

Instructions For Preparation of Alabama Form NOL-F85

Computation of Net Operating Loss – Fiduciary Return (Form 41). This form is used to compute the amount of net operating loss originating in an estate or trust's tax year. Part III of the form is used to make an election to forfeit the carryback of the net operating loss to a prior tax year. Estates and trusts are allowed a net operating loss deduction by §40-18-15.2. Additional guidance concerning the computation of the net operating loss, the carrying back of the net operating loss, and the carrying forward of the net operating loss, can be obtained from Alabama Income Tax Regulation Number 810-3-15.2-.01. Visit the Alabama Department of Revenue's Web site (www.revenue.alabama.gov) to obtain copies of Alabama income tax forms, schedules, and form preparation instructions.

Alabama Net Operating Loss. An Alabama net operating loss is the amount by which deductions (after modifications) exceed gross income. A net operating loss may result from losses incurred in a trade or business, from the sale of assets used in a trade or business, or from personal casualties or thefts. For the purpose of computing the amount of an allowable net operating loss, certain items of income, expense or deduction will be classified as "business" or "nonbusiness." The following is a partial list of items regularly classified as business or nonbusiness:

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

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

erating loss originating for a particular taxable year, the following modifications must be made: (i) no deduction may be taken for any net operating loss carried over from another year, (ii) no deduction is allowed for the personal exemption allowed by §40-18-19, and (iii) nonbusiness deductions, including the federal income tax deduction, may not exceed nonbusiness income.

Form Preparation

Enter the loss year ending. Enter the name of the estate or trust and the federal employer identification number of the estate or trust.

Part I – Excess of Nonbusiness Deductions Over Nonbusiness Income

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

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

Line 4. Enter the total of the amounts of lines 1 through 3b.

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

Line 11. Enter the total of lines 5 through 10.

Line 12. The amount entered on line 12 must be zero, if nonbusiness income (line 11) exceeds nonbusiness deductions (line 4). Otherwise, subtract the amount on line 11 from the amount on line 4, and enter the result on line 12. The amount entered on line 12 must also be entered on line 15.

Part II – Computation of Net Operating Loss

Line 13. Enter the amount from Alabama Form 41, page 1, line 5 (Alabama Taxable Income). This calculation cannot include the income distribution deduction on page 1, line 2.

Line 14. Enter the amount from Form 41, page 1, line 3.

Line 15. Enter the amount from line 12 of the Form NOL-F85.

Line 16. Enter the sum of line 14 and line 15.

Line 17. Enter the sum of line 13 and line 16. If the amount on line 17 is zero or greater, the taxpayer does not have a net operating loss for the tax year.

Part III – Election to Forfeit Carryback Provision

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

Please Note: losses from Estates and Irrevocable trusts cannot be passed to beneficiary or owner see *Code of Alabama 1975*, 810.3.25.05(8)b, 40-18-25(4).