

ALABAMA DEPARTMENT OF REVENUE  
 Instructions For The Preparation of  
 Fiduciary Income Tax Return

2003

Sections cited herein refer to Title 40, Code of Alabama 1975.

Read these instructions carefully before preparing your return. Print or type all information on the return so that it will be legible. If reproduced copies are to be used for forms or schedules, comparable weight, grade, and color of paper must be used. If separate schedules are used, show the totals on the appropriate lines on both the front and back of Form 41.

## Who Must File

Section 40-18-29(a) of the Alabama Income Tax Law provides that every fiduciary, except receivers appointed by authority of law in possession of only part of the property of a taxpayer, shall make under oath a return for the taxpayer for whom he acts, first, if the net income of such taxpayer is \$1875.00 or over if single, or if married and not living with husband or wife, or \$3750.00 or over, if married and living with husband or wife, or second, if the net income of such taxpayer, if an estate or trust, is \$1875.00 or over, or if any beneficiary is a taxpayer other than a resident of the State. The returns shall state specifically the items of the gross income and the deductions, exemptions, and credits allowed by this Chapter under such regulations as the Alabama Department of Revenue may prescribe. A return made by one or more joint fiduciaries and filed in the office of the Alabama Department of Revenue shall be a sufficient compliance with the above requirement. The fiduciary shall certify that he has sufficient knowledge of the affairs of such individual, estate or trust to enable him to file the return, and that the same is, to the best of his knowledge and belief, true and correct. ***Fiduciaries required to file returns under this Chapter shall be subject to all provisions of this Chapter which apply to taxpayers.***

## Returns For Two Trusts

If two or more trusts, the income of which is taxable to the same beneficiaries, were created by the same persons and are administered by the same trustee, the trustee shall file a separate return on Form 41 for all such trusts. If a trustee holds trusts created by different persons for the benefit of the same beneficiary, he shall file a separate return on Form 41 for each trust.

## Place and Time To File Return

Calendar year returns are due on or before the 15th day of April following the close of the calendar year. Fiscal year returns are due on or before the 15th day of the fourth month following the close of the fiscal year. If the 15th falls on Saturday or Sunday, the returns are due on the following Monday. Mail returns with payment to: Alabama Department of Revenue, Individual and Corporate Tax Division, P. O. Box 327444, Montgomery, AL 36132-7444. Returns without payment must be mailed to: Alabama Department of Revenue, Individual and Corporate Tax Division, P. O. Box 327440, Montgomery, AL 36132-7440.

## Application For Extension

If you cannot file your return by the due date you should file an Application for Extension on **Form 4868A**. (Note: Federal extensions will not be accepted.) Except in cases of taxpayers who are abroad, no extension will be granted for more than 6 months. An extension, if granted, will be for a period of 4 months. Only in exceptional cases and where conditions set forth on application forms are met will a second extension for an additional 2 months be granted. Applications for extension must be on prescribed forms and submitted in time for consideration by the Alabama Department of Revenue before the due date of the return, and must be

signed by the taxpayer or his duly authorized agent. ***The application for Automatic Extension of Time to file your Federal return is not acceptable in lieu of an Application for Extension to file your Alabama return. A separate Alabama form must be filed with the Alabama Department of Revenue.***

An approved extension means only that you will not be assessed a penalty for filing your return after the due date. Interest on the additional tax due from the due date of the return and any penalties due will be assessed if applicable to your return.

## Interest

If your return is not filed by the due date and you owe additional tax, you should add interest from the due date to date of payment. Alabama law provides that the same rate of interest shall be collected as currently prescribed by the Internal Revenue Service.

## Penalties

**Civil Liability.** Any person failing to file a return as required by Alabama law or filing a willfully false or fraudulent return will be assessed by the Alabama Department of Revenue on the basis of the best information obtainable by the Department with respect to the income of such taxpayer. In the case of failure or neglect to file any list or return, the Department shall add to the amount of tax due a penalty of 10% of such tax or \$50, whichever is greater. In the case of a willfully false or fraudulent return having been filed, the Department shall add a penalty of not more than 50% of such tax. In addition, interest shall be added on any additional tax due.

If any person is delinquent in payment of income tax for more than 30 days after the due date for filing the return, the Department shall add a penalty of 1% per month or fraction thereof, up to 25%, on any such tax which remains unpaid.

**Criminal Liability.** §40-29-112, Code of Alabama 1975, as amended, provides for a more severe penalty for not filing tax returns. Any person required to file a return under this title and who willfully fails to make such return shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25,000 or imprisoned not more than 1 year, or both. § 40-29-110 provides that any person who willfully attempts to evade any tax imposed by this title or the payment thereof shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 or imprisoned not more than 5 years, or both. These penalties are in addition to any other penalties provided for by Alabama law.

## Information At The Source

Every corporation, association, or agent making payments of salaries and wages or similar compensation **must** file **Alabama Form A-2** or **Federal Form W-2** on or before the last day of February. Also, every corporation, association, or agent not filing Form A-2 and making payments of interest, rents, salaries, wages, premiums, annuities, compensations, remuneration, emoluments or other fixed or determinable gains, profits and income of \$1,500 or more, or payment of dividends of \$500 or more to any person, partnership or fiduciary (a resident of Alabama) during the taxable year is required to file an information return on **Forms 96** and **99** showing the amounts of such payments and the name and address of each recipient. These forms may be obtained from the Alabama Department of Revenue, Montgomery, Alabama, upon request and shall be filed with the Alabama Department of Revenue, Individual and

## Trust Income Exempt From Taxation

The below listed trusts' income is exempt from Alabama income tax as described and limited under Code Section 40-18-25 and regulations thereunder. There is **no** provision in Alabama law for individuals to exclude contributions made by or on behalf of themselves to these or similar trusts from their gross income. A deduction is allowed in the computation of adjusted gross income for qualified contributions made by or on behalf of resident individuals to IRA, SEP, and Keogh plans. This adjustment is made on their individual return.

(a) A trust created and forming part of a pension, profit sharing, or stock bonus plan that qualifies under Internal Revenue Code Section 401(a) is exempt.

(b) A custodial account, and annuity contract, or a contract issued by an insurance company that qualifies under Internal Revenue Code Section 401(f) is exempt.

(c) An individual retirement account, an individual retirement annuity, or any custodial account that qualifies under Internal Revenue Code Section 408(e) is exempt.

(d) A retirement bond that qualifies under Internal Revenue Code Section 409 is exempt.

(e) Corporations are exempt which are organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning the entire amount thereof, less expenses, over to an organization which is exempt under this section.

(f) Voluntary employee's beneficiary associations as described in Internal Revenue Code Section 501(c) (9) are exempt.

(g) Local teachers' retirement fund associations as described in Internal Revenue Code Section 501(c) (11) are exempt.

(h) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits if they meet the requirements of Internal Revenue Code Section 501(c) (17) are exempt.

(i) An organization or trust created exclusively to form part of a qualified group legal services plan or plans meeting the requirements of Internal Revenue Code Section 501(c) (20) is exempt.

(j) A trust created exclusively to pay liability insurance premiums for, pay administrative and other expenses of, and pay claims for liability for disability or death due to pneumoconiosis (black lung) as described in Internal Revenue Code Section 501(c) (21) is exempt.

(k) A charitable remainder annuity trust or a charitable remainder trust as defined in Internal Revenue Code Section 664, as in effect January 1, 1982, are exempt to the extent provided in Internal Revenue Code Section 664.

## Instructions For Completing Page 1

**Line 1. TOTAL INCOME.** All income must first be listed on page 2, Part I. See page 3 of these instructions for information on how to complete Part I. Enter the total income as shown on page 2, Part I, line 23 on this line.

**Line 2. TOTAL DEDUCTIONS.** All deductions must first be listed on page 2, Part III. See page 4 of these instructions for information on how to complete Part III. Enter the total deductions as shown on page 2, Part III, line 5 on this line.

**Line 3.** Subtract line 2 from line 1, and enter the difference on this line.

**Net Operating Loss.** If the amount on line 3 is a negative figure, it may represent a net operating loss. A net operating loss is, simply stated, an amount that business deductions, after modifications, exceed business income. The most common reason for a net operating loss is a loss in operating a business; however, casualty and theft loss and a loss from the sale of business assets can also create a net operating loss. To determine if there is an allowable net operating loss **Form NOL-F85** must be completed. This form is available upon request. If it is determined that there is an allowable net operating loss, Form NOL-F85 must be attached to the tax return for the loss year to establish the loss.

A 2003 net operating loss may be carried back 2 years and forward 15 years. The loss **must** be carried to the **earliest** taxable year available. However, you may relinquish the entire carryback period with respect to the 2003 net operating loss. Such election, once made, is irrevocable. This election must be made by the due date (including extensions) for filing the return. If an election is made to relinquish the carryback period, a statement to that effect must be attached to the loss year return.

If the election is made to carry a 2003 net operating loss back, **Form 40X**, amended return, must be filed with Form NOL-F85A attached. These forms and additional instructions are available at the Taxpayer Service Center nearest you, or they will be mailed to you upon written request.

**Line 4. AMOUNT DISTRIBUTABLE TO BENEFICIARIES.** Enter on line 4 the total amount distributable to beneficiaries including amounts paid to or permanently set aside by provision of a will or deed for the United States, any state, territory or any political subdivision thereof, or the District of Columbia, or any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes.

Also enter the name, address, and social security number of beneficiaries on lines (a), (b), (c), etc., and extend in the proper column each beneficiary's share of the net income. If space is not sufficient, attach a separate schedule behind page 2 using the same format for reporting. Social security numbers must be reported and will be used for identification purposes. Also enter the amount of any income which, pursuant to the terms of the will or deed creating a trust, is, during the taxable year, paid to or permanently set aside for the United States, any state, territory or any political subdivision thereof, or the District of Columbia, or any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes. For nonresident taxpayers enter in column A income which does not have a taxable situs within Alabama. The sum of columns A and B should total the amount shown on page 1, line 4.

**Line 5. NET INCOME.** Subtract line 4 from line 3, and enter the difference on this line.

**Line 6. EXEMPTION CREDIT.** The estate or trust is entitled to a personal exemption of fifteen hundred dollars (\$1,500).

**Line 7. AMOUNT TAXABLE.** Subtract line 6 from line 5, and enter the difference on this line. If you are bringing forward a net operating loss from a previous year, you **must** complete and attach **Form NOL-F85A**. Check the block on line 7 indicating Form NOL-F85A is attached.

**Lines 8 through 10. COMPUTATION OF TAX.** The income tax on estates and trusts is imposed on every resident individual or corporation acting in a fiduciary capacity as provided by Sections 40-18-12, 40-18-25, and 40-18-29 in the manner prescribed by Section 40-18-5 of the Alabama Income Tax Law as follows:

"The tax herein levied and imposed upon every resident of this state, which tax is in addition to all other taxes imposed by this title, and which tax shall be assessed, collected and paid annually upon and with respect to his entire net taxable income as herein defined and shall be computed at rates as follows:"

(a) On the excess over the amount exempted herein, up to and including \$500, two percent.

(b) On the excess over the amount exempted herein, above \$500, up to and including \$3,000, four percent.

(c) On the excess over the amount exempted herein, above \$3,000, five percent.

Line 8, 9, and 10 should not be completed if you are attaching Form NOL-F85A. Instead, enter the correct tax due on line 11 as shown on line 11 of Form NOL-F85A.

**Line 11. TOTAL TAX DUE.** Add lines 8, 9, 10, and enter the total on this line (unless tax was computed using Form NOL-F85A).

**Line 12a. TAX CREDITS.** Resident trusts or estates are allowed credit toward Alabama income tax for income tax paid to other states on Alabama taxable income. This credit is limited to the lesser of: (1) the income tax paid to the other state, (2) the tax on the taxable income in the other state using Alabama rates, or (3) the total tax due Alabama. A copy of the return as filed with the other state must be attached.

**Line 12b. THE CAPITAL CREDIT** is available to each investing company, its shareholders, partners, members, owners, or beneficiaries involved in a joint venture for a project undertaken by certain new businesses to be located in the state and certain expansions of certain existing businesses. In order to qualify, the investing company must file a form of intent to invest with the commissioner's office of the Alabama Department of Revenue. Each recipient will be allowed a capital credit according to the distributive share, whether or not distributed, of the project's Alabama taxable apportionable income. The capital credit is limited to the recipient's tax liability and is **applied after all other deductions, losses, or credits have been taken.** Form K-RCC **MUST** be attached to the return to receive this capital credit.

**Line 12c. EXTENSION PAYMENT.** Enter the amount paid with Application for Extension, **Form 4868A.** Attach a copy of your extension to Form 41.

**Line 12d. COMPOSITE PAYMENT.** Enter the amount paid on behalf of this trust from any Alabama composite return. Attach a list of payments and payors.

**Line 13. TOTAL CREDITS.** Add lines 12a, 12b, 12c, and 12d, and enter the total on this line.

**Line 14. NET TAX DUE.** Subtract line 13 from line 11, and enter the difference on this line. This is the amount of tax owed by the fiduciary. The net tax due **must** be paid at the time the return is filed.

If the return is filed late, interest should be included in addition to the tax due at the same rate as currently prescribed by the Internal Revenue Service. Penalties may also apply if the return is not timely filed. (See **Application for Extension, Interest, and Penalties** in these instructions for further information.)

**Line 15. NET REFUND.** If line 13 is larger than line 11, enter the difference on this line. This amount will be refunded.

## Instructions For Completing Part I, Page 2

**Income from Dividends.** Itemize, in the space provided, the names of payers and the total amount of dividends received from all sources. **All** dividends, including liquidating dividends received, are taxable. Gain or (loss) on liquidating dividends should be reported. Dividends from savings and loan associations are taxable. Dividends from tax-option corporations (Subchapter S) are taxable when actually received. Enter the total of all dividends received on Part I, line 1.

**Income from Interest.** Itemize, in the space provided, all interest received or credited during the taxable year on bank deposits, notes,

mortgages, bonds and other evidences of indebtedness, including bonds of the United States, and any state or territory and the political subdivisions thereof. All interest received is taxable except: (a) interest on obligations of the United States or its possessions, and (b) interest on obligations of the State of Alabama or any county, municipality, or other political subdivision thereof.

Interest on bonds of other states and their political subdivisions and on refunds of taxes is subject to Alabama income tax. Interest from savings and loan associations is taxable. Enter **only** the total taxable interest on Part I, line 2.

**Profit from Sale of Real Estate, Stocks, Bonds, Etc.** State the following facts: (a) for real estate, location and description of land and improvements; (b) for bonds or other evidence of indebtedness, name of issuing corporation, particular issue, denomination, and amount; (c) for stocks, name of corporation, class of stock, number of shares, and capital changes affecting basis (including nontaxable distributions). If more space is needed, use separate sheets with identical columnar headings, 3 through 8 inclusive.

The gain or (loss) should be computed in accordance with Sections 40-18-6, 40-18-7, and 40-18-8 of the Alabama Income Tax Law. These sections conform the basis rules for determining gain on the sale of property **transferred in trust** to the federal rules. The donee or trust will assume the same basis for the property as existed in the hands of the prior owner.

Also, if an election is made to determine gain under I.R.C. Code § 1033 (relating to involuntary conversions) the amount of gain shall be recognized in accordance with the Internal Revenue Code.

**All gains are fully taxable, and all losses are fully deductible in the year of sale or other disposition.**

Enter the net gain or (loss) from all transactions on Part I, line 10.

**Income from Rents and Royalties.** Report rents received from property owned or controlled by the estate or trust, and royalties from copyrights, mineral leases, and similar rights on Part I, lines 11 through 17. If property, other than cash, was received as rent report its fair market value. Compute depreciation on the basis as set out in Section 40-18-16, and explain the amount deducted for depreciation in Part II. Enter other expenses including interest, taxes, insurance, utilities, labor, and other necessary expenses incurred in connection with the property from which the income was received, on Part I, line 15. Enter the net profit or (loss) from rents and royalties should be entered on Part I, line 17.

**Income from Partnerships.** Enter on Part I, line 18, the share of the estate or trust, whether received or not, in the profits of any partnership, syndicate, pool, etc.

If the accounting period on the basis of which this return is filed does not coincide with the accounting period of the partnership, the distributive share of the net profits of the partnership ending within the accounting period of this estate or trust should be included in this return.

**Income from other Fiduciaries.** Enter on Part I, line 19 the share of distributions from other estates or trusts, whether received or not.

If the accounting period on the basis of which this return is filed does not coincide with the accounting period of the other fiduciaries, the distributive share of the fiduciary income ending within the accounting period of this estate or trust should be included in this return.

**Income from Business or Profession.** If a business is carried on by the estate or trust, you must fill out and attach a copy of Federal Schedule C.

Generally, you may deduct the ordinary and necessary expenses of

doing business – the cost of the merchandise, salaries, interest, taxes, rent, repairs, and incidental supplies. In the case of capital investments and improvements in depreciable property such as buildings, machines, fixtures, and similar items having a useful life of more than one year, the law provides a depreciation allowance as the method of deducting the cost over the life of the property. Alabama Law allows depreciation, including Section 179 Expense, in the same manner as allowed under Federal Law.

**Adjustments to Federal Schedules C and F.** Alabama Law differs from Federal Law in the treatment of some of the expenses shown on Federal Schedules C and F, and certain items may need adjusting for Alabama purposes. The expenses which may need adjusting are as follows:

- **Percentage Depletion Gas and Oil.** Alabama Law provides for percentage depletion of gas and oil in the amount of 27½% of the gross income received from production, or 50% of the profit from the property, whichever is less, whereas current Federal Law allows 22% of the gross income received. The federal limits the percentage depletion deduction to the lesser of 65% of the taxable income before the depletion allowance, or 100% of the taxable income from the property before the depletion allowance.

- **Cost Depletion Natural Resources Other than Gas and Oil.** Alabama law has no provision for percentage depletion of natural resources other than gas and oil as currently allowed under Federal Law. For Alabama purposes, the depletion allowance shall be computed using the cost depletion method.

- **Targeted “Jobs Credit.”** You may have been allowed to take a portion of your payroll expenses as a “Target Jobs Credit” on your federal return. This is an allowable expense for Alabama income tax purposes.

- **Passive Activity Losses.** Alabama Law has no provision, similar to current Federal Law, which limits the deduction of passive trade or business activity losses.

If you have adjustments involving any of the above described expenses, attach an explanation and show the adjustment as “Other Expenses” on Federal Schedule C or F.

Enter the net profit or (loss) from business, as shown on Federal Schedule C after making the necessary adjustments (if applicable) on line 20, Part I.

**Farming.** Enter the net income or (loss) from any farm operation by the estate or trust on Part I, line 21. A separate schedule showing farm operations must accompany the return. Attach a copy of Federal **Schedule F** to the return. See above instructions for adjustments that may apply to Federal Schedule F.

**Other Income.** If you cannot find any specific place on the return to list certain types of income, report such income on Part I, line 22.

## Instructions For Completing Part II, Page 2

**Explanation of Deduction for Depreciation Claimed in Columns 6 and 13, Part I, Page 2.** A reasonable allowance for the exhaustion, wear and tear, and obsolescence of property used in the trade or business, or of property held by the taxpayer for the production of income shall be allowed as a depreciation deduction. Depreciation, including Section 179 Expense, is allowable to the same extent as allowable for federal purposes.

## Instructions For Completing Part III, Page 2

**Interest Paid.** Interest which was paid in 2003 is limited to the same amount as currently allowable for federal purposes. Attach **Alabama Form 4952A** if a deduction is claimed for investment interest.

**Taxes Paid.** List the amount of tax on Line 23 of federal Form 1041 and any other taxes paid within the taxable year which were imposed by the United States or its possessions or by any state or political subdivision thereof, not including those assessed for local benefits of a kind tending to increase the value of the property assessed. **Do not deduct Alabama Income Tax.** Enter the total on line 2.

**Casualty and Theft Losses.** Losses caused by theft, vandalism, fire, storm, and car, boat, and other accidents, or similar causes are deductible to the same extent as deductible for federal purposes. However, in figuring the 10% floor the amount shown on line 1 of Form 41 should be used instead of federal income. Use **Federal Form 4684** to compute the loss subject to the 10% floor. Attach a copy of Federal Form 4684 to Form 41.

**Other Deductions.** Most miscellaneous deductions cannot be deducted in full. You must subtract 2% of the Alabama total income shown on line 1, Form 41 from the total. The deductions subject to the 2% limit are the same as those subject to the 2% limit for federal purposes. Use lines 4a, b, and c for these deductions. Enter other deductions not subject to the 2% limitation on line 4d. Attach a separate sheet listing these expenses.

**Total Deductions.** Enter on line 5 the total of lines 1, 2, 3c, and 4e. Do not include any deductions claimed in Part I, page 2. Enter the total from line 5 on page 1, line 2.

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### When State Schedules Are Inadequate For Detailed Listing, Federal or Other Detailed Schedules Should Be Attached.

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If you have any questions or need assistance in preparing Form 41, you may write or call:

**Alabama Department of Revenue  
Pass Through Entity Section  
P. O. Box 327440  
Montgomery, AL 36132-7440  
Telephone (334) 242-1000**

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**Your Federal Employer’s Identification Number must be shown in the box provided on the front of the return.**

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