Revenue REVIEW

1st Quarter FY 2008 (October, November, December 2007)

A Quarterly Publication of the Alabama Department of Revenue

ADOR Reps Attend Tax Practitioner Seminar

Tax professionals listen to ADOR representatives review new legislation and nexus issues.

Two representatives from the department's Individual and Corporate Tax Division joined representatives from the IRS for the annual tax practitioner seminar held Dec. 4 and 5 in the Montgomery location of Auburn Montgomery. Administrative Support Manager Ann Winborne and Training Officer Tamera Warren gave overviews of state updates.

Sponsored by Auburn University's Outreach Program Office, the tax practitioner seminar program offers continuing education for tax practitioners, enrolled agents, certified public accountants, public accountants and attorneys. ADOR partners with the IRS to host the seminars during November and December in Dothan, Florence, Huntsville, Birmingham, Auburn, Bessemer, Montgomery and Mobile.

Auburn University's Outreach Program Coordinator Claire Twardy (ctr) is joined by ADOR Training Officer Tamera Warren (left) and Administrative Support Manager Ann Winborne (right).

Taxpayer Advisory

Alabama Tax Booklet Correction – Standard Deduction Table

Alabama taxpayers who were mailed an Alabama Form 40, Alabama Form 40NR (non-resident return), or Alabama Form 40-A (short return) tax booklet, please note an error in the standard deduction table contained in the tax return instruction booklets. The standard deduction table contained in the printed booklets should not be used in calculations.

The ADOR is notifying all affected taxpayers who were mailed Alabama Form 40, 40NR, and 40-A tax booklets of the error and providing them with a corrected standard deduction table. The corrected standard deduction table provided by the ADOR could result in an increased refund for the taxpayer.

Alabama's income tax laws were amended in 2006 to raise the filing threshold through increased standard deductions and dependent exemptions beginning with the 2007 tax year. The increased standard deduction phase-out amounts for taxpayers with adjusted gross incomes up to $30,000 were shown incorrectly in the printed tax booklets.

The corrected table reflects new income brackets for the phase-out of the increased standard deduction. Please refer to the corrected table shown below.

All online tax booklets posted on ADOR's Web site at www.revenue.alabama.gov have been updated with the correct standard deduction table.

Taxpayers who plan to file electronically during 2008 are not included in this advisory, as software preparation programs contain the correct standard deduction table and instructional guides. However, if a taxpayer has purchased an "off-the-shelf" software preparation package, the taxpayer should download the appropriate updates from the software vendor's Web site to ensure that the correct Alabama standard deduction table is included.

"We sincerely regret any inconvenience and confusion this error may cause. All paper-filed returns reflecting standard deduction calculations will be reviewed to ensure no overpayment by taxpayers occurred as a result of this error. Our immediate concern now is to get the word out to those affected taxpayers who received paper return booklets from the department to ensure that they are aware of the error in the standard deduction table contained in the booklet," said acting Revenue Commissioner Cynthia Underwood.

Corrected Standard Deduction

Married Filing Joint		Married Filing Separate		Head of Family		Single	
Alabama Adjusted Gross Income	Standard Deduction	Alabama Adjusted Gross Income	Standard Deduction	Alabama Adjusted Gross Income	Standard Deduction	Alabama Adjusted Gross Income	Standard Deduction
0 – 20,499	7,500	0 – 10,249	3,750	0 – 20,499	4,700	0 – 20,499	2,500
20,500 – 20,999	7,325	10,250 – 10,499	3,662	20,500 – 20,999	4,565	20,500 – 20,999	2,475
21,000 – 21,499	7,150	10,500 – 10,749	3,574	21,000 – 21,499	4,430	21,000 – 21,499	2,450
21,500 – 21,999	6,975	10,750 – 10,999	3,486	21,500 – 21,999	4,295	21,500 – 21,999	2,425
22,000 – 22,499	6,800	11,000 – 11,249	3,398	22,000 – 22,499	4,160	22,000 – 22,499	2,400
22,500 – 22,999	6,625	11,250 – 11,499	3,310	22,500 – 22,999	4,025	22,500 – 22,999	2,375
23,000 – 23,499	6,450	11,500 – 11,749	3,222	23,000 – 23,499	3,890	23,000 – 23,499	2,350
23,500 – 23,999	6,275	11,750 – 11,999	3,134	23,500 – 23,999	3,755	23,500 – 23,999	2,325
24,000 – 24,499	6,100	12,000 – 12,249	3,046	24,000 – 24,499	3,620	24,000 – 24,499	2,300
24,500 – 24,999	5,925	12,250 – 12,499	2,958	24,500 – 24,999	3,485	24,500 – 24,999	2,275
25,000 – 25,499	5,750	12,500 – 12,749	2,870	25,000 – 25,499	3,350	25,000 – 25,499	2,250
25,500 – 25,999	5,575	12,750 – 12,999	2,782	25,500 – 25,999	3,215	25,500 – 25,999	2,225
26,000 – 26,499	5,400	13,000 – 13,249	2,694	26,000 – 26,499	3,080	26,000 – 26,499	2,200
26,500 – 26,999	5,225	13,250 – 13,499	2,606	26,500 – 26,999	2,945	26,500 – 26,999	2,175
27,000 – 27,499	5,050	13,500 – 13,749	2,518	27,000 – 27,499	2,810	27,000 – 27,499	2,150
27,500 – 27,999	4,875	13,750 – 13,999	2,430	27,500 – 27,999	2,675	27,500 – 27,999	2,125
28,000 – 28,499	4,700	14,000 – 14,249	2,342	28,000 – 28,499	2,540	28,000 – 28,499	2,100
28,500 – 28,999	4,525	14,250 – 14,499	2,254	28,500 – 28,999	2,405	28,500 – 28,999	2,075
29,000 – 29,499	4,350	14,500 – 14,749	2,166	29,000 – 29,499	2,270	29,000 – 29,499	2,050
29,500 – 29,999	4,175	14,750 – 14,999	2,078	29,500 – 29,999	2,135	29,500 – 29,999	2,025
30,000 and over	4,000	15,000 and over	2,000	30,000 and over	2,000	30,000 and over	2,000

Make a Note:
New Penalty Rule Effective Jan. 8, 2008

Rule 810-14-1-.30, effective Jan. 8, 2008, addresses ADOR procedures for imposing the failure to timely pay penalty referenced in Section 40-2A-11(b), *Code of Alabama 1975*.

Copies of ADOR rules may be downloaded at http://www.revenue.alabama.gov/nurulesind.html.

810-14-1-.30 **Penalty for Failure to Timely Pay Tax.**

(1) SCOPE.

(a) The provisions contained herein shall govern the application of the Failure to Timely Pay penalty to all taxes administered by the department, except for:

1. Penalties relating to registration and titling of motor vehicles; and

2. Penalties related to ad valorem taxes on real or personal property. Notwithstanding the preceding sentence, ad valorem taxes related to the property of public utilities are included within the scope of this regulation.

(b) This penalty shall be applied to the net tax liability (tax amount shown due on a return less any payments or credits) that remains unpaid after the due date prescribed for the payment of the tax.

(c) For monthly or quarterly filed taxes, this penalty shall also be applied to tax due in a Notice and Demand notification sent to a taxpayer.

(d) Insufficient statutory authority exists to extend this penalty to additional tax due that resulted from an audit made by the department to an annual return (Final Order by the Administrative Law Division, Docket No. 95-448).

(2) DEFINITIONS.

(a) Return. Any form or return that is defined in Sections 40-1-1(2), 40-1-1(14) and 40-2A-3(19).

(b) Notice and Demand. Notification to a taxpayer of unpaid taxes stating the amount of tax due, the type of tax, the period for which tax is due, and demanding the payment thereof.

(3) PENALTY PROVISIONS. The Failure to Timely Pay Penalty shall be calculated on annual returns differently from monthly or quarterly returns, as follows:

(a) Annual Returns. In the event a taxpayer fails to pay the tax shown as due on an annual return on or before the due date prescribed for the payment of the tax, a penalty of 1 percent of the tax per month or 1 percent of the tax for each fraction of a month thereof, shall be added. However, this penalty shall not exceed 25 percent of the tax. For example, where a taxpayer timely files an income tax return due on April 15, but fails to pay the amount shown as due on the return until September 30, a nonpayment penalty of 6 percent plus interest applies.

(b) Taxes for which Monthly or Quarterly Returns are Required. In the event the taxpayer fails to pay the tax shown due on a monthly or quarterly return on or before the due date prescribed for the payment of the tax, a penalty of 10 percent of the amount of the tax not paid on or before the due date shall be added. For any tax for which no return is required until an event triggers a liability, there shall be a penalty of 10 percent of the tax not paid on or before the due date. The following are examples of taxes which are subject to the 10 percent penalty:

1. gasoline tax, Section 40-17-33, *Code of Alabama 1975*;
2. motor fuels tax, Section 40-17-5, *Code of Alabama 1975*;
3. lubricating oil excise tax, Sec. 40-17-186, *Code of Alabama 1975*;
4. tobacco tax, Section 40-25-4, *Code of Alabama 1975*;
5. hazardous waste fee, Section 22-30B-5, *Code of Alabama 1975*;
6. dog race track pari-mutuel pool tax, Section 40-26A-3, *Code of Alabama 1975*;
7. horse wagering fee, Section 11-65-29, *Code of Alabama 1975*;
8. state sales tax, Section 40-23-7, *Code of Alabama 1975*;
9. state use tax, Section 40-23-68, *Code of Alabama 1975*;
10. state rental or leasing tax, Section 40-23-7, *Code of Alabama 1975*;
11. state utility gross receipts tax, Section 40-23-7, *Code of Alabama 1975*;
12. state lodgings tax, Section 40-26-3, *Code of Alabama 1975*;
13. state contractors gross receipts tax, Section 40-23-7, *Code of Alabama 1975*;
14. mobile telecommunications services tax, Section 40-21-121, *Code of Alabama 1975*;
15. state hospital tax, Section 40-26B-61 , *Code of Alabama 1975*;
16. state nursing facility tax, Section 40-26B-22, *Code of Alabama 1975*;
17. state pharmaceutical providers tax, Section 40-26B-3, *Code of Alabama 1975*;
18. counties sales, use, and lodgings taxes, Section 40-23-7, *Code of Alabama 1975*;
19. municipalities sales, use, and lodgings taxes, Section 40-23-7, *Code of Alabama 1975*;
20. utility license tax, Section 40-21-50, *Code of Ala-*

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Arrests and Convictions

Following are arrests and convictions of Alabama individuals who have committed various income tax and sales tax-related crimes.

State income tax revenues and state sales tax revenues are earmarked for the Education Trust Fund (ETF) and are two major funding components of the ETF.

Video Store Operator Convicted by Jury Sentenced for State Tax Crimes

An Elberta resident was sentenced on Jan. 9, 2008, by Baldwin County Circuit Judge Charles Partin following an earlier conviction of a felony state tax charge.

Stephanie Michele Chisenhall Miller, 41, of 11889 Breman Road, Elberta, Ala., was convicted by a Baldwin County jury on Oct. 10, 2007, of filing a fraudulent 1999 Alabama income tax return under penalties of perjury.

Judge Partin sentenced Miller to three years in jail, suspended, and three years' supervised probation. Miller was also ordered to pay $5,000 in fines.

Evidence submitted at the trial showed that Miller failed to report income she received for operating a local video store in Lillian, Ala. Bank records indicate approximately $12,000 in income was not reported on her 1999 tax return.

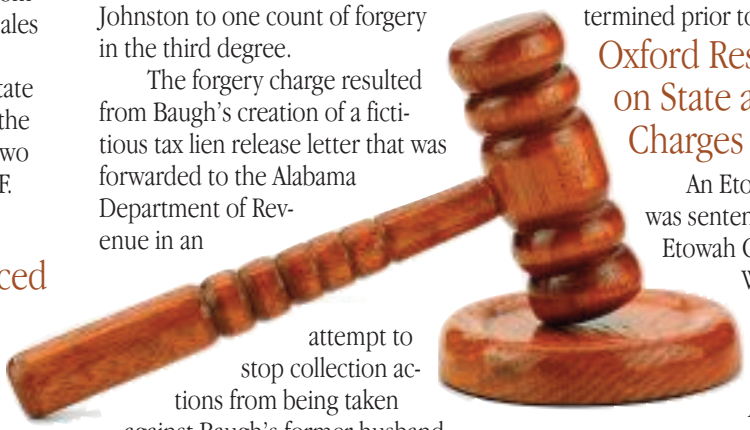
Filing a perjured income tax return is a violation of Section 40-29-115 (a) (1), *Code of Alabama*. It is a felony offense and is punishable by fines of not more than $100,000 per offense, or imprisonment of not more than three years, or both.

Mobile County Resident Convicted on Forgery Charge

A Mobile County resident who forged a fictitious state tax lien release letter was convicted of third degree forgery.

As the result of charges filed by the Alabama Department of Revenue, Sindi Ann Baugh, 49, of 6545 Creel Road, Theodore, Ala., pleaded guilty Nov. 29, 2007, before Mobile County Circuit Judge Joseph Johnston to one count of forgery in the third degree.

The forgery charge resulted from Baugh's creation of a fictitious tax lien release letter that was forwarded to the Alabama Department of Revenue in an attempt to stop collection actions from being taken against Baugh's former husband for unpaid state taxes.



Judge Johnston sentenced Baugh to one year in jail, suspended, and one year on probation. Judge Johnston also ordered Baugh to pay a $1,000 fine, court costs, and a victim's compensation assessment to the court.

Decatur Tax Preparer Pleads Guilty to Felony Tax Charges

A Morgan County tax preparer pleaded guilty Nov. 29, 2007, to two felony counts of making false statements under the penalties of perjury to the Alabama Department of Revenue.

Clinton George Scruggs, age 60, of 266 Forest Home Drive, Trinity, Ala., entered the guilty plea before Morgan County Circuit Judge Sherrie Paler. The charges stem from Scruggs' 1999 and 2000 Alabama tax returns.

Scruggs, owner and operator of Scruggs Accounting and Tax Service in Decatur, Ala., filed Alabama income tax returns that he knew were false with the Alabama Department of Revenue.

As a condition of his plea, Scruggs must file his delinquent Alabama income tax returns for tax years 2002, 2003, 2004, 2005 and 2006 with the Alabama Department of Revenue and pay all tax and penalty due by March 31, 2008, and cease preparing income tax returns.

Scruggs will be sentenced on Feb. 28, 2008. The amount of restitution will be determined prior to the sentencing date.

Oxford Resident Sentenced on State and Local Tax Charges

An Etowah County businessman was sentenced Nov. 19, 2007, by Etowah County District Judge William D. Russell Jr. following a guilty plea to multiple state and local tax charges filed by the Alabama Department of Revenue.

Robert Francis McMahon, 55, of 430 Hamric Drive East, Oxford, Ala., pleaded guilty to six counts of failure to file state and local sales tax returns to the Alabama Department of Revenue.

Judge Russell sentenced McMahon to 365 days in jail, suspended, for each count and ordered McMahon to pay full restitution for all unpaid Alabama and Rainbow City sales taxes collected from customers. Judge Russell also ordered McMahon to file all delinquent and current sales tax returns and assessed McMahon with court costs totaling $1,009.

McMahon, owner of Budget Truck Rental and former owner of The Consignment Cottage, located in Rainbow City, Ala., failed to file state and Rainbow City sales tax returns and report all taxable sales to the Alabama Department of Revenue for monthly reporting periods covering portions or all of tax years 2001, 2002, and 2003 for either state or local sales taxes. McMahon faced charges brought by the ADOR for both Alabama and Rainbow City sales taxes since the ADOR provides the local tax administration and collection service for the city.

State sales tax revenues are earmarked for the State Education Trust Fund. Local sales tax revenues are earmarked by the local governing authority for local funds.

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Tax Season 2008

As W-2s, 1099s, and other financial statements are being distributed to taxpayers this month, the Alabama Department of Revenue offers the following tax-filing updates and reminders.

What's New This Year?

Increased standard deduction

Alabama's standard deduction has been increased for some taxpayers up to a maximum of $7,500, depending on the adjusted gross income and filing status of the taxpayer. The standard deduction remains at $2,000 or $4,000 for other taxpayers whose incomes exceed certain income thresholds.

Increased dependent exemption

Alabama's dependent exemption has been increased for some taxpayers up to a maximum of $1,000 per dependent, depending upon the adjusted gross income of the taxpayer. The dependent exemption remains at $300 per dependent for other taxpayers whose incomes exceed certain income thresholds.

Federal Changes Affecting Alabama Return

Small business expensing: Alabama will follow Internal Revenue Code Section 179 changes. The dollar and investment limitations for expensing were increased by federal law retroactively to Jan. 1, 2007, and were extended through 2010. (See 2007 Small Business Tax Act at www.irs.gov for more information.)

2005 Hurricane Victims: Alabama will follow federal provisions pertaining to 2005 Hurricane victims allowing an additional year to sell vacant land connected to principal residence. The IRS is extending for an additional year the time limit within which victims of Hurricanes Katrina, Rita, and Wilma have to sell vacant land that they had owned and used as part of their principal residence that was destroyed as a result of the hurricanes. (See IR-2007-134, Victims of 2005 Hurricanes Get Additional year to Sell Vacant Land, Issued July 31, 2007, for more information.)

Mortgage Forgiveness Debt Relief Act of 2007: Alabama Code Section 40-18-14(h) and (i) directly tie Alabama to Internal Revenue Code Sections 108 and 121. As a result, Alabama will follow Internal Revenue Code Section 108 and Section 121 changes. Taxpayers can exclude up to $2 million of debt forgiven on their principal residence. The limit is $1 million for a married person filing a separate return. This provision applies to debt forgiven in 2007, 2008 or 2009. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure qualify for this relief. (See IRS FS-2008-1, January 2008, at www.irs.gov for more information.)

New Alabama Refund Donation Check-off

A new refund donation check-off, the Alabama Alternative Fuel Fund, has been added to the Alabama return this year. With the addition of the Alabama Alternative Fuel Fund the Alabama return now offers 16 refund donation check-offs to taxpayers. Taxpayers use a separate Alabama tax schedule, Alabama Schedule DC, to designate a portion or all of their Alabama refund to their favorite check-off, if they choose to do so.

Electronic Filing Now Includes Part-Year Residents

Taxpayers who moved to Alabama during 2007 may now electronically file their part-year resident returns. This is the first year the e-file option has been available to part-year residents.

Electronic Opt Out Form

The Electronic Opt Out (EOO) form is a new form requirement that applies to taxpayers whose returns are prepared by a paid preparer using electronic software to complete the return, but who chooses to file a paper return in place of an electronic return. The EOO form must be signed by the taxpayer and attached to the paper return when filed.

New Payment Option for E-filers

Taxpayers who electronically file their 2007 returns and owe additional tax can now pay their tax liability using their bank routing and account numbers on an e-filed return. (This payment feature is not available for 2D barcode paper returns or traditional paper-filed returns.)

Important Reminders

Choose Your Preparer Carefully

The ADOR cautions taxpayers to be wary of claims by preparers offering larger refunds than other preparers. Take time to check out the preparer's credentials. While most preparers provide excellent service to their clients, it is important to be aware that even if someone else prepares the return, the taxpayer is ultimately responsible for all of the information reported on his or her return. The department urges taxpayers to never sign a blank return and always review the return before signing it. Question any item shown on the return that you do not understand.

E-file – It's easy, quick and guarantees a quicker refund.

More than 1 million Alabamians electronically filed their tax returns last year. E-file is a safe, secure method of filing one's tax return and guarantees a quicker turnaround time on refund processing than traditional paper returns. Further, taxpayers who meet certain eligibility requirements may be able to e-file their state and federal returns free-of-charge. For more information concerning eligibility requirements and a listing of online service providers offering free filing programs, visit the department's Web site at www.revenue.alabama.gov or the I.R.S. site at www.irs.gov.

Consumer Use Tax Reporting Line Item:

Taxpayers who purchased items online or through catalog or mail-order or sales during 2007 and did not pay any sales or

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U.S. Department of Justice Recognizes ADOR Employees

The U.S. Department of Justice has awarded certificates of appreciation to Special Agent Deborah Harris, Investigations Division, and Revenue Manager Patricia Lancaster, Individual and Corporate Tax Division, Huntsville TSC.

Ms. Harris and Ms. Lancaster were instrumental in assisting with the investigation of two defendants involved separately in check kiting schemes which led to their prosecution on federal bank fraud charges.

In the following letter to the department, Steven A. Tyrrell, Chief of the U. S. Justice Department Fraud Section, outlines their efforts and expresses appreciation:

"In United States v. Drummond, Agent Harris provided substantial assistance to the investigation. After arranging for the storage of voluminous records of the defendant in Department of Revenue facilities, she then reviewed those records and coordinated some of the interviews to assist in the criminal investigation. In addition, Agent Harris prepared schedules of millions of dollars of kited checks that were key to establishing the sophistication, intent and nature of the defendant's scheme involving five financial institutions. That information was used directly in the negotiation of the plea agreement and enabled the court in Mobile, Alabama, to sentence the defendant to a 70 month term of incarceration in June 2007.

"In United States v. Bowlin, Manager Lancaster testified at the jury trial in Decatur, Alabama in August 2006. Her testimony regarding the income and the tax returns of the defendant helped establish that the defendant could not have been in a legitimate lending business as he asserted. The defendant was thus unable to explain why the millions of dollars of kited checks he deposited into his bank accounts as part of the scheme were not reported as income or sales to the State. The defendant was convicted by a jury on all counts of the indictment.

"We appreciate the substantial assistance your department and, in particular, these two individuals, provided in these successful prosecutions. In recognition of their significant contributions, the Fraud Section is pleased to present the enclosed certificates of appreciation to Special Agent Harris and Revenue Manager Lancaster."

Statement of Gross Tax Collections

Through End of 1st Quarter FY 2008
(October, November, December 2007)

	FYTD 2007-2008	FYTD 2006-2007	% Change
Business Privilege Tax	$ 9,106,721.83	$ 9,683,205.90	(5.95)
Gasoline	100,754,143.61	100,988,584.12	(0.23)
Income Tax-Corporate	160,373,252.23	143,031,551.58	12.12
Income Tax-Individual	750,421,490.67	736,700,531.39	1.86
Income Tax (Total)	910,794,742.90	879,732,082.97	3.53
Motor Fuels	35,364,500.83	38,817,079.11	(8.89)
Oil & Gas Privilege (8%)	25,950,358.78	23,519,320.27	10.34
Oil & Gas Production (2%)	10,282,358.06	9,408,689.23	9.29
Sales	512,718,034.47	503,268,193.18	1.88
Use Tax	68,345,261.34	69,182,071.57	(1.21)
Utility Gross Receipts	102,562,479.38	95,286,779.38	7.64
SUBTOTAL	1,775,878,601.20	1,729,886,005.73	2.66
SUBTOTAL (OTHER TAXES)	340,380,991.99	299,271,064.93	13.74
TOTAL (ALL TAXES)	**2,116,259,593.19**	**2,029,157,070.66**	**4.29**

New Penalty Rule

(Continued from Page 3)

bama 1975;

21. coal severance tax, Section 40-13-3, *Code of Alabama 1975*;

22. forest products severance tax, Section 9-13-86, *Code of Alabama 1975*;

23. withholding tax, Section 40-18-74, *Code of Alabama 1975*;

24. income tax estimate payments, Section 40-18-83, *Code of Alabama 1975*; and

25. oil and gas severance taxes, Sections 9-17-26(b) and 40-20-5, *Code of Alabama 1975*.

26. international fuel tax agreement, Sections 40-17-270 through 40-17-275, *Code of Alabama 1975*.

(4) The Failure to Timely Pay penalty shall apply for any tax in which attempted payment is made via:

(a) a check that is returned by the bank due to insufficient funds, or

(b) electronic media when the transaction is subsequently dishonored or invalidated as a result of actions or inactions by the taxpayer.

(5) The Failure to Timely Pay penalty may be waived in whole or in part by the Department upon a determination of reasonable cause following the guidelines in Rule 810-14-1-.33.01, entitled Assessment and Waiver of Civil Penalties.

Author: Michael Mason

Authority: Section 40-2A-11(b), *Code of Alabama 1975*

History: Filed with LRS May 20, 1993. Certification filed with LRS July 16, 1993, effective August 19, 1993.

Amended: Filed April 2, 1996, effective May 7, 1996.

Amended: Filed December 4, 2007, effective January 8, 2008.

IRS Interest Rate Drops to 7% for Quarter Beginning Jan. 1, 2008

The interest rate for the calendar quarter beginning JAN. 1, 2008, will drop to seven percent (7% a.p.r.) for underpayments, according to the Internal Revenue Service's News Room webpage, (News Release: IR-2007-193, citing Rev. Rul. 2007-68).

Under Sect. 40-1-44, *Code of Alabama 1975*, the Department of Revenue will calculate interest on underpayments and overpayments (where applicable) at this same annual rate (7 %); however, land sold by the state for taxes, shall be calculated at 12% in accordance with Sect. 40-5-9. (Historical rates shown below.)

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
2001	9%	8%	7%	7%
2002	6%	6%	6%	6%
2003	5%	5%	5%	4%
2004	4%	5%	4%	5%
2005	5%	6%	6%	7%
2006	7%	7%	8%	8%
2007	8%	8%	8%	8%
2008	7%			

Administrative Rules

Effective Nov. 8, 2007:

Amended:

810-14-1-.16

Uniform Revenue Procedures – Appeal from Final Assessment

Effective Jan. 8, 2008:

Amended:

810-14-1-.30

Effective Jan. 21, 2008:

Adopted:

810-7-1-.19

State Fees on Hazardous Waste or Hazardous Substances

ADOR Organizational Changes

Property Tax

Property Tax's Derrick Coleman was named Field Operations Supervisor, effective Nov. 1, 2007. Coleman has worked in the Property Tax Division since 1993.

Sales, Use and Business Tax

Ms. Debbie Lee, Revenue Manager I, is manager of the Special Projects Unit, effective Jan. 16, 2008.

Mr. James Mayberry, Revenue Manager I, is manager of the Local Tax Unit, effective Jan. 16, 2008.

Arrests and Convictions

(Continued from Page 4)

Clarke County Businessman Receives Jail Time for State Tax Crimes

Henry C. Frowner, 53, of 1347 Fools Acre Road, Jackson, Ala., was convicted on his plea of guilty Oct. 4, 2007, in Clarke County Circuit Court to state tax charges of willfully filing a fraudulent Alabama income tax return under penalties of perjury. Judge James T. Baxter ordered Frowner to serve four months in the Clarke County jail as a result of his offense.

According to court records, Frowner owned and operated Frowner Construction during 2001, 2002, and 2003. Through an investigation, the Alabama Department of Revenue determined that Frowner did not include gross income amounts totaling over $299,000 from his construction business on his state income tax returns filed for those years.

Frowner pleaded guilty to one felony count of filing a fraudulent Alabama income tax return for tax year 2001 and paid $16,417.23 in income taxes, penalty, and interest amounts determined to be due for tax years 2001, 2002, and 2003.

In addition to the four-month jail term, Judge Baxter placed Frowner on probation for two years and eight months and ordered Frowner to amend his 2004, 2005, and 2006 Alabama tax returns to include all taxable income earned from his business operations within 90 days of his release from jail.

"We will continue to actively pursue individuals who attempt to circumvent the tax system by not paying their fair share," said Emanuel Roberts, Special Agent Manager for the Alabama Department of Revenue's Investigations Division.

The case was investigated by Special Agent Thomas R. Day and Revenue Fraud Examiner Kimberley D. Wright and was prosecuted by Duncan Crow, a Special Assistant DA appointed by the Clarke County District Attorney.

State income tax revenues are earmarked for the state's Education Trust Fund (ETF) and are one of the major funding components for the ETF.

From Tax Policy and Research

Disregarded Entity Issues: Legal Opinion, Issued Oct. 31, 2007

ADOR's Sales, Use & Business Tax Division recently requested an opinion regarding the requisites for bond forms for Alabama LLCs in connection with several different activities.

The following is a summary of the opinion issued Oct. 31, 2007. Contact ADOR's Tax Policy and Research Division or the Legal Division to obtain a copy of the opinion.

Conclusion and Summary

The analysis of the LLCs for bonding purposes, assessments and other taxing proposed is a multi-step process.

The first level of inquiry in the LLC bonding analysis is whether the bonded activity involves the payment of a tax. If it does not, then general, not tax-based rules of law determine the requisite information gathered and associated entity designation. If the bond sought is to guaranty payment of any type of tax, the default partnership designation mandated by Section 10-12-8(b) applies, subject to defeasance by the taxpayer's check-the-box designation. In this instance, both the LLC and its members should appear on bond. If the LLC seeking bonded protection is a single-member LLC, then the single member is the sole and proper entity, unless a check-the-box election has been made, in which case the elected entity form governs.

Assessments follow the same general rules, with the exception that, by definition, all assessments involve tax liabilities. Also, assessments against mult-member LLCs for income tax only, will be issued solely in the members' names.

NOTICE:

Farmers' Gasoline Tax Refund Deadline March 31

March 31 is the deadline for Alabama farmers to file their state gasoline tax refund claims with the Alabama Department of Revenue, according to acting State Commissioner of Revenue Cynthia Underwood.

"The refund claims are based on portions of the state excise tax paid by farmers on gasoline used during 2007 for agricultural purposes. The portion of the gasoline tax that can be refunded applies only to the amount of gasoline that is used in tractors or any auxiliary engines which may be attached to tractors. Gasoline used in farm trucks is not subject to a refund. We encourage those farmers who qualify for such a refund to submit their refund claims as soon as possible. The refund claim must be postmarked no later than March 31, 2008," Underwood said.

Taxes on gasoline purchased from Jan. 1, 2007, through Dec. 31, 2007, will be refunded at the rate of 15 cents per gallon. The refund applies to the tax levied upon gasoline only; it does not apply to any tax levied upon diesel fuel.

Any individual qualifying for a refund who has not received a 2007 claim form may obtain one by writing to Alabama Department of Revenue, Sales, Use and Business Tax Division, Motor Fuels Section, Post Office Box 327540, Montgomery, AL 36132-7540, or calling (334) 242-9608. Forms are also available at all county extension agent offices and all Alabama Department of Revenue Taxpayer Service Centers.

Tax Calendar

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- First installment of estimated corporate income tax due (for calendar-year taxpayers.)
  NOTE: *Other fiscal-period taxpayers pay their corporate estimated tax on the 15th day of the fourth, sixth, ninth and twelfth months of their tax year and file their return on the 15th day of the third month following the close of their tax year.*
- Partnership income tax return due.
- Personal income tax 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.
- Quarterly withholding return and payment due from employer.
- Quarterly IFTA tax return and payment due.

Underwood Named MTC Treasurer

The Multistate Tax Commission's (MTC) Executive Committee elected ADOR's Intermim Commissioner Cynthia Underwood to fill the remainder of former Commissioner Tom Surtees' term as treasurer. Underwood's appointment was effective Nov. 8, 2007.

The Multistate Tax Commission is a compact of state governments working to promote equitable and efficient administration of tax laws that apply to multistate and multinational enterprises.

Surtees' and Underwood's elections to the MTC represent the first time Alabama representatives have served as officers of the MTC.

Renee Kyser Named Vice Chair of IRP Committee

Motor Vehicle's Renee Kyser was recently named Vice Chair of the International Registration Plan (IRP), Inc. Peer Review Committee, effective Jan. 1, 2008.

She will serve in this position for one year, followed by a year's service as Chair of the committee.

According to Sherry Helms, MV Audit Section Manager, "The IRP Inc. Peer Review Committee provides a medium within the IRP to review each IRP jurisdiction's administrative procedures and audit program on a periodic basis for compliance with the IRP and Audit Procedures Manual."

Renee Kyser

Tax Season 2008

(Continued from Page 5)

use tax to the out-of-state retailer are able to report and pay the Alabama consumer use tax due when filing their 2007 tax year returns. The consumer use tax line item was first offered on the 2000 Alabama return.

Federal Deduction for Educator Expenses:

Alabama does not allow a state tax deduction for educators' qualified out-of-pocket expenses for books and classroom supplies.

FORM 40V – Payment Voucher

Taxpayers who pay additional tax due by check or money order should complete a FORM 40V and include it along with their checks or money orders. (Taxpayers should not complete a FORM 40V if they pay their taxes electronically or by credit card.) The Form 40V will be used by the department to identify the taxpayer's payment by check or money order, apply it, and match it to the taxpayer's return for processing.

Six-Month Extensions Available

Alabama taxpayers who find that they will not be able to meet the April 15 filing deadline date should file an Alabama Form 4868A, Application for Extension. The extension period is a single six-month period. Alabama extensions can be filed electronically through the department's Web site. Bulk filing is available for tax preparers.

Direct Deposit

Taxpayers due a refund may have their refunds direct deposited into their checking or savings accounts. Direct deposit is available to taxpayers filing refund electronic and computer-generated returns. Last year, 427,117 Alabama taxpayers opted to have their state income tax refunds direct-deposited into their accounts.

Owe Additional Taxes? Consider E-Check

Taxpayers owing additional taxes can pay their state taxes electronically by authorizing an electronic funds withdrawal from their checking or savings accounts. Electronic funds withdrawal is free, and the taxpayer decides when the tax payment is scheduled for withdrawal from his or her bank account by calling the state's service providers, Official Payments Corporation at 1-800-2PAY-TAX or Link2Gov at 1-866-9PAY-TAX or by registering online at www.revenue.alabama.gov. Click on the category entitled "Electronic Services" and follow the prompts related to individual payments. The E-Check payment option is available to both Alabama e-filers and paper-filers and provides taxpayers with the convenience of initiating their tax payments 24 hours a day, seven days a week. Taxpayers may also pay individual income tax invoices and assessments using the E-Check option.

Credit Card Payment Option

Alabama taxpayers can use their Discover/NOVUS, MasterCard, American Express, or VISA card to pay their taxes by making a toll-free phone call to the state's service providers, Official Payments Corporation, at 1-800-2PAY-TAX or Link2Gov at 1-866-9-PAY-TAX. Taxpayers can also pay by Internet, by logging onto www.officialpayments.com or www.ALTaxPayment.com. The credit card customer pays a convenience fee for using the credit card payment services. The state receives no part of the convenience fee.

Tax Calendar

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.
- 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.
- Iron ore severance 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.
- Mobile telecommunications tax return and payment due.
- Motor fuel tax return and payment due.
- Natural minerals severance 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.
- Scrap Tire Environmental Fee 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

(February-May 2008)

Feb. 28 • Annual withholding return due.

March

1 • Freight line equipment return due.
- Public utility property tax return delinquent after this date.

15 • Corporate income tax return and information return due (for calendar-year taxpayers.)
- Business privilege tax return (Form PSA) due for corporations.

April

1 • Annual Dry Cleaning Trust Fund Fee return and payment due by wholesalers of dry cleaning agents.
- Quarterly Dry Cleaning Trust Fund Fee return and payment due.
- Utility license (2.2%) third quarterly payment due.

15 • Declaration of estimated personal income tax and first installment due.
- Financial institutions' excise tax return and payment due.
- Business privilege tax return (Form PSA) due for limited liability entities.

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