810-27-1-.18.01 Special Rules: Airlines. (**New Rule)**

(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 Sections 40-27-1, Article IV and 40-27-1.1, Code of Alabama 1975, except as modified by this rule.

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

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

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

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

(iii) "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 Alabama Rule 810-27-1-.11(1))

(iv) "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 Section 40-27-1, Article IV.12, Code of Alabama 1975, and Alabama Rule 810-27-1-.12)

(v) The "value" of rented real and tangible personal property means the product of eight (8) times the net annual rental rate. (See Section 40-27-1, Article IV.11, Code of Alabama 1975, and Alabama Rule 810-27-1-.11(2))

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

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

(viii) "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.

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

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

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

2. Property Factor.

(i) 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 Section 40-27-1, Article IV.11, Code of Alabama 1975, and 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.

(ii) 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.

(iii) 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, Article IV.10-.12, Code of Alabama 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.

3. The Payroll Factor. The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the income year. (See Section 40-27-1, Article IV.13-.14, Code of Alabama 1975) 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 in Section 40-27-1, Article IV.13-.14, Code of Alabama 1975. 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.

4. 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 Section 40-27-1.1, Code of Alabama 1975, and Alabama 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.

(b) 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.

(2) Examples.

(a) Example 1: Assume the following facts for an airline for a tax year:

1. It has ten 747s ready for flight and in revenue service at an average cost per unit of $ 40,000,000 for nine of the aircraft. It rents the tenth 747 from another airline for $9,000,000 per year. At eight times rents, the latter is valued at $72,000,000 for apportionment purposes. The total 747 valuation is, therefore, $432,000,000 for property factor denominator purposes.

2. It has twenty 727s ready for flight in revenue service at an average cost per unit of $20,000,000. The total 727 valuation is, therefore, $400,000,000 for property factor denominator purposes.

3. It has nonflight tangible property (n.t.p.) valued at an original cost of $200,000,000.

4. It has the following payroll:

Flight Personnel	$60,000,000
NonFlight Personnel	$40,000,000
Total	$100,000,000

5. From its operations, it has total receipts of $50,000,000, business net income of $1,000,000, and no nonbusiness income.

6. It has the following within Alabama:

(i) 10% of its 747 flight departures (.10 x $432M) $43,200,000
(ii) 20% of its 727 flight departures (.20 x $400M) $80,000,000
(iii) 5% of its n.t.p. (.05 x $200M) $10,000,000
(iv) 15% of its n.p. payroll (.15 x $40M) $6,000,000

7. Alabama has a corporate tax rate of 6.5% and requires that the sales factor be double weighted pursuant to Section 40-27-1, Article IV.9, Code of Alabama 1975. The airline's tax liability to Alabama would be determined as follows:

	Within AL	*Everywhere*	
Property Factor:			
747s (.10 x $432M)	43,200,000	432,000,000	
727s (.20 x $400M)	80,000,000	400,000,000	
n.t.p. (.05 x $200M)	10,000,000	200,000,000	
	133,200,000	1,032,000,000	12.9070%
Sales Factor:			
747s (.10 x $432M)	43,200,000	432,000,000	
727s (.20 x $400M)	80,000,000	400,000,000	
	123,200,000	832,000,000	14.8077%
			14.8077%
Payroll Factor:			
Flight Pers. (.148077 x $60M)	8,884,620	60,000,000	
Nonflight Pers.(n.p.)	6,000,000	40,000,000	
	14,884,620	100,000,000	14.8846%
Total of factor ratios			57.4070%
Alabama apportionment ratio			14.3518%
Business income		$1,000,000	
Amount apportioned to Alabama (.143518 x $1M)		$143,518	

(b) Example 2: Assume the same facts in subparagraph (a) except that subparagraph (a)6. is changed to read:

(i) 6% of its 747 flight departures (.06 x $432M) $25,920,000
(ii) 31% of its 727 flight departures (.31 x $400M) 124,000,000
(iii) 3% of its n.t.p. (.03 x $200M) $6,000,000
(iv) 7% of its n.p. payroll (.07 x $40M) $2,800,000

1. The airline's business income apportioned to Alabama would be determined as follows:

	Within AL	Everywhere	
Property Factor:			
747s (.06 x $432M)	25,920,000	432,000,000	
727s (..31 x $400M)	124,000,000	400,000,000	
n.t.p. (.03 x $200M)	6,000,000	200,000,000	
	155,920,000	1,032,000,000	15.1085%
Sales Factor:			
747s (.10 x $432M)	25,920,000	432,000,000	
727s (.20 x $400M)	124,000,000	400,000,000	
	149,920,000	832,000,000	18.0192%
			18.0192%
Payroll Factor:			
Flight Pers. (.14077 x $60M)	10,812,520	60,000,000	
Nonflight Pers.(n.p.)	2,800,000	40,000,000	
	13,611,520	100,000,000	13.6115%
Total of factor ratios			64.7584%
Alabama apportionment ratio			16.1896%
Business income		$1,000,000	
Amount apportioned to Alabama (.161896 x $1M)		$161,896	

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