810-9-1-.06 Financial Institutions Federal Income Tax (FIT) Deduction

(1) Financial Institutions may deduct Federal Income Tax (FIT) paid or accrued during the taxable year in accordance with the taxpayer's method of accounting used in computing taxable income.

(a) Cash Basis Taxpayer. A cash basis taxpayer must deduct federal income tax in the year paid.

1. For a cash 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 this state: The amount of FIT attributable to this state is determined by multiplying the FIT times a fraction, of which the numerator is the taxpayer's income apportioned and/or allocated to this state, and the denominator is the taxpayer's total income earned both within and outside this state, computed under applicable Alabama law. 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.

2. For a cash basis taxpayer that files as a member of a federal consolidated income tax return: The taxpayer must apportion the consolidated FIT 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 total federal taxable income of all members separately reporting positive federal taxable income.

(b) Accrual Basis Taxpayer. An accrual basis taxpayer must deduct federal income tax in the year for which the tax is accrued.

1. The amount of the FIT accrued for a tax period includes but is not limited to adjustments for:

i. Refundable and nonrefundable credits.

ii. Special deductions.

iii. Net operating loss (NOL) deduction.

iv. Alternative Minimum Tax (AMT) and Minimum Tax Credit (MTC).

v. Similar adjustments.

2. The amount accrued may be deducted for the tax year of the corresponding federal return, 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.

3. If the tax is contested it must 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.

4. 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 this state: The amount of FIT attributable to this state is determined by multiplying the FIT by a fraction, of which the numerator is the taxpayer's income apportioned and/or allocated to this state, and the denominator is the taxpayer's total income earned both within and outside state, computed under applicable Alabama law. To the extent a net loss is allocated and/or apportioned to this state (the numerator of the fraction is negative), no FIT will be attributed to this state.

i. Example: Company A is an Alabama taxpayer who apportions a percentage of its income within and outside this state. Company A had Federal Taxable Income of $200,000 and $40,000 in FIT for the tax year. Company A's income apportioned to this state 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).

5. For an accrual basis taxpayer that files as a member of a federal consolidated income tax return: The taxpayer must 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 total federal taxable income of all members separately reporting positive federal taxable income.

i. 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 a financial institution excise tax return in this state. 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).

ii. 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 a financial institution excise tax return in this state. 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).

6. AMT and MTC must be apportioned only among the members of the group that individually report positive alternative minimum taxable income (AMTI) or MTC income. The apportioned amount is determined by multiplying AMT or MTC as accrued and subsequently paid by the federal consolidated group, by a fraction. The numerator of which is the taxpayer's positive AMT income or MTC and the denominator is the aggregate amount of positive AMTI or MTC of the component members of such group. In no case must the cumulative MTC attributed to a taxpayer exceed the cumulative AMT attributed to a taxpayer.

i. 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).

7. To the extent the consolidated FIT liability for the 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.

i. 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 a financial institution excise tax return in this state. 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.

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