

Additional Guidance Concerning Composite Payment Transitional Year Relief

Composite Payment Reduction Election

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March 24, 2010

I. An explanation of the composite payment transition year relief provisions is provided in Alabama Composite Payment Transitional Year Relief, which was issued by the Individual and Corporate Tax Division on February 10, 2010, and which is available on this website.

II. If the Composite Payment Reduction Election is made, and even if the income tax liability shown on the 2009 Alabama Form PTEC for the entity is zero, the 2009 Alabama Form PTEC return must be filed in order for the election to be effective. In the event that making the election results in a zero tax liability for the 2009 Alabama Form PTEC return, caution must be taken to ensure that the return and the election are properly prepared (“forcing” the return to result in a zero income tax liability could result in automated billings and assessments for the full amount of the composite payment).

III. Transitional Year Relief. As a transitional year relief, the Composite Payment Reduction Election allows the subchapter K entity to reduce the composite payment required by Section 40-18-24.2, Code of Alabama 1975, by the amount due on behalf of a nonresident member which makes its required Alabama income tax payments and which files its required Alabama income tax return for the tax year. If the nonresident member files its Alabama income tax return for the applicable tax year, but is not required to make an income tax payment for the applicable tax year (the required Alabama income tax payment for the nonresident member is zero), the subchapter K entity is still allowed to make the Composite Payment Reduction Election for the composite payment due for the nonresident member. Failure by the nonresident member to file an Alabama income tax return for the applicable tax year can invalidate the Composite Payment Reduction Election made by the subchapter K entity concerning the composite payment due for the nonresident member.

IV. Subsequent Tax Year Composite Payment Requirements. The Composite Payment Reduction Election applies only to tax years beginning after December 31, 2008, through December 31, 2009. For subsequent tax years, unless otherwise specifically exempted from the composite payment requirements of Section 40-18-24.2, Code of Alabama 1975, even if the nonresident member is not required to make an income tax payment for the applicable tax year (the required income tax payment for the nonresident member is zero for the applicable tax year), the subchapter K entity will be required to make a composite payment for the nonresident member, in accordance with Section 40-18-24.2, Code of Alabama 1975.