

810-3-39-.06 Mechanics of Consolidated Filing.

(1) In General. This rule is established in respect to the apportionment of income and loss from an Alabama Affiliated Group (AAG) that is taxable both in this state and in one or more other states.

(a) When an AAG has elected to file an Alabama consolidated return in lieu of separate returns and has income from sources both within and without this state, the taxable income or loss of the AAG and the business and nonbusiness income of each member shall be determined pursuant to Title 40, Chapter 18 and § 40-27-1, Article IV, Code of Alabama 1975, and regulations issued thereunder by the Alabama Department of Revenue (ADOR), except as modified by this regulation. The AAG shall be treated as a single corporation and all transactions between and among members of the AAG shall be eliminated in computing taxable income, loss, and in determining the Alabama property, payroll, and sales apportionment factors. See § 40-18-39(c)(3), Code of Alabama 1975.

(2) Business and Nonbusiness Income. The classification of business and nonbusiness income or loss shall be determined pursuant to § 40-27-1, Article IV, Code of Alabama 1975, and the regulations issued thereunder by the ADOR. For definitions, regulations, and examples for determining whether income shall be classified as "business" or "nonbusiness" income, see Rule 810-27-1-4-.01.

(a) The business and nonbusiness income or loss of each member is determined in accordance with Title 40, Chapter 18 and with the rules of allocation and apportionment under § 40-27-1, Article IV.

(3) Apportionment of Business Income.

(a) In General. The property factor shall be determined in accordance with Rules 810-27-1-4-.10, 810-27-1-4-.11, and 810-27-1-4-.12; the payroll factor in accordance with Rules 810-27-1-4-.13 and 810-27-1-4-.14; and the sales factor in accordance with Rules 810-27-1-4-.15, and 810-27-1-4-.16. The special rules stated in Rule 810-27-1-4-.18 apply to AAGs. The total AAG's combined business income is multiplied by the Alabama apportionment factor average percentage (commonly referred to as the Alabama apportionment factors - See Alabama Form 20C) which is the sum of the AAG's Alabama property factor, payroll factor, and sales factor, divided by three pursuant to § 40-27-1, Article IV.9.

(b) Alabama Property Factor.

1. In General. The AAG's Alabama property factor is a fraction, the numerator of which is the average value of the AAG's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the AAG's real and tangible personal property owned or rented and used during the tax period everywhere.

2. Property Factor Denominator. All real and tangible personal property of the AAG (the sum of the group's property everywhere), whether owned or rented and used everywhere during the tax period, shall be included in the denominator of the property factor as described in Rule 810-27-1-4-.10.

3. Property Factor Numerator. All real and tangible personal property owned or rented by the AAG and used in this state (the sum of each member's property employed in this state) during the tax period shall be included in the numerator of the property factor as provided in Rule 810-27-1-4-.10(d).

(c) Alabama Payroll Factor.

1. In General. The AAG's Alabama payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the AAG and the denominator of which is the total paid everywhere by the AAG during the tax period.

2. Payroll Factor Denominator. The denominator of the payroll factor shall include all compensation paid to employees for the production of business income during the tax period for the AAG everywhere as provided in Rule 810-27-1-4-.13(b).

3. Payroll Factor Numerator. The numerator of the payroll factor shall include all compensation paid to employees within this state by the AAG for the production of business income (the sum of each member's payroll within this state during the tax period) as may be determined by the application of the provisions of Rules 810-27-1-4-.13(c) and 810-27-1-4-.14.

(d) Alabama Sales Factor.

1. In General. The AAG's Alabama sales factor is a fraction, the numerator of which is the total sales of the AAG in this state during the tax period, and the denominator of which is the total sales of the AAG everywhere.

2. Sales Factor Denominator. The denominator of the sales factor is the total sales derived by the AAG from transactions and activity in the regular course of its trade or business everywhere as provided in Rule 810-27-1-4-.15(b).

3. Sales Factor Numerator. The numerator of the sales factor is the total sales of the AAG in this state (the sum of each member's sales within this state) during the tax period as provided in Rule 810-27-1-4-.15(c).

(e) Application of Attributional Nexus. In determining activities within and without Alabama beyond the protection of P.L. 86-272, activities that are conducted by one or more members of the AAG shall be considered attributable to the AAG. See § 40-18-39(c)(3).

1. **EXAMPLE:** If a member of the AAG sells goods shipped to a purchaser in Alabama, and that member is not taxable in the state of shipment, the sale is assigned to Alabama, provided that no other member of the AAG is taxable in the state of shipment. Conversely, if a member sells goods to a purchaser in another state which are shipped from Alabama, and that member is not taxable in the state of destination, the sale is not assigned to Alabama, provided that another member of the AAG is taxable in the state of destination.

(4) Liability.

(a) In General.

1. Full-year members. Each full-year member of the AAG is jointly and severally liable for all of the Alabama consolidated income tax liability.

2. Part-year members. A corporation, not a member of the AAG for the entire taxable year, is jointly and severally liable only for the portion of the Alabama Consolidated Income Tax Liability attributable to that portion of the year during which the corporation was a member of the AAG prorated on a daily basis.

3. Liability for the Annual Fee. Each member, whether a full-year member or a part-year member, is jointly and severally liability for the full amount of the annual fee assessed in § 40-18-39(c)(7).

(b) **EXAMPLE:** Corporate Group X elected to become an AAG effective January 1, 1999. The Alabama Consolidated Income Tax Liability for AAG X for the calendar year 1999 is \$365,000. AAG X, which was in business during the entire calendar year, has three members, A, B, and C, as follows:

	Number of Days a Member of AAG X During Tax Year
Member A	90
Member B	365
Member C	365

The Total Prorated Alabama Consolidated Income Tax Liability for each member is computed as follows:

Member A

(90 days / 365 days) multiplied by \$365,000 = \$90,000

Member B

(365 days / 365 days) multiplied by \$365,000 = \$365,000

Member C

(365 days / 365 days) multiplied by \$365,000 = \$365,000

(c) The Common Parent has the responsibility of constructing and maintaining records to substantiate a member's liability.

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Authority: §§40-2A-7(a)(5), 40-18-57, Code of Alabama 1975.

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