810-27-1-.18.06 Special Rules: Trucking Companies.

The following special rules are established with respect to trucking companies.

(1) In General. As used in this rule, the term "trucking company" means a motor common carrier, a motor contract carrier, or an express carrier which primarily transports tangible personal property of others by motor vehicle for compensation. Where a trucking company has income from sources both within and without Alabama, the amount of business income from sources within Alabama shall be determined pursuant to this rule. In such cases, the first step is to determine what portion of the trucking company's income constitutes "business" income and what portion constitutes "nonbusiness" income under Sections 40-27-1, Article IV.1 and 40-27-1.1, Code of Alabama 1975, and Alabama Rule 810-27-1-.01. Nonbusiness income is directly allocable to specific states pursuant to the provisions of Section 40-27-1, Article IV.5-.8, Code of Alabama 1975, inclusive. Business income is apportioned among the states in which the business is conducted and pursuant to the property, payroll, and sales apportionment factors set forth in this rule. The sum of (i) the items of nonbusiness income directly allocated to Alabama and (ii) the amount of business income attributable to Alabama constitutes the amount of the taxpayer's entire net income which is subject to tax in Alabama.

(2) Business and Nonbusiness Income. For definitions, rules, and examples for determining business and nonbusiness income, see Alabama Rule 810-27-1-.01. Business income is determined in accordance with Section 40-27-1.1, Code of Alabama 1975.

(3) Apportionment of Business Income.

(a) In General. The property factor shall be determined in accordance with Alabama Rules 810-27-1-.10 through 810-27-1-.12, inclusive, the payroll factor in accordance with Alabama Rules 810-27-1-.13 through 810-27-1-.14, and the sales factor in accordance with Alabama Rules 810-27-1-.15 through 810-27-1-.17, inclusive, except as modified by this rule.

(b) The Property Factor.

1. Property Valuation. Owned property shall be valued at its original cost and property rented from others shall be valued at eight (8) times the net annual rental rate in accordance with Section 40-27-1, Article IV.11, Code of Alabama 1975, and Alabama Rule 810-27-1-.11.

2. General Definitions. The following definitions are applicable to the numerator and denominator of the property factor, as well as other apportionment factor descriptions:

(i) "Average value" of property means the amount determined by averaging the values at the beginning and end of the income tax year, but the Commissioner may require the averaging of monthly values during the income year or such averaging as is necessary to reflect properly the average value of the trucking company's property. (See Section 40-

27-1, Article IV.12, Code of Alabama 1975, and Alabama Rule 810-27-1-.12.)

(ii) "Mobile property" means all motor vehicles, including trailers, engaged directly in the movement of tangible personal property.

(iii) A "mobile property mile" is the movement of a unit of mobile property a distance of one mile whether loaded or unloaded.

(iv) "Original cost" is deemed to be the basis of the property for federal income tax purposes (prior to any federal income tax adjustments, except for subsequent capital additions, improvements thereto, or partial dispositions); or, if the property has no such basis, the valuation of such property for Interstate Commerce Commission purposes. If the original cost of property is unascertainable under the foregoing valuation standards, the property is included in the property factor at its fair market value as of the date of acquisition by the taxpayer. (Alabama Rule 810-27-1-.11(1).)

(v) "Property used during the course of the income year" includes property which is available for use in the taxpayer's trade or business during the income year.

(vi) The "value" of owned real and tangible personal property means its original cost. (See Section 40-27-1, Article IV.11, Code of Alabama 1975, and Alabama Rule 810-27-1-.11(1).

(vii) The "value" of rented real and tangible personal property means the product of eight times the net annual rental rate. (See Section 40-27-1, Article IV.11, Code of Alabama 1975, and Alabama Rule 810-27-1-.11(2).)

3. The Denominator and Numerator of the Property Factor. The denominator of the property factor shall be the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the income year. The numerator of the property factor shall be the average value of the taxpayer's real and tangible personal property owned or rented and used in Alabama during the income year. In the determination of the numerator of the property factor, all property, except mobile property as defined in this rule, shall be included in the numerator of the property factor in accordance with Section 40-27-1, Article IV.10-.12, Code of Alabama 1975, inclusive and Alabama Rules 810-27-1-.10 through 810-27-1-.12, inclusive.

(i) Mobile property, as defined in this rule, which is located solely within Alabama during the income year shall be included in the numerator of the property factor.

(ii) Mobile property as defined in this rule, which is located within and without Alabama during the income year shall be included in the numerator of the property factor in the ratio which mobile property miles in the state bear to the total mobile property miles.

(c) The Payroll Factor. The denominator of the payroll factor is the compensation paid everywhere by the taxpayer during the income year for the production of business

income. (See Section 40-27-1, Article IV.13-.014, Code of Alabama 1975, and Alabama Rules 810-27-1-.13 and 810-27-1-.14.) The numerator of the payroll factor is the total compensation paid in Alabama during the income year by the taxpayer. With respect to all personnel, except those performing services within and without Alabama, compensation paid to such employees shall be included in the numerator as provided in Section 40-27-1, Article IV.13-.014, Code of Alabama 1975, and Alabama Rules 810-27-1-.13 and 810-27-1-.14.

1. With respect to personnel performing services within and without Alabama, compensation paid to such employees shall be included in the numerator of the payroll factor in the ratio which their services performed in Alabama bear to their services performed everywhere based on mobile property miles.

(d) The Sales (Revenue) Factor.

1. In General. All revenue derived from transactions or activities in the regular course of the taxpayer's trade or business which produce business income shall be included in the denominator of the revenue factor. (See Sections 40-27-1, Article IV.1 and 40-27-1.1, Code of Alabama 1975, and Alabama Rule 810-27-1-.01.)

(i) The numerator of the revenue factor is the total revenue of the taxpayer in Alabama during the income year. The total state revenue of the taxpayer, other than revenue from hauling freight, mail, and express, shall be attributable to Alabama in accordance with Section 40-27-1, Article IV.15-.17, Code of Alabama 1975, and Alabama Rule 810-27-1-.15 through 810-27-1-.17.

2. Numerator of the Sales (Revenue) Factor from Freight, Mail, and Express. The total revenue of the taxpayer attributable to Alabama during the income year from hauling freight, mail, and express shall be:

(i) Intrastate: All receipts from any shipment which both originates and terminates within Alabama; and,

(ii) Interstate: That portion of the receipts from movements or shipments passing through, into, or out of Alabama as determined by the ratio which the mobile property miles traveled by such movements or shipments in Alabama bear to the total mobile property miles traveled by movements or shipments from points of origin to destination.

(4) Records. The taxpayer shall maintain the records necessary to identify mobile property and to enumerate by state the mobile property miles traveled by such mobile property as those terms are used in this rule. Such records are subject to review.

(5) De Minimis Nexus Standard. Notwithstanding any provision contained herein, subparaph (f) of this rule (Special Rules relating Trucking Companies) shall not apply to require the apportionment of income to Alabama if the trucking company during the course of the income tax year did not meet the "substantial nexus" thresholds as stipulated by

Section 40-18.31.2, Code of Alabama 1975.

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