

ALABAMA DEPARTMENT OF REVENUE
INDIVIDUAL AND CORPORATE TAX DIVISION

TY2008
Form Preparation Instructions for:

- Alabama Form 41
Fiduciary Income Tax Return
- Alabama Schedule K-1 (for Form 41)
Fiduciary Income Tax Beneficiary Information
- Alabama Form NOL-F85 (Form 41)
Computation of Net Operation Loss –
Fiduciary Return
- Alabama Form NOL-F85A (Form 41)
Application of Net Operating Loss Carryback
and Carryforward – Fiduciary Return

September 2008

INTERNET AVAILABILITY OF LAWS, REGULATIONS, AND FORMS. The Alabama Department of Revenue's Web site (www.revenue.alabama.gov) provides additional information concerning Alabama income tax laws and regulations which apply to estates and trusts. Current and prior year forms and instructions, as well as frequently asked questions, are also available on the Web site.

Alabama Form 41

GENERAL INSTRUCTIONS

What is the Purpose of the Alabama Form 41, Fiduciary Income Tax Return? Section 40-18-2, *Code of Alabama 1975*, imposes an income tax on estates and trusts. The Alabama Form 41 is used to report the gross income of estates and trusts in addition to reporting the deductions, exemptions and credits allowed estates and trusts by Alabama income tax law in determining the Alabama taxable income of the estates and trusts.

Alabama Income Tax Law Concerning Estates and Trusts. Available on the Alabama Department of Revenue's web site are the Alabama tax laws, including the following concerning estates and trusts:

Section 40-18-25, *Code of Alabama 1975*, Estates and Trusts

Section 40-18-25.1, *Code of Alabama 1975*

Section 40-18-29, *Code of Alabama 1975*, Fiduciary Returns

Recent Change in Alabama Income Tax Law concerning Estates and Trusts. Act Number 2006-114, the Subchapter J and Business Trust Conformity Act, was passed by the Alabama Legislature during 2006, and was retroactively effective for tax years beginning after December 31, 2004. The act amended Sections 40-18-1, 40-18-2, 40-18-22, and 40-18-25, *Code of Alabama 1975*, and added new Sections 40-16-1.1 (concerning financial institutions) and 40-18-25.1 (concerning tax exempt trusts) to the *Code of Alabama 1975*, to conform Alabama law to the federal income tax rules for the taxation of trusts, estates, and their beneficiaries; to conform Alabama law to the federal tax classification of business trusts; to provide for a definition of resident trust; to provide for transition rules; and, to allow the Department of Revenue to promulgate rules interpreting the act.

Who Must File an Alabama Form 41? The annual return filing requirement for the Alabama Form 41 is established by Section 40-18-29(a), *Code of Alabama 1975*, which states:

"... Every fiduciary, except receivers appointed by authority of law in possession of part only of the property of a taxpayer, shall make a return for the taxpayer for whom he acts, first, if the net income of such taxpayer is \$1,500 or over, if single or if married and not living with husband or wife, or \$3,000 or over, if married and living with husband or wife, or second, if the net income of such taxpayer, if an estate or trust, is \$1,500 or over, or if any beneficiary is a taxpayer other than a resident of the state, which returns shall state specifically the items of the gross income and the deductions, exemptions and credits allowed by this chapter under such regulations as the Department of Revenue may prescribe, a return made by one or two or more joint fiduciaries and filed in the office of the Department of Revenue shall be a sufficient compliance with the above requirement. The fiduciary shall certify that he has sufficient knowledge of the affairs of such individual, estate or trust to enable him to make the return, and that the same is, to the best of his knowledge and belief, true and correct. Except as herein provided and as provided in Section 40-18-42, fiduciaries required to make returns under this chapter shall be subject

to all provisions of this chapter which apply to taxpayers..."

Due Date for the Alabama Form 41. Calendar year returns are due on or before the 15th day of April following the close of the calendar year. Fiscal year returns are due on or before the 15th day of the fourth month following the close of the fiscal year. If the due date falls on a Saturday, Sunday, or holiday, the return is due on the following business day.

Mailing Address for the Alabama Form 41.

Mail returns with payments to:

Alabama Department of Revenue
Individual and Corporate Tax Division
Alabama Form 41
P. O. Box 327444
Montgomery, AL 36132-7444

Make check or money order payable to Alabama Department of Revenue and enclose Form FDT-V when payment is mailed.

Returns without payments must be mailed to:

Alabama Department of Revenue
Individual and Corporate Tax Division
Alabama Form 41
P. O. Box 327440
Montgomery, AL 36132-7440

Extension. A five month extension of time for filing Form 41 will be granted automatically. However, the extension of time for filing the return is **not** an extension of time for payment of tax. The amount of tax due must be paid on or before the original due date of the return without considering the extension of time to file the return.

Estimates. Estimate payments are not required by Alabama law. Voluntary estimated payments can be submitted with Form FDT-V.

Required Attachments. To be considered a complete return, the Alabama Fiduciary Income Tax Return must have attached a complete copy of the federal Form 1041, U.S. Income Tax Return for Estates and Trusts, with all federal K-1s, all statements and all attachments. Failure to attach a copy of the federal Form 1041 will constitute improper preparation subjecting the return to treatment as a delinquent return. Voluminous depreciation and like schedules may be omitted; however, a list of all omitted schedules must be attached and must be provided if requested. In addition, for the Alabama Form 41 to be considered a complete return, a properly completed Alabama Schedule K-1 must be attached for each person or tax entity that was a beneficiary at any time during the taxable year.

Resident Estates and Trusts. Resident estates and trusts are defined in §40-18-1, *Code of Alabama 1975*, as follows:

"... (20) RESIDENT ESTATE. The estate of any person who was a resident of Alabama at the time of his or her death.

(21) RESIDENT TRUST. A trust is a resident trust for a taxable year if it is a trust which meets both a. and b.:

a. The trust is created by the will of a decedent who was an Alabama resident at death or by a person who was an Alabama

resident at the time such trust became irrevocable; and

b. For more than seven months during such taxable year, a person, as defined in this section, who either resides in or is domiciled in Alabama is either a fiduciary of the trust or a beneficiary of the trust to whom distributions currently may be made....”

Resident estates and trusts must report all income from all sources, but are allowed a credit for taxes paid to other states. Resident estates and trusts are not required to determine Alabama source income, unless a beneficiary or owner is a non-resident.

Resident Beneficiaries and Owners. Resident beneficiaries and owners report all income from all sources, and are allowed a credit for taxes paid to other states.

Nonresident Estates and Trusts. Nonresident estates and trusts are defined in §40-18-1, *Code of Alabama 1975*, which states:

“... (13) NONRESIDENT ESTATE. An estate other than a resident estate of this state.

(14) NONRESIDENT TRUST. A trust other than a resident trust of this state...”

Nonresident estates and trusts must report Alabama source income in accordance with §40-18-14, *Code of Alabama 1975*, see below. Nonresident estates and trust are allowed deductions in computing Alabama taxable income in accordance with §40-18-15, *Code of Alabama 1975*.

§40-18-14, Code of Alabama 1975, in referring to the term gross income for nonresident individuals, states:

“... The term “gross income,” in the case of a resident individual, includes income from sources within and outside Alabama, and in the case of a nonresident individual, includes only income from property owned or business transacted in Alabama...”

Nonresident estates or trusts must report as Alabama source income on Form 41 (Schedule C – Computation of Alabama Adjusted Total Income) income from property owned or business transacted in Alabama. An explanation for the difference in the federal amount of income and the Alabama amount of income must be clearly provided for each source of income. Any non-Alabama source income must be boldly disclosed as an Alabama adjustment arriving at Alabama income.

Requirement for Nonresident Estates and Trusts to Allocate Certain Deductions. Certain deductions are required by §40-18-15(e), *Code of Alabama 1975*, to be specially allocated by nonresident estates and trusts. Those deductions concern: federal income tax, estate tax, other taxes, interest, charitable contributions, certain casualty and theft losses, and certain other deductions as explained in §40-18-15(e), *Code of Alabama 1975*. Also, the income distribution deduction claimed by the nonresident estate or trust represents Alabama source income to the nonresident beneficiaries or owners of the non-resident estate or trust. The determination of Alabama source income for an amount paid or credited to a beneficiary or owner must be accomplished in order to complete the Alabama

Schedule K-1 for a nonresident beneficiary or owner.

Nonresident Beneficiaries. Nonresident beneficiaries and owners must report as Alabama source income the beneficiary or owner’s share of the amount paid or deemed to have been paid by the estate or trust to the beneficiary or owner and claimed by the estate or trust as an income distribution deduction (in accordance with 26 U.S.C. §§651 or 661), in the computation of the estate or trust’s Alabama taxable income. The income reported by nonresident beneficiaries and owners is limited in accordance with §40-18-14, *Code of Alabama 1975*, and the deductions allowed in computing Alabama taxable income are limited in accordance with §40-18-15, *Code of Alabama 1975*. Both resident and nonresident estates and trusts must compute the amount of Alabama source income included in the income distribution deduction for a tax year, when the estate or trust has a nonresident beneficiary or owner.

Grantor Trust Returns – Alabama Grantor Trust Reporting Requirements. Grantor trusts, as described in 26 U.S.C. § 671, have an Alabama return filing requirement specified by §§40-18-25 (g) and 40-18-29, *Code of Alabama 1975*.

Grantor trusts, as described in 26 U.S.C. §671, allowed to use the simplified filing methods specified in U.S. Treasury Department Regulation §1.671-4(b) and which comply with the simplified filing methods of the regulation, are deemed to have complied with the filing requirements of §§40-18-25(g) and 40-18-29, *Code of Alabama 1975*.

Grantor trusts, as described in 26 U.S.C. §671, required to comply with U.S. Treasury Department Regulation §1.671-4(a) must file returns as prescribed by the Alabama Department of Revenue in accordance with §40-18-29, *Code of Alabama 1975*. Those returns will be prepared as follows:

1. The upper part of Page 1 of the Alabama Form 41 will be completed, providing the information requested concerning the grantor trust. Page 1 of the Alabama Form 41 in addition to each Alabama Schedule K-1 must indicate the trust is a grantor trust.
2. Zeroes will be entered on Page 1, Line 1 (Alabama Adjusted Total Income).
3. Zeroes will be entered on Page 1, Line 5 (Alabama Taxable Income).
4. Zeroes will be entered on Page 1, Line 6 (Total Income Due).
5. Zeroes will be entered on Page 2, Schedule B, Line 16 (Alabama Income Distribution Deduction).
6. The total amount of income for the grantor trust must be entered on Page 4, Schedule K, Line 10a (Grantor Trust Income). A supporting document will be provided disclosing the items included in the amount entered on Line 10a.
7. The total amount of deductions for the grantor trust must be entered on Page 4, Schedule K, Line 10b (Grantor Trust Deductions). A supporting document will be provided disclosing the items included in the amount entered on Line 10b.
8. The net amount of income or (loss) for the grantor trust must be entered on Page 4, Schedule K, Line 10c (Net Grantor

Trust Income). A supporting document will be provided showing the computation of the amount entered on Line 10c.

9. Part I and Part II of the Alabama Schedule K-1 must be completed, indicating that the return is for a grantor trust. Only Line 10a (Grantor Trust Income), Line 10b (Grantor Trust Deduction), and Line 10c (Net Grantor Trust Income) of Part III will be completed.

Special Instructions for CRATs and CRUTs

When completing a Form 41 for a CRAT or CRUT, the return should be completed using the standard instructions down to Line 5 of Page 1. Line 6 should then be completed by entering 0 and checking "alternate tax method."

Alabama Form 41 RETURN PREPARATION INSTRUCTIONS

Page 1 – Taxpayer and Tax Return Information. Please provide the information requested as instructed by the upper portion of the form.

Note: Do not use the Employer Identification Number of the accounting firm, the trustee, the attorney's firm, or of an interest payor.

Page 1 – Computation of Alabama Taxable Income and Net Tax Due.

Line 1 - Alabama Adjusted Total Income or (Loss). Enter the amount from Page 3, Schedule C, Line 18c, Column C (Alabama Amount).

SPECIAL DEDUCTIONS AVAILABLE TO TRUSTS.

Line 2 – Alabama Income Distribution Deduction. Enter the amount from Page 2, Schedule B, Line 16. The amount entered on Line 2 is the amount of income distributed to or distributable to the beneficiaries during the tax year, in accordance with Section 40-18-25(a), *Code of Alabama 1975*. The Alabama income distribution deduction is generally computed in accordance with 26 U.S.C. §§651 and 661, including any limitations, using amounts determined in accordance with Title 40, Chapter 18, *Code of Alabama 1975*.

Line 3 – Exemption Allowed the Estate or Trust by Section 40-18-19. The personal exemption allowed estates or trusts in computing Alabama taxable income is \$1,500, the amount allowed a single individual under Section 40-18-19, *Code of Alabama 1975*. Nonresident estates or trusts receiving income or conducting a business in Alabama and another state or states must allocate the personal exemption in accordance with 40-18-19, *Code of Alabama 1975*.

Line 4 – Total of Special Trust Deductions. Enter the sum of Lines 2 and 3.

Line 5 – Alabama Taxable Income. Enter on Line 5 the amount that results from subtracting Line 4 (Total of Special Trust Deductions) from Line 1 (Alabama Adjusted Total Income or (Loss)).

Lines 6 – Total Income Tax Due. Using the worksheet below enter the amount of taxable income subject to the different tax rates and the amount of tax for each tax rate. Enter on Line 6 the

total income tax due. The different tax rates are established by §40-18-5, *Code of Alabama 1975*.

TAX COMPUTATION WORKSHEET

\$ _____	at 2% (on first \$500, or fraction thereof, of AL Taxable Income)	_____
\$ _____	at 4% (on next \$2500, or fraction thereof, of AL Taxable Income)	_____
\$ _____	at 5% (on all over \$3000 of AL Taxable Income)	_____
Total Income Tax Due		_____

If you are using an alternate tax computation, such as with an ESBT, NOL, or CRAT/CRUT, indicate by checking the box. Attach computation schedule.

Line 7a – Credits – Income Tax Paid to Other States. In accordance with §40-18-25(e), resident estates and trusts are allowed a credit for taxes paid to another state, for tax years beginning after December 31, 2004, if the resident estate or trust conducts a trade or business both in Alabama and in one or more other states or territories. The resident estate or trust is entitled to apply the credit to the Alabama income tax liability for the amount of income tax actually paid to another state or territory on income earned from the conduct of the trade or business in the other states or territories. The credit shall be computed in accordance with, and applying the limitations of, §40-18-21, *Code of Alabama 1975*.

Line 7b – Credits – Capital Credit. Enter the amount of capital credit the estate or trust is entitled to in accordance with, and as limited by, §§40-18-190 through 40-18-203, *Code of Alabama 1975*. For further information regarding the capital credit and the necessary forms to claim the capital credit, visit the Alabama Department of Revenue's Web site at www.revenue.alabama.gov under the Tax Incentives Page, or contact the Department at P.O. Box 327001, Montgomery, AL 36132-7001 or 334-242-1175.

Line 7c – Credits – Amount Paid on or before due date (Automatic Extension Payments). Enter any amount paid on or before the due date of the return.

Line 7d – Credits – Composite Payments. Enter the amount paid on behalf of the taxpayer on Alabama Form PTE-C (Non-resident Composite Payment Return). Also provide on Line 8d the payer and the payer's federal employer identification number. Attach a schedule showing the payments, payers, and payer's federal employer identification number, if more than one composite payment has been made for the taxpayer.

Line 8 – Total Credits. Enter the sum of the amounts entered on Lines 7a, 7b, 7c, and 7d.

Line 9 – Net Tax Due/(Refund). Subtract Line 8 from Line 6 and enter the difference on Line 9. If Line 6 is larger than Line 8, enter, as a positive number, the amount of tax due. If Line 8 is larger than Line 6, enter, as a negative number, the amount to be refunded.

Line 10a – Interest. Enter the amount of interest due on the balance of tax due. This is to be computed from the due date

(without extension) of this return to the date paid. The Alabama interest rate is the same as provided in 26 U.S.C. §6621.

Line 10b – Penalties. If this return is not filed before the due date (with extension), enter a failure to timely file penalty of 10% of the tax due on Line 9 or \$50, whichever is greater. This penalty is due even if the return indicates a refund or zero balance. Tax amounts not paid by the due date will be subject to a failure to timely pay penalty of 1% per month up to a maximum of 25%.

Line 10c – Total Reductions. Enter the total of Lines 10a and 10b.

Line 11 – Total Amount Due/(Refund). Enter the sum of Lines 10d and 9.

If amount owed, **FORM FDT-V MUST ACCOMPANY PAYMENT.** If payment has been made via electronic funds please check the indicator box.

Schedule A – Alabama Charitable Deduction.

Line 1. Enter the total amount included in gross income for the tax year that was paid for charitable purposes or permanently set aside for charitable purposes, in accordance with 26 U.S.C. §642(c). Do not include any capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes – enter those amounts on Line 4.

Line 2. Enter the amount of Alabama tax exempt income received by the estate or trust during the tax year which is allocable to the amount entered on Line 1. Unless specified otherwise in the governing instrument of the trust the amount on Line 2 is computed by multiplying the amount on Line 1 by a fraction, the numerator of which is the total tax-exempt income of the estate or trust, and the denominator is the gross income of the estate or trust. Do not include in the denominator any losses allocated to corpus.

Line 3. Subtract the amount on Line 2 from the amount on Line 1, and enter the difference on Line 3.

Line 4. Enter the amount of capital gains for the tax year which are allocated to corpus and paid or permanently set aside for charitable purposes.

Line 5 – Alabama Charitable Deduction. Add the amount on Line 4 to the amount on Line 3, and enter the sum on Line 5. Enter the amount on Line 5 also on Page 3, Schedule C, Line 13, Column C.

Schedule B – Computation of Alabama Income Distribution Deduction.

Lines 1 through 7 compute Alabama Distributable Net Income (DNI). Alabama DNI serves the same purpose as the federal DNI. Alabama DNI, adjusted for items not included in the gross income of the estate or trust in accordance with 26 U.S.C. §§651 and 661, limits the amount of deduction an estate or trust may claim for distributions to beneficiaries. Alabama DNI may also limit the amount of Alabama income a beneficiary or trust owner must report.

Line 1 – Alabama Adjusted Total Income or (Loss). Enter the amount from Page 1, Line 1.

Line 2 – Gain from the Sale of Capital Assets. Enter the amount of gain from the sale of capital assets, only if the gain was allocated to corpus and was not paid, credited, or required to be distributed to any beneficiary or owner during the taxable year, or was not included in the amount entered on Schedule A, Line 4 (the amount of capital gains for the tax year which are allocated to corpus and paid or permanently set aside for charitable purposes).

Line 3. Subtract the amount entered in Line 2 from the amount entered in Line 1, and enter the difference in Line 3.

Line 4 – Loss from the Sale of Capital Assets. Enter, as a positive amount, the amount of loss from the sale of capital assets, only if the loss was not considered in the determination of the amount to be paid, credited, or required to be distributed to any beneficiary or owner during the taxable year.

Line 5 – Amount of Tax Exempt Interest. Enter the amount of tax exempt interest excluded in computing Alabama taxable income for the estate or trust, reduced by the amount entered on Schedule A, Line 2.

Line 6 – Other Adjustments. Enter other adjustments not addressed by Lines 2, 4, or 5, above. Enter adjustments that would increase the Alabama Distributable Net Income as a positive amount. Enter adjustments that would decrease the Alabama Distributable Net Income as a negative amount. Please attach a complete explanation for each of the adjustments entered in Line 6.

Line 7 – Alabama Distributable Net Income. Enter the sum of Line 3 through 6.

The computations of Lines 8 through 16 of Schedule B adjust Alabama DNI and compute certain limits for the Alabama Income Distribution Deduction. The Alabama Income Distribution Deduction is generally computed in accordance with 26 U.S.C. §§651 and 661.

Line 8. This line applies to complex trusts only. Enter the accounting income of the trust for the tax year determined under the terms of the governing instrument, applicable local law, and Alabama income tax law.

Line 9. This line applies to simple and complex trusts. Enter the amount of income required to be distributed currently, whether distributed or not.

Line 10. This line applies to only decedent's estates or complex trusts. These distributions consist of any other amounts paid, credited, or required to be distributed and are referred to as second tier distributions.

Line 11 – Total Distributions. Enter the sum of Lines 9 and 10.

Line 12. Enter the amount of Alabama tax-exempt income included on Line 11 (Total Distributions).

Line 13 – Tentative Income Distribution Deduction. Subtract the amount on Line 12 (Alabama tax-exempt income included in total distributions) from the amount on Line 11 (Total Distributions).

Line 14 – Tentative Income Distribution Deduction. Sub-

tract the amount on Line 5 (Amount of Tax Exempt Interest Income Excluded in Computing Alabama Taxable Income) from the amount on Line 7 (Alabama DNI). Enter zero if equal to zero or less.

Line 15 – Special Alabama Income Distribution Deduction – Applicability and Restrictions. The Special Alabama Income Distribution Deduction applies only to estates or trusts in a tax year other than the final year for a trust, during which the estate or trust incurred a net Alabama capital loss from the sale of capital assets owned by the trust which was allocated to trust corpus, and for such tax year the estate or trust has a negative Alabama taxable income using the lesser of the tentative income distribution deductions computed on Lines 13 and 14.

The Special Alabama Income Distribution Deduction is used rather than the tentative income distribution deductions computed on Lines 13 and 14. The special deduction is equal in amount to the amount entered on Page 1, Line 1 (Alabama Adjusted Total Income), but cannot be less than zero.

The Special Alabama Income Distribution Deduction Limitation is restricted in that:

1. The use of the Special Alabama Income Distribution Deduction cannot cause the Alabama Taxable Income of the estate or trust to be more than zero, and
2. The amount of the Special Alabama Income Distribution Deduction cannot be lower than the lesser of the amounts on Lines 13 and 14 reduced by the amount of the net Alabama capital loss allocated to trust corpus for the tax year (stated as a positive number).

Line 16 – Alabama Income Distribution Deduction. Enter the smallest of the amounts entered on Lines 13, 14, or, if applicable, Line 15, but not less than zero.

Schedule C – Computation of Alabama Adjusted Total Income.

Lines 1 through 8 – For the income items identified by the line titles:

– Enter in Column A the amount of income reported on the federal Form 1041 return.

– Enter in Column B the amount the income reported in Column A must be adjusted to result in the income reported in Column C. Increases should be indicated as a positive amount, and decreases should be shown as a negative amount.

– Enter in Column C the amount of income to be reported in accordance with Alabama income tax law.

Net Alabama Capital Gain or (Loss). Line 4, Column C, must equal the net Alabama capital gain or (loss) for the tax year, computed in accordance with §§40-18-6, 7, and 8, *Code of Alabama 1975*. Please provide a complete explanation and computation for the total amount of gains and losses reported on this line – specifically identify those amounts not allocated to trust corpus. Summaries of the transactions can be provided if a complete listing of the transactions would result in a large and bulky attachment – but the complete listings must be promptly provided if requested in writing by the Alabama Department of Revenue.

Non-Alabama Source Income. Nonresident estates or trusts must report as Alabama source income that income earned from property owned or business transacted in Alabama. An explanation for the difference in the federal amount of income and the Alabama amount of income must be clearly provided for each source of income. Any non-Alabama source income must be boldly disclosed as an Alabama adjustment arriving at the proper amount of Alabama income.

Line 9 – Total Income. Enter in each column the sum of the amounts entered in Lines 1 through 8.

Lines 10 through 16 – For the deduction items identified by the line titles:

– Enter in Column A the amount of deduction claimed on the federal Form 1041 return.

– Enter in Column B the amount the deduction claimed in Column A must be adjusted to result in the deduction claimed in Column C. Increases should be indicated as a positive amount, and decreases should be shown as a negative amount.

– Enter in Column C the amount of deduction allowed in accordance with Alabama income tax law.

Line 17 – Total Ordinary Deductions. Enter in each column the sum of the amounts entered in Lines 10 through 16.

Federal Estate Tax and Federal Income Tax. Include in the amount entered on Line 11, the deduction for federal estate tax and federal income tax, and provide supporting documentation disclosing the amount of each of those federal taxes that are included in Line 11. Federal income tax must be deducted in accordance with §40-18-15, *Code of Alabama 1975*, and Alabama Income Tax Regulation Number 810-3-15-.20, *Federal Income Tax Deduction – Individuals*. Generally, individuals, and estates and trusts, must report the federal income tax deduction on the accrual basis.

Alabama Adjusted Gross Income. Line 16 (Allowable Miscellaneous Itemized Deductions Subject to the 2% floor) refers to a 2% of Adjusted Gross Income (AGI) floor. AGI for federal income tax purposes may differ from the Alabama AGI. Alabama Adjusted Gross Income is computed by subtracting from Schedule C, Line 9, Column C (Total Income – Alabama Amount):

1. The administration costs of the estate or trust included in Schedule C, Lines 12, 14, and 15, Column C;
2. The Alabama Income Distribution Deduction (Page 1, Line 2);
3. The Exemption Allowed the Estate or Trust (Page 1, Line 3); and,
4. The Alabama Net Operating Loss Deduction.

If Alabama AGI is less than zero, use zero in any computations where Alabama AGI is required.

Line 18a – Federal Adjusted Total Income. Subtract the amount entered in Line 17, Column A, (Total Ordinary Deductions) from Line 9, Column A (Total Income). The amount entered on Line 18a must agree with the amount entered on Page 1, Line 17, of the federal Form 1041 filed for the estate or trust.

Line 18b – Net Alabama Adjustments. Enter the net effect the Alabama adjustments have on the Federal Adjusted Total Income shown on Line 18a. Adjustments resulting in an increase in Total Income would be reflected in the amount shown on Line 18b as a positive amount, and adjustments resulting in an increase in Total Ordinary Deductions would be reflected in the amount shown on Line 18b as a negative amount.

Line 18c – Alabama Adjusted Total Income. Subtract the amount entered in Line 17, Column C, (Total Ordinary Deductions) from Line 9, Column C (Total Income). The amount entered on Line 18c must agree with the amount entered on Page 1, Line 1, of the Alabama Form 41 filed for the estate or trust. The amount on Line 18c must equal the difference in Line 18a and Line 18b.

Line 19 – Tax Exempt Income. Please provide the requested information concerning tax exempt income. Column C must equal the amount of tax exempt income in accordance with Alabama income tax law. Please also provide a complete explanation for the items reported on this line.

Schedule C – Possible Reasons for an Alabama Adjustment. The differences in federal income tax law and Alabama income tax law are numerous, and can change with the passage of federal or Alabama tax legislation. The following items are some of the reasons that an Alabama Adjustment might be in completing Schedule C of the Alabama Form 41. This is not intended to be a complete list of the differences that would create a need for an Alabama Adjustment.

Section 40-18-1.1, *Code of Alabama 1975*. Although Internal Revenue Code Subchapter J has been adopted by Alabama income tax law, the computations of Subchapter J will be applied to income and deductions determined under Alabama income tax law. Section 40-18-1.1, *Code of Alabama, 1975*, states:

“...(a) For purposes of this chapter, the statement that gain, loss, income, basis, earnings and profits, or any other item shall be determined in accordance with a specified section or sections of Title 26 United States Code (26 U.S.C.) or a specified federal public law (Pub. L. or P.L.) means that the principles set forth in such specified section or sections and the computations required by such section or sections shall be applied for purposes of this chapter, but shall be applied to the amounts of gain, loss, income, basis, earnings, and profits or other items determined for purposes of this chapter and not to such items for federal income tax purposes...”

Deduction for Federal Income Taxes Paid. Federal income tax paid is allowed as a deduction to individuals in accordance with §40-18-15, *Code of Alabama 1975*, but is not allowed as a deduction for federal income tax purposes. Refunds of federal income tax paid in a prior tax year is includable as income in computing the Alabama taxable income for an individual taxpayer.

Depletion Deduction. The depletion deduction allowed individuals in computing Alabama taxable income is specified in §40-18-15, *Code of Alabama 1975*, but may differ from the depletion deduction allowed for federal income tax purposes.

Payments for State Income Taxes. State income taxes paid to a state other than Alabama may be deductible for federal in-

come tax purposes, but is not deductible by a fiduciary in computing Alabama taxable income – see §40-18-15, *Code of Alabama 1975*.

Tax Exempt Income. Tax exempt interest income for Alabama income tax purposes can differ from tax exempt interest income for federal purposes. Interest income from obligations of the United States or its possessions is taxable for federal income tax purposes and is exempt for Alabama income tax purposes – see §40-18-14, *Code of Alabama 1975*. Interest income from the obligations of the State of Alabama and the obligations of Alabama local political subdivisions is exempt for federal income tax purposes, and is exempt for Alabama income tax purposes – see §40-18-14, *Code of Alabama 1975*. Interest income from non-Alabama state and local government obligations is exempt for federal income tax purposes, but not for Alabama income tax purposes – see §40-18-14, *Code of Alabama 1975*.

Federal Passive Activity Loss Restrictions. Estates and trusts are subject to certain federal passive activity losses restrictions, which are not applicable in computing Alabama taxable income.

Capital Gains and Losses. While federal income tax law may limit the amount of capital losses that may be claimed by a taxpayer in a tax year, in computing Alabama taxable income estates and trusts shall report gains and losses in accordance with §40-18-8, *Code of Alabama 1975*.

Net Operating Loss Deduction. In computing Alabama taxable income an estate or trust is only entitled to the net operating loss deduction provided for individual taxpayers in §40-18-15.2, *Code of Alabama 1975*, not the federal net operating loss deduction allowed by 26 U.S.C. § 172.

Personal Exemption. The personal exemption amount allowed as a deduction to estates and trusts in computing Alabama taxable income is \$1,500 – the same amount allowed a single individual under §40-18-19, *Code of Alabama 1975*.

Nonresident Estate and Trust Income and Deductions. Nonresident estates and trusts must report Alabama source income in accordance with §40-18-14, *Code of Alabama 1975*, and are allowed deductions in computing Alabama taxable income in accordance with §40-18-15, *Code of Alabama 1975*.

Deductions not Claimed on the Federal Return in Order to Take a Federal Employment Tax Credit. Certain federal employment tax credits require the wages to be reduced in the amount of the credit taken – the amount the wages were reduced would be allowed as a deduction for Alabama income tax purposes.

Deduction for Foreign Income Taxes Paid. In some cases a taxpayer may deduct foreign income taxes paid or accrued for federal income tax purposes. An estate or trust is prohibited by §40-18-15, *Code of Alabama 1975*, from claiming a deduction for foreign income taxes paid or accrued in computing Alabama taxable income.

Federal Estate Tax. An estate or trust in computing Alabama taxable income is prohibited by §40-18-25(f), *Code of Alabama 1975*, from claiming the deduction otherwise allowable under

26 U.S.C. §691(c)(1)(A), the federal deduction for a portion of the estate tax paid when income in respect of a decedent is reported. Federal estate taxes paid are allowed as a deduction to individuals in computing Alabama taxable income – in accordance with §40-18-15, *Code of Alabama 1975*.

Schedule K – Summary of Alabama K-1 Information.

Schedule K is a summary of the information reported on the Alabama Schedule K-1s, which are prepared and filed as a part of the Alabama Form 41 return.

Lines 1 through 13c on Schedule K coincide with the lines in Part III (Beneficiary's Share of Alabama Current Year Income, Deductions, Credits, and Other Items) on the Alabama Schedule K-1 (Form 41).

Character of Income – In accordance with §40-18-25(b), *Code of Alabama 1975*, the character of the income that is reported by the beneficiary or owner of an estate or trust must reflect the same character the income possessed when the income was originally received by the estate or trust.

Allocation of the Alabama Income Distribution Deduction – The amount entered in Page 1, Line 2 (Alabama Income Distribution Deduction) must be allocated to the different classes of income included in the Alabama Distributable Net Income, so that the income reported by the beneficiaries or owners will retain its character. Generally the allocation is completed in accordance with Internal Revenue Code §§652 and 662 (Internal Revenue Code §652 is entitled Inclusion of Amounts in Gross Income of Beneficiaries of Trust Distributing Current Income Only. Internal Revenue Code §662 is entitled Inclusion of Amounts in Gross Income of Beneficiaries of Estates and Trusts Accumulating Income or Distributing Corpus).

The classes of income and deductions can be allocated under the terms of a governing instrument which requires the specific allocation of different classes of income or deductions to specific beneficiaries. The classes of income and deductions can be allocated in accordance with local law.

In the absence of a governing instrument requirement or local law requirement, the amounts of income and deductions making up the Alabama Income Distribution Deduction must be allocated to the beneficiaries proportionally, by each class of income, in the same ratio that the total of each class of income bears to the Alabama Distributable Net Income for the taxable year. The net amount of income allocated to the beneficiaries must equal the amount entered in Page 1, Line 2 (Alabama Income Distribution Deduction). No amount may be included in the Alabama Income Distribution Deduction which is not included in the gross income of the estate or trust, and each beneficiary is deemed to have received a proportionate part of Alabama tax-exempt income.

PREPARATION OF ALABAMA SCHEDULE K-1 (FOR FORM 41)

Alabama Fiduciary Income Tax Beneficiary Information

Enter the tax year information if other than for a calendar year. Also, on the upper right area of the form indicate if the Schedule K-1 is a final K-1 or an amended K-1.

Part I – Information about the Estate or Trust

A – Estate's or Trust's Federal Employer Identification Number

B – Estate's or Trust's Name

C – Fiduciary's Name, Address, City, State, and Zip Code

D – Grantor Trust Indicator

Part II – Information about the Beneficiary

H – Beneficiary's Identifying Number

I – Beneficiary's Name, Address, City, State, and Zip Code

J – Beneficiary's Residence

Part III – Beneficiary's Share of Alabama Current Year Income, Deductions, Credits, and Other Items

Resident Beneficiaries or Owners. Generally, Alabama resident beneficiaries and owners will be allocated their full share of income, deductions, and certain credits.

Nonresident Beneficiaries or Owners. Resident and nonresident estates and trusts must determine the amount of Alabama source income and deductions to be reported on the Alabama Schedule K-1s for nonresident beneficiaries and owners. Nonresident beneficiaries should report to Alabama only the income shown on Schedule K-1, Box 11.

Line 1 – Interest Income. Enter the resident beneficiary or owner's share of the amount allocated to interest income.

Line 2 – Ordinary Dividends. Enter the resident beneficiary or owner's share of the amount allocated to dividends.

Line 3 – Business Income or (Loss). Enter the resident beneficiary or owner's share of the amount allocated as business income or (loss). Please provide a detailed explanation for the amount reported on this line.

Line 4 – Capital Gain or (Loss). Enter the resident beneficiary or owner's share of the amount allocated to net Alabama capital gain or (loss). Please provide a detailed explanation and computations for the amount of Alabama net capital gain or (loss) reported on this line.

Line 5 – Rents, Royalties, Partnerships, and Other Estates and Trusts. Enter the resident beneficiary or owner's share of the amount of income to report from rents, royalties, partnerships, and other estates and trusts. Please provide a detailed explanation and computation for each of the different items of income reported on this line.

Line 6 – Farm Income or (Loss). Enter the resident beneficiary or owner's share of the amount of farm income or (loss). Please provide a detailed explanation and computation for the amount reported on this line.

Line 7 – Ordinary Gain or (Loss) from Form 4797. Enter the resident beneficiary or owner's share of the amount of ordinary gain or (loss) from federal Form 4797. Please provide a detailed explanation and computation for the amount reported on this line.

Line 8 – Other Income. Enter the resident beneficiary or

owner's share of the amount other income. Please provide a detailed explanation and computation for the amount reported on this line.

Line 9 – Alabama Tax Exempt Income. Enter the resident beneficiary or owner's share of the amount of Alabama tax exempt income. Please provide a detailed explanation and computation for the amount reported on this line.

Line 10a – Grantor Trust Income (Resident Grantors Only). When the grantor trust must file an Alabama Form 41, enter the resident grantor's share of the grantor trust income.

Line 10b – Grantor Trust Deductions (Resident Grantors Only). When the grantor trust must file an Alabama Form 41, enter the resident grantor's share of the grantor deductions.

Line 10c – Net Grantor Trust Income (Resident Grantors Only). When the grantor trust must file an Alabama Form 41, enter the resident grantor's share of the net grantor trust income or (loss).

Line 11 – Nonresident Beneficiary Alabama Source Income. Enter the nonresident beneficiary or owner's share of the amount of Alabama source income. Please provide a detailed explanation and computation for the amount reported on this line as well as the entire amount of Alabama source income allocated to nonresident beneficiaries.

Line 12 – Nonresident Beneficiary Non-Alabama Source Income. Enter the nonresident beneficiary or owner's share of the amount of non-Alabama source income. Please provide a detailed explanation and computation for the amount reported on this line as well as the entire amount of non-Alabama source income allocated to nonresident beneficiaries.

Line 13a – Directly Apportioned Depreciation. Enter the resident beneficiary or owner's share of the amount of directly apportioned depreciation. Please provide a detailed explanation and computation for the amount reported on this line.

Line 13b – Directly Apportioned Depletion. Enter the resident beneficiary or owner's share of the amount of directly apportioned depletion. Please provide a detailed explanation and computation for the amount reported on this line.

Line 13c – Directly Apportioned Amortization. Enter the resident beneficiary or owner's share of the amount of directly apportioned amortization. Please provide a detailed explanation and computation for the amount reported on this line.

Line 14 – Other Information. Enter other pertinent information concerning the beneficiary or owner's share of income or deductions. The codes used on the federal Schedule K-1 (Form 1041) may be used, if helpful.

Visit the Alabama Department of Revenue's Web site (www.revenue.alabama.gov) to obtain copies of Alabama income tax forms, schedules, and form preparation instructions.

PREPARATION OF ALABAMA FORM NOL-F85 (FORM 41)

Computation of Net Operating Loss – Fiduciary Return (Form 41)

Purpose of Form NOL-F85: This form is used to compute the amount of net operating loss originating in an estate or trust's tax year. Part III of the form is used to make an election to forfeit the carryback of the net operating loss to a prior tax year.

Additional Information Available. Estates and trusts are allowed a net operating loss deduction by §40-18-15.2, *Code of Alabama 1975*. Additional guidance concerning the computation of the net operating loss, the carrying back of the net operating loss, and the carrying forward of the net operating loss, can be obtained from Alabama Income Tax Regulation Number 810-3-15-.27, *Net Operating Loss Carryback and Carryover*. Visit the Alabama Department of Revenue's Web site (www.revenue.alabama.gov) to obtain copies of Alabama income tax forms, schedules, and form preparation instructions.

Alabama Net Operating Loss. An Alabama net operating loss is the amount by which deductions (after modifications) exceed gross income. A net operating loss may result from losses incurred in a trade or business, from the sale of assets used in a trade or business, or from personal casualties or thefts.

For the purpose of computing the amount of an allowable net operating loss, certain items of income, expense or deduction will be classified as "business" or "nonbusiness." The following is a partial list of items regularly classified as business or nonbusiness:

Business. Business income, expense and deductions include, but are not limited to: salary and wages; income or loss from a trade or business; gain or loss from sale of assets used in a trade or business; losses on Internal Revenue Code §1244 stock (up to the amount of ordinary loss allowed for federal income tax purposes); rental income or loss; income or loss from a partnership; income or loss from an Alabama S corporation; income or loss from farming; employee moving expenses; employee business expenses; and casualty and theft losses.

Nonbusiness. Nonbusiness income, expense and deductions include, but are not limited to: medical expenses; taxes; interest expense; charitable contributions; miscellaneous deductions other than employee business expenses; gain from the sale of a personal residence to the extent recognized in accordance with §40-18-14, *Code of Alabama 1975*; gain or loss from the sale of assets not used in a trade or business (including distributive shares of gains or losses from such assets held by a partnership or an Alabama S corporation); interest and dividend income (including distributive shares of interest and dividend income received by a partnership or an Alabama S corporation); losses on Internal Revenue Code §1244 stock (in excess of the amount of ordinary loss allowed for federal income tax purposes) federal income tax refunds or tax paid; alimony received; taxable pension and annuities; income or loss from a trust or estate; deductible contributions to IRA retirement plans; Keogh retirement plans; employee benefit contri-

Contributions paid by an employer; penalties for early withdrawal of savings; alimony paid and disability income exclusions.

Computation of the Amount of Net Operating Loss Originating in a Tax Year.

In computing the amount of a net operating loss originating for a particular taxable year, the following modifications must be made:

(i) no deduction may be taken for any net operating loss carried over from another year,

(ii) no deduction is allowed for the personal exemption allowed by §40-18-19, *Code of Alabama 1975*, and

(iii) nonbusiness deductions, including the federal income tax deduction, may not exceed nonbusiness income.

Form Preparation.

Enter the loss year ending, if other than calendar year 2008. Enter the name of the estate or trust and the federal employer identification number of the estate or trust.

Part I – Excess of Nonbusiness Deductions Over Nonbusiness Income

In computing a net operating loss that originates in a tax year, nonbusiness deductions are allowed only to the extent of nonbusiness income.

Lines 1 through 3b – Enter the nonbusiness deductions claimed on the Alabama Form 41 for the tax year, as specified by the Line instructions. For the items included in the amount for Line 3b, provide a complete description and explanation.

Line 4 – Enter the total of the amounts entered in Lines 1 through 3b.

Lines 5 through 10 – Enter the nonbusiness income reported on the Alabama Form 41 for the tax year, as specified by the Line instructions. For the items included in the amount for Line 10, provide a complete description and explanation.

Line 11 – Enter the total of the amounts entered in Lines 5 through 10.

Line 12 – Excess Nonbusiness Deductions over Nonbusiness Income. The amount entered on Line 12 must be zero, if Nonbusiness Income (Line 11) exceeds Nonbusiness Deductions (Line 4). Otherwise, subtract the amount on Line 11 from the amount on Line 4, and enter the result on Line 12. The amount entered on Line 12 must also be entered on Line 15 (Excess of Nonbusiness Deductions over Nonbusiness Income).

Part II – Computation of Net Operating Loss

Line 13 – Alabama Taxable Income Before the NOL Deduction. Enter the amount from Alabama Form 41, Page 1, Line 5 (Alabama Taxable Income).

Line 14 – Exemption. Enter the amount from Form 41, Page 1, Line 3.

Line 15 – Excess of Nonbusiness Deductions over Nonbusiness Income. Enter the amount from Line 12 of the Form NOL-F85.

Line 16 – Total Modifications. Enter the sum of Line 14 (Personal Exemption) and Line 15 (Excess of Nonbusiness Deductions over Nonbusiness Income).

Line 17 – Net Operating Loss Allowable. Enter the sum of Line 13 and Line 16 (Total Modifications). If the amount on Line 17 is zero or greater, the taxpayer does not have a net operating loss for the tax year.

Part III – Election to Forfeit Carryback Provision

This part of the form is used to make the election provided for by §40-18-15.2, *Code of Alabama 1975*, allowing the taxpayer to forego carryback the net operating loss to the two prior tax years, and carry the net operating loss forward only.

Visit the Alabama Department of Revenue's Web site (www.revenue.alabama.gov) to obtain copies of Alabama income tax forms, schedules, and form preparation instructions.

PREPARATION OF ALABAMA FORM NOL-F85A (FORM 41)

Application of Net Operating Loss Carryback or Carryforward – Fiduciary Return (Form 41)

Purpose of Form NOL-F85A: The form is used to determine the amount of a net operating loss (carried to the tax year from another tax year) that can be claimed as a net operating loss deduction during the tax year.

Additional Information Available. Estates and trusts are allowed a net operating loss deduction by §40-18-15.2, *Code of Alabama 1975*. Additional guidance concerning the computation of the net operating loss, the carrying back of the net operating loss, and the carrying forward of the net operating loss, can be obtained from Alabama Income Tax Regulation Number 810-3-15-.27, *Net Operating Loss Carryback and Carryover*. Visit the Alabama Department of Revenue's Web site (www.revenue.alabama.gov) to obtain copies of Alabama income tax forms, schedules, and form preparation instructions.

Carryback and Carryforward of an Alabama NOL

For loss years beginning after December 31, 1997, an NOL may be carried back and deducted from taxable income in each of the preceding two years or until exhausted.

NOL Carrybacks.

When an NOL is carried back to a prior year, taxable income will be recomputed in such prior year as specified in subparagraphs (i) and (ii), below.

(i) If the NOL being carried back is equal to or greater than taxable income as previously reported or last adjusted (including any deductions for NOLs carried over or carried back to such year from any loss year prior to the current loss year), taxable income will be reduced to zero. See *Computation of any Remaining NOL Carryover After Application of an NOL* below for the computation of any remaining NOL for carryover to a subsequent year.

Form Preparation

(ii) If the NOL being carried back is less than taxable income as previously reported or last adjusted (including any deductions for NOLs carried over or carried back to such year from any loss year prior to the current loss year), taxable income for the carryback year is reduced by the amount of the NOL.

Recomputation of Tax in a Carryback Year. The appropriate rates for the carryback year will be applied to the amount of taxable income after subtraction of the NOL deduction.

Application of an NOL Carryforward to a Year after the Loss Year

Eligible Carryforward Years. An NOL may be carried forward to years subsequent to the loss year in order of time or until exhausted, whichever occurs first; subject to the following limitations:

1. To each of the fifteen tax years following the loss year.
2. No deduction will be allowed in any carryforward year which has been closed by expiration of the statute of limitations or by final assessment prior to the application of the carryforward.

Computation of Taxable Income in a Carryforward Year.

If the NOL being carried forward is equal to or greater than taxable income, taxable income will be reduced to zero. Taxable income is computed without considering the current NOL carryover to be applied, but will reflect any prior carryovers which have been applied. See Computation of any Remaining NOL Carryover after Application of an NOL, below, for the computation of any remaining NOL for carryover to a subsequent year.

If the NOL being carried forward is less than taxable income (computed without considering the NOL deduction to be applied), taxable income will be reduced (but not below zero) by the amount of the NOL carried forward.

Computation of any Remaining NOL Carryover after Application of an NOL.

In order to determine the amount of an NOL available for carryover, an adjustment must be made to the taxable income for the year in which the deduction was taken.

The amount by which the NOL will be reduced is called "modified taxable income." The modification required by law provide that no deduction is allowed for the personal exemption provided in §40-18-19), *Code of Alabama 1975*.

If a prior NOL carryback or carryover was fully absorbed in the year, and a subsequent NOL is carried to the year and cannot be fully absorbed, the modification required above would be computed after taxable income has been recomputed for the year.

If the subsequent NOL can be fully absorbed, after taxable income has been recomputed for the prior NOL, taxable income for the year must be recomputed, with taxable income reduced again for the subsequent NOL.

Enter the tax year information, if other than calendar year 2008. Enter the name of the estate or trust and the federal employer identification number of the estate or trust.

Line 1a – Enter the taxable year during which the net operating loss was incurred.

Line 1b – Indicate if the election to forego the carryback period for the net operating loss was made on the Alabama Form NOL-F85 filed for the tax year the law was incurred.

Part I – Computation of Unused Net Operating Loss

Line 2 – Enter the net operating loss as shown on Line 17(Net Operating Loss Allowable) of the Alabama Form NOL-F85 filed for the tax year the loss was incurred. If the net operating loss has previously been carried to a tax year, enter the amount from Line 4 (Unused Net Operating Loss) of the Alabama Form NOL-F85A filed for the tax year to which the net operating loss was carried.

Line 3 – Enter the Alabama Taxable Income from Page 1, Line 5, of the Alabama Form 41 for the tax year to which the net operating loss is being carried. If the tax year to which the net operating loss is for a tax year prior to 2006, enter the amount from Page 1, Line 7 (Amount Taxable) from the Alabama Form 41.

Line 4 – If the amount entered on Line 2 (the amount of net operating loss carried to the tax year) exceeds the amount entered on Line 3 (the Alabama Taxable Income of the carryback or carryforward tax year), enter on Line 4 the amount that Line 2 exceeds Line 3. Otherwise, enter zero.

Part II – Application to Carryback of Carryforward Year

Line 5 – Enter the Alabama Taxable Income from Page 1, Line 5 of the Form 41 for the carryback or carryforward tax year, if the carryback or carryforward tax year is 2006 or after. For prior tax years, enter the amount from Page 1, Line 7 (Amount Taxable) of the Alabama Form 41.

Line 6 – Enter the net operating loss to be applied to the carryback or carryforward tax year. If the amount on Line 4 (Unused Net Operating Loss) is zero, enter the amount entered on Line 2. Otherwise enter the amount that Line 2 exceeds the amount on Line 4 (Unused Net Operating Loss) - which should equal the amount entered as Alabama Taxable Income on Line 3.

Line 7 – Enter the Alabama Taxable Income after Application of Net Operating Loss which equals the amount that Line 5 (Alabama Taxable Income) exceeds the amount entered on Line 6 (Net Operating Loss to be Applied).

Part III – Computation of Tax

Compute the tax as shown on the Line instructions for Lines 8 through 10, entering the total on Line 11 (Total Tax Due after Application of Net Operating Loss). The amount from Line 11 must be carried forward to Page 1, Line 6 of the Form 41 and "Alternate tax method" should be checked..