810-3-35-.01 Federal Income Tax Deduction **(NEW RULE)**

(1) Corporations may deduct federal income taxes (FIT) paid or accrued during the taxable year and attributable to their Alabama income. The amount and method of deduction to be allowed for state income tax purposes is determined by Alabama Department of Revenue rules. See Standard Oil Co. v. State, 55 Ala. App. 103, 313 So. 2d 532, cert. denied, 313 So. 2d 540 (1975).

(a) The FIT attributable to Alabama may be deducted in the year paid or accrued and subsequently paid, according to the method of accounting used in computing taxable income.

1. For a cash basis taxpayer federal income tax should be deducted in the year paid. See Paragraph (4).

2. An accrual basis taxpayer should deduct federal income tax:

(i) In the year for which the tax was imposed if the tax is not contested: that is, in the absence of some objective act of protest, affirmative evidence of protest, or affirmative evidence of denial of liability by the taxpayer, or

(ii) If the tax is contested it shall be accrued and subsequently paid and deducted during the year in which the liability becomes fixed and certain, but in no case later than the date the tax was actually paid.

(b) For purposes of this rule, FIT is the amount of federal income taxes paid or accrued and subsequently paid by the taxpayer for a tax period. This amount includes adjustments for refundable and nonrefundable credits, special deductions, net operating loss deduction, alternative minimum tax (and minimum tax credit) and similar adjustments. For taxpayers that file as part of a federal consolidated group, alternative minimum tax (AMT) and the minimum tax credit (MTC) are allocated using the method described in subparagraph (3)(e) and subparagraph (3)(f).

(2) **For an accrual basis taxpayer that does not file as a member of a federal consolidated income tax return and who apportions and/or allocates income within and outside of Alabama:** The amount of FIT attributable to Alabama is determined by multiplying the FIT times a fraction, of which the numerator is the taxpayer's income apportioned and/or allocated to Alabama, and the denominator is the taxpayer's total income earned both within and outside Alabama, computed under applicable Alabama law. To the extent a net loss is allocated and/or apportioned to Alabama (the numerator of the fraction is negative), no FIT will be attributed to Alabama.

Example: Company A is an Alabama taxpayer who apportions a percentage of its income within and outside of Alabama. Company A had Federal Taxable income of $200,000 and $40,000 in FIT for the tax year. Company A's income apportioned to Alabama is $50,000. Company 'A' is apportioned 25% or $10,000 of the net federal income tax liability. ($50,000/$200,000 = 25% * $40,000 = $10,000).

(3) **For an accrual basis taxpayer that files as a member of a federal consolidated income tax return:** The taxpayer shall apportion the consolidated FIT liability only among the members of the group that individually report positive federal taxable income. Each member is apportioned a share of the consolidated FIT based on a fraction, the numerator of which is the member's positive federal taxable income and the denominator of which is the sum total federal taxable income of all members separately reporting positive federal taxable income.

(a) Example: Company A, Company B, and Company C file as part of a consolidated income tax return for federal income tax purposes. Company A is the only member of the affiliated group that files an income tax return in Alabama. The companies have Federal Taxable Incomes of $150,000, $50,000, and $100,000 (totaling $300,000), respectively. The affiliated group accrued and subsequently paid $60,000 in net federal income tax during this tax year. Company A is apportioned 50% or $30,000 of the federal income tax liability of the group. ($150,000/$300,000 = 50% * 60,000 = $30,000).

(b) Example: Company A, Company B, and Company C file as part of a consolidated income tax return for federal income tax purposes. Company A is the only member of the affiliated group that files an income tax return in Alabama. The companies have Federal Taxable Incomes of $150,000, -$25,000, and $350,000 (positive entities totaling $500,000), respectively. The affiliated group accrued and subsequently paid $150,000 in federal income tax during this tax year. Company A is apportioned 30% or $45,000 of the federal income tax liability of the group. ($150,000/$500,000 = 30% * $150,000 = $45,000).

(c) To the extent the consolidated FIT liability for tax period is zero or the federal consolidated group earned a net operating loss for the tax period, the Alabama taxpayer will be apportioned no FIT liability even if the AL taxpayer separately computed positive federal taxable income for the tax period.

Example: Company A, Company B, and Company C file as part of a consolidated income tax return for federal income tax purposes. Company A is the only member of the consolidated group that files an income tax return in Alabama. The companies have Federal Taxable Incomes of $150,000, -$25,000, and -

$350,000, respectively. The consolidated group earned a -$225,000 net loss and paid $0 in FIT for this tax year. Even though Company A earned positive taxable income, no FIT was due on a consolidated basis to be apportioned to Company A and Company A will receive no FIT deduction for the tax period.

(d) If the taxpayer allocates and/or apportions its income both within and outside of Alabama, the taxpayer shall compute the portion of FIT attributable to Alabama consistent with Paragraph (2).

(e) Alternative Minimum Tax: For a taxpayer that files as a member of a federal consolidated group, the consolidated alternative minimum tax (AMT) liability shall be apportioned only among the members of the group that individually report positive alternative minimum taxable income (AMTI). The apportioned amount is determined by multiplying AMT, as accrued and subsequently paid by the federal consolidated group, times a fraction. The numerator of which is the taxpayer's positive AMTI and the denominator is the aggregate amount of positive AMTI of the component members of such group.

Example: Company A, Company B, and Company C filed a consolidated income tax return for federal income tax purposes. The following federal consolidated group paid no regular income tax during the tax year but paid $75,000 in AMT. Company A, Company B, and Company C computed AMTI of $150,000, $125,000 and $100,000 (totaling $375,000), respectively. Company A is apportioned 40% or $30,000 of the AMT liability of the group (150,000/375,000 = 40% * $75,000 = $30,000).

(f) If a federal consolidated group is allowed to reduce its FIT liability by applying a Minimum Tax Credit (MTC), then the MTC must be attributed to the members of the group consistent with AMT previously allocated pursuant to subparagraph (e) above. In no case shall the cumulative MTC attributed to a taxpayer exceed the cumulative AMT attributed to a taxpayer.

(4) **For Cash basis taxpayers**: To the extent the taxpayer does business within and without Alabama, follow the general provisions provided in Paragraph (2) to determine the portion of the taxpayer's FIT that is attributed to Alabama. If the taxpayer files as part of a federal consolidated income tax return, follow the general provisions in Paragraph (3) to calculate the portion of consolidated FIT attributed to the taxpayer. The amount of consolidated FIT allocated to the taxpayer pursuant to Paragraph (3) and/or the amount attributed to Alabama pursuant to Paragraph (2) is based on the actual amount of federal income taxes paid during the tax period. The taxpayer is entitled to a federal income tax deduction, even if the taxpayer earned a net operating loss for the tax period, if actual federal income tax payments were made during the tax period.

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History: