

810-3-161-.01 Computation of Taxable Income.

(1) Nonseparately Stated Income. Nonseparately stated income for Alabama S corporations will be computed in the same manner as for individuals, except for those deductions and exemptions which are not applicable to nonindividuals, such as:

(a) The personal exemption and credit for dependents allowed by § 40-18-19, Code of Alabama 1975,

(b) Charitable contributions allowed by § 40-18-15,

(c) The net operating loss deduction allowed by § 40-18-15.2,

(d) Medical expenses allowed by § 40-18-15,

(e) Moving expenses allowed by § 40-18-15,

(f) Alimony allowed by § 40-18-15,

(g) Contributions to an Individual Retirement Account (IRA) allowed by § 40-18-15,

(h) The deduction for certain expenses of producing income and determining taxes, allowed by § 40-18-15, and

(i) Depletion on oil and gas wells allowed by § 40-18-15.

(2) Separately Stated Income. Certain items of income, loss and deductions are to be passed through to the individual returns of the shareholders, rather than being deducted in computing the nonseparately stated income of the S corporation on the Alabama S corporation return. Separately stated items are those the separate treatment of which could affect the liability for tax of any shareholder. These items include:

(a) Income taxes paid to the United States,

(b) Charitable contributions,

(c) Depletion on oil and gas wells, and

(d) All items of income, loss, expense or deduction, which for the purpose of computing a net operating loss deduction for an individual would be classified as "nonbusiness" as defined in Rule 810-3-15-.22. These items classified as "nonbusiness" for Alabama net operating loss deduction purposes

are usually classified as "portfolio income and expense" on the federal S corporation return and supporting schedules.

(3) Net Operating Losses. The net operating loss carryback/carryforward provision for individuals and the net operating loss carryforward provision for corporations are not applicable to Alabama S corporations. The yearly losses, if any, of the S corporation are passed through to the shareholders, and thus are not available at the corporate level for carryforward. Any losses incurred by a corporation in any years in which the corporation was not an Alabama S corporation, may not be carried forward to any years in which the corporation is an Alabama S corporation.

(4) Multistate Operations.

(a) For tax years beginning before January 1, 1990, Alabama S corporations which conducted business in more than one state were required to compute the income and deductions attributed to Alabama by allocating and apportioning the income and deductions to Alabama in accordance with the rules and regulations applicable to foreign corporations at that time. This includes Alabama S corporations which were created under Alabama law (domestic corporations).

(b) For tax years beginning after December 31, 1989 and before January 1, 1997, the following rules applied for Alabama S corporations which conducted business in more than one state:

1. The Alabama S corporation was required to compute each resident shareholder's pro rata share of the entire income and deductions of the Alabama S corporation.

(i) In computing taxable income under subparagraph 1., the Alabama S corporation was allowed a deduction for income taxes paid to states in which it was not treated as an S corporation.

2. The Alabama S corporation was required to compute each nonresident shareholder's pro rata share of income and deductions apportioned and allocated to Alabama in accordance with the rules and regulations applicable to foreign corporations at that time. For simplicity, compliance with the requirements of the Multistate Tax Compact, Chapter 27, Title 40, Code of Alabama 1975, will satisfy the requirement of this subparagraph.

(c) For tax years beginning after December 31, 1996, Alabama S corporations which conduct business in more than one state shall compute the income, loss, deductions and credits to be attributed to Alabama in the same manner as provided in accordance with the Multistate Tax Compact, Chapter 27, Title 40, Code of Alabama 1975.

(d) An Alabama S corporation is conducting business in more than one state if it meets the provisions for being taxable in more than one state set out in Rule 810-27-1-4-.03.

(e) Allocation and Apportionment Reporting Requirements.

1. For tax years beginning before January 1, 1990, an Alabama S corporation which did business in more than one state was required to complete the necessary schedules of Form 20S to compute the apportionment ratios and to apportion and allocate income, loss, deductions and credits among the states in which the corporation did business.

2. For tax years beginning on or after January 1, 1990 and before January 1, 1997, an Alabama S corporation which did business in more than one state and which had one or more nonresident shareholders was required to complete the necessary schedules of Form 20S to compute the apportionment ratios and to apportion and allocate income, loss, deductions and credits among the states in which the corporation did business.

3. For tax years beginning on or after January 1, 1997, an Alabama S corporation doing business in more than one state shall complete the necessary schedules of Form 20S to compute the apportionment ratios and to apportion and allocate income, loss, deductions and credits among the states in which the corporation does business.

(5) Elections. Any election required or permitted to be made with respect to the computation of income, deductions, credits or allowances shall be made by the Alabama S corporation.

Author: Verlon R. Frost, Jeff Taylor, Catherine McCary, Ann Winborne, CPA, Charlotte Jordan, and Ed Cutter, CPA

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