

## Alabama Form 41 General Instructions

**What is the Purpose of the Alabama Form 41, Fiduciary Income Tax Return?** Section 40-18-2 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 [www.revenue.alabama.gov](http://www.revenue.alabama.gov) are the Alabama tax laws, including the following concerning estates and trusts:

Section 40-18-25 Estates and Trusts

Section 40-18-25.1

Section 40-18-29 Fiduciary Returns

**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 or short year returns are due on or before the 15th day of the fourth month following the close of the fiscal or short 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.

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

**Amended Returns.** When filing an amended return include any payments with the original return as a credit on the automatic extension payment line.

**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 complete 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.

**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.

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. Enter zeroes page 1, line 1; line 5; line 6 and on page 2, Schedule A, line 15.

3. The total amount of income for the grantor trust must be entered on page 4, Schedule K, line 10a.

4. The total amount of deductions for the grantor trust must be entered on page 4, Schedule K, line 10b.

5. The net amount of income or (loss) for the grantor trust must be entered on page 4, Schedule K, line 10c.

6. Part I and Part II of the Alabama Schedule K-1 must be completed, indicating that the return is for a grantor trust. Line 10a (Grantor Trust Income), line 10b (Grantor Trust Deduction), and line 10c (Net Grantor Trust Income) of Part III will be completed for resident grantors. Line 11 and/or line 12 of Part III will be completed for non-resident grantors.

### 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.

**Line 1.** Enter the amount from page 3, Schedule B, line 18c, Column C (Alabama Amount).

**Line 2.** Enter the amount from page 2, Schedule A, line 15. 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). 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.

**Line 3.** 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. 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.

**Line 4.** Enter the sum of lines 2 and 3.

**Line 5.** Enter the amount that results from subtracting line 4 from line 1.

**Line 6.** 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.

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

<b>Tax Computation Worksheet</b>	
\$ _____	at 2% (on first \$500, or fraction thereof, of Alabama Taxable Income) . _____
\$ _____	at 4% (on next \$2500, or fraction thereof, of Alabama Taxable Income) . _____
\$ _____	at 5% (on all over \$3000 of Alabama Taxable Income) . _____
<b>Total Income Tax Due.</b> . . . _____	

**Line 7a.** In accordance with §40-18-25(c) 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 credit is limited to the lesser of the tax actually due to the other state or territory or the amount that would be due on the same income computed at the income tax rate in Alabama. When income tax is paid to more than one other state, the tax credit must be computed separately for each state. **A copy of the return as filed with the other state must be attached for the credit to be considered properly substantiated.**

**Line 7b.** 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.

**Line 7c.** Enter the amount of Alabama Income Tax withheld from Forms W-2 and/or 1099. Attach a copy of Form W-2 or Form 1099.

**Line 7d.** Enter any amount paid on or before the due date of the return.

**Line 7e.** Enter the amount paid on behalf of the taxpayer on Alabama Form PTE-C (Nonresident Composite Payment Return). Also provide on line 7e 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 7f.** Enter as a negative number the amount of composite payment allocated to the beneficiary.

**Line 8.** Enter the sum of the amounts entered on lines 7a, 7b, 7c, 7d, 7e, and 7f.

**Line 9.** 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.** Enter the amount of refund to be carried to your 2013 estimated tax.

**Line 10b.** 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 10c.** If this return is not filed on or 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 10d.** Enter the total of lines 10a through 10c.

**Line 11.** 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 – Computation of Alabama Income Distribution Deduction.

**Line 1.** Enter the amount from page 1, line 1.

**Line 2.** 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.

**Line 3.** Subtract line 2 from line 1, and enter the difference.

**Line 4.** 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.** Enter the amount of tax exempt interest excluded in computing Alabama taxable income for the estate or trust.

**Line 6.** Enter other adjustments not addressed by lines 2, 4, or 5, above. Enter adjustments that would increase the Alabama DNI as a positive amount. Enter adjustments that would decrease the Alabama DNI as a negative amount. Please attach a complete explanation for each of the adjustments entered in line 6.

**Line 7.** Enter the sum of lines 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.** Enter the sum of lines 9 and 10.

**Line 12.** Enter the amount of Alabama tax-exempt income included on line 11.

**Line 13.** Subtract the line 12 from line 11.

**Line 14.** Subtract line 5 from line 7. Enter zero if equal to zero or less.

**Line 15.** Enter the smallest of the amounts entered on lines 13 or 14, but not less than zero.

## Schedule B – Computation of Alabama Adjusted Total Income.

**Lines 1 through 8** – For the income items identified by the line titles: *(Do not include net operating losses.)*

– 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. 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 per written request 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.** 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: *(Do not include net operating losses.)*

– 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.** 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, and Alabama Income Tax Regulation Number 810-3-15-.20. Generally, individuals, and estates and trusts, must report the federal income tax deduction on the accrual basis.

**Alabama Adjusted Gross Income.** Line 16 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 B, line 9, column C (Total Income – Alabama Amount): (1) the administration costs of the estate or trust included in Schedule B, 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.** Subtract 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.** Subtract line 17, column B from line 9, column B. 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.** Subtract line 17, column C from line 9, column C. 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.** 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 B – Possible Reasons for an Alabama Adjustment.** 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.

**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. 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. 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.

**Federal Passive Activity Loss Restrictions.** Estates and trusts are subject to certain federal passive activity loss 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.

**Net Operating Loss.** 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.

**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 by the amount of the credit taken – the amount the wages were reduced would be allowed as a deduction for Alabama income tax purposes.

## 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), 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 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.

### 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.** Enter information requested about the entity.

**Part II – Information about the Beneficiary.** Enter beneficiary information.

**Part III – Beneficiary's Share of Alabama Current Year Income, Deductions, Credits, and Other Items.** Generally, Alabama resident beneficiaries and owners will be allocated their full share of income, deductions, and certain credits. 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.

**Lines 1 through 9.** Enter the resident beneficiary or owner's share of the allocated income type indicated on each line. Please provide a detailed explanation and computations for the amounts reported on these lines.

**Line 10a.** Enter the resident grantor's share of the grantor trust income or (loss).

**Line 10b.** Enter the resident grantor's share of the grantor deductions.

**Line 10c.** Enter the resident grantor's share of the net grantor trust income or (loss).

**Line 11.** Enter the nonresident beneficiary or grantor'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.** Enter the nonresident beneficiary or grantor'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/grantor.

**Line 13a.** 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.** 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.** 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.** Enter the beneficiary's share of the allocated composite payment.

**Line 15.** Enter any other pertinent information concerning the beneficiary'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](http://www.revenue.alabama.gov)) to obtain copies of Alabama income tax forms, schedules, and form preparation instructions.**