

Alabama Department of Revenue

News Release
Jan. 25, 2005

Alabama Tax Return Form 40, Form 40 NR Instruction Error

Montgomery—The Alabama Department of Revenue issued an immediate taxpayer advisory today urging Alabama taxpayers who were mailed an Alabama Form 40 (Long Return) or a Form 40 NR (Non-resident Return) Tax Booklet and who have city and county occupational license taxes withheld from their wages or salaries to note errors contained in the booklets' instructions directing those specific taxpayers to claim the local occupational taxes reported on their W-2s as miscellaneous tax deductions on the Schedule A. This direction is incorrect. Alabama law allows the occupational license tax to be claimed as a full tax deduction and as such, should be claimed on the Schedule A, under the section entitled "Taxes you paid."

The instructions for both the Form 40 and the Form 40 NR advise taxpayers who have city and county occupational taxes withheld from their wages or salaries and reported on their Form W-2s to report the amount on Schedule A, Line 19 or Line 24, respectively. This is incorrect. **Taxpayers should report the amount of city or county occupational taxes withheld from their Alabama wages or salaries on Schedule A, Line 8, regardless of which return they are filing.**

The printed Form 40 and Form 40 NR tax booklets mailed to taxpayers and to various public distribution sites contain the error in the instructions. The online instructions for the returns posted on ADOR's Web site at www.ador.state.al.us have been corrected.

Taxpayers who filed electronically or who plan to file electronically during 2005 are not included in this advisory, as software preparation programs contain the correct calculation instructions and instructional guides.

During the end of December, the ADOR mailed 112,500 Alabama Form 40 Tax Booklets and 18,000 Form NR Tax Booklets to taxpayers. Approximately 187,500

Form 40 Tax Booklets and 17,000 Form 40 NR Tax Booklets were mailed to public distribution centers such as public libraries, post offices, and ADOR Taxpayer Service Centers. The ADOR does not have any estimate as to how many of the potential Form 40 and Form 40 NR filers have local occupational license taxes withheld from their salaries or wages and may risk applying the deduction incorrectly.

Eighteen Alabama cities levy an occupational tax, as well as two Alabama counties—Jefferson and Macon.

Taxpayers who plan to file a Form 40A return (Short Return) are not included in this advisory. In addition, those taxpayers who plan to file paper returns using computer software tax return preparation programs or those taxpayers who rely on the services of tax preparers using such tax return preparation programs are not affected.

“We sincerely regret any inconvenience and confusion this error has caused. All Alabama Form 40 and Form 40 NR paper-filed returns will be reviewed to ensure no overpayments or underpayments 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 Form 40 and Form 40 NR Tax Booklets from the ADOR,” said ADOR Commissioner Tom Surtees, “to ensure that they are made aware of the error in the instructions pertaining to the treatment of local occupational license taxes.”