepared by that income tax preparer must be filed using electronic technology, as defined in the “Electronic Tax Return Filing Act,” as codified in Chapter 30 of Title 40, Code of Alabama 1975.

(b) If an income tax return preparer prepares 25 or more acceptable, original corporate/partnership income tax returns using tax preparation software in calendar year 2011, then for that calendar year and for each subsequent calendar year thereafter, all acceptable corporate/partnership income tax returns prepared by that income tax preparer must be filed using electronic technology, as defined in the “Electronic Tax Return Filing Act,” as codified in Chapter 30 of Title 40, Code of Alabama 1975.

(2) For purposes of this rule, the following definitions apply:

(a) “Income tax preparer” means a person who meets both the following:

1. Any person who prepares an Alabama corporate/partnership income tax return in exchange for compensation.

2. Or any person who employs another person to prepare, in exchange for compensation, any current year Alabama corporate/partnership income tax return.

(b) “Original corporate/partnership income tax return” means any return that is required, to be filed with respect to the tax imposed as defined by Section 40-18-2, Code of Alabama 1975. For purposes of paragraphs (1)(a) and (1)(b) above, a “timely” original corporate/partnership tax return means any original corporate/partnership tax return that is filed, without regard to extensions, during the calendar year for which that tax return is required to be filed.

(c) “Acceptable corporate/partnership income tax return” means, for the purposes of the mandatory corporate/partnership income tax filing program, any original corporate/partnership tax return that is authorized by the Department to be filed solely using electronic technology as defined in Section 40-30-3(2), Code of Alabama 1975.

(d) “Tax preparation software” means any computer software program intended for accounting, tax return preparation, or tax compliance.

(3) Paragraph (1)(a) shall cease to apply to an income tax preparer if, during the 2009 calendar year, the income tax preparer prepared no more than 30 original corporate/partnership income tax returns and during the 2010 calendar year and all

subsequent years, the income tax preparer prepared no more than 15 original corporate/partnership income tax returns.

(a) Paragraph (1)(a) of this rule, applies to acceptable corporate/partnership income tax returns required to be filed for taxable years beginning on and after January 1, 2009.

(b) Paragraph (1)(a) of this rule, may not be interpreted to require electronic filing of acceptable corporate/partnership income tax returns that are required to be filed on or before January 1, 2009.

(4) (a) For a Tax Year 2008 Corporation with assets of \$10 million or more, or partnerships with 100 or more partners mandated to e-file with the IRS are mandated to e-file Tax Year 2009 Alabama corporate/partnership income tax returns, and all subsequent tax years.

(b) For a Tax Year 2009 Corporation with assets of \$5 million or more, or partnerships with 50 or more partners are mandated to e-file Tax Year 2010 Alabama corporate/partnership income tax returns, and all subsequent tax years.

Author: Jo Ann Ledbetter, Richard Henninger, and Ann F. Winborne, CPA
Authority: Sections 40-2A-7(a)(5), 40-18-40, and 40-30-1 through 6, Code of Alabama 1975
History: New rule: Filed January 28, 2010, effective March 4, 2010.

810-3-39-.13 Alabama Requirements for Compliance with Administrative Rule 810-3-39-.12.

(1) An income tax preparer may be subject to a random monitoring visit for not electronically filing returns.

(2) If it is shown that failure to electronically file corporate/partnership income tax return is due to willful neglect and not due to reasonable cause, then that tax preparer's acceptance in the Alabama e-file program shall be revoked, and that tax preparer shall be unable to electronically transmit corporate/partnership income tax returns to the Department.

(3) For purposes of this rule, reasonable cause includes, but is not limited to:

(a) Any electronically prepared original corporate/partnership income tax return that cannot be filed or transmitted electronically by the tax preparer, or any original corporate/partnership income tax return that cannot be accepted by the Department.

(4) Any original corporate/partnership income tax return prepared, including those not electronically filed due to "reasonable cause," will be included in the total mandate return count as defined in 810-3-39-.12.

Author: Jo Ann Ledbetter, Richard Henninger, and Ann F. Winborne, CPA
Authority: Sections 40-2A-7(a)(5), 40-18-40, and 40-30-1 through 6, Code of Alabama 1975
History: New rule: Filed January 28, 2010, effective March 4, 2010.