Revenue REVIEW
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(April, May, June 2002)

ADOR Completes Fifth E-filing Season

Since the Alabama Department of Revenue received its first electronically-filed income tax return on Jan.16, 1998, the number of state taxpayers using electronic return transmission continues to climb. Although the majority of Alabamians still use the traditional method of paper filing, more and more taxpayers are discovering the ease and convenience of e-filing.

Total Alabama E-filers Per Tax Year	
1997	**116,465**
1998	**211,303**
1999	**373,277**
2000	**445,933**
2001	**530,381**

The state and federal e-filing partnership effort goes back to 1997, when the Internal Revenue Service and the Alabama Department of Revenue sponsored a series of e-filing seminars for those tax practitioners authorized by the IRS as Electronic Return Originators (EROs).

The continuing partnership effort peaked during tax season 2001, when the department's district office at the Montgomery Taxpayer Service Center joined the IRS in filing returns electronically for taxpayers. In 2002 the effort expanded to include three other district offices, the Dothan, Mobile, and Birmingham taxpayer service centers. With equipment and training provided by the IRS, 27 state participants in ADOR district offices qualified to e-file state and federal returns for taxpayers.

Alabama Department of Revenue Secretary Lewis Easterly (left) holds a special award given to the department for its participation in the IRS E-file program. Leslye Baronich (right), Area Director for Stakeholders Partnership, Education & Communication, presented the award on behalf of the IRS.

Underwood Named Outstanding CPA

The Alabama Society of Certified Public Accountants (ASCPA) has named State Revenue Commissioner Cynthia Underwood Outstanding CPA in Government for 2001.

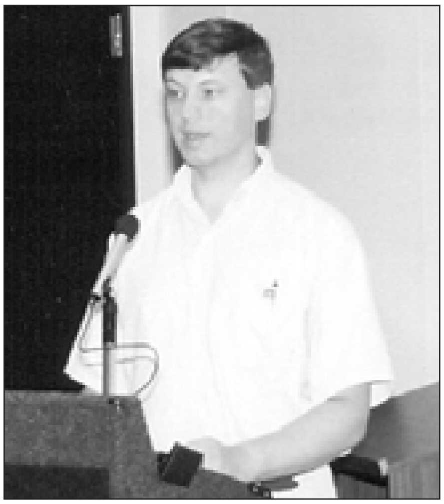
The annual award is given to a CPA employed in local, state, or federal government whose outstanding contributions to the organization have resulted in increased efficiency and effectiveness.

Revenue's Director of Tax Policy, Mike Mason, received the award in 1999.

State Revenue Commissioner Cynthia Underwood, Outstanding CPA in Government for 2001.

Revenue Hosts MTC Training

The Alabama Department of Revenue hosted a three-day seminar June 11, 12, and 13 to address Multistate Tax Commission issues, multistate corporations, and new revenue laws passed in the Alabama Legislature's Fourth Special Session 2001.



Instructor Stephen Cannon, Foreign Audit Specialist, Field Operations, explains the federal income tax deduction for corporate taxpayers.

(Shown left) Revenue Managers Rick Umstead, Birmingham Taxpayer Service Center, and Neta Faulkner, Huntsville, Decatur, and Muscle Shoals Taxpayer Service Centers, refer to their handouts.

Representatives from the department's Individual and Corporate Tax Division included field managers, foreign audit specialists, and Corporate Tax Section employees. Attorneys and several representatives from some SEATA states also attended.

The Multistate Tax Commission is an agency of state governments, established in 1967 as part of the Multistate Tax Compact. According to the agency's Website, its goals are the following:

- To encourage states to adopt uniform tax laws and regulations
- To reduce state tax compliance burdens on businesses
- Through the creation of a national nexus program, to encourage voluntary disclosure; by so doing, to help taxpayers assure themselves that they are in compliance with state filing requirements
- To protect state fiscal authority.

ADOR to Hire Tax Specialists

The Alabama Department of Revenue is actively recruiting employees for the newly-created position of Revenue Tax Specialist.

The steady decline in corporate tax revenues, coupled with tax avoidance schemes, led to the department's request for the position and consequent approval by the Alabama Personnel Department.

"The starting salary of $45, 050, accelerating to $68, 627, will put the department on a level playing field with those tax attorneys adept at utilizing loopholes in the state's income system," said Alabama Revenue Commissioner Cynthia Underwood. "With corporate tax revenues earmarked for the education of Alabama's schoolchildren, it is imperative that we find a way to retain these lost revenues," she said.

Qualifications for the position include a master of tax accounting degree. Individuals appointed to this classification are required to devote at least 20% of their time towards continuing education in tax policy/management/administration.

The department plans to hire up to six tax specialists to perform audits and research in both tax policy and legislation.

Alabama Supreme Court Dismisses Gladwin's Refund Claims

On May 17, 2002, the Alabama Supreme Court issued an 8-0 decision dismissing over $800 million in Alabama franchise tax refund claims. The court's ruling closed a final chapter in the long-running litigation over Alabama's corporate franchise tax. Although the court's decision provided immediate relief in removing the imminent threat of refunds from the State General Fund, the decision also set an important precedent on how future tax disputes should be addressed and how remedies should be sought.

Justice Thomas Woodall, writing for the Court, held that the state is not subject to class-action lawsuits in tax disputes. The court held that refund procedures provided in the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act [TBOR] is the first avenue of remedy in which a taxpayer should pursue tax refunds.

Justice Woodall wrote: "We hold that compliance with the TBOR is the exclusive means to a franchise-tax refund, and we hereby overrule Monroe [Monroe v. Valhalla Cemetery Co., 749 So. 2d 470 (Ala. Civ. App. 1999)] and Rinehart [Sizemore v. Rinehart, 611 So. 2d 1069 (Ala. 1993)] to the extent that they are inconsistent with this holding."

[Monroe and Rinehart were both class-actions lawsuits involving constitutional issues related to use tax and individual income tax. The state prevailed in Monroe, upholding the constitutionality of a use tax provision, but did not in Rinehart, which challenged Alabama's tax treatment of certain retirement pension income.]

Few of the Gladwin taxpayers sought refunds through the normal appeal procedures set out in the Taxpayers' Bill of Rights and Uniform Revenue Procedures Act, Ala. Code 1975, §40-2A-1. The Gladwin taxpayers instead sought a refund initially in the circuit court and sought to have their complaint certified as a class action. Based upon the court's ruling, it appears that only those Gladwin taxpayers who previously petitioned the Alabama Department of Revenue for a refund before joining the Gladwin action may, at this point, continue to pursue a franchise tax refund on an individual basis.

The Gladwin case challenged the constitutionality of the pre-2000 franchise tax on the same grounds as South Central Bell Telephone Co. v. Alabama, 119 S. Ct. 1180 (1999), in which the U.S. Supreme Court ruled that Alabama's franchise tax scheme unconstitutionally discriminated against interstate commerce. The Gladwin case was filed as a class action on May 24, 1996, while the Bell case was pending. On June 13, 2001, the Gladwin case was certified as an opt-out class action by the Montgomery County Circuit Court. The Alabama Department of Revenue appealed the class certification to the Alabama Supreme Court. On May 17, the Alabama Supreme Court vacated the order.

The Gladwin taxpayers accounted for over 18,000 corporations that sought refund claims totaling more than $800 million in franchise taxes paid prior to 2000.

Editor's Note: On June 25, 2002, the Gladwin taxpayers filed notice with the Montgomery County Circuit Court that they intend to appeal the Alabama Supreme Court's May 17 decision to the U.S. Supreme Court.

Statement of Gross Tax Collections

FYTD–2002–Through End of Third Quarter
(April, May, June 2002)

	FYTD '01-02	FYTD '00-'01	% Change
Business Privilege Tax	$ 62,074,724.46	$ 64,257,558.27	
Gasoline	290,865,548.20	283,369,376.08	2.65
Income Tax (Corporate)	189,042,513.55	141,506,594.47	33.59
Income Tax (Ind.)	1,837,380,163.32	1,853,835,236.30	(0.89)
Motor Fuels (Diesel)	87,444,031.81	88,275,615.17	(0.94)
Oil & Gas Privilege	27,443,055.00	61,841,138.87	(55.62)
Oil & Gas Production	10,325,271.91	23,325,779.86	(55.73)
Sales	1,155,227,851.13	1,132,755,359.57	1.98
Use	150,120,066.00	149,450,345.29	0.45
Utility Gross Receipts	232,761,096.00	239,213,351.53	(2.70)
Subtotal (Listed Taxes)	4,042,684,321.38	4,037,830,355.41	0.12
Subtotal (Other Taxes)	478,342,198.73	448,290,723.03	6.70
Total All Taxes	**$4,521,026,520.11**	**$4,486,121,078.44**	**0.78**

Legislation 2002

The following synopses highlight significant revenue-related legislation passed during the 2002 Regular Session of the Alabama Legislature.

Local Legislation

2002-86 (H. 339) Athens Property Tax Increase for Education

Increases the City of Athens school levy from 5 mills to a maximum levy of 17 mills. Subject to voter approval.

2002-272 (H. 440) Cullman Property Tax Increase for Education

Increases the City of Cullman special school levy from 7.5 mills to a maximum levy of 16.5 mills. Subject to voter approval.

2002-280 (H. 645) Barbour County; Potential Taxes

Proposes amending the State Constitution to add *"A Better Barbour County Amendment"* that would permit the levy in Barbour County of either an additional ad valorem tax or a combination of ad valorem and sales and use taxes for the county general fund. Subject to voter approval.

2002-292 (H. 430) Lauderdale County; Gasoline/Motor Fuels Taxes

Authorizes the Lauderdale County Commission to impose and collect an excise tax on gasoline and motor fuel (diesel), to be earmarked for the Shoal Economic Development Project. *Effective April 11, 2002.*

2002-326 (H. 401) Lowndes County; Additional Property Tax

Authorizes the Lowndes County Commission to levy and collect a 3-mill ad valorem tax for fire protection and E911 services *beginning Oct. 1, 2003*. Subject to voter approval.

2002-327 (H. 455) Lowndes County; Additional Property Tax

Authorizes the Lowndes County Commission to levy and collect a 3-mill ad valorem tax for fire protection and E911 services *beginning Oct. 1, 2003*. Subject to voter approval.

2002-333 (H. 543) Macon County; Additional Property Tax

Authorizes the Macon County Commission to levy and collect a 10-mill ad valorem tax for general education. Subject to voter approval.

2002-428 (H. 461) Wilcox County; Additional Property Tax

Authorizes the Wilcox County Commission to levy and collect a 9-mill ad valorem tax, *to expire Sept. 30, 2027*. Subject to voter approval.

2002-442 (H. 610) Chilton County; Sales and Use Taxes

Authorizes the Chilton County Commission to levy and collect a one-cent sales and use tax in the county. The Alabama Department of Revenue may be called upon to collect these taxes. Subject to voter approval.

General Legislation

2002-153 (H. 379) Aviation Fuel Tax Exemption for International Commerce

Amends §40-17-31, *Code of Alabama 1975*, to include, under the aviation fuel tax exemptions allowed air carriers, certain flights for scheduled cargo delivery and specified passenger services. *Effective Oct. 1, 2002.*

2002-256 (H. 192) Motor Vehicle Dealer License Plates

Amends §§40-12-62 and 40-12-264, *Code of Alabama 1975*, to revise various provisions relating to the acquisition (to allow 10 day grace period), purchase, and usage of motor vehicle *dealer* license tags and plates, motorcycle *dealer* tags and plates, and the payment of certain local registration fees. *Effective April 4, 2002*, all persons, dealers, etc. acquiring a new or used motor vehicle shall have 10 days to procure a tag or plate from their county license plate issuing official. The remaining provisions in this act as it relates to registration procedures, registration fees, fines, certain usage and restrictions of dealer tags/plates, etc. shall take effect *Oct. 1, 2003.*

2002-265 (H. 29) Abatement of Taxes; Written Consent

Amends §§40-9B-5 and 40-9B-8, *Code of Alabama 1975*, to provide certain restrictions and procedures under the state's laws governing the abatement of taxes, whereby municipalities and their public industrial authorities must obtain written consent from the county prior to granting abatement of any county taxes. *Effective April 4, 2002.*

2002-414 (H. 35) Medicaid Pharmaceutical Service Provider Tax

Amends §§40-26B-2 and 40-26B-4, *Code of Alabama 1975*, to extend the current Medicaid tax (ten-cents per prescription currently costing $3.00 or more) to include any prescriptions filled or refilled in Alabama. *Effective July 1, 2002.*

2002-426 (H. 41) Property Redemptions/ Taxes; Certain Changes

Amends §§40-10-83, 40-10-122, and 40-10-132, *Code of Alabama 1975*, relating to the redemption of property, to provide for: the process of redemption of land sold for taxes; the ascertainment of the value of insurance and improvements plus interest to be included in the lien on land; the payment of the value of insurance and permanent improvements to a purchaser of land upon redemption; a uniform method of demand for the payment, and a process for resolving any disagreements; and the sale of lands that have not been redeemed within a certain time. *Effective prospectively on July 1, 2002, thus applying only to tax sales after that date.*

(Continued on Page 6)

Required Monthly Returns Tax Activity

10th
- Medicaid-related tax return and payment due for nursing facilities.
- Tobacco use tax return and payment due.

15th
- Gasoline information return due from carriers, transporters, and warehouses.
- Lubricating oils information return due from carriers, transporters, and warehouses.
- Motor carrier mileage tax return and payment due.
- Oil and gas production tax and privilege tax return and payment due two months following month of production.
- Withholding return and payment due from those employers required to remit on a monthly basis.

20th
- Aviation fuel tax return and payment due.
- Cellular telecommunication services tax return and payment due.
- Coal severance tax return and payment due.
- Coal transporters' and purchasers' returns due.
- Contractors' gross receipts tax return and payment due.
- Gasoline tax return and payment due.
- Local solid minerals tax returns and payments due.
- Lodgings tax return and payment due.
- Lubricating oils tax return and payment due.
- Medicaid tax return and payment due from pharmaceutical service providers.
- Motor fuel tax return and payment due.
- Pari-mutuel pool tax return and payment due.
- Rental or leasing tax return and payment due.
- Sales tax (state and local) return and payment due.
- Tobacco tax (state and county) return and payment due.
- Underground and aboveground storage tank trust fund charge due.
- Use tax return and payment due.
- Utility gross receipts tax return and payment due.

30th
- Hazardous waste fee return and payment due.

Last day of month
- State horse wagering fee return and payment due.

Quarterly/Annual Tax Activity

(September, October, November, December 2002)

September

15
- Third installment of estimated corporate income tax due (for calendar-year taxpayers).
- Third installment of estimated personal income tax due.

25
- Hydroelectric gross receipts return and payment due.

October

1
- Ad valorem tax on real and personal property due.
- Automotive dismantlers and parts recyclers' license due.
- Business privilege license fee due.
- Quarterly Dry Cleaning Trust Fund fee return and payment due.
- Manufactured home registration and fee due.
- Motor fuel identification markers issued.
- Motor vehicle dealers, reconditioners, rebuilders and wholesalers' license tax due.
- Store and chain store license tax due.
- Utility license (2.2%) return and first quarterly payment due.

14
- Annual wholesale oil license return and payment due.

20
- Quarterly sales tax return and payment due.
- Quarterly use tax return and payment due.
- Quarterly rental or leasing tax return and payment due.

30
- Forest products' severance tax return and payment due.

31
- Quarterly withholding return and payment due from employer.
- Quarterly IFTA tax return and payment due.
- Scrap tire handlers' license due.
- Annual business privilege licenses delinquent after this date.
- Store and chain store licenses delinquent after this date.

November

30
- Last day to register and pay fee for manufactured homes without penalty.

December

15
- Fourth installment of estimated corporate income tax due (for calendar-year taxpayers).

31
- Ad valorem tax on real and personal property delinquent after this date.
- Expiration of the previous calendar year's motor fuel identification markers.

IRS Interest Rate To Remain at 6%

The quarterly interest rate for the calendar quarter beginning July 1, 2002, will remain at six percent (6% APR) for underpayments, according to Internal Revenue Service News Release No. 2002-73.

According to §40-1-44, *Code of Alabama 1975*, the Alabama Department of Revenue will calculate interest on underpayments and overpayments (where applicable) at this same annual rate (6%), with the exception of land sold by the state for taxes, which shall be calculated at 12% as provided for under §40-5-9.

Interest Rates By Calendar Quarter

(Established by: 26 USCA §6621; §40-1-44, *Code of Alabama 1975*)

	1ST QTR	2ND QTR	3RD QTR	4TH QTR
1982	20%	20%	20%	20%
1983	16%	16%	11%	11%
1984	11%	11%	11%	11%
1985	13%	13%	11%	11%
1986	10%	10%	9%	9%
1987	9%	9%	9%	10%
1988	11%	10%	10%	11%
1989	11%	12%	12%	11%
1990	11%	11%	11%	11%
1991	11%	10%	10%	10%
1992	9%	8%	8%	7%
1993	7%	7%	7%	7%
1994	7%	7%	8%	9%
1995	9%	10%	9%	9%
1996	9%	8%	9%	9%
1997	9%	9%	9%	9%
1998	9%	8%	8%	8%
1999	7%	8%	8%	8%
2000	8%	9%	9%	9%
2001	9%	8%	7%	7%
2002	6%	6%	6%	

Legislation 2002

(Continued from Page 4)

2002-516 (H. 575) Executor/Estate Tax Related Duties Modified

Further amends §40-15-13, *Code of Alabama 1975*, as last amended by Act 2001-468 of the 2001 Regular Session, to clarify certain fiduciary duties and responsibilities for executors or other estate representatives, as these duties relate to the taxation of the estate. More specifically, certain requirements to furnish information relating to evidence as to an executor's or representative's personal capacity are further relaxed. *Effective April 26, 2002.*

2002-524 (H. 450) Enterprise Zones; Removal of Time Restriction

Amends §41-23-22, *Code of Alabama 1975*, to end the 15-year maximum life limitation on *Enterprise Zones* in the state.

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