

INSTRUCTIONS FOR THE PREPARATION OF
ALABAMA DEPARTMENT OF REVENUE
Alabama Business Privilege Tax
Initial Privilege Tax Return

2008

Section 40-14A-29, *Code of Alabama 1975*, requires newly organized corporations, limited liability entities, and disregarded entities to file an initial business privilege tax return and to pay the business privilege tax reported on the return, within two and one-half months after organization.

Corporations, limited liability entities, and disregarded entities organized outside of Alabama, but qualifying with the Alabama Secretary of State to do business in Alabama, must file an initial business privilege tax return and pay the business privilege tax reported on the return, within two and one-half months after the date of qualification.

The initial return generally consists of a Form BPT-IN, Initial Privilege Tax Return. An Alabama Schedule AL-CAR, the corporate annual report, is not required for an initial return.

The preparation of the Form BPT-IN differs from an annual return, as follows:

1. Date of Qualification, Incorporation, or Organization. Line 2a of the Form BPT-IN should be the date of incorporation or organization for corporations, limited liability entities, and disregarded entities organized in Alabama. For corporations, limited liability entities, and disregarded entities organized outside the State of Alabama, line 2a should be the date the entities qualified with the Alabama Secretary of State to do business in Alabama or started doing business in Alabama, whichever occurred first.

2. Apportionment Factor. The apportionment factor used on the initial return is based solely on the ratio of property located in Alabama to total property owned by the taxpayer (which includes property located outside of Alabama). The apportionment factor is computed as of the date of organization, if organized in Alabama, or the date the entity qualified with the Alabama Secretary of State, if a foreign entity.

3. Possible Short Taxable Year Proration of Privilege Tax. If the initial return is for a short taxable year (the period of time between the date organized or qualified and the last day of the taxable year is less than one year), the business privilege tax is prorated over the short period. The business privilege tax for a short taxable year will never be less than \$100.

Preparation Instructions

Line 1a through Line 1i – Type of taxpayer (check only one). Indicate the type of taxpayer by checking one of the boxes on line 1a through line 1i.

Line 2a – Date of Qualification, Incorporation, or Organization. Enter the date the entity was incorporated or organized in Alabama. If the entity was organized outside the State of Alabama, enter the date the entity qualified with the Secretary of State to do business in Alabama.

Line 3a – Legal Name of Taxpayer. Enter the legal name of the entity.

Line 3b – FEIN. Enter the Federal Employer Identification Number (FEIN) of the entity. Enter “Applied For” if a FEIN will be assigned to the taxpayer. Enter “Not Required” if a FEIN will not be assigned to the taxpayer. Single member limited liability companies should not use their owner’s FEIN or social security number.

Line 3c – Mailing Address. Enter the taxpayer’s street address.

Line 3d – Secretary of State File/Account Number. Enter the Alabama Secretary of State’s File/Account Number. The file/account number is obtained from the Alabama Secretary of State’s Web site www.sos.alabama.gov or by contacting the Secretary of State’s office at (334) 242-5324.

Line 3e – City. Enter the taxpayer’s city.

Line 3f – State. Enter the taxpayers’ state.

Line 3g – Zip Code. Enter the taxpayer’s 9-digit zip code.

Line 3h – Federal Business Code Number (NAICS). Enter the taxpayer’s federal business code number. This number is the North American Industry Classification System (NAICS) reported on the federal income tax return.

Line 4a – Contact Person Concerning This Form. Enter the name of the person who can answer questions concerning the preparation of this form.

Line 4b – Contact Persons Phone Number. Enter the telephone number of the person who can answer questions concerning the preparation of this form.

Line 5a – County of Incorporation or Organization for All Alabama Entities. Enter the Alabama County of incorporation or organization, if the entity was incorporated or formed in Alabama.

Line 5b – State or Country of Incorporation or Organization for All Foreign Entities. Enter the state or country of incorporation or organization, if the entity was not incorporated or formed in Alabama.

Line 6a – Date of Qualification or Registration in Alabama for Foreign Entities. Enter the date the entity qualified with the Alabama Secretary of State to do business in Alabama.

Line 6b – Date of Incorporation or Organization for All Entities. Enter the date of incorporation or organization.

Line 6c – Date started doing business in Alabama. Enter the date the company started doing business in Alabama.

Line 6d – Telephone Number of Taxpayer. Enter the telephone number of the taxpayer’s primary office.

Line 7a – Name of Registered Agent in Alabama. Enter the name of the registered agent in Alabama. This form cannot be used to change the registered agent of a corporation.

Line 7b – FEIN or Social Security Number. Enter the FEIN or social security number of the registered agent.

Line 7c – Street Address. Enter the street address or mailing address of the registered agent.

Line 7d – City, State, and Zip Code. Enter the city, state and zip code of the registered agent.

Line 8a – Name of Corporate President or Primary Member/ Partner. Enter the name of the current corporate president or primary member/partner.

Line 8b – Social Security Number. Enter the social security number of the current corporate president or primary member/partner.

Line 8c – Street Address. Enter the street address or mailing address of the current corporate president or primary member/partner.

Line 8d – City, State and Zip Code. Enter the city, state, and zip code of the current corporate president or primary member/partner.

Line 9a – Name of Corporate Secretary or Secondary Member/ Partner. Enter the name of the current corporate secretary or secondary member/partner.

Line 9b – Social Security Number. Enter the social security number of the current corporate secretary or secondary member/partner.

Line 9c – Street Address. Enter the street address or mailing address of the current corporate secretary or secondary member/partner.

Line 9d – City, State and Zip Code. Enter the city, state, and zip code of the current corporate secretary or secondary member/partner.

Line 10 – Kind of Business Done in Alabama. Please provide a brief statement of the character of business in which the entity is engaged in the State of Alabama.

Line 11 – Principal Place of Business in Alabama. Please provide the address for the principal place of business in Alabama.

Line 12 – Kind of Business Done Generally. Please provide a brief statement of the general character of business in which the entity is engaged.

Line 13 – Principal Office and Place of Business if Outside the State of Alabama. Please provide the mailing address for the principal place of business, if it is located outside of Alabama.

Line 14 – Privilege tax due (Page 2, Part B, line 21). Enter the amount from page 2, Part B, line 21 (Privilege Tax Due). The Alabama business privilege tax is due, in full, by the original due date of the initial business privilege tax return.

Line 15 – Penalty due. Enter the total amount of the penalty for failure to timely file the return and the penalty for failure to timely pay the tax shown due on the return, as specified in Section 40-2A-11, *Code of Alabama 1975*. The penalty for failure to timely file an Alabama business privilege tax return by the due date is 10% of the tax or \$50, whichever is greater. The penalty for failure to timely pay the amount of tax shown due on an Alabama business privilege tax return equals to 1% of the amount of tax shown due on the return for each month the tax is unpaid – not to exceed 25% of the amount shown due on the return.

Line 16 – Interest due. Enter the amount of interest due on any business privilege tax unpaid as of the original due date of the business privilege tax return. Section 40-1-44(a), *Code of Alabama 1975*, spec-

ifies the interest rate to be used in computing the amount of interest due (Section 40-1-44 references Internal Revenue Code Section 6621 for the interest rates to be used for underpayments).

Line 17 – Total privilege tax due. Add the amounts shown on lines 14, 15, and 16.

Line 18 – Indicate payment type. Check the box if the payment due was made by electronic payment or if the payment was remitted with the payment voucher (Form BPT-V).

How to Make EFT Payments:

ACH Credit Method Payment:

In order to pay the Alabama business privilege tax using EFT (ACH Credit Method Payment), the taxpayer must first be a registered EFT taxpayer. To register for EFT taxpayers must complete the Form EFT: 001, EFT Authorization Agreement Form, and mail or fax it to the Alabama Department of Revenue's EFT Unit. The mailing address and fax number are given at the top of the form. Form EFT: 001 and instructions can be downloaded from the Department's Web site at www.revenue.alabama.gov/eft/eftindex.html.

ACH Debit Method Payment:

The Department of Revenue mails each newly incorporated/organized company a letter with a Sign On ID and Access Code to access the EFT system for ACH debit method payments. For more information or to make a payment refer to the Web site at www.revenue.alabama.gov/eft/eftindex.html.

EFT Unit's Mailing Address

Alabama Department of Revenue
Business Privilege Tax Unit
PO Box 327431
Montgomery, AL 36132-7431

Instructions for Form BPT-IN, Page 2

Line 1a – FEIN. Enter the Federal Employer Identification Number (FEIN) of the entity.

Line 1b – Taxpayer's Name. Enter the legal name of the entity.

Line 1c – Date of Qualification, Organization, or Incorporation. Enter the date of qualification, organization, or incorporation (same as line 2a on page 1 of Form BPT-IN).

Part A – New Worth Computation

I. Corporations & Entities Taxed as Corporations

Line 1. Enter the total amount of the taxpayer's capital stock and paid in capital, but not less than zero. The amount must not be reduced for any treasury stock owned by the corporation.

Line 2. Enter the amount of retained earnings, but not less than zero. Include any amounts designated for the payment of dividends until the amounts are definitely and irrevocably placed to the credit of the stockholders, subject to withdrawal on demand. If the taxpayer does not issue stock or if the taxpayer is either a business trust or a limited liability entity taxed as a corporation for federal tax purposes, enter the book value of the taxpayer's assets and liabilities (assets minus liabilities). The amount entered on line 2 must not be less than zero.

Line 3. Enter the amount of related party debt exceeding the total of the amounts entered on line 1 and line 2, as required by Section 40-14A-23, *Code of Alabama 1975*. This amount will be added to the amounts on line 1 and line 2 in arriving at the taxpayer's net worth. Related parties are defined in Section 40-14A-1, *Code of Alabama 1975*, as any member of a controlled group of corporations as defined by Internal Revenue Code Section 1563. The definition of related parties also includes any limited liability entity that would be a member of a controlled group if rules similar to Section 1563 were applied to limited liability entities. The amount entered on line 3 must not be less than zero.

Line 4. For the determination period, enter the excess amount (the amount in excess of \$500,000 for each shareholder) of compensation or similar amounts paid to (or accrued as a liability to) certain direct or indirect shareholders, as defined in Section 40-14A-23, *Code of Alabama 1975*. This amount will be added to lines 1, 2, and 3, in arriving at the taxpayer's net worth. Section 40-14A-23(f), *Code of Alabama 1975*, should be referred to for a more thorough explanation of this adjustment.

Line 5. For the determination period, enter the excess amount (the amount in excess of \$500,000 for each shareholder) of compensation or similar amounts paid to (or accrued as a liability to) certain direct or indirect shareholders, as defined in Section 40-14A-23, *Code of Alabama 1975*. This amount will be added to lines 1, 2, and 3, in arriving at the taxpayer's net worth. Section 40-14A-23(f), *Code of Alabama 1975*, should be referred to for a more thorough explanation of this adjustment.

Line 6 – Total Net Worth. Enter the sum of lines 1 through 5.

II. Limited Liability Entities (LLEs)

Line 7. Enter the total amount of the partner/member capital accounts, but not less than zero.

Line 8. Enter the excess amount (the amount in excess of \$500,000 for each partner/member) of compensation, distributions or similar amounts paid to (or accrued as a liability to) certain direct or indirect partners/members during the determination period, as defined in Section 40-14A-23, *Code of Alabama 1975*. This amount will be added to the amounts entered on lines 7 and 9, in arriving at the taxpayer's net worth. Section 40-14A-23(f), *Code of Alabama 1975*, should be referred to for a more thorough explanation of this adjustment.

Line 9. Enter the amount of related party debt exceeding the total of the amount entered on line 7, as required by Section 40-14A-23, *Code of Alabama 1975*. This amount will be added to the amount on line 7 in arriving at the taxpayer's net worth. Related parties are defined in Section 40-14A-1, *Code of Alabama 1975*, as any member of a controlled group of corporations as defined by Internal Revenue Code Section 1563. The definition of related parties also includes any limited liability entity that would be a member of a controlled group if rules similar to Section 1563 were applied to limited liability entities.

Line 10 – Total LLE Net Worth. Enter the sum of lines 7 through 9.

III. Disregarded Entities & Business Trusts

Line 11. (Reserved for future use). Please leave the amount field on line 11 blank.

Line 12. If the taxpayer is a disregarded entity that has as its single

member a taxpayer that IS subject to the Alabama business privilege tax, then the disregarded entity pays only the minimum tax. Enter \$100, the amount of the minimum business privilege tax, in Part B, line 21. The form can then be completed from that point, in accordance with the instructions for this form. The name and FEIN of the single member must be provided on line 12, or the form will be considered incomplete. Nothing should be entered in the amount field for line 12.

Line 13 – Disregarded Entity Net Worth Computation. If the taxpayer is a disregarded entity that has as its single member a taxpayer that IS NOT subject to the Alabama business privilege tax, then the disregarded entity must compute its own net worth, and pay the Alabama business privilege tax accordingly. Enter the amount the taxpayer's assets exceed its liabilities, but not less than zero. The name and FEIN of the single member owner must be provided with the return.

Line 14. Enter the amount of related party debt exceeding the amount entered on line 13, as required by Section 40-14A-23, *Code of Alabama 1975*. This amount will be added to the amount on line 13 in arriving at the taxpayer's net worth. Related parties are defined in Section 40-14A-1, *Code of Alabama 1975*, as any member of a controlled group of corporations as defined by Internal Revenue Code Section 1563. The definition of related parties also includes any limited liability entity that would be a member of a controlled group if rules similar to Section 1563 were applied to limited liability entities.

Line 15. Enter the excess amount (the amount in excess of \$500,000 for the owner) of compensation, distributions or similar amounts paid to (or accrued as a liability to) certain direct or indirect owners during the determination period, as defined in Section 40-14A-23, *Code of Alabama 1975*. This amount will be added to the amounts entered on lines 13 and 14, in arriving at the taxpayer's net worth. Section 40-14A-23(f), *Code of Alabama 1975*, should be referred to for a more thorough explanation of this adjustment.

Line 16 – Total Disregarded Entity Net Worth. Enter the sum of lines 13 through 15 and go to Part B, line 1.

Part B – Privilege Tax Exclusions and Deductions:

Exclusions are allowed by Section 40-14A-23 (g), *Code of Alabama 1975*. Attach documentation supporting any exclusion claimed on the return.

Line 1. Enter the Total Net Worth from line 6, 10, or 16, Part A.

Line 2. Enter the total book value amount for the investment the taxpayer has in the equity of other taxpayers doing business in Alabama. Attach a listing providing for each separate investment, the name of the taxpayer, the taxpayer's FEIN, the taxpayer's address and the book value of the investment. This exclusion is not available for the book value of security (as defined in Internal Revenue Code Section 1236) held by a dealer in securities (as referred to in Internal Revenue Code Section 1236) primarily for sale to customers in the ordinary course of its trade or business.

Line 3. This exclusion is only available to financial institutions. Financial institutions should enter the total book value amount for the investment the financial institution taxpayer has in the equity of other entities not doing business in Alabama. The financial institution taxpayer must have an ownership percentage in the other entity of more than 50%. Section 40-14A-23(g), *Code of Alabama 1975*, provides addi-

tional information concerning the exclusion. Attach a listing providing for each separate investment, the name of the entity, the entity's FEIN, the entity's address, and the book value of the investment. The return will not be considered complete without the listing.

Line 4. Enter the amount reported on the taxpayer's balance sheet for the unamortized portion of goodwill and core deposit intangibles that resulted from a direct purchase of another corporation or limited liability entity. For goodwill, attach a listing showing for each direct purchase the goodwill originally acquired, the date the direct purchase occurred, accumulated amortization, the name and location of the business acquired, and the name and FEIN of the entity that acquired the business and goodwill.

Line 5. Enter the amount reported on the taxpayer's balance sheet for the unamortized portion of post-retirement benefits, which the taxpayer elected to amortize under Financial Accounting Standards Board (FASB) Statement Number 106, Employers' Accounting for Postretirement Benefits Other Than Pensions. The statement was issued in December 1990, and focuses principally on postretirement health care benefits.

Line 6. This exclusion is only available to financial institutions. Financial institutions should enter the total amount that the net worth (computed in accordance with lines 1 through 5, above) exceeds 6% of the total assets of the financial institution taxpayer. Attach a computation of the amount claimed as this exclusion.

Line 7 – Total Exclusions. Enter the total of lines 2 through 6.

Net Worth Apportionment

Line 8 – Net Worth Subject to Apportionment. Enter the difference in line 1 (Total Net Worth) and line 7 (Total Exclusions).

Line 9 – Alabama Property Factor as of the date of organization, incorporation, or qualification. Initial Alabama business privilege tax returns require an apportionment factor. The computation of the apportionment factor for an initial return is to be performed as of the opening of business of the first day the taxpayer is incorporated, formed, organized (if a domestic entity) or registered with the Alabama Secretary of State to do business in Alabama (if a foreign entity). Since usually at that point, a business has no sales or payroll information, the ratio of Alabama property to total property should be used as the apportionment factor for initial returns. Section 40-14A-24(a), **Code of Alabama 1975**, establishes the net worth apportionment requirements for the Alabama business privilege tax.

Line 10 – Total Alabama Net Worth. Multiply line 8 (Net Worth Subject to Apportionment) by line 9 (Apportionment Factor).

Deductions

Deductions are allowed by Section 40-14A-24(b), **Code of Alabama 1975**. Attach documentation supporting any deduction claimed on the return.

Line 11. Enter the net amount invested in bonds and securities issued by the State of Alabama, or its political subdivisions, prior to January 1, 2000. "Net amount invested" means the cash, including any premium and net of any discount, paid as the purchase price for the bond or other security, less the amount of any premium amortized and plus the amount of any discount accreted, reduced by the proportionate amount of principal on the bond or other security that is amortized or

otherwise paid or retired. The taxpayer must attach a schedule listing the details of the deduction. For each bond or security, the listing should provide the net amount invested, the issuing agency, issuance date, and how the investment is reported on the taxpayer's balance sheet. This deduction is not available to dealers in securities (those subject to the requirements of Internal Revenue Code Section 1236) for the book value of bonds and securities held by the dealer primarily for sale to customers in the ordinary course of its trade or business.

Line 12. Enter the net amount invested in, or book value from the taxpayer's balance sheet, for all devices, facilities, or structures, and all identifiable components or materials for use therein, that are located in Alabama and are acquired or constructed primarily for the control, reduction, or elimination of air, ground, or water pollution or radiological hazards where such pollution or radiological hazards result from or would be caused by the taxpayer's activities in Alabama.

Line 13. Enter the amount reported on the taxpayer's balance sheet for the balance of any reserve, account, or trust reasonably determined to satisfy any liability that is imposed by federal, state, or local government laws or regulations for reclamation, storage, disposal, decontamination, retirement, or other related costs associated with a plant, facility, mine, or site in Alabama. Attach documentation identifying the applicable law or regulation that establishes taxpayer's liability, as well as a computation of the liability. The documentation must also identify the location of the plant, facility, mine or site in Alabama.

Line 14. Enter the total amount reported on the taxpayer's balance sheet as the book value of the taxpayer's investment in low-income, residential real estate projects that qualify for federal or state income tax credits, loans or grants. See Section 40-14A-24(b)(7) **Code of Alabama 1975**. The taxpayer must attach a listing showing the details of the deduction. For each separate low-income housing project, the attached documentation must identify the name of the project, the FEIN of the project, the site of the project, and the net amount invested in the project. The documentation must also identify how the investments are reported on the taxpayer's balance sheet. If this deduction is taken, the return will not be considered complete without the listing.

Line 15. S-corporations, LLEs and disregarded entities enter 30% of the Alabama taxable income for the determination period. This deduction is allowed by Section 40-14A-24(b)(8) and (9), **Code of Alabama 1975**. Taxable income is to include income passed through to the shareholders and members. Taxable income for an S-corporation, other than a qualified subchapter S subsidiary, is the amount taken into account by its owners pursuant to Internal Revenue Code Section 1366. Taxable income for an LLE is the amount taken into account by its owners pursuant to Internal Revenue Code Section 702. Taxable income for a disregarded entity is the amount taken into account by the owner pursuant to Internal Revenue Code Section 61 or 1361. Taxable income shall be apportioned and allocated to Alabama in accordance with Alabama income tax law (Title 40, Chapter 18, **Code of Alabama 1975**) or Alabama financial institutions excise tax law (Title 40, Chapter 16, **Code of Alabama 1975**).

Line 16 – Total Deductions. Enter the total of lines 11 through 15.

Line 17 – Taxable Alabama Net Worth. Enter the difference between line 10 (Total Alabama Net Worth) and Line 16 (Total Deductions).

Line 18a – Federal Taxable Income. Enter the federal taxable income for the determination period.

Federal Taxable Income for C-Corporations. The tax rate used to compute the business privilege tax is based upon the taxpayer's federal taxable income, as required by Section 40-14A-22, *Code of Alabama 1975*. C-corporations are to use their federal taxable income before net operating losses and special deductions for the federal taxable income columns of the tax rate table, shown below. The federal taxable income shall be apportioned in accordance with Chapter 27, Title 40, *Code of Alabama 1975*. The deduction for federal income tax is not allowed in computing the federal taxable income amount. C-corporations filing as members of an Alabama affiliated group must determine federal taxable income on a separate company basis.

Federal Taxable Income for S-Corporations. The federal taxable income to be used by S-corporations to determine the tax rate for the Alabama business privilege tax shall be the federal ordinary income or (loss) from trade or business activities plus any items of income or applicable deductions passed through to the shareholders that were determined pursuant to Internal Revenue Code Section 1366. The income shall be apportioned in accordance with Chapter 27, Title 40 Code of Alabama 1975, and the accompanying rules. Deductions shall not be allowed for the federal income tax or any federal or Alabama net operating loss in computing the federal taxable income for purposes of determining the business privilege tax rate.

Federal Taxable Income for LLEs. The federal taxable income to be used by LLEs to determine the tax rate for the Alabama business privilege tax shall be the federal ordinary income or (loss) from trade or business activities adjusted by any items of income or expenses passed through to the members or partners that were determined pursuant to Internal Revenue Code Section 702. The income shall be apportioned in accordance with Chapter 27, Title 40, *Code of Alabama 1975*, and the accompanying rules.

Federal Taxable Income for Disregarded Entities. The federal taxable income to be used by Disregarded Entities to determine the tax rate for the Alabama business privilege tax shall be the federal ordinary income or (loss) from trade or business activities adjusted by any items of income or expenses, determined pursuant to Internal Revenue Code Section 61. This income shall be apportioned in accordance with Chapter

27, Title 40, *Code of Alabama 1975*, and the accompanying rules.

Line 18b – Tax Rate. The number on line 18b should be .00025.

Line 19 – Gross Privilege Tax Calculated. Multiply line 17 (Taxable Alabama Net Worth) by line 18b (Tax Rate).

Example:

Line 17 – Taxable Alabama Net Worth	\$1,000,000
Line 18b – Tax Rate00025
Line 19 – Gross Privilege Tax Calculated	\$ 250

Line 20 – Ratio of Days Remaining in the Calendar Year Divided by 365. Enter the ratio of the number of days remaining in the calendar year or, if different, the number of days remaining in the taxpayer's taxable year, to 365. This ratio will allow the business privilege tax to be prorated to the short taxable year.

Line 21 – Privilege Tax Due. Multiply line 19 (Gross Tax Due) by line 20 (Ratio of Days Remaining in Taxable Year), but not less than \$100, the minimum amount of the tax.

This amount is also entered on page 1 of Form BPT-IN on line 14 (Privilege Tax Due).

See the following concerning the minimum and maximum amounts for the tax.

Maximum Privilege Tax:

S-corporations, LLEs, and disregarded entities have a \$15,000 maximum levy for the Alabama Business Privilege Tax. See Section 40-14A-22(d), *Code of Alabama 1975*.

LLEs meeting the definition of "electing family limited liability entity" as stated in Section 40-14A-1, *Code of Alabama 1975*, have a maximum levy for the Alabama Business Privilege Tax of \$500.

Minimum Privilege Tax:

Section 40-14A-22(c), *Code of Alabama 1975*, establishes a minimum business privilege tax levy of \$100 for S-corporations, LLEs, and disregarded entities – even for business privilege tax years that are short years.