

# Instructions For Preparation of Alabama Partnership/Limited Liability Company Return of Income

# 2009

**A Copy of the Federal Form 1065 must be attached to this return.**

## Issues Concerning the Preparation of the 2009 Alabama Partnership Return

**Qualified Investment Partnerships.** The Alabama Legislature passed the Entertainment Industry Incentive Act of 2009 during the regular 2009 legislative session. The law, Act Number 2009-144, created an entity referred to as a Qualified Investment Partnership (QIP). The new law creates §40-18-24.2, *Code of Alabama 1975*, which generally defines a QIP as a partnership or other entity classified as a subchapter K entity, or a business trust as defined in §40-18-1, *Code of Alabama 1975*, that for a tax period meets the gross income and asset requirements for a Qualified Investment Partnership as required by §40-18-24.2; and, for which an authorized officer, partner, member or manager of the entity has certified for the tax period that the entity meets the gross income and asset requirements. Proper certification of a QIP requires the completion of Alabama Schedule QIP-C, Qualified Investment Partnership Certification, which must be filed by the due date of the Alabama partnership income tax return for the entity. The requirements concerning the Alabama QIP are similar to the qualified investment partnership provisions in other states, but are not necessarily the same. Instructions for the preparation of Alabama Schedule QIP-C are available on the Department's website, along with additional information concerning the Alabama QIP. Alabama Form 65 and Schedule K-1 for Alabama Form 65 have been revised to accommodate the QIP income tax return requirements. An Alabama partnership return filed by a QIP must be indicated by completing the QIP indicator on page one of the Form 65 and on each K-1 accompanying the return. Regulations to implement the new law were being drafted at the time this document was finalized.

**New Composite Payment and Return Requirements for Partnerships.** The Entertainment Industry Incentive Act of 2009, Alabama Act Number 2009-144, also created new composite payment and return requirements for partnerships. Under the new law, a partnership, or other entity classified as a Subchapter K entity, is required to file a composite return and make composite payments on behalf of its nonresident owners or members if there are one or more nonresident owners or members at any time during the taxable year. The law specifically exempts estates, trusts, and business trusts from the requirement to file a composite return and make a composite payment. The law generally exempts Alabama QIPs from the composite payment and return requirement. The instructions for TY 2009 Alabama Form PTE-C, Nonresident Composite Payment Return are available on the Department's website, along with additional information concerning the new composite payment and return requirements for partnerships. Regulations to implement the new law were being drafted at the time this document was finalized.

**Qualifying Employers Deduction for Employee Health Insurance (Small Business Health Insurance Premiums Deduction).** The Alabama Legislature passed Act Number 2008-559 during the 2008 legislative session. The new law allows qualifying employers to deduct an additional fifty percent (50%) of the amount paid as health insurance premiums on qualifying employees in connection with an employer-provided health insurance plan. Qualifying employers are defined in the law as employers with less than 25 employees. Qualifying employees are defined in the law as those employees that are Alabama residents, earn no more than \$50,000 of wages, and report no more than \$75,000 of Alabama Adjusted Gross Income (\$150,000 if married filing jointly). The new deduction is claimed on the Alabama partnership return on Schedule K, Line 10 (Small Business Health Insurance Premiums). See §40-18-15.3, *Code of Alabama 1975*, for additional information. Alabama Department of Revenue Regulation Number 810-3-15.3-.01, Deductions for Small Business Health Insurance Premiums, is available on the Department's Web site.

**Decoupling from the Federal Depreciation and Section 179 Expense Deduction Rules.** The Alabama Legislature decoupled Alabama Income Tax Law

from the bonus depreciation and additional Section 179 expense deductions for the federal Economic Stimulus Act of 2008. As a result, the 2009 Form 65 provides a means to record Alabama-allowed depreciation on Schedule A, line 7a. Also, as a result of the decoupling, assets disposed of might have an Alabama basis different from the federal basis, resulting in a gain or loss for Alabama income tax purposes that might differ from the gain or loss for federal income tax purposes. Schedule A, line 7b has been provided to make the required adjustment. As of the time this document was finalized, the Alabama Legislature has passed no other legislation decoupling Alabama Income Tax Law from the federal depreciation and Section 179 expense deduction rules.

## General Instructions

**REQUIRED ATTACHMENTS.** To be considered a complete return, the Alabama Partnership/Limited Liability Company Return of Income must have attached a complete copy of the federal Form 1065, U.S. Return of Partnership Income, with all federal K-1s, all statements and all attachments. Failure to attach a copy of the federal Form 1065 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 65 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 partner/owner of the partnership/limited liability company at any time during the taxable year.

**INTERNET AVAILABILITY OF LAWS, REGULATIONS, AND FORMS.** The Alabama Department of Revenue's Web site ([www.revenue.alabama.gov](http://www.revenue.alabama.gov)) has additional information concerning Alabama income tax laws and regulations which apply to partnerships and limited liability companies. Current and prior year forms and instructions, as well as frequently asked questions are also available on the Web site.

Alabama income tax computation and reporting requirements for partnerships and limited liability companies are based on the federal requirements. See Section 40-18-24, *Code of Alabama 1975*, which states: "...(a) The amount of income, deduction, gain, loss, or credit includable or deductible by an owner of an interest in a subchapter K entity shall be determined in accordance with subchapter K of the Internal Revenue Code, 26 U.S.C., sections 701-761..."

The Alabama Form 65 is similar to the federal Form 1065 in many ways. And, the Form 65 requires that an Alabama Schedule K-1 be completed for any entity that was a partner or owner during the taxable year. Again, please refer to the Alabama Department of Revenue Web site should you need an Alabama tax form or the instructions for the form.

**LIABILITY FOR FILING RETURNS.** The annual return filing requirement for partnerships and limited liability companies doing business in Alabama is established by Section 40-18-28, *Code of Alabama 1975*.

**MULTISTATE PARTNERSHIP/LIMITED LIABILITY COMPANIES.** Section 40-18-22, *Code of Alabama 1975*, requires partnerships and limited liability companies that are doing business both within and without the State of Alabama to allocate and apportion their income in accordance with Chapter 27, Title 40, *Code of Alabama 1975*, (also known as the Multistate Tax Compact). See the Alabama Department of Revenue's Web site ([www.revenue.alabama.gov](http://www.revenue.alabama.gov)) for Alabama's multistate taxation laws and regulations.

**WHO MUST SIGN.** The Alabama Form 65 is not considered a complete return unless it is signed. A general partner or limited liability company member manager must sign the return. Where a return is made for a partnership by a receiver, trustee or assignee, the fiduciary must sign the return, instead of the general partner or limited liability company member manager.

**PAID PREPARER AUTHORIZATION.** Above the return signature area is a check box which can be used to authorize the Alabama Department of Revenue to discuss the Alabama Form 65 and its attachments with the paid preparer – who is identified in the Paid Preparer’s Use Only section of the return. Checking the box can facilitate the process of resolving a problem when information on the return is missing or incomplete.

**PAID PREPARER INFORMATION.** Anyone who is paid to prepare the Alabama Form 65 for a partnership or limited liability company must sign and provide the information requested in the Paid Preparer’s Use Only section of the Form 65. The signature can be made in hand, by rubber stamp, by mechanical device, or a computer software program. Paid preparers must provide the partnership or limited liability company with a copy of the prepared return.

**TIME AND PLACE FOR FILING.** Returns made on the basis of calendar year shall be filed on or before the 15th day of April following the close of the calendar year. Returns made on the basis of fiscal year shall be filed on or before the 15th day of the fourth month following the close of the fiscal year. If the 15th falls on Saturday or Sunday, the following Monday shall be the last day for filing this return.

**EXTENSIONS.** A five month extension of time for filing Form 65 is granted automatically.

Mail the completed Alabama Form 65 to:  
Alabama Department of Revenue  
Individual and Corporate Tax Division  
Pass Through Entity Unit  
P. O. Box 327441  
Montgomery, AL 36132-7441

**CAUTION: Do not attach the Form PTE-C, the Form PTE-C payment, or any other completed tax form to the Form 65.**

#### **PENALTIES.**

**Civil Liability.** Any person failing to file a return as required by Alabama law or filing a willfully false or fraudulent return will be assessed by the Alabama Department of Revenue on the basis of the best information obtainable by the Department with respect to the income of such taxpayer. In the case of failure or neglect to file any list or return, the Department shall add to the amount of tax due a penalty of 10% of such tax or \$50, whichever is greater. In the case of a willfully false or fraudulent return having been filed, the Department shall add a penalty of not more than 50% of such tax. In addition, interest shall be added on any additional tax due.

If the return is not timely filed, include the \$50 penalty and a completed Form BIT-V. Form BIT-V is available at our Web site: [www.revenue.alabama.gov](http://www.revenue.alabama.gov).

**Criminal Liability.** §40-29-112, *Code of Alabama 1975*, as amended, provides for a more severe penalty for not filing tax returns. Any person required to file a return under this title and who willfully fails to make such return shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25,000 or imprisoned not more than 1 year, or both. Section 40-29-110 provides that any person who willfully attempts to evade any tax imposed by this title or the payment thereof shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 or imprisoned not more than 5 years, or both. These penalties are in addition to any other penalties provided for by Alabama law.

**INFORMATION AT THE SOURCE.** Every company, association, or agent making payments of salaries and wages or similar compensation must file Forms A-2 (or W-2) on or before February 28, 2010. Also, every partnership, association, or agent making payments of interest, rents, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits, and income of \$1,500.00 or more to any person, partnership, or fiduciary during the taxable year is required to make an information return on Forms 96 and 99 showing the amount of such payment and the name and address of each recipient. These forms must be filed with the Alabama Department of Revenue on or before March 15, 2010.

## **Specific Instructions**

### **SCHEDULE A – Computation of Separately Stated and Nonseparately Stated Income**

**Line 1.** Enter the ordinary business income (loss) from page 1 of the federal Form 1065, U.S. Return of Partnership Income. Attach a copy of the complete federal Form 1065.

#### **Reconciliation to Alabama Basis – Lines 2 through 10**

**Line 2.** Enter the net amount of short-term and long-term capital gains (losses).

**Line 3.** Enter as a negative amount the amount that salaries and wages were reduced on the federal return as a result of taking any of the different federal employment credits claimed on the federal return.

**Line 4.** Enter the net amount of income or (loss) from rental real estate activities.

**Line 5.** Enter the net amount of income or (loss) from other rental activities.

**Line 6.** Enter the net amount of Internal Revenue Code Section 1231 gain or (loss), but do not include any amount for casualty losses.

**Line 7.** Adjustments due to the Federal Economic Stimulus Act of 2008.

The Alabama Legislature has passed no additional law, since the passage of Act Number 2008-549, decoupling from the federal depreciation rules or the federal Section 179 rules.

**Line 7a. Alabama-allowed Depreciation.** Enter on line 7a, as a negative amount, the amount of Alabama-allowed depreciation on items of property where the federal bonus depreciation was taken as allowed by the 2008 Federal Economic Stimulus Act or the additional Section 179 expense deduction was taken as allowed by the 2008 Federal Economic Stimulus Act. Identify the items of property on an attachment to the return.

**Line 7b. Adjustment of Gain or Loss.** Enter on line 7b an adjustment for recording the difference in gain or loss on items of property disposed of caused by an Alabama basis being greater than the federal basis due to the federal bonus depreciation having been taken as allowed by the 2008 Federal Economic Stimulus Act or the additional Section 179 expense deduction having been taken as allowed by the 2008 Federal Economic Stimulus Act. Identify the items of property on an attachment to the return.

The line 7b amount is also for recording any difference in the federal Recapture Amount (Reported on line 35, Part IV, Form 4797) and the Alabama Recapture Amount due to the basis difference resulting from Alabama’s decoupling from the provisions of the 2008 Federal Economic Stimulus Act. Identify the items of property on an attachment to the return.

**Line 8.** Enter the total amount of other items required to reconcile the federal ordinary business income (loss) to income on an Alabama basis.

**Line 9. Net Reconciling Items.** Enter the sum of lines 2 through 8.

**Line 10. Net Alabama Nonseparately Stated Income or (Loss).** Enter the sum of line 1 and line 9. This amount is carried to line 1, Schedule D, Apportionment and Allocation of Income to Alabama.

#### **Separately Stated Items (Related to Business Income)**

**Line 11. Contributions.** Enter as a negative amount the amount of contributions. Enter the same amount on line 2, Schedule K, in the Federal Amount column.

**Line 12. Oil and Gas Depletion.** Enter as a negative amount the amount of oil and gas depletion. Enter the same amount on line 3, Schedule K, in the Federal Amount column. The amount of oil and gas depletion claimed must be computed in accordance with Section 40-18-16(b), which states: “...(2) Amount. In the case of oil and gas wells, the allowance for depletion shall be 12 percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect to the property. Such amounts shall not exceed 50 percent of the net income of the taxpayer, computed without allowance for depletion, from the property, except that in no case shall the depletion allowance be less than the amount allowable under federal income tax law. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and the lessee...”

**Line 13. IRC §179 Expense Deduction.** Act Number 2008-549, passed by the Alabama Legislature during the first 2008 Special Session, decoupled Alabama in-

come tax laws from the bonus depreciation and additional Section 179 provisions of the federal Economic Stimulus Act of 2008. The Alabama Section 179 expense deduction to be entered on line 13 is computed on lines 4a, 4b, and 4c on Schedule K. Enter on line 13, as a negative amount, the amount entered in Schedule K, line 4c (Amount to be Apportioned), under the Federal Amount Column.

**Line 14. Casualty Losses.** Enter as a negative amount the amount of casualty losses. Enter the same amount on line 5, Schedule K, in the Federal Amount column.

**Line 15. Portfolio Income or (Loss) Less Expenses.** Enter the net amount of income or (loss) resulting from reducing portfolio income by interest expense and other related expenses. Complete Schedule K by entering the gross amount of portfolio income on line 6 (in the Federal Amount column); the interest expense related to the portfolio income on line 7 (in the Federal Amount column); and, the remaining expenses related to the portfolio income on line 8 (in the Federal Amount column). Please provide an explanation of the nature and amounts for the total amount entered on Schedule K, line 8.

**Line 16. Other Separately Stated Items.** Enter the net amount of other separately stated business items. Attach a statement providing the type and amount of each different separately stated item. Also enter the amount from line 16 on line 9, Schedule K, in the Federal Amount column.

**Line 17. Net Separately Stated Items.** Enter the sum of line 11 through line 16.

**Line 18. Total Separately Stated and Nonseparately Stated Items.** Enter the sum of line 10 and line 17.

**Line 19.** Enter the Alabama apportionment factor from Schedule D, line 4. The factor must be entered as percentage, with four decimal places.

**Line 20. Nonseparately Stated Income Allocated and Apportioned to Alabama.** Enter the amount from Schedule D, line 7. See also the instructions for Schedule K, line 1 (Alabama Amount column).

#### **Signature Area**

Indicate with a check mark if the Alabama Department of Revenue is authorized to discuss the return and its attachments with the preparer of the return.

#### **SCHEDULE B – Allocation of Nonbusiness Income, Loss, and Expense**

The purpose of Schedule B is to report nonbusiness income, nonbusiness losses, and nonbusiness expenses, as defined by Section 40-27-1, *Code of Alabama 1975*. Nonbusiness items can be both nonseparately stated items and separately stated items. Nonbusiness items are not subject to the multistate apportionment requirements of Chapter 27, Title 40, *Code of Alabama 1975*, but are allocated directly to Alabama or another state, in accordance with the Multistate Tax Compact (Chapter 27, Title 40, *Code of Alabama 1975*). See the Alabama Department of Revenue's Web site ([www.revenue.alabama.gov](http://www.revenue.alabama.gov)) for additional information concerning Alabama's multistate allocation and apportionment requirements.

**Enter under the Nonseparately Stated Items heading on line 1a, line 1b, and line 1c a description of the nonseparately stated item.**

**For each nonseparately stated item entered on line 1a, line 1b and line 1c:**

1. Enter on Column A the total gross income (from all states – everywhere) from the item.
2. Enter on Column B only the Alabama gross income from the item.
3. Enter on Column C the expenses related to the gross income (everywhere) entered in Column A.
4. Enter on Column D only the expenses related to the Alabama gross income entered in Column B.
5. Enter on Column E the amount resulting from subtracting the expense amount in Column C from the gross income (everywhere) amount in Column A.
6. Enter on Column F the amount resulting from subtracting the Alabama expense amount in Column D from the Alabama gross income amount in Column B.

Enter on Column E, line 1d, the sum of the amounts entered in Column E on

line 1a, line 1b, and line 1c. The amount entered in Column E, line 1d is the net amount of nonseparately stated nonbusiness income items for all states (everywhere). The amount entered in Column E, line 1d is also entered in Schedule D, line 2. Please note that when an amount is entered in Schedule D, line 2, income is entered as a negative amount and losses are entered as a positive amount.

Enter on Column F, line 1d, the sum of the amounts entered in Column F on line 1a, line 1b, and line 1c. The amount entered in Column F, line 1d is the net amount of nonseparately stated nonbusiness income items to be allocated only to Alabama. The amount entered in Column F, line 1d is also entered in Schedule D, line 6.

**Enter under the Separately Stated Items heading on line 1e, line 1f, and line 1g a description of the separately stated item.**

**For each separately stated item entered on line 1e, line 1f and line 1g:**

1. Enter on Column A the total gross income (from all states – everywhere) from the item.
2. Enter on Column B only the Alabama gross income from the item.
3. Enter on Column C the expenses related to the gross income (everywhere) entered in Column A.
4. Enter on Column D only the expenses related to the Alabama gross income entered in Column B.
5. Enter on Column E the amount resulting from subtracting the expense amount in Column C from the gross income (everywhere) amount in Column A.
6. Enter on Column F the amount resulting from subtracting the Alabama expense amount in Column D from the Alabama gross income amount in Column B.

Enter on Column E, line 1h, the sum of the amounts entered in Column E on line 1e, line 1f, and line 1g. The amount entered in Column E, line 1h is the net amount of separately stated nonbusiness income items for all states (everywhere). The amount entered in Column E, line 1h is also entered in Schedule K, line 11 (Federal Amount column).

Enter on Column F, line 1h, the sum of the amounts entered in Column F on line 1e, line 1f, and line 1g. The amount entered in Column F, line 1h is the net amount of separately stated nonbusiness income items to be allocated only to Alabama. The amount entered in Column F, line 1h is also entered in Schedule K, line 11 (Alabama Amount).

#### **SCHEDULE C — Apportionment Factor Schedule**

The Alabama business activity of a partnership or limited liability company is represented by its Alabama apportionment factor. With the exception of those special cases referred to in Alabama Department of Revenue Regulation 810-27-1-4-.18, the Alabama apportionment factor generally consists of the average of: the Alabama property factor; the Alabama payroll factor; and, the Alabama gross receipts factor.

If any factor is not utilized in the production of business income it shall be eliminated and the denominator reduced accordingly.

Alabama Department Revenue Regulation 810-27-1-4-.09 generally explains the Alabama apportionment factor. Regulations 810-27-1-4-.10 through .12 generally explain the Alabama property factor. Regulations 810-27-1-4-.13 and .14 generally explain the Alabama payroll factor, and Regulations 810-27-1-4-.15 through .17 generally explain the Alabama sales (gross receipts) factor. See the Alabama Department of Revenue Web site ([www.alabama.revenue.gov](http://www.alabama.revenue.gov)) for a complete text of the Alabama multistate taxation laws and regulations.

#### **PROPERTY FACTOR**

In the appropriate columns, enter the amounts (at cost, unless stated otherwise) of property available for use in the production of business (apportionable) income.

**Line 1.** Inventories

**Line 2.** Land

**Line 3.** Furniture and fixtures

**Line 4.** Machinery and equipment

**Line 5.** Buildings and leasehold improvements

**Line 6.** Property financed through industrial development boards or by industrial revenue bonds issued by municipalities. **All Industrial Development Board property utilized by the taxpayer will be included at its original cost basis.**

**Line 7.** Government Property. **All government property (whether local, state, or federal), when such property is made available for use by the taxpayer, will be reported at its current fair market value.**

**Line 8.** List any other real or tangible personal property used in production of business income. If more than two items, attach a schedule and enter the totals on line 8.

**Line 9.** Less construction in progress (if included in the amounts on lines 1 through 8).

**Line 10.** Enter in each column the totals of lines 1 through 9.

**Line 11.** Enter in the appropriate column the average value of property in Alabama and Everywhere. See Reg. 810-27-1-4-.12 for rules regarding computations other than beginning and end of year values.

**Line 12.** In the Beginning of Year columns, enter the amount of expense for the rental of real or tangible personal property used in the production of business income in Alabama and Everywhere. Annualize for short-period returns. Multiply the annual rent expense by 8, and enter the result in the End of Year column. This is the capitalized rental value.

**Line 13a.** Add the amounts on lines 11 and 12 in the End of Year column for Alabama.

**Line 13b.** Add the amounts on lines 11 and 12 in the End of Year column for Everywhere.

**Line 14.** Divide the amount on line 13a by the amount on line 13b. Compute the percentage to four decimal places, for example, 12.3456%, and enter the percentage on line 14. The percentage entered on line 14 is the ALABAMA PROPERTY FACTOR.

#### **PAYROLL FACTOR**

**Line 15a.** Enter the amount of wages or other compensation paid to employees for the production of business income in Alabama. NOTE: Only amounts paid directly to employees are included in the payroll factor computations for line 15a and line 15b.

**Line 15b.** Enter the amount of wages or other compensation paid to employees for the production of business income everywhere. (Include officers' salaries.)

**Line 15c.** Divide the amount on line 15a by the amount on line 15b, and enter the number on line 15c, as a four decimal place percentage. The percentage entered on line 15c is the ALABAMA PAYROLL FACTOR.

#### **SALES FACTOR**

Amounts entered in this schedule cannot be negative.

**Line 16.** Enter gross receipts from Alabama destination sales except sales to the U.S. government. This includes total gross receipts from sales of tangible property shipped to Alabama from locations both within and without Alabama (See Alabama Department of Revenue regulation number 810-27-1-4-.16.).

**Line 17.** Enter the amount of sales shipped from an Alabama origin to any state or foreign country where this company is not taxable. Also enter total sales to the U.S. government shipped from Alabama (See Alabama Department of Revenue regulation number 810-27-1-4-.16.).

**Line 18.** In the Alabama column enter the total of lines 16 and 17. In the Everywhere column enter total sales for everywhere. If this amount does not correspond with line 1 of Federal Form 1065, attach an explanation and reconciliation.

**Line 19.** Enter in the appropriate columns gross business income from dividends.

**Line 20.** Enter in the appropriate columns the gross business interest income.

**Line 21.** Enter in the appropriate columns the gross business income from rents.

**Line 22.** Enter in the appropriate columns gross business income from royalties.

**Line 23.** Enter in the appropriate columns the gross receipts from the sale or disposition of assets used in the business. See Alabama Department of Revenue regulation number 810-27-1-4-.15 for exclusion of amounts which would distort the factor.

**Line 24.** Enter in the appropriate columns the amounts of other business gross receipts, and identify the nature of such receipts and their location on the federal return.

**Line 25a.** Total the Alabama column for lines 18 through 24.

**Line 25b.** Total the Everywhere columns for lines 18 through 24.

**Line 25c.** Divide the amount on line 25a by the amount on line 25b, and enter the number on line 25c, as a four decimal place percentage. The percentage entered on line 25c is the ALABAMA GROSS RECEIPTS FACTOR.

**Line 26.** Add the percentages on lines 14, 15c, and 25c, and divide the total by 3. This is the ALABAMA APPORTIONMENT FACTOR. Enter here and on line 4, Schedule D.

#### **SCHEDULE D – Apportionment and Allocation of Income to Alabama**

**Line 1.** Enter the Net Alabama Nonseparately Stated Income or (Loss) from Schedule A, line 10.

**Line 2.** Enter the amount of Nonseparately Stated (Income) or Loss Treated as Nonbusiness Income from Schedule B, Column E, line 1d. Enter a loss amount as a positive amount and an income amount as a negative amount.

**Line 3.** Enter the sum of the amounts entered in line 1 and line 2.

**Line 4.** Enter the apportionment factor from Schedule C, line 26.

**Line 5.** Income or (Loss) Apportioned to Alabama. Multiply the amount in line 3 by the percentage in line 4.

**Line 6.** Nonseparately Stated Income or (Loss) Allocated to Alabama as Non-business Income. Enter the amount from Schedule B, Column F, line 1d.

**Line 7.** Nonseparately Stated Income Allocated and Apportioned to Alabama. Enter the sum of the amounts entered in line 5 and line 6. The amount in line 7 should also be entered in Schedule A, line 20 and in Schedule K, line 1 (Alabama Amount column).

#### **SCHEDULE E — Additional Information Required**

All partnerships and limited liability companies must provide the information required for Schedule E, lines 1 through 9.

#### **SCHEDULE K – Distributive Share Items**

**Line 1.** Alabama Nonseparately Stated Income. Enter on the Alabama Amount column the Nonseparately Stated Income or (Loss) Allocated and Apportioned to Alabama from Schedule D, line 7.

**Line 2.** Contributions. Enter in the Federal Amount column (as a positive amount) the contributions entered on Schedule A, line 11. Enter in the Apportionment Factor column the apportionment factor from Schedule C, line 26. Enter in the Alabama Amount column the amount that results from multiplying the apportionment factor by the amount of contributions entered in the Federal Amount column.

**Line 3.** Oil and Gas Depletion. Enter in the Federal Amount column (as a positive amount) the oil and gas depletion entered on Schedule A, line 12. Enter in the Apportionment Factor column the apportionment factor from Schedule C, line 26. Enter in the Alabama Amount column the amount that results from multiplying the apportionment factor by the amount of oil and gas depletion entered in the Federal Amount column.

**Line 4.** IRC §179 Expense Deduction. Act Number 2008-549, passed by the

Alabama Legislature during the first 2008 Special Session, decoupled Alabama income tax laws from the bonus depreciation and additional Section 179 provisions of the federal Economic Stimulus Act of 2008. Alabama income tax laws will continue to be tied to the federal depreciation rules without consideration of the changes implemented by the Economic Stimulus Act of 2008. For purposes of these instructions, Alabama-allowed depreciation means depreciation computed in accordance with the federal depreciation rules without consideration of the changes made to Section 168 by the federal Economic Stimulus Act of 2008. The amount of §179 expense deduction for Alabama income tax purposes is computed on Schedule K, lines 4a through 4c.

**Line 4a. Amount Allowed on Federal Form 1065.** Enter on line 4a, in the Federal Amount Column, the total amount of §179 expense deduction claimed on the federal return. Nothing should be entered in the Apportionment Factor Column or the Alabama Amount Column for line 4a.

**Line 4b. Adjustments Required.** Enter on line 4b, the net amount of the following two items:

1. Enter as a negative amount, the federal Section 179 carryover amount resulting from Alabama's decoupling from the provisions of the 2008 federal Economic Stimulus Act.
2. Enter as a positive amount, the amount of Alabama Section 179 expense deduction carryover from TY 2008.

Attach the computations to the return.

**Line 4c. Amount to be Apportioned.** Enter as a positive amount on line 4c, in the Federal Amount Column, the difference between the amounts entered on line 4a and 4b in the Federal Amount Column. Nothing should be entered in the Apportionment Factor Column or the Alabama Amount Column for line 4a or line 4b. Enter in the Apportionment Factor Column for line 4c the Alabama Apportionment Factor from Schedule C. Enter in the Alabama column for line 4c the amount that results from multiplying the apportionment factor by the amount entered in the Federal Amount Column for line 4c.

**Line 5. Casualty Losses.** Enter in the Federal Amount column (as a positive amount) the casualty losses entered on Schedule A, line 14. Enter in the Apportionment Factor column the apportionment factor from Schedule C, line 26. Enter in the Alabama Amount column the amount that results from multiplying the apportionment factor by the amount of casualty losses entered in the Federal Amount column.

**Line 6. Portfolio Income.** Enter in the Federal Amount column the gross amount of portfolio income related to the net amount entered on Schedule A, line 15. Enter in the Apportionment Factor column the apportionment factor from Schedule C, line 26. Enter in the Alabama Amount column the amount that results from multiplying the apportionment factor by the amount of portfolio income entered in the Federal Amount column.

**Line 7. Interest Expense Related to Portfolio Income.** Enter in the Federal Amount column the interest expense related to the portfolio income entered on line 6. Enter in the Apportionment Factor column the apportionment factor from Schedule C, line 26. Enter in the Alabama Amount column the amount that results from multiplying the apportionment factor by the amount of interest expense entered in the Federal Amount column.

**Line 8. Other Expenses Related to Portfolio Income.** Enter in the Federal Amount column the expenses (other than interest expense) related to the portfolio income entered on line 6 – attach a statement identifying the nature and amounts of the other expenses. Enter in the Apportionment Factor column the apportionment factor from Schedule C, line 26. Enter in the Alabama Amount column the amount that results from multiplying the apportionment factor by the amount of other expenses entered in the Federal Amount column.

**Line 9. Other Separately Stated Business Items.** Enter in the Federal Amount column the amount entered on Schedule A, line 16. Enter in the Apportionment Factor column the apportionment factor from Schedule C, line 26. Enter in the Alabama Amount column the amount that results from multiplying the apportionment factor by the amount of other separately stated business items entered in the Federal Amount column.

**Line 10. Small Business Health Insurance Premiums.** Enter nothing in the Federal Amount column. Enter nothing in the Apportionment Factor column. Enter in the Alabama Amount column 50% of the health insurance premiums paid during the taxable year that qualify, under Act Number 2008-559, as health insurance premiums on qualifying employees in connection with an employer-provided health insurance plan. Attach a computation of the amount entered on Line 10 as an attachment to the return.

Qualifying employers are defined in the law as employers with less than 25 employees. Qualifying employees are defined in the law as those employees that are Alabama residents, earn no more than \$50,000 of wages, and report no more than \$75,000 of Alabama Adjusted Gross Income (\$150,000 if married filing jointly).

See §40-18-15.3, *Code of Alabama 1975*, for additional information. Alabama Department of Revenue Regulation Number 810-3-15.3-.01, Deductions for Small Business Health Insurance Premiums, is available on the Department's website.

**Line 11. Separately Stated Nonbusiness Items.** Enter in the Federal Amount column the amount entered on Schedule B, Column E, line 1h. Enter nothing in the Apportionment Factor column. Enter in the Alabama Amount column the amount entered on Schedule B, Column F, line 1h. Attach a statement identifying the nature and amounts of the separately stated nonbusiness items.

**Line 12. Composite Payment Made on Behalf of Owner.** Enter nothing in the Federal Amount column and the Apportionment Factor column. Enter in the Alabama Amount column the amount of total composite payments made on behalf of the owners.

**Line 13. U.S. Taxes Paid.** Enter the amount of U.S. income taxes paid, if any, in the Federal Amount column. Enter in the Apportionment Factor column the apportionment factor from Schedule C, line 26. Enter in the Alabama Amount column the amount that results from multiplying the apportionment factor by the amount of U.S. income taxes paid entered in the Federal Amount column.

**Line 14. Alabama Exempt Income.** Enter the total amount of Alabama exempt income in the Federal Amount column. Enter in the Apportionment Factor column the apportionment factor from Schedule C, line 26. Enter in the Alabama Amount column the amount that results from multiplying the apportionment factor by the amount of Alabama exempt income entered in the Federal Amount column.

**Line 15. Property Distributions to Owners.** Enter in the Federal Amount column and the Alabama Amount column the amount of property distributed to owners. Enter 100% in the Apportionment Factor column.

**Line 16. Guaranteed Payments to Partners.** Enter in the Federal Amount column the total amount of guaranteed payments to partners from the federal Form 1065, Schedule K. In preparing the Alabama Schedule K-1, the total amount of guaranteed payments received by an Alabama resident partner shall be reported as Alabama source income (See Alabama Department of Revenue regulation number 810-3-14-.01, Gross Income in General). The apportioned amount of guaranteed payments received by a nonresident partner shall be reported as Alabama source income (See Alabama Department of Revenue regulation number 810-3-14-.05, Gross Income of Nonresidents). Enter in the Alabama column the total amount of guaranteed payments as shown on Alabama Schedule K-1.

**Form 65, Page 4. Required Entity Information.** Please provide the requested information concerning the entity filing the Alabama partnership income tax return.

#### **ALABAMA SCHEDULE K-1 – Owner's Share of Alabama Income, Deductions, Credits, etc.**

To be considered a complete return, the Alabama Form 65 must be accompanied by a properly completed Alabama Schedule K-1 for each person or tax entity that was a partner/owner of the partnership/limited liability company at any time during the taxable year. Visit the Alabama Department of Revenue's Web site ([www.revenue.alabama.gov](http://www.revenue.alabama.gov)) to obtain a copy of the Alabama Schedule K-1 and the form preparation instructions for the Alabama Schedule K-1. **A COMPLETED ALABAMA SCHEDULE K-1 THAT CONTAINS ALL INFORMATION REQUESTED FOR EACH OWNER MUST BE ATTACHED TO FORM 65.**

#### **PASS THROUGH CREDITS**

**Capital Credit** – Sections 40-18-190 through 40-18-203 provide for a tax credit against Alabama income tax with respect to income generated by or arising out of

a qualifying project. A statement of intent to invest in a qualifying project must be filed prior to the qualifying project being placed in service and an accounting practices agreement for the qualifying project must be executed prior to utilizing the credit. The capital credit is available on a pass-through basis for all partners/members of a partnership/limited liability company that is eligible to receive the capital credit. Each partner/member's credit is the lesser of the partner/member's share of the capital credit available or the partner/member's tax liability generated by or arising out of the qualifying project and is applied **after all deductions, losses and other credits have been taken.**

The partnership/limited liability company is required to complete and attach Form AR with the Form 65 return in order for the partners/members to be eligible to receive the capital credit on their respective income tax returns. Form AR must include a list of all recipients and their distributive share of the qualifying project. All partners/members of the investing company that are eligible for the capital credit must complete and attach Form K-RCC to their respective income tax returns to take the capital credit.

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](http://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.

**Alabama Enterprise Zone Credit** – (See §41-23-24): a tax credit is available to qualifying businesses which locate or expand within the designated enterprise zones. The credit is available on a pass-through basis for all partners/members of a partnership/limited liability company that is eligible to receive the credit, and the credit will be distributed to each partner/member based on the percentage of ownership. The company should advise each partner/member of the amount of his/her income subject to this credit. Any partner/member taking the credit is required to complete and attach Schedule EZ-K1 to their respective income tax return. Each partnership/limited liability company is required to complete and attach Schedule EZ with the Form 65 return.

Business entities must apply for and be approved by the Alabama Department of Economic and Community Affairs (ADECA) to participate in the Enterprise Zone Program. Further, business entities must be certified, by ADECA, on an annual basis, to be eligible to claim the Alabama Enterprise Zone Credit. For additional information on the Alabama Enterprise Zone Credit, contact ADECA at the Technical

Assistance Section, 401 Adams Avenue, P.O. Box 5690, Montgomery, AL 36103-5690, or call the office at (334) 242-5370. Questions pertaining to the application of the tax credit should be addressed to the Alabama Department of Revenue, P.O. Box 327001, Montgomery, AL 36132-7001, or call the office at (334) 242-1175.

## **Domestic Production Activities Deduction**

### **Internal Revenue Code Section 199**

Added by the American Jobs Creation Act of 2004 (P.L. 108-357), Internal Revenue Code Section 199 allows taxpayers the Domestic Production Activities Deduction – which is a deduction for income attributable to domestic production activities. The deduction is effective for tax years beginning in 2005 and thereafter. According to federal income tax law, a taxpayer engaged in a qualified production activity (QPA) may claim a deduction against gross income equal to the applicable percentage of its qualified production activities income, with certain limitations.

### **Alabama Income Tax Treatment (Issued: January 1, 2006)**

#### **Individuals:**

Individual taxpayers subject to the Alabama individual income tax law are not allowed to claim the Domestic Production Activities Deduction in computing the taxpayer's Alabama taxable income. The deduction is not allowed to individual taxpayers even if the individual taxpayer is an owner or shareholder of a pass-through entity which has gross receipts derived from qualifying production activities (QPA). Unlike Alabama's corporate income tax, Alabama's individual income tax is not directly tied to federal taxable income. A statutory change to Alabama's individual income tax law would be required to conform to the federal deduction.

#### **Pass-through Entities:**

Alabama pass-through entities (S corporations, subchapter K entities, and trusts) do not take the Domestic Production Activities Deduction, but rather report (as a separately stated item) the information required for computing the Domestic Production Activities Deduction to pass-through entity owners and shareholders.

#### **Corporations:**

Corporations subject to Alabama corporate income tax law are allowed the deduction. The computation of corporate taxable income according to Alabama income tax law is tied to federal taxable income (see Section 40-18-33, *Code of Alabama 1975*).