

INSTRUCTIONS FOR THE PREPARATION OF
ALABAMA DEPARTMENT OF REVENUE
Financial Institution Excise Tax

2013

Alabama Financial Institutions Excise Tax law, regulations, forms and instructions are available on the Alabama Department of Revenue's Web site at www.revenue.alabama.gov.

What's New for 2012

Alabama New Markets Development Act, Act Number 2012-483, passed by the Alabama Legislature during the 2012 Regular Session, establishes a financial institution excise tax credit for companies that invest in businesses located in impoverished and low income communities. For more information contact the Alabama Development Office at 1-800-248-0033 or the Alabama Department of Revenue Commissioner's Office at 334-242-1175. See instructions for Form ET-1, page 1, line 33b.

Full Employment Act of 2011, Act Number 2011-551, passed by the Alabama Legislature during the 2011 Regular Session, allows a financial institution excise tax credit for employers that create new jobs paying more than ten dollars (\$10) per hour. Employers will receive a financial institution excise tax credit equal to one thousand dollars (\$1,000) and shall be available in the tax year during which the employee has completed 12 months of consecutive employment. See the instructions for Form ET-1, page 1, line 33b.

Heroes for Hire Tax Credit Act of 2012. The Alabama Legislature passed Act Number 2012-168 during the 2011 Regular Session. The act provides qualified employers an additional credit against the state portion of the financial institution excise tax owed in the amount of \$1,000 for hiring recently deployed and now discharged unemployed veterans. This act is effective for all tax years beginning on or after January 1, 2012. See the instructions for Form ET-1 page 1, line 33b.

General Information for Financial Institutions.

Alabama Form ET-1 must be filed by taxpayers meeting the definition of financial institution (as defined in Section 40-16-1, *Code of Alabama 1975*) which are doing business in Alabama by engaging in the businesses specified in Section 40-16-4, *Code of Alabama 1975*. See **Section 40-16-1, Definition of Financial Institution and Section 40-16-4, Statute Imposing the Alabama Financial Institutions Excise Tax**, below.

According to Section 40-16-5, *Code of Alabama 1975*, the Financial Institutions Excise Tax is assessed for the privilege of engaging in the business of a financial institution in the State of Alabama for the current State Tax Year (the current calendar year – referred to in these instructions as the Excise Tax Year), and the tax is assessed in the current Excise Tax Year.

The Alabama Department of Revenue administers the Alabama Financial Institutions Excise Tax. The Alabama Banking Department regulates all state-chartered banks, trust companies, and various providers of consumer credit.

Form ET-1 is an annual return due on April 15th of each excise tax year. The Financial Institutions Excise Tax is payable on or before April 15th of the excise tax year. The Alabama Taxable Income, computed and reported on the form, is for the last taxable year of the financial institution ended prior to April 1, of the excise tax year. If April 15 falls on a Saturday, Sunday, or state holiday, the return and payment will be due the following business day.

Example: *The 2013 Alabama Form ET-1 is due on April 15, 2013. Payment of the tax liability shown on the 2013 Form ET-1 allows the taxpayer to engage in the business of being a financial institution in the State of Alabama for the 2013 calendar year. If the taxpayer is a calendar year taxpayer, the Alabama Taxable Income computed and shown on the 2013 Form ET-1 is based on the operations of the 2012 calendar year.*

Section 40-16-1, Definition of Financial Institution.

Section 40-16-1, *Code of Alabama 1975*, defines the term "financial institution" as follows:

"...(1) FINANCIAL INSTITUTION. Any person, firm, corporation and any legal entity whatsoever doing business in this state as a national banking association, bank, banking association, trust company, industrial or other loan company or building and

loan association, and such term shall likewise include any other institution or person **employing moneyed capital coming into competition with the business of national banks**, and shall apply to such person or institution regardless of what business form and whether or not incorporated, whether of issue or not, and by whatsoever authority existing..."

Section 40-16-4, Statute Imposing the Alabama Financial Institutions Excise Tax.

Section 40-16-4, *Code of Alabama 1975*, imposes an excise tax on financial institutions, specifically, Section 40-16-4(a)(1) states:

"...Every such financial institution engaging in any of the following businesses:

- (i) Banking;
- (ii) Conducting the business of a financial institution as defined in this chapter;
- (iii) Conducting a credit card business through the issuance of credit cards to Alabama residents or businesses; or
- (iv) Conducting a business **employing moneyed capital coming into competition with the business of national banks**

shall pay to the state annually for each taxable year an excise tax measured by its net income allocated and apportioned for the taxable year at the rate of six and one-half percent of the net income..."

Activities Not Meeting the Definition of Financial Institution.

Simply lending money does not qualify a taxpayer as a financial institution, as the term is defined in Section 40-16-1, *Code of Alabama 1975*. Also, the results of court cases over the years have indicated that "employing moneyed capital coming into competition with the business of national banks" means the competition with the national banks must be serious in nature and the capital employed in the competition must be substantial and similar in size when compared to the capitalization of the national banks. Therefore, generally, small loan companies, personal loan companies, payday loan companies, check cashing companies, title loan companies, cash advance companies, pawn shops and companies providing solely mortgage origination services (as opposed to issuing and holding the mortgages) are not considered to be "employing moneyed capital coming into competition with the business of national banks" nor are they considered to be a "financial institution" for purposes of the Alabama Financial Institutions Excise Tax Law.

For purposes of the Alabama Financial Institutions Excise Tax, performance of any one of the following activities, by a person, firm, corporation, or legal entity doing business in the State of Alabama, will not necessarily qualify the taxpayer as a financial institution, as the term is specified in Section 40-16-1, *Code of Alabama 1975*:

1. Those activities required to be licensed under the Alabama Small Loan Act – Title 5, Chapter 18, *Code of Alabama 1975*;
2. Those activities required to be licensed under the Deferred Presentment Services Act – Title 5, Chapter 18A, *Code of Alabama 1975*, concerning what are sometimes known as payday loans;
3. Those activities required to be licensed under the Alabama Consumer Credit Act – Title 5, Chapter 19, *Code of Alabama 1975*;
4. Those activities required to be licensed under the Alabama Pawnshop Act – Title 5, Chapter 19A, *Code of Alabama 1975*; and,
5. Those activities required to be licensed under the Mortgage Brokers Licensing Act – Title 5, Chapter 25, *Code of Alabama 1975*.

Please refer to each of the above-named laws to identify those entities which may be exempt from the licensing requirements of the laws (generally banks are exempt from the licensing requirements).

Example: *If the taxpayer is a bank and the bank also performs in the State of Alabama those activities required to be licensed under the Alabama Consumer Credit Act, the taxpayer would meet the definition of "financial institution" specified by Sec-*

tion 40-16-1, Code of Alabama 1975, because it is a bank and banks are specifically included in the definition. But, if the taxpayer is a limited liability company and performs in the State of Alabama only those activities required to be licensed under the Alabama Consumer Credit Act, the taxpayer would not meet the definition of "financial institution" as specified in Section 40-16-1, Code of Alabama 1975. The taxpayer would be subject to the provisions of the Alabama income tax law, not the provisions of the Alabama Financial Institutions Excise Tax law.

Annual Consolidated Filing Election and Fee.

Please see instructions for Form ET-1C for information concerning the filing of a consolidated financial institution excise tax return.

In order for a qualified corporate group to be eligible to file a consolidated return, the financial institution members must meet the ownership and filing requirement, specified in Section 40-16-3, Code of Alabama 1975.

Extension to File Alabama Form ET-1.

Alabama Form ET-8, Application for Extension of Time for Filing Alabama Financial Institution Excise Return, may be used to request an extension for either 3 months or 6 months. If requesting a three (3) month extension, 50% of the estimated tax due must be remitted with the extension request on or before April 15th. The balance plus interest must be remitted with the return when filed on or before July 15th. If requesting a six (6) month extension, the entire estimated tax due must be remitted with the extension request by April 15th. The return will be due on or before October 15th. **Taxpayers who request extension of time to file Alabama Form ET-1 are encouraged to remit Alabama Form ET-8 and payment electronically. Payments of \$750 or more must be remitted and filed electronically. Visit our Web site at www.revenue.alabama.gov and select e-services then extension.**

Preparation Instructions.

Required Attachments. For the Financial Institutions Excise Tax return to be considered complete, a complete signed copy of the applicable federal income tax return must be attached. Failure to attach the complete federal return and supporting schedules may result in the imposition of delinquent penalties. If the taxpayer was included in a consolidated federal corporate income tax return, attach a signed copy of the consolidated return along with the accompanying spreadsheets showing the taxpayer's share of the federal affiliated group's: taxable income, schedule M-1, M-2, and M-3 adjustments, Schedule D, Schedule UTP, Form 8886, Form 4797, and balance sheet information.

At the top, left-hand corner of page 1 check all applicable boxes if filing an initial, final, amended return, or address change.

At the top, right-hand corner of page 1 check the appropriate box indicating a calendar-year, fiscal-year, or short-year return. Fill in the blanks indicating the beginning and ending dates of the tax period if the return is for a fiscal year or a short year.

In the top, center block of page 1 enter the taxpayer's federal business code number, its federal employer identification number (FEIN), and its name and mailing address (with complete zip code). Below the address enter the state of incorporation, date of incorporation, the date the taxpayer qualified to do business in Alabama, and the nature of business being conducted in Alabama.

If this corporation is included in a consolidated federal income tax return, check the block, and enter the name and FEIN of the common parent corporation.

If a notification of Final IRS change is attached to the return, check the box.

If the taxpayer is filing an Alabama Business Privilege Tax return, check the box and enter the FEIN used on the Form CPT (business privilege tax return). If the taxpayer does not file a business privilege tax return, do not check the box, leave the FEIN field blank, and attach a statement to the return explaining why the taxpayer does not file.

Check the appropriate filing status. ONLY ONE BOX can be checked for the corporation's filing status.

Filing status 1 through 3. Check one of the boxes for filing status 1 through 3 if the taxpayer will not file as part of a consolidated Alabama financial excise return. Filing status 1, Corporation operating only in Alabama, should be used by taxpayers with 100% Alabama activities. Filing status 2, Multi-state corporation, is available as an option to taxpayer whose business activity in Alabama is represented by the apportionment percentage (has operations in Alabama and one or more states). Filing status 3, Separate (Direct) Accounting, should only be used by taxpayers that have received prior permission from the Alabama Commissioner of Revenue.

Filing status 4, Proforma return, should be used only by those taxpayers who have elected to file as part of a consolidated group for Alabama purposes.

Taxpayers with a valid election to file as part of a consolidated Alabama return must mark Filing Status 4 and include the return with Form ET -1 C in order for each company's return to process correctly. Taxpayers should not check the box for filing status 1 through 3 if they are part of a consolidated filing. In addition to checking Filing status 4, Schedule L must be completed by the entity whose business activity in Alabama is represented by the apportionment percentage (has operations in Alabama and one or more states). Taxpayers with 100% Alabama activities should not complete Schedule L. Schedule K should be completed if the taxpayer has received prior permission from the Commissioner of Revenue to report utilizing the Separate (Direct) Accounting. Items reported on Schedule K are excluded from apportionable income and are allocated either to Alabama or to another state. See Rule 810-27-1-4-.01. Please see our Web site at www.revenue.alabama.gov for instructions on filing a Consolidated Financial Institution Excise Tax Return.

BE SURE TO FILL OUT ALL APPLICABLE LINES ON PAGE 1 even if detailed schedules are attached. Failure to properly complete the return may result in delinquent and/or frivolous return penalties.

Complete lines 1 through 31, and attach detailed schedules as needed.

Section 40-16-1, Code of Alabama 1975, defines net income for a taxable year (net income is referred to as Alabama Taxable Income on the Alabama Form ET-1).

Section 40-16-4, Code of Alabama 1975, requires the allocation and apportionment of the net income (taxable income) for a taxable year.

The Alabama Financial Institutions Excise Tax law and the following Alabama Department of Revenue Regulations are available on the Alabama Department of Revenue Web site (www.revenue.alabama.gov):

Number 810-9-1-.01	Definitions
Number 810-9-1-.02	Returns
Number 810-9-1-.03	Refund Claims
Number 810-9-1-.04	Credits Against the Tax
Number 810-9-1-.05	Apportionment and Allocation of Net Income of Financial Institutions

LINE 1. Enter the amount of interest and dividend income from:

- Loans and Discounts
- Obligations of the United States Government
- Obligations of State and Political Subdivisions

LINE 2. Enter the amount of dividend income. Include gross dividend income on this line, even if the taxpayer is entitled to a corresponding Dividends Received Deduction (which would be properly deducted on line 18).

LINE 3. Enter the amount of rental income.

LINE 4. Enter the gain or (loss) on sale of assets.

LINE 5. Enter the amount of other income, not previously included in lines 1-4 above. **Provide a schedule showing the different sources and amounts totaling the amount entered on line 5.**

LINE 6 – Total Income. Total the amounts entered on lines 1 through 5, and enter the total on line 6.

LINE 7. Enter the amount of officer compensation.

LINE 8. Enter the amount of salaries and wages.

LINE 9. Enter the amount of repairs.

LINE 10. Enter the amount of the bad debts deduction, and attach a schedule if the Reserve Method is used. Section 40-16-1(2)(e), Code of Alabama 1975, provides for the deduction of bad debt by the direct charge off method. Section 40-16-1(2)(h), Code of Alabama 1975, provides for a reasonable deduction of bad debts using the reserve method, in the discretion of the Department of Revenue. The requirements of appropriate regulatory authorities and regulations and rulings of the Internal Revenue Service will be considered. Any adjustment to the deductions or provisions for the reserve for bad debts by the federal Internal Revenue Service must be made to similar deductions on the Alabama Financial Institutions Excise Tax returns. The adjustment will be made in the current year by increasing or decreasing the applicable deduction, so that in all cases the reserve balances will be identical for federal income tax and Alabama Financial Institutions Excise Tax purposes. Taxpayers using the direct charge off method or the reserve method must, when requested in writing by the Alabama Department of Revenue, provide a schedule detailing the amounts charged off – identifying each loan for which a bad debt deduction is claimed.

LINE 11. Enter the amount of rent expense incurred.

LINE 12 – Taxes. Enter the actual amount of taxes paid in 2011, and complete Schedule E on page 2. Taxes are deductible only in the year paid and only when levied on the taxpayer claiming the deduction. Do not include any payment for the Alabama Financial Institution Excise Tax or any taxes taken as a credit on line 33a. The federal income tax deduction must be taken only on line 28, not line 12.

LINE 13. Enter the amount of interest incurred during the year, in accordance with Internal Revenue Code §§163, 264 and 265.

LINE 14 – Contributions. Enter the amount claimed as the charitable contribution deduction, as allowed by Section 40-16-1(2), *Code of Alabama 1975*. The charitable contribution deduction is limited to 5% of net income without benefit of the charitable contribution deduction. The charitable contribution limitation is computed at the group member level, when a consolidated Alabama Form ET-1C is filed by a qualified corporate group.

LINE 15. Enter the amount claimed as depreciation. Depreciation will be computed as directed in Alabama Department of Revenue, Regulation Number 810-3-15-.05, Depreciation, Amortization, and Section 179 Expense, which states: "...there shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear...in accordance with 26 U.S.C. §§167 and 168...intangible assets which are used in a trade or business or held for the production of income may be amortized in accordance with 26 U.S.C. §197...A deduction is allowable for the amortization of start-up expenditures in accordance with 26 U.S.C. §195, ...a taxpayer may elect to treat the cost of any section 179 property as an expense which is not chargeable to a capital account in accordance with 26 U.S.C. §179.

Decoupling from the Federal Economic Stimulus Act of 2008. Act Number 2008-549, passed by the Alabama Legislature during the first 2008 Special Session, decoupled Alabama financial institutions excise tax laws from the bonus depreciation and the additional Section 179 expense provisions of the Federal Economic Stimulus Act of 2008. Include any difference in gain attributable to differences in depreciation (Economic Stimulus Act of 2008) that would increase Alabama taxable income. Alabama financial institutions excise 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.

LINE 16. Enter the deduction for advertising.

LINE 17. Enter the deduction for pension, profit sharing plans, etc.

LINE 18 – Dividends Deduction. Enter the amount claimed as the dividends received deduction allowed by Section 40-16-1(2)(g), *Code of Alabama 1975*. In order to qualify, these amounts must be either (1) paid by a corporation organized and existing under the laws of the State of Alabama, or (2) dividends in liquidation paid from capital. Please also note, Section 40-16-1(2)(i) and (j) allows savings and loan associations and credit unions a deduction for amounts paid out as dividends on withdrawable shares.

LINE 19. Enter the amount of deductions, determined in accordance with federal Internal Revenue Code Section 162, not previously deducted on lines 7 through 18. **Please provide an explanation of the different types and amounts of deductions claimed on line 19.**

LINE 20 – Total Deductions. Enter the total of the deductions claimed on lines 7 through 19.

LINE 21 – Adjusted Total Income or (Loss). Subtract line 20 (Total Deductions) from line 6 (Total Income).

LINE 22 – Net Nonbusiness (Income) or Loss. Enter the net nonbusiness income or (loss) from line 2, Column E, Schedule K on page 2. Net nonbusiness income is entered as a negative amount in computing total apportionable income. Net nonbusiness expense or loss is entered as a positive amount in computing total apportionable income.

LINE 23 – Apportionable Income. Enter the sum of line 21 (Adjusted Total Income or (Loss)) and line 22 (Net Nonbusiness (Income) or Loss).

LINE 24 – Alabama Apportionment Factor. Enter the percentage from line 26, Schedule L on page 4.

LINE 25 – Income Apportioned to Alabama. Enter the result from multiplying line 23 (Apportionable Income) by line 24 (Alabama Apportionment Factor).

LINE 26 – Net Nonbusiness Income or (Loss) Allocated to this State. Enter the net nonbusiness income or (loss) from line 2, Column F, Schedule K on page 4. Net nonbusiness income is entered as a positive amount in computing Alabama Taxable Income, and net nonbusiness expense or loss is entered as a negative amount.

LINE 27 – Alabama Income before Federal Income Tax Deduction. Enter the

sum of line 25 (Income Apportioned to Alabama) and line 26 (Net Nonbusiness Income or (Loss) Allocated to this State).

LINE 28 – Federal Income Tax Deduction (Refund). Enter the amount of the federal income tax deduction or (refund) from line 12, Schedule M on page 4.

The federal income tax (FIT) paid may be deducted only to the extent that it is applicable to the financial institution's income earned in the State of Alabama. Any allocation which is necessary shall be determined by applying the ratio of the taxpayer's income in Alabama, before any federal income tax deduction or net operating loss (NOL) deduction, from the financial business to the total company income, before any federal income tax deduction or NOL deduction. In the case of corporations, the FIT deduction shall be apportioned on the same basis as provided by Alabama Department of Revenue Regulation Number 810-3-35-.01, except that such tax must be paid during the taxable year.

LINE 29 – Alabama Income before Net Operating Loss (NOL). Enter the amount resulting from subtracting line 28 (Federal Income Tax Deduction (Refund)) from line 27 (Alabama Income before Federal Income Tax Deduction).

LINE 30 – Alabama NOL Deduction. Enter the Alabama NOL deduction (not to exceed taxable income). A net operating loss is the excess of allowable deductions over the gross income of a taxpayer during a taxable year. Attach a supporting schedule showing the amount of NOL incurred for each period and the amount of such loss absorbed in each period. If a NOL originates during a year that a consolidated Alabama Form ET-1 is filed, the NOL originated must be attributed to the group member or members incurring the loss. Subsequent carry back or carryforward of the net operating loss must still be member-specific. The NOL incurred by one group member must never be used to offset the income of another group member.

A net operating loss for a financial institution will be carried back two years, then forward to the eight succeeding taxable years in chronological order. The law regarding computing and applying net operating loss carrybacks and carryovers is similar to federal income tax law concerning net operating losses. Federal rules and decisions will be considered by the Alabama Department of Revenue in these matters.

LINE 31 – Alabama Taxable Income. Enter the result of subtracting line 30 (Alabama NOL Deduction) from line 29 (Alabama Income before Net Operating Loss).

LINE 32 – Financial Institution Excise Tax. Enter the amount of tax due by multiplying line 31 (Alabama Taxable Income) by the rate of 6.5%, as specified in Section 40-16-4, *Code of Alabama 1975*.

LINE 33a – Less Taxes Used as Credits. Enter the amount of taxes used as credits against the Financial Institution Excise Tax, and complete Schedule F, **Taxes Used as Credits**, on page 2).

There may be taken as a direct credit against the Alabama Financial Institutions Excise Tax the amount of taxes (other than the Financial Institution Excise Tax and certain license taxes) levied on the financial institution by the State of Alabama or its political subdivisions. Any tax payment claimed as a direct credit against the Financial Institutions Excise Tax may not be also taken as a deduction on line 12.

The taxes which may currently be claimed as credits rather than as deductions are:

1. State, county and city sales and use taxes paid on tangible personal property purchased and paid for by the financial institution for its consumption;
2. State utility taxes paid on telephone, electrical power, gas or water;
3. Rental or leasing taxes paid directly to the State of Alabama for the privilege of leasing tangible personal property to others within the State of Alabama.

Credits will not be allowed for any taxes not levied directly on the financial institution. Examples of such indirect taxes are:

1. State, county or city sales or use taxes on items purchased for resale such as checks, promotional items or equipment;
2. Gross receipts taxes levied on the seller;
3. Rental or leasing taxes paid to others;
4. Federal taxes of any nature; and
5. Taxes paid to contractors or others on equipment attached to real property or in the construction of buildings, etc.

LINE 33b. Other Allowable Credits. Enter the amount of allowable credits against the Financial Institution Excise Tax and complete Schedule G, **Other Allowable Credits**, on page 2.

Capital Tax 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 undertaken by certain existing businesses and certain new busi-

nesses to be located in the state. A statement of intent to invest in a qualifying project must be filed prior to the qualifying project being placed in service and must be approved by the Alabama Department of Revenue prior to the project entity taking the credit. The allowable credit is up to 5 percent of the qualifying project's allowable capital costs for each of 20 years. The amount of credit that can be claimed in any year is limited to the tax liability generated by or arising out of the qualifying project, and is applied after all deductions, exemptions and other credits. As the project entity, the **financial institution** is required to complete and attach Form AR with the **Form ET-1** return to be eligible to receive the capital credit. If the **financial institution** is a member or partner of an investing company that has a qualifying project, the financial institution must complete and attach Form K-RCC with **Form ET-1**. If a capital credit is claimed on **Form ET-1**, the project number should be entered in the space provided on line **Schedule G**. 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.

Full Employment Act of 2011: Sections 40-18-290 through 40-18-293 provide for a tax credit against Alabama financial institution excise tax for small businesses, employs 50 or fewer employees, which create new jobs paying more than ten dollars (\$10) per hour. Employers will receive an income tax credit equal to one thousand dollars (\$1,000) and shall be available in the tax year during which the employee has completed 12 months of consecutive employment. The employer must have a net increase in the total number of full time employees in Alabama on the last date of each tax year during which employees are hired for which the employer claims a credit, over the number employed in Alabama as of the last day of the tax year immediately preceding the first employment year. The income tax credit may be claimed for employees who are hired following June 9, 2011. This tax credit shall not exceed the amount of the taxpayer's state tax liability for which the credit is claimed. This credit is not refundable or transferable.

Heroes for Hire Credit Act of 2012: The Alabama Legislature passed Act Number 2012-168 during the 2012 Regular Session. It provides qualified employers an additional credit against the Alabama financial institution excise tax liability in the amount of \$1,000 for hiring full time recently deployed and now discharged unemployed veterans. A qualified employer is subject to the requirements of this Section and Section 40-18-290 through 40-18-293. The act is effective for all tax years beginning on or after January 1, 2012.

Alabama New Markets Development Act, Act Number 2012-483, passed by the Alabama Legislature during the 2012 Regular Session, establishes a financial institution excise for companies that invest in businesses located in impoverished and low income communities. The credit allowance date is the date on which such investment is initially made and each of the six anniversary dates thereafter. **This credit is against the state distributed portion of the tax otherwise due.** The credit shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. Tax credits claimed under this act are not saleable or transferable. Any amount of tax credit that the taxpayer is prohibited from claiming in a taxable year may be carried forward to any of the taxpayer's subsequent taxable years. This act shall be effective on August 1, 2012.

LINE 33c – Extension Payment (ET-8). Enter the amount of any tax remitted as an extension payment with Form ET-8.

LINE 33d – Additional Payments. Enter the amount of any additional tax remitted.

LINE 33e – Total Credits and Payments. Enter the total credits and payments claimed on lines 33a, 33b, 33c and 33d.

LINE 34 – Penalty. Enter the total late filing and late payment penalties, as specified in Section 40-2A-11, *Code of Alabama 1975*. The late filing penalty for an Alabama Financial Institution Excise Tax return is 10% of the tax shown due with the return or \$50, whichever is greater. The late payment penalty is equal to 1% of the amount of tax shown due on the return for each month the tax is unpaid – not to exceed 25% of the tax amount shown due on the return.

LINE 35 – Interest from April 15 to Date of Payment. Enter the amount of interest due on the amount of any tax due remitted after April 15. Compute the interest using IRS rates from April 15 of the excise tax year until the date of payment. The Alabama interest rate is the same as provided for in IRC Section 6621.

LINE 36 – Total Payment Due/(Refund Due). Subtract line 33e from the sum of lines 32, 34 and 35, and enter the amount here. A negative amount represents an overpayment.

Schedule A – Distribution Data. Taxpayers conducting business in Alabama are required to provide the percentage of their total business conducted in this state by the amount of business conducted in each county and municipality. This information is captured in Schedule A, and is used to determine how monies collected will be distributed for the tax year.

A financial institution that does not maintain an office in Alabama, but is subject to tax, is not required to complete Schedule A, other than checking the box to indicate that no such office exists in Alabama.

Schedule B – Alabama Net Operating Loss Carryforward Calculation. Net operating losses will be carried back two years from the year of the loss, and then carried forward for eight years. Net operating losses must be carried back or forward only on the account of the member which incurs the loss and must be used to offset the income over the ten year period in chronological order. **Taxpayers claiming an NOL for a tax period that is more than six years old must attach a copy of the Form ET-1 (page 1 only). This includes any tax periods where the net operating loss being claimed in the current year may have been utilized.**

Schedule E – Taxes Deducted. Enter the required information for the taxes actually paid during the taxable year. The total amount for Schedule E must agree with the amount entered on line 12, page 1. Attach additional schedules as needed.

Schedule F – Taxes Used as Credits. Enter the required information for each category of taxes used as an allowable credit. The total for Schedule F must agree with the amount entered on line 33a, page 1. Attach additional schedules as needed. The taxpayer must provide a complete listing of the taxes used as credits, in the format required by the Alabama Department of Revenue, upon receiving a written request from the Department.

Schedule G – Other Allowable Credits. Enter the required information for each category of credits. The total for Schedule G must agree with the amount entered on line 33b, page 1. Attach additional support as needed.

Schedule K – Allocation of Nonbusiness Income, Loss, and Expense. Enter on Schedule K all items of nonbusiness income, nonbusiness loss, and nonbusiness expense. These items are excluded from apportionable income and are allocated either to Alabama or to another state. See Alabama Department of Revenue Regulation Number 810-9-1-.05, **Apportionment and Allocation of Net Income of Financial Institutions**, for a discussion of the classification of income and expense into business and nonbusiness categories and the assignment of nonbusiness items to specific jurisdictions.

Beside the line number in Schedule K, enter the item description.

In Column A enter the total amount of gross income or loss to be excluded from apportionable income.

In Column B enter the amount of gross income or loss allocable to Alabama.

Enter total nonbusiness expense in Column C and any nonbusiness expense allocable to Alabama in Column D. Nonbusiness expense may exceed nonbusiness income and in fact may exist when there is no nonbusiness income.

Subtract Column C from Column A, and enter the remainder in Column E. Subtract Column D from Column B, and enter the remainder in Column F.

Add the amounts in Columns E and F, and enter the totals on line 2. Carry the total of Column E to page 1, line 22. Carry the total of Column F to page 1, line 26.

Schedule L – Alabama Apportionment Factor. The financial institution's business activity in Alabama is represented by the Alabama Apportionment Factor, which is computed as the average of: the property factor; the payroll factor; and, the receipts factor. See Alabama Department of Revenue Regulation Number 810-9-1-.05, **Apportionment and Allocation of Net Income of Financial Institutions**, for detailed instructions regarding the items to be included in the numerator and the denominator of each of these factors.

For purposes of the Alabama Financial Institutions Excise Tax, "business income" is income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations. In essence, all income which arises from the conduct of trade or business operations of a taxpayer is business income. For purposes of administering the Alabama Financial Institutions Excise Tax, the income of the taxpayer is business income unless clearly classifiable as nonbusiness income, and nonbusiness income means all income other than business income.

Property Factor:

For purposes of computing the property factor, real and tangible personal property mean, respectively, property on which the taxpayer may claim depreciation for

federal income tax purposes, or property to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes (or could claim depreciation if subject to federal income tax). Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

For purposes of computing the property factor, loans include any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of such extension of credit from another or both. Loans include participation, syndications, and leases treated as loans for federal income tax purposes. Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts.

In the appropriate rows and columns, enter the amounts (at cost, unless stated otherwise) of property available for use in the production of business income, in Alabama at the beginning of the taxable year, in Alabama at the end of the taxable year, in total for the taxpayer at the beginning of the taxable year, and in total for the taxpayer at the end of the taxable year, for:

- Loan and credit card receivables,
- Premises and fixed assets,
- Other real estate owned, and
- Other real and tangible personal property.

LINE 5 – Totals. Enter in each column the totals of lines 1 through 4.

LINE 6 – Average Value. Enter in the appropriate column the average value of property in Alabama and Everywhere. Compute the average by totaling the beginning amounts and ending amounts, for the Alabama columns and the Everywhere columns, and then dividing each by 2.

LINE 7 – Annual Rental Expense. In the Alabama and Everywhere 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. Annualize for short-period returns. For both the Alabama column and the Everywhere column, multiply the annual rental expense by 8, and enter the result in the appropriate Alabama End of Year column or Everywhere End of Year column. The amounts entered in the End of Year columns represent the capitalized rental value.

LINE 8a – Total Average Property for Alabama. Add the amounts on lines 6 and 7 in the Alabama End of Year column.

LINE 8b – Total Average Property Everywhere. Add the amounts on lines 6 and 7 in the Everywhere End of Year column.

LINE 9 – Alabama Property Factor. Divide the amount on line 8a (Total Average Property for Alabama) by the amount on line 8b (Total Average Property Everywhere), and enter the percentage on line 9.

Payroll Factor:

In computing the payroll factor include wages, salaries, commissions and any other form of remuneration paid to employees (including officers of corporations) for personal services that are included in such employee's gross income under the federal Internal Revenue Code. In the case of employees not subject to the federal Internal Revenue Code (e.g., those employed in foreign countries), the determination of whether such payments would constitute gross income to such employees under the federal Internal Revenue Code shall be made as though such employees were subject to the federal Internal Revenue Code.

LINE 10a. Enter in the Alabama column, the amount of wages, salaries and other compensation paid to employees for the production of business income in Alabama.

LINE 10b. Enter in the Everywhere column, the total amount of wages, salaries, and other compensation the taxpayer paid to employees for the production of business income.

LINE 10c – Alabama Payroll Factor. Divide the amount on line 10a by the amount in line 10b and enter the percentage on line 10c.

Receipts Factor:

LINE 11. Enter in the appropriate columns the receipts from lease or rental of real property.

LINE 12. Enter in the appropriate columns the receipts from lease or rental of tangible personal property.

LINE 13. Enter in the appropriate columns the amounts of interest from loans secured by real property.

LINE 14. Enter in the appropriate columns the amounts of interest from loans not secured by real property.

LINE 15. Enter in the appropriate columns the net gains from the sale of loans.

LINE 16. Enter in the appropriate columns the amounts of interest from credit card receivables and fees charged to card holders.

LINE 17. Enter in the appropriate columns the net gains from the sale of credit card receivables.

LINE 18. Enter in the appropriate columns the amounts of credit card issuer's reimbursement fees.

LINE 19. Enter in the appropriate columns receipts from merchant discount.

LINE 20. Enter in the appropriate columns the amounts of loan servicing fees from loans secured by real property.

LINE 21. Enter in the appropriate columns the amounts of loan servicing fees from loans not secured by real property.

LINE 22. Enter in the appropriate columns the amounts of interest, dividends, net gains, and other income from investment and trading assets and activities.

LINE 23. Enter in the appropriate columns the receipts of sales of tangible personal property.

LINE 24. Enter in the appropriate columns the amounts of other business receipts, identify the nature and amounts of the different types of receipts, and provide how the receipts are reported on the federal income tax return.

LINE 25a – Total Alabama Receipts. Total the amounts entered in the Alabama column for lines 11 through 24.

LINE 25b – Total Receipts Everywhere. Total the amounts entered in the Everywhere column for lines 11 through 24.

LINE 25c – Alabama Receipts Factor. Divide the amount on line 25a (Total Alabama Receipts) by the amount on line 25b (Total Receipts Everywhere), and enter the percentage on line 25c.

LINE 26 – Alabama Apportionment Factor. Divide by 3 (if all 3 factors are utilized) the sum of percentages on line 9 (Alabama Property Factor), line 10c (Alabama Payroll Factor), and line 25c (Alabama Receipts Factor). Enter the resulting percentage here and on line 24, page 1.

Schedule M – Federal Income Tax. This schedule should be used to compute the amount of the financial institution's federal income tax deduction allowable for (apportioned to) Alabama and to offset that deduction with the amount of any refund received in the taxable year.

Financial Institutions filing a consolidated federal return must complete lines 1-12 of this schedule. Financial Institution's filing separate company federal returns should complete lines 6-12 of this schedule only. Lines 1-5 are used to compute the amount of the consolidated federal tax attributable to the company filing Form ET-1.

If the financial institution is a member of an affiliated group which files a consolidated federal return, check the appropriate block to indicate the election made under 26 U.S.C. §1552. For taxpayers utilizing 1552(a)(1) and 1552(a)(2), provide a copy of the corporation's federal income tax workpapers showing the members of the consolidated federal group. For financial institutions using 1552(a)(1), the workpapers should include the member's share of federal taxable income (line 30 of Form 1120), **positive amounts only.** Losses should be entered as a \$0.00. For financial institutions using 1552(a)(2), the workpapers should include the member's federal income tax as computed utilizing the current year tax rates and taking into account any federal income tax credits attributable to each member of the federal group. The total (taxable income or federal income tax) from this workpaper should be the amount reported on Line 2 of this schedule.

Taxpayers utilizing method 1552(a)(3) must attach a copy of the corporation's federal income tax deduction workpapers. Even if the taxpayer is filing as part of a consolidated federal return, taxpayers utilizing method 1552(a)(3) should skip to line 6. Lines 1-5 of this schedule only apply to those taxpayers using methods 1552(a)(1) or 1552(a)(2).

LINE 1. Enter the financial institution's separate federal (taxable income/tax) from line 30 or 31 of the proforma 1120.

LINE 2. Enter the group's total positive federal (taxable income/tax) – See Reg. 810-3-35-.01(1)(b)3.

LINE 3. Divide the financial institution's separate federal (taxable income/tax) as shown on line 1 by the group's total positive federal (taxable income/tax) as shown on line 2. Enter the result.

LINE 4. Enter the consolidated federal income tax (paid).

Taxpayers should enter the actual tax payment forwarded to the Internal Revenue Service during the tax period.

LINE 5. Multiply the percentage from line 3 by the consolidated federal income tax (liability/payment) as shown on line 4. Enter the result.

LINE 6. Federal Income Tax Deduction to be Apportioned. Enter the taxpayer's actual tax payment made to the Internal Revenue Service (or share of the payment forwarded to the Internal Revenue Service if included in a consolidated return).

LINE 7. Alabama Income. Enter the amount of Alabama income from page 1, line 27.

LINE 8. Adjusted Total Income. Enter the amount of total net income adjusted to Alabama basis from page 1, line 21.

LINE 9. Federal Income Tax Apportionment Factor. If the amounts on line 7 and line 8 are greater than zero, divide the amount on line 7 by the amount on line 8. If the amounts on line 7 and/or line 8 are zero or less than zero, enter zero. This is the federal income tax ratio.

LINE 10. Federal Income Tax Deduction Apportioned to Alabama. Multiply the amount of federal income tax attributed to this corporation as shown on line 6 by the federal income tax ratio as shown on line 9. Enter the result.

LINE 11. Refund of Federal Income Tax Deducted in Prior Year. If a corporation takes a deduction for federal income tax on its Alabama return and in a later year all or a portion of the tax claimed as a deduction is refunded by the Internal Revenue Service, the taxpayer is required to recognize the refund on its Alabama return to the extent of the benefit received in the year the deduction was taken.

Taxpayers recognize refunds in the year they are issued by the Internal Revenue Service.

Multistate taxpayers filing separate federal returns (not requiring allocation of the refund among members of a consolidation) should apportion any refund received from the Internal Revenue Service using the apportionment factor for the tax year in which a deduction the deduction was claimed for the federal income tax paid.

A multistate taxpayer filing a federal return as a member of a consolidated group must apportion any refund received to each member of the group at the same ratio that the tax deduction being refunded was originally apportioned. See Reg. 810-3-35-.01(1)(b)4.

After the amount of refund attributable to the separate corporation has been determined, apply the apportionment rate from the tax year in which the deduction for the federal income tax paid was claimed.

LINE 12. Net Federal Income Tax Deduction or (Refund). Subtract line 11 from line 10. If line 10 is larger than line 11, enter the net federal income tax deduction on line 12 and carry to page 1, line 28.

If line 11 is larger than line 10, enter the net federal income tax refund on line 12 and carry to line 11 of page 1.

ELECTRONIC PAYMENT. Section 41-1-20 requires electronic payment for all single business tax payments of \$750 or more. Please see our Web site at www.revenue.alabama.gov for further instructions on making electronic payments, or call the Alabama Department of Revenue EFT Hotline at (334) 242-0192 (option #7) or 1-800-322-4106 for additional information. Substantial penalties will be assessed for noncompliance.

SIGNATURE. The Alabama Form ET-1 must be signed by an authorized officer of the corporation. Enter the date signed and the title of the person whose signature is affixed.

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 ET-1 and its attachments with the paid preparer – who is identified in the Paid Preparer's Use Only section of the return. **To represent the taxpayer before the Alabama Department of Revenue for tax matters related to the return, this box must be checked.**

PAID PREPARER INFORMATION. Anyone who is paid to prepare the Alabama Form ET-1 must sign and provide the information requested in the Paid Preparer's Use Only section of the Form ET-1. The signature can be made in hand, by rubber stamp, by mechanical device, or a computer software program. Paid preparers must provide the taxpayer with a copy of the prepared return. Enter the taxpayer's representative to contact for information concerning the return along with the contact person's email address and telephone number. If the paid preparer will represent the taxpayer for tax matters related to the return, the authorization box on the return must be checked in addition to being notated in this section.

Mail Return, Payment and Voucher to:

Alabama Department of Revenue
FIET Returns
P. O. Box 327439
Montgomery, AL 36132-7439

Any questions concerning the preparation of the Alabama Form ET-1 should be directed to the Consolidated Business Tax Compliance Unit at (334) 353-9448.

Alabama Financial Institutions Excise Tax law, regulations, forms and instructions are available on the Alabama Department of Revenue's Web site at www.revenue.alabama.gov.