

Instructions For The Preparation of The Alabama Business Privilege Tax Return and Annual Report

2002

FORM
PSI
8/2001

The Alabama Business Privilege Tax forms may be viewed and downloaded
at the Department of Revenue Web site at www.ador.state.al.us.

General Information

Throughout these instructions and the tax return there are several references to Title 40 Chapter 14A (Act 99-665 and Act 2000-705) of **Code of Alabama 1975** which is the Business Privilege Tax law. You can access these acts through the Department's Web site www.ador.state.al.us under the Business Privilege Tax Section. There are also references to other chapters of Title 40, other Titles of the Code of Alabama and the Internal Revenue Code (26 U.S.C). You can access the entire **Code of Alabama 1975** through the Alabama Legislature's Web site, www.legislature.state.al.us. The Internal Revenue Code can be accessed by clicking on the IRS link located at the bottom of the Revenue Department's Web site home page.

Every corporation, limited liability entity (LLE), business trust, disregarded entity and real estate investment trust (REIT) that is doing business in Alabama or is registered/qualified to do business in Alabama, is required to file an Alabama Business Privilege Tax Return and Annual Report. The Business Privilege Tax is levied for the right or privilege granted by the State of Alabama to legally exist. Therefore, the return and tax are due each year as long as the entity legally exists in the State of Alabama, regardless of the extent of business transacted. Contact the Secretary of State's office, (334) 242-5324 (www.sos.state.al.us), or the Judge of Probate's Office in the county in which the business was organized for instructions concerning the requirements for legally closing an entity.

Organizations described under 26 U.S.C. Section 501(a) are exempt from filing Form PSA.

If additional time is needed to file Form PSA, an extension for no more than six months may be requested by completing an Extension Request for the Alabama Business Privilege Tax Return and Annual Report (Form PSE).

The return must be signed, all applicable sections and schedules must be completed and all required attachments must accompany the return in order for the return to be considered complete.

Electronic funds transfers (EFT) are not available for Business Privilege Tax.

I. General Instructions

Page 1, Form PSA

Fill in the blanks indicating the beginning and ending dates of the balance sheet year used to compute the Business Privilege Tax. Indicate, by checking the appropriate box, if the period is a calendar year (CY), fiscal year (FY), or short year (SY).

Print or type the name and address of the entity.

Enter the FEIN of the business entity. Do not enter the FEIN of the parent entity.

If the address has changed since the last filing, indicate the change by checking the box.

Indicate the type of business entity by checking the appropriate box.

- TO BE CLASSIFIED AS A FINANCIAL INSTITUTION GROUP MEMBER, AT LEAST ONE MEMBER OF THE GROUP MUST BE SUBJECT TO ALABAMA FINANCIAL INSTITUTION EXCISE TAX.

- TO BE CLASSIFIED AS AN INSURANCE COMPANY THE ENTITY MUST BE SUBJECT TO ALABAMA INSURANCE PREMIUM TAX.

Lines 1 through 9 represent the Annual Report. If any of the information on lines 4 or 5 has changed since the last filing, you must indicate the change by checking the "update" box in order for the Department of Revenue to update your records.

Attach your check payable to the Alabama Department of Revenue to the front of the return.

Definitions:

Corporation – An entity, including a limited liability company electing to be taxed as a corporation for federal income tax purposes, through which business can be conducted while offering limited liability to the owners of the entity.... The term "corporation" shall include but not be limited to the following: corporations, professional corporations, joint stock companies, unincorporated professional associations, real estate investment trusts, limited liability companies electing to be taxed as corporations for federal income tax purposes, and all associations classified as corporations for federal income tax pur-

poses. The term "corporation" shall not include any county, municipal corporation, political subdivision of the state, governmental corporation, instrumentality or agency thereof. (Section 40-14A-1(d))

Limited Liability Entity – Any entity, other than a corporation, organized under the laws of this or any other jurisdiction through which business may be conducted while offering limited liability to the owners of the entity with respect to some or all of the obligations of the entity and which is taxable under subchapter K of the Federal Code, including, without limitation, limited liability companies, registered limited liability partnerships, and limited partnerships. (Section 40-14A-1(k))

Electing Family Limited Liability Entity – An electing family limited liability is a limited liability entity that meets the following requirements: (Section 40-14A-1(h))

(1) An individual and the members of the individual's family as defined in Section 40-14A-1(h)(4) directly or constructively own 80 percent or more of the profits and capital interests.

(2) Must meet the requirements of either the gross receipts test as defined in Section 40-14A-1(h)(3)(a) or the assets test as defined in Section 40-14A-1(h)(3)(b).

(3) Must attach a statement to the return making the annual election and declaring all of the requirements have been met.

Disregarded Entity – A limited liability company that is disregarded for purposes of federal income tax, or a qualified subchapter S subsidiary as defined in 26 U.S.C. Section 1361. (Section 40-14A-1(g))

Insurance Company – An insurance company that is subject to the premium taxes levied by Chapter 4A of Title 27, **Code of Alabama 1975**.

Financial Institution Group – All taxpayers in an affiliated group where at least one member of the group is a financial institution that is subject to the provisions of Title 40, Chapter 16 (relating to financial institution excise tax). In the event a financial institution taxpayer is not a member of an affiliated group, that financial institution shall be treated as a financial institution group. (Section 40-14A-22(f)(1)(c))

Note: Financial institution group members are required to complete Schedule G of Form PSA, which can be obtained through the Department's Web site at www.ador.state.al.us.

Related Party – A related party is any member of a controlled group of corporations as defined in 26 U.S.C. Section 1563, or a limited liability entity that would be a member of a controlled group if rules similar to those of 26 U.S.C. Section 1563 were applied to limited liability entities. (Section 40-14A-(1)(L))

II. Filing Rules

Effective January 1, 2001, the balance sheet year for the Business Privilege Tax will be the same year used by the taxpayer to file income tax, financial institution excise tax or insurance premium tax returns. The due date for corporations will be two and one half months after the first day of their fiscal year. The due date for LLE's will be three and one half months after the first day of their fiscal year. **Short year returns will be due for privilege tax.**

III. Required Attachments – Generally

- Pages 1 through 4 of the unconsolidated federal tax return
- Copy of Alabama income tax apportionment schedule (for multi-state taxpayers)
- Documentation to validate all exclusions and deductions

IV. Initial Returns

An initial return is the first return due after the taxpayer incorporates, registers, organizes, qualifies, or begins doing business in Alabama, whichever occurs first. The return is due 30 days after such occurrence. Initial Returns MAY NOT BE EXTENDED.

V. Penalties and Interest

Failure to timely file return – If a return is filed after the due date, there will be assessed a late filing penalty of 10% of the tax due or \$50, whichever is greater.

Failure to timely pay tax – If payment is not received by the due date, there will be assessed a late payment penalty of 1% per month, of the amount of the tax due, not to exceed 25% of the tax. Taxpayers paying 90% of the actual tax liability with a valid extension request will not be subject to this penalty.

Interest – Interest is due on all payments made after the original due date.

The interest rate is the same as provided in Section 40-1-44(a).

If assistance is needed in computing the penalty and/or interest amounts call (334) 353-7923. The examiner that will assist you will

need to know the tax liability and the date the return will be mailed.

VI. Prior Year Credits

Prior year credits will not be allowed against the liability of the Alabama Business Privilege Tax.

VII. Instructions For Schedule A, Form PSA

Line 1

Enter the issued capital stock and additional paid in capital. This amount cannot be reduced by treasury stock. (Section 40-14A-23(a)(1))

Line 2

Enter the amount of appropriated and unappropriated retained earnings, but not less than zero. This amount shall include the balance of any dividend payables on the taxpayer's year-end balance sheet. (Section 40-14A-23(a)(1)(b))

LLE's taxed as corporations and non-stock issuing entities enter assets minus liabilities. (Section 40-14A-23(a)(2))

Line 3

Subtract the sum of Schedule A, Lines 1 and 2 from the sum of the non exempt payables as itemized. (See instructions for Section IX.)

Line 4

Add to net worth the sum of compensation or similar amounts paid or accrued to a direct or indirect shareholder owning more than 5% of the corporation the amount exceeding \$500,000 per shareholder. (Section 40-14A-23(f)(1) (a), (b), and (c))

Line 5

Add to net worth the sum of compensation, distributions, or similar amounts paid or accrued to a direct or indirect shareholder owning more than 5% of the corporation the amount exceeding \$500,000 per shareholder. (Section 40-14A-23(f)(2) (a), (b), and (c))

Line 6

Enter total net worth (add Lines 1 through 5). Go to Schedule B, Line 1. If Line 6 is less than \$57,000, go to Schedule B, Line 26 and enter \$100.

Line 7

Enter the sum of the Partner's capital accounts from Form 1065 (U.S. Partnership Return of Income). This number may not be less than zero. (Section 40-14A-23(b))

Line 8

Add to net worth the sum of compensation, distributions, or similar amounts paid or accrued to a direct or indirect partner or member the amount exceeding \$500,000 per partner or member. (Section 40-14A-23(f)(3)(a), (b), and (c))

Line 9

Subtract the amount in Line 7 from the sum of the Non Exempt Payables as itemized. (See instructions for Section IX.)

Line 10

Enter total net worth (add Lines 7 through 9). Go to Schedule B, Line 1. If Line 10 is less than \$57,000, go to Schedule B, Line 26 and enter \$100.

Line 11

For business trusts classified as a corporation for federal income tax purposes, enter the assets minus the liabilities. Skip to Schedule B, Line 1. (Section 40-14A-23(d))

Line 12

If the owner of a disregarded entity is subject to the privilege tax, then the disregarded entity pays the minimum tax. Go to Schedule B, Line 26 and pay \$100 privilege tax. Please provide the name and FEIN of the single member. (Section 40-14A-23(c))

Line 13

For disregarded entities that have an owner that is not subject to the privilege tax (such as an individual or nontaxable partnership) enter the assets minus liabilities of the disregarded entity. (Section 40-14A-23(c))

Line 14

Subtract the amount in Line 13 from the sum of the Non Exempt Payables as itemized. (See instructions for Section IX.)

Line 15

Add to net worth the sum of compensation, distributions, or similar amounts paid or accrued to a direct or indirect owner the amount exceeding \$500,000 per owner. (Section 40-14A-23(f)(3) (a), (b), and (c))

Line 16

Enter total net worth (add lines 13 through 15). Go to Schedule B, line 1. If line 16 is less than \$57,000, go to Schedule B, line 26 and enter \$100.

VIII. Instructions For Schedule B, Form PSA

EXCLUSIONS (For each exclusion attach supporting documentation.)

Line 1

Enter net worth as computed in Schedule A, Line 6, 10, 11, or 16 depending on the type of entity.

If the amount of net worth is less than \$57,000, go to Line 26 and pay \$100 privilege tax.

Line 2

Enter the book value of investments by the taxpayer in the equity of other taxpayers doing business in Alabama.

List investments in entities actively engaged in doing business in Alabama. Merely being registered or qualified to do business in Alabama does not constitute doing business in Alabama. Include the amount of each investment, the FEIN of each entity, and the name of each entity.

This exclusion does not apply if the taxpayer is a dealer in securities subject to 26 U.S.C. Section 1236. (Section 40-14A-23(g)(1))

Line 3

For Financial Institutions Only

Financial institutions may exclude from net worth determined in Schedule A their investment in the equity of any other corporation or LLE that: (1) does not pay business privilege tax to Alabama, and (2) taxpayer owns more than 50% of the other corporation or LLE, unless the other corporation or LLE is dormant and not regularly engaged in one or more business activity. This exclusion does not apply if the taxpayer is a dealer in securities subject to 26 U.S.C. Section 1236. (Section 40-14A-23(g)(2))

Line 4

Enter from taxpayer's balance sheet, the unamortized portion of goodwill and core deposit intangibles (for financial institutions only), which resulted from a direct purchase of another LLE or corporation. Must include supporting documentation that includes (1) Name and FEIN of entity acquired, (2) Date of acquisition, (3) Name and FEIN of entity that directly purchased the above entity, (4) Original amount of goodwill, (5) Accumulated amortization, and (6) Unamortized portion. (Section 40-14A-23(g)(3))

Line 5

Exclude any unamortized balance that the taxpayer properly elected, pursuant to Pronouncement 106 of the Financial Accounting Standards Board (FASB), relating to post-retirement benefits, to amortize over a period of years rather than immediately charging that amount to earnings. Must include a description of benefits, amortization schedule, and the location of the amount on the balance sheet. (Section 40-14A-23(g)(4))

Line 6

For financial institutions only, enter the net worth as adjusted exceeding 6% of the taxpayer's total assets. Net worth as adjusted is calculated by subtracting from Schedule A, Line 6 the sum of (Lines 2-5) from Schedule B. (Section 40-14A-23(g)(5))

Line 9

The apportionment factor is used for multi-state entities. For taxpayers that conduct all of their business in Alabama, use 100% as the apportionment factor. No supporting documentation is necessary for those entities. All other enti-

ties attach appropriate apportionment schedule.

The apportionment factor is computed in the same manner as prescribed for apportioning income during the determination period for income tax purposes in accordance with Chapter 18 of Title 40, or in the case of financial institutions according to Chapter 16 of Title 40. Apportionment for insurance companies is on the basis of the ratio of the insurer's Alabama premium income to its nationwide total direct premiums as filed on Schedule T with the Insurance Commissioner, State of Alabama. Taxpayers not required to file income tax returns with the State of Alabama must apportion net worth in the manner in which the income would be apportioned if the taxpayer were subject to income tax. Therefore, these taxpayers must obtain an apportionment Schedule from the Alabama income tax return at the Department's Web site at www.ador.state.al.us. C Corporations should use Form 20C, Schedule D1, S Corporations should use Form 20S, Schedule C, and Partnerships should use Form 65, Schedule C. (Section 40-14A-24(a))

For initial returns only, the apportionment factor for the initial return is calculated by dividing the amount of tangible property in Alabama by the total tangible property on the day the tax liability is incurred. For entities that conduct all of their business in Alabama, enter 100%.

DEDUCTIONS (For each deduction attach supporting documentation)

Nothing in this section shall be construed to allow any item to be deducted more than once or to allow a deduction for any item that is excluded from net worth. (Section 40-14A-24(c))

Items can only be deducted to the extent they were included in net worth in Schedule A.

Line 11

Enter net amount invested in bonds or other securities issued by State of Alabama or any political subdivision of the state prior to January 1, 2000. Must include a schedule detailing the amount invested, the issuing agency, the bond issue date, and the location of the investments on the taxpayer's balance sheet as supporting documentation.

This deduction does not apply if the taxpayer is a dealer in securities subject to rules of 26 U.S.C. 1236. (Section 40-14A-24(b)(1))

Line 12

Deduct the net investment for equipment used to control, reduce or eliminate air, ground, or water pollution in Alabama where such pollution or radiology hazards result or would be caused by the taxpayer's activities in Alabama. (Section 40-14A-24(b)(2))

Line 13

Deduct the net investment in equipment of an airline hub operation within this state. (Section 40-14A-24(b)(3))

Line 14

Enter book value invested after December 1, 1997 in regard to new and existing manufacturing facilities and investments made in equipment, real & tangible property, facilities, structures, components and inventory which correlates to number of new employees. (Section 40-14A-24(b)(4))

Line 15

Enter book value of investment relating to aluminum manufacturing facility. (Section 40-14A-24(b)(5))

Line 16

Enter the balance of any reserve, account, or trust reasonably determined to satisfy any liability that is imposed by federal, state, or local government laws or regulations for reclamation, storage, disposal, decontamination, retirement, or other related costs associated with a plant, facility, mine or site in Alabama.

Provide documentation detailing the applicable governmental law or regulations that imposed the liability, as well as the location of the plant, facility, mine or site in Alabama. (Section 40-14A-24(b)(6))

Line 17

Enter book value of any residential real estate project in Alabama that qualifies for federal or state income tax credits, loans, or grants on the grounds that it provides housing for low-income individuals. Must include a statement detailing a description of the project, the site of the low income housing, and the location of the amount on the taxpayer's balance sheet. (Section 40-14A-24(b)(7))

Line 18

For S corporations and LLE's only, enter 30% of taxable income. Taxable income is defined as "federal taxable income before NOL's and special deductions" apportioned to Alabama. Taxable income is to include income passed through to the shareholders and members. (Section 40-14A-24(b)(8) and Section 40-14A-24(b)(9))

Line 20

Taxable net worth is derived by subtracting Line 19 from Line 10.

Line 21

Determine the tax rate from the Tax Rate Schedule, Form PSI, page 4. Use the federal taxable income before net operating loss deduction and special deductions multiplied by the apportionment factor from Schedule B, Line 9. Taxable income is to include income passed through to shareholders, partners, or members.

For initial returns only, the tax rate will be .00025.

Line 22

Gross Privilege Tax is calculated by multiplying Line 20 by Line 21.

Line 23

For short period returns, the proration percentage will be apportioned to the short taxable year in the same proportion as the number of days in the short taxable year bears to 365.

For initial returns, the proration percentage will be apportioned from the date of incorporation, qualification, registration, or organization until the last day of the taxpayer's tax year.

For all other returns, enter 100%.

Line 24

Net Privilege Tax Due is calculated by multi-

plying Line 22 by Line 23.

Line 25

Enter Alabama Enterprise Zone Credit. Attach supporting documentation from the Alabama Department of Economic & Community Affairs (ADECA). (Section 40-14A-42)

Line 26

Privilege Tax Due is calculated by subtracting Line 25 from Line 24. The minimum due is \$100. For the maximum amounts due, see Chart 2 of the Tax Rate Schedule on Page 2, Form PSA.

IX. Related Party Debt

For a definition of a related party, see the "Definitions" section of these instructions.

Additional information concerning the related party debt add-back:

- Individual shareholders are NOT considered related parties.

- All related party debt should be itemized, including the related parties' FEIN, complete name, and whether the related party debt is Exempt or Non Exempt.

- Related party debt cannot be negative.

- Related party debt and related party receivables are not netted under any circumstances.

- Exempt payables are defined as stated in Section 40-14A-23(e)(2) b. They include trade debt, accounts payable, or deposit liabilities to related parties that are doing business in Alabama.

- Non-Exempt Payables are all other related party debts.

Tax Rate Schedule

Chart 1 Privilege Tax Rate Schedule

Federal Taxable Income, before net operating loss deduction and special deductions, apportioned and allocated to Alabama: \$ _____

If Taxable Income of The Taxpayer Is:

At Least	But Less Than	The Tax Rate Shall Be
	\$ 1	.00025 (\$0.25 per \$1,000)
\$ 1	\$ 200,000	.00100 (\$1.00 per \$1,000)
\$ 200,000	\$ 500,000	.00125 (\$1.25 per \$1,000)
\$ 500,000	\$2,500,000	.00150 (\$1.50 per \$1,000)
\$2,500,000		.00175 (\$1.75 per \$1,000)

Chart 2 Maximum Privilege Tax Amounts

- \$3,000,000 financial institutions groups, insurance companies subject to Alabama Insurance Premium Tax.
- \$ 15,000 regular C corporations, S corporations, regulated utilities, real estate investment trusts, limited liability entities, business trusts, disregarded entities, and insurance companies not subject to Alabama Insurance Premium Tax.
- \$ 500 electing family limited liability entity.
- \$ 100 certain corporations not engaged in any business other than holding title to property and paying expenses thereof.