

**ALABAMA DEPARTMENT OF REVENUE  
REVENUE RULING 01-003**

**THIS DOCUMENT MAY NOT BE USED OR CITED AS PRECEDENT. §40-2A-5(a),  
CODE OF ALABAMA 1975.**

TO:

FROM: Cynthia Underwood  
Commissioner, Alabama Department of Revenue

DATE: August 1, 2001

RE: Applicability of Alabama's Income Tax to Limited Liability Company

**FACTS**

The facts as stated in your ruling request are as follows:

The limited liability company ("the LLC") is bringing a new product to the market in the fall of 2001. The product will initially be sold through a direct marketing venue: infomercial, website, and printed advertisement. The company's headquarters are located in State X, where all finalized sales processing will take place. We would prefer, however, to utilize a distribution center in the State of Alabama to warehouse and ship our goods. The company we plan on using is Company A, located in Alabama. The LLC ... will hold continuous title to all goods processed, for shipping, through Company A and will have no financial interest in this company other than a fee for service.

**ISSUE**

Whether or not the LLC will be subject to Alabama income tax?

**ANALYSIS**

Section 40-18-2, Code of Alabama 1975, levies a tax upon taxable income. The following is a list of those who are taxable pursuant to Chapter 18:

- (1) Every individual residing in Alabama;

- (2) Every corporation domiciled in Alabama or licensed or qualified to transact business in Alabama;
- (3) Every corporation doing business in Alabama or deriving income from sources within Alabama, including income from property located in Alabama;
- (4) Every resident individual or corporation acting in a fiduciary capacity;
- (5) Every estate and trust resident in the State of Alabama;
- (6) Every nonresident individual receiving income from property owned or business transacted in Alabama;
- (7) Every natural person domiciled in the State of Alabama, and every other natural person who maintains a permanent place of abode within the state or spends in the aggregate more than seven months of the income year within the state, shall be presumed to be residing within the state for the purposes of determining liability for income taxes under this chapter.

Revenue Procedure 98-001 was issued to provide guidance as to the applicability of Alabama's tax laws to limited liability companies. The procedure provides that LLCs are to be classified for state income tax purposes as they are classified for federal income tax purposes pursuant to the "check-the-box" regulations issued by the Internal Revenue Service. See 26 U.S.C. §7701. This classification allows LLCs to be treated as a partnership or as a corporation for income tax purposes. Further, a single-member LLC may elect to be disregarded. Subsequent to your ruling request, you informed the Department that the LLC, as a single-member LLC, elected to be disregarded as a separate entity for federal tax purposes pursuant to the "check-the-box" regulations. Such an election will be acknowledged by the Department for state income tax purposes, as provided by Revenue Procedure 98-001. Therefore, the LLC is not subject to the income tax levied in §40-18-2.

### **CONCLUSION**

Because of the LLC's election as a single-member LLC to be disregarded for federal income tax purposes, the LLC is not subject to Alabama's income tax. Hopefully, this ruling answers your request.

---

CYNTHIA UNDERWOOD, Commissioner  
Alabama Department of Revenue

CU:JP:pj