

810-3-21-.01 Credit for Taxes Paid to Another State or Territory.

(1) For all taxable years beginning after the Multistate Tax Compact became effective in 1977, and taxable years beginning before January 1, 1997, resident taxpayers, including individuals, engaged in multistate business in such a manner as to subject their income to allocation and apportionment provided by the Multistate Tax Compact were not allowed a credit for taxes paid to other states or territories. For tax years beginning after December 31, 1996, resident individuals are not required to allocate and apportion income and the credit for taxes paid to other states and territories, as provided in this section, is allowable for all individuals.

(2) See Reg. 810-3-162-.01 for credit allowed to shareholders of an Alabama S corporation for taxes paid by the shareholders to other states on S corporation earnings.

(3) For all individuals with taxable years beginning after December 31, 1996:

(a) Any Alabama resident individual with gross income from sources outside Alabama which is includible in Alabama gross income and also in another state or a territory of the United States, is entitled to a credit against the income tax due to Alabama, as described below.

I. The amount of credit will be the lesser of the amount of income tax actually paid to another state on the same income, or the tax computed on the same taxable income in the other state using Alabama tax rates.

(i) When income tax is paid to more than one other state, the tax credit must be computed separately for each state.

(ii) When a state allows credits against its tax in lieu of exemptions, the taxable income in that state will be determined after a deduction computed by converting the credit at the lowest rates applicable in that state.

(I) EXAMPLE: Taxpayer, a resident of Alabama, has taxable income in Alabama, in State X and in State Y. Taxpayer is filing a joint return with his spouse.

	Taxable Income	Tax on Taxable Income	Tax on Tax- able Income at Alabama Rates	Credit Allowable
State X	\$ 9,000	500.00	373.00	373.00
State Y	4,000	60.00	142.00	60.00

Alabama	23,000	1,073.00	
Total credit allowable			<u>433.00</u>
Total Alabama income tax		\$1,073.00	
Less credit for tax paid to other states		433.00	
Tax due Alabama		<u>\$ 640.00</u>	

(II) EXAMPLE: Taxpayer, a single individual and a resident of Alabama, has gross gambling income of \$50,000 and \$50,000 gambling losses in State A. State A only allows a deduction for a percentage of gambling losses (\$30,000 in this example) but Alabama allows a deduction for gambling losses up to the amount of gambling income (\$50,000 in this example). Taxpayer pays tax to State A on \$20,000 net gambling income but does not pay tax to Alabama on any gambling income. In this situation, there is no credit for tax paid to State A because the net income from gambling on the Alabama return is zero and, therefore, there is no double taxation.

(III) EXAMPLE: Same situation as (II) above, except gambling losses are \$40,000, with a net taxable income from gambling of \$10,000 on the Alabama return and \$20,000 in State A. In this instance, the credit allowed will be the lesser of tax at the Alabama rate on \$10,000 or tax in State A on \$10,000. Credit is allowed for tax on \$10,000 only because this is the amount of income that otherwise would be subject to double taxation without the credit.

2. Credit for taxes paid other states will be administratively applied as if payment were made on the due date of the applicable return against any liability due Alabama. The amount of any estimated taxes due under § 40-18-82 will be reduced by the amount of any credit allowed under this regulation.

(b) A resident claiming the credit for taxes paid to another state must attach to his Alabama income tax return a copy of each nonresident return filed showing the amount of the tax payment-claimed as credit. The Department may require a certified copy of the return or a certificate showing the amount of tax paid.

(c) The credit is allowed to a taxpayer who reports on the cash basis even though the tax due to another state was not actually paid during the year for which the credit is claimed, as long as the tax is actually paid to the other state. The credit is allowed only on the return for the year in which the income is taxable by the other state. For instance, a credit will be deducted on a 1997 return for tax due on 1997 income which is payable in 1998.

(d) If a resident individual is included in a joint return in another state, the Alabama credit allowable for taxes paid the other state must be apportioned to each individual. The allowable share will be a fraction, the numerator of which is

the tax the individual would have paid the other state on his separate income, and the denominator of which is the total amount that each would have paid the other state; applied to the tax liability due the other state. If either individual has a negative or zero tax liability, no credit will be allowed that individual. The allowable credit in any instance will not be more than the amount due at Alabama rates.

(e) Taxable income of a nonresident includes only income derived from sources within the state, and therefore, no credit is allowable for taxes paid to other states.

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