

810-9-1-.02 Financial Institution Excise Tax Returns.

(1) Every financial institution, as defined in Chapter 16, Title 40, Code of Ala. 1975, must make and file a return with the department by the taxpayer's corresponding federal income tax or federal information return due date, including extensions. The return must be made on the form prescribed by the department, complete as to information and in accordance with the instructions provided. Corporation returns must be signed under penalty of perjury by the cashier, treasurer or other authorized officer or employee. The returns of other financial institutions must be signed under penalty of perjury by the owner, managing partner or other authorized employee.

(2) Allocation and Apportionment of Income. For purposes of calculating that tax imposed on financial institutions under §40-16-4, Code of Ala. 1975:

(a) Financial institutions operating only in Alabama must apportion 100% of their total income to Alabama.

(b) Financial institutions that have income from business activity that is taxable both within and without this state must allocate and apportion its income to this state in accordance with §40-16-4, Code of Ala. 1975 and Rule 810-9-1-.05.

(c) Financial institutions required to apportion their income in accordance with Rule 810-9-1-.05 must maintain records of property, payroll, and receipts factors by state in entirety and make records available to the department upon request in order to verify the numerators and denominators of the apportionment factors.

(3) Credits. The credits provided by §40-16-8, Code of Ala. 1975:

(a) May not be allowable as credits to the parent.

(b) May not be transferred from one related member to another.

(c) May not be carried forward to future tax years.

(4) Returns by entity type and supporting documentation.

(a) C Corporations.

1. Form ET-1 must be filed for all corporations that meet the definition of a financial institution.

2. The return must be accompanied by a copy of the federal Form 1120, including a federal consolidated return, with "spread sheet" information for subsidiaries included in the federal return. "Spread sheet" information includes income and balance

sheet statements for each company included in the consolidated federal return presented in columns using the federal Form 1120 format.

3. Consolidated Filings by Bank Holding Companies. Bank holding companies and their subsidiaries that meet the tests described in §40-16-3, Code of Ala. 1975, may file a Consolidated Alabama Financial Institution Excise Tax return (Form ET-1C) in accordance with the following:

a. Form ET-C (“Election To File Consolidated Financial Institution Excise Tax Return”) must be properly completed and filed by the designated parent on or before the due date of the Alabama consolidated return, including extensions, and on or before the date the consolidated return is filed for the first taxable year for which the election is to be effective. The election to file a consolidated return is irrevocable and is binding for 120 consecutive months (10 years).

b. If the election to file Consolidated Alabama Financial Institution Excise Tax (Form ET-C) is not filed by the date the bank holding company’s returns are received by the department, a separate Form ET-1 must be filed for each financial institution.

c. A proforma Form ET-1 must be completed for each member participating in the consolidation. These documents must be attached to the Form ET-1C.

d. Management fees allocated to affiliates may not exceed the cost of the parent company's operations in rendering services to its subsidiaries which are part of the Alabama consolidated Financial Institution Excise Tax return. Interest expense incurred by the parent on funds borrowed and invested in subsidiaries or otherwise will not be allowed to be included in computation of such management fees.

(b) S Corporations.

1. The return must be accompanied by a copy of the federal Form 1120S.

2. Federal Taxable Income is the total of all shareholders’ pro rata share items of income (loss) and deductions reported on Schedule K of the S corporation’s Federal form 1120S.

3. The shareholders of the S corporation are not required to report as Alabama income the shareholder’s pro rata share of the corporation’s separately stated and non-separately stated income but must report as income any cash or property distributions received from the corporation.

(c) Sub Chapter K entities.

1. The return must be accompanied by a copy of the federal Form 1065.

2. Federal Taxable Income is the total of all partners' distributive share items income (loss) and deductions reported on Schedule K of the Subchapter K's Federal Form 1065.

(d) Trusts.

1. The return must be accompanied by a copy of the federal Form 1041.

(e) Credit Unions.

1. Taxable income for credit unions is defined in §40-16-1.3 as financial statement income, which is the final net income amount, total revenue less total expenses, calculated for financial statement purposes.

2. The following supporting documentation, if applicable, must be submitted with Form ET-1:

i. A copy of the credit union's federal Form 990/990T.

ii. Annual financial statements including but not limited to the financial information reported to National Credit Union Administration (NCUA), American Share Insurance (ASI) or other reporting or regulatory entity.

iii. Approved Capital Preservation Plan.

(5) The civil penalties found in §40-2A-11, Code of Ala. 1975, are applicable and are not exclusive.

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Authority: §§ 40-2A-7(a)(5), 40-2A-11, and Chapter 16, Title 40, Code of Ala. 1975. IRC §1361(b)(3). Administrative Rule 810-9-1-.05

History: Repealed & New: Filed December 20, 2021; Effective February 13, 2022.