

810-3-28-.01 Partnership Returns.

(1) (a) All partnerships having “substantial nexus” from property owned or business conducted in this state shall file the Alabama Form 65 on or before the due date, including extension. All single member limited liability entities having “substantial nexus” from property owned or business conducted in this state shall file the appropriate Alabama income tax return. The appropriate income tax return will be determined based on the entity’s classification for federal purposes, found in IRC Section 7701. Returns for both partnerships and single member limited liability entities, whether filing as a separate entity or as a disregarded entity, as a division of its owner, are required to be filed on or before the date the taxpayer’s corresponding federal tax return is due. If no federal tax return is required, the due date is the date in which the taxpayer would be required to file if the federal return was required.

(b) A business has “substantial nexus” in Alabama when factor presence thresholds are met or exceed the thresholds established pursuant to Section 40-18-31.2, Code of Alabama 1975, and rules promulgated thereunder.

(c) Any extension of time to file an income tax return allowed for by federal income tax purposes will be recognized for Alabama purposes.

1. A taxpayer is not required to file a separate extension to extend the filing deadline in Alabama.

2. Taxpayers must meet all federal requirements for additional extensions.

(d) An Alabama Schedule K-1 must be prepared for each person who held an interest in the subchapter K entity or single member limited liability company during the taxable year showing each partner's or member's name, address, social security or federal employers identification number, distributive share of the income (or loss) of the partnership and distributive share of charitable contributions made by the partnership.

1. For an Alabama resident partner or member, the K-1 for tax years beginning after December 31, 1996 and before January 1, 2011 shall include:

(i) For multi-state subchapter K entities doing business within and without the State of Alabama, only that income which is required to be allocated and apportioned to Alabama under the rules of Section 40-18-22. (If the multi-state subchapter K entity is not doing business in Alabama, no income is reportable to Alabama from that subchapter K entity.)

(ii) For a subchapter K entity doing business in only one state, whether the state of Alabama or another state, the distributive share of the entire income from that subchapter K entity.

2. For a nonresident partner or member, the K-1 shall include:

(i) For multi-state subchapter K entities doing business within and without the State of Alabama, only that income which is required to be allocated and apportioned to Alabama under the rules of Section 40-18-22.

(ii) For a subchapter K entity doing business in Alabama exclusively, the distributive share of the entire income from that subchapter K entity.

3. For an Alabama resident partner or member, the K-1 for tax years beginning after December 31, 2010 shall include amounts determined in accordance with subchapter K of the Internal Revenue Code, 26 U.S.C. §§ 701-761, Sections 40-18-24 and 40-18-4, Code of Alabama 1975, and without regard to 1. above. Likewise, Alabama resident partners or members of sub-chapter K entities are entitled to a credit computed in accordance with Section 40-18-21(a), Code of Alabama 1975, for taxes paid by (or on behalf of) the resident partner or member (including composite return and withholding payments) to other states where the sub-chapter K entity does business and is treated as a sub-chapter K entity.

(2)(a) The computation of Alabama ordinary income is determined by combining the items necessary to arrive at federal ordinary business income (loss) and making adjustments for items which are treated differently under Alabama law than the treatment under federal law. These adjustments include, but are not limited to, the following:

1. Related members interest or intangible expenses and costs required to be added back if such expenses were deducted in calculating federal ordinary business income, pursuant to Section 40-18-25(b), Code of Alabama 1975.

2. Other reconciling items required to be added back to federal ordinary business income to arrive at Alabama ordinary income, like Federal depreciation that may be in excess of the allowable depreciation for Alabama purposes. Amounts like these would be required to be added back in determining Alabama ordinary income under Section 40-18-35, Code of Alabama 1975.

3. Expenses not deductible in computing federal ordinary business income due to a taxpayer's election to claim a federal tax credit would be allowed as a deduction on the Alabama return in computing Alabama ordinary income.

4. Other reconciling items allowed to be deducted from federal ordinary business income to arrive at Alabama ordinary income.

(b) Federal Form 1065 and accompanying schedules must be attached to Form 65 when filed.

(c) The return must be signed by one partner or member and the person who prepared the return, and must contain a printed declaration that it is made under the penalties of perjury.

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