

Alabama Form 41 General Instructions

Alabama Income Tax law Concerning Estates and Trusts.

Available on the Alabama Department of Revenue's website, www.revenue.alabama.gov are the Alabama tax laws and rules, 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

Who must file an Alabama Form 41? The annual return filing requirement for the Alabama Form 41 is established by Section 40-18-29(a). The following fiduciaries must file returns:

- All resident trusts with net income over \$1,500 for the year
- All non-residents trusts with any Alabama derived net income after deductions
- Any trust, resident or non-resident, claiming a qualifying net operating loss for the years must file in the year of loss to qualify for credit on the future years' returns.

Electronic Payment. Section 41-1-20 requires all single tax payments of \$750.00 or more to be made electronically. These payments can be made by direct debit through the approved e-file software vendors.

Taxpayers making e-payments via My Alabama Taxes (MAT) must have a Sign On Id and Access Code to login. Visit our website at www.myalabamataxes.alabama.gov for additional information.

Due Date for the Alabama Form 41. Calendar year returns are due on or before the 17th 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. Any extension of time to file an income tax return allowed by federal income tax purposes will be recognized for Alabama purposes. 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 due date of the return without regard to the ex-

ension 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 or Schedule G must be attached for each person or tax entity that was a beneficiary at any time during the taxable year.

Instructions for CRATs, CRUTs, and Tax Exempt Organizations

Taxpayers completing Form 41 for a CRAT, CRUT or tax exempt organization (TEO) should follow the standard instructions for lines 1 through 5. A zero (0) should be entered on line 6a and the proper box should be checked to identify the type of entity. For tax years beginning on or after January 1, 2016, the due date for TEOs is the same as the due date for filing the required federal income tax return. Extensions approved for the federal returns will extend the due date for the Form 41 as well, but will not extend the due date for payment of taxes owed. Any taxes owed must be paid by the original due date of the return.

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 C, line 18c.

Line 2. Enter the amount from page 2, Schedule A, line 15. The amount entered should be 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 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 apportion the 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 6a. 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 6a the total income tax due. The tax rates are

Tax Computation Worksheet	
\$ _____	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) . _____
Total Income Tax Due . . _____	

established by Section 40-18-5.

(If a CRAT/CRUT or NOL, indicate by checking box and attaching a computation schedule.

Line 6b. If using ESBT, attach Schedule ESBT for electing small business trust computation schedule and enter tax due from line 21. Schedule ESBT shall include income and deductions, related to the trust ownership, that consists of S Corporation stock on the column labeled ESBT. Non-ESBT column should include income and deductions from Form 41, Schedule C, Column C. If NOL ESBT applies, please submit Schedule NOL F85 A with NOL ESBT selection checked.

Line 6c. Enter the sum of lines 6a plus 6b.

Line 7a. Enter allowable credits from Schedule FC.

Line 7b. 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 7c. Enter any amount paid on or before the due date of the return. This will also include any credit carry forward from prior years.

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

Line 7e. 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 and 7e.

Line 9. Subtract line 8 (total credits) from Line 6c (total tax due) and enter the difference on line 9. If total tax due is larger than total credits, enter the difference as a positive number. This is the amount of tax you owe. If total tax due is less than total credits, enter the difference as a negative number. This is the amount of overpayment which may be refunded or carried forward.

Line 10a. Enter the amount of refund to be carried to your 2017 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 Distributable Net Income (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 15 of Schedule A 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 only. Enter the amount of income required to be distributed currently, whether distributed or not.

Line 10. This line applies to decedent's estates or complex trusts only. 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 – Alabama Charitable Donation

Line 1. Enter the total amount included in gross income for the tax year that was paid for charitable purposes or permanently set aside for charitable purposes, in accordance with 26 U.S.C. 642(c).

Do not include any capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes- enter those amounts on line 4.

Line 2. Enter the amount of Alabama tax exempt income received by the estate or trust during the tax year which is included in the amount on line 1. Unless specified in the governing instrument of the trust the amount on line 2 is computed by multiplying the amount on line 1 by a fraction, the numerator of which is the total tax exempt income of the estate or trust, and the denominator is the gross income of the estate or trust.

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

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

Line 5. Add line 4 to line 3, and enter the sum on line 5 and on page 3, Schedule C, line 13, Column C.

Schedule C – Computation of Alabama Adjusted Total Income

If trust is a grantor trust, Schedule C is not required to be completed.

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

Line 3. Enter total from Alabama Form 41, Schedule D, Profit or (Loss) from Sales of Assets line 8.

Line 5a. Enter total from Alabama Form 41, Schedule E, and Supplemental Income or (Loss) Part II line 25.

Line 5b. Enter total from Alabama Form 41, Schedule E, and Supplemental Income or (Loss) Part III line 26.

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

– Enter in column B any adjustments to federal income as required by Alabama income tax law. Increases should be indicated as a positive amount, and decreases should be shown as a negative amount. Supporting documents will be required for Column B adjustments.

– Enter in column C as adjusted for Alabama income tax law.

Net Alabama Capital Gain or (Loss). Line 3, column C, is 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 upon written request from 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 disclosed as an adjustment for 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 any adjustments to federal income as required by Alabama income tax law. Increases should be indicated as a positive amount, and decreases should be shown as a negative amount.

– Enter in column C as adjusted for Alabama income tax law.

Federal Estate Tax and Federal Income Tax. The amount on line 11 should be the amount of FET added to any FIT paid by the estate trust. A copy of any federal income tax returns should provide for support.

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 C, line 9, column C (Total Income – Alabama Amount): (1) the administration costs of the estate or trust included in Schedule C, lines 12, 14, and 15, column C; (2) the Alabama Income Distribution Deduction (page 1, line 2); (3) the exemption Allowed the Estate or Trust (page 1, line 3); and, (4) the Alabama Net Operating Loss Deduction. If Alabama AGI is less than zero, use zero in any computations where Alabama AGI is required.

Line 17. Enter in each column the sum of the amounts entered in lines 10 through 16.

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 on line 18b as a positive amount, and adjustments resulting in an increase in total ordinary deductions would be reflected 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 C – 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 laws 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.

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. For Alabama income tax purposes a deduction is allowed for the amount the wages were reduced.

Schedule D

Purpose of Schedule

Use Schedule D (Form 41) to report the sale of real estate, stocks, bonds, etc.

Under current Alabama law, the entire gain is taxable, and the entire loss is deductible in the year in which it occurs. §§40-18-6,7, and 8.

Column (a) Kind of Property and description. (Example 100 shares of ABC Co.).

Column (b) Date Acquired (month, day, and year).

If the shares were acquired on different dates enter “Various” in column (b).

Column(c) Date sold (month, day, and year).

Column (d) Gross Sale price.

Column (e) Cost or Other Basis, plus Expense of Sale.

Column (f) Gain (Loss) (d) less (e).

Line 2. Subtotal of capital gains and losses in column (f).

Line 2 through 7. Report gain or loss and attach applicable schedules.

Line 8. Report total capital gain or loss of lines 2 through 7 and, enter total here and on Form 41, page 3, Schedule C, Column C, line 3c.

Schedule E

Purpose of Schedule

Use Schedule E to report income or (loss) from rents, royalties, partnerships, S corporations, estates, and trusts.

Part I

Line 1. Indicate the kind of rental real estate property the trust or estate rented. Include the street address, city, or town, and state along with percentage of ownership in the property. If no mailing address is available enter type of rental and entity mailing address

Line 2. Indicate yes or no if the unit was used by you or your family for personal purposes more than 14 days or 10% percent of the

total days rented to others at a fair rental price.

Line 3 and 4. If the trust or estate received rent from property owned or controlled, or royalties from copyrights, mineral leases, and similar rights, report the total amount received in Part I, columns (a) through (c).

Line 5 through 18. Enter rental and royalty expenses for each property in the appropriate column. You can deduct all ordinary and necessary expenses, such as taxes, interest, repairs, insurance, management fees, and agent commissions.

Part II

If the estate or trust received income from a partnership or s corporations the amounts should be reported in part II, column (j). The name and address must be given in column (g) showing source of income received. In column (h) check the appropriate entity for which for which the income or (loss) is being received and enter the federal employer identification number (FEIN) in column (i).

Line 24. Report total income or (loss) from partnerships and s corporations. Add the amounts in column (j) enter here and include on line 25 below.

Line 25. Report total income or (loss) Combine lines 23 and 24. Enter here and on Form 41, page 3, Schedule C, Column C, line 5a.

Part III

If the estate or trust received income from an estate or trust the amounts should be reported in part III, column (n). The name and address must be given in column (k) showing source of income received. In column (l) check the appropriate entity for which the income or (loss) is being received and enter the FEIN in column (m).

Line 26. Report total income or (loss) from estates and trusts. Add the amounts in column (n) . Enter here and on Form 41, page 3, Schedule C, line 5b.

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 15 on Schedule K coincide with the lines in Part III (Beneficiary Share of Current Year Income, Deductions, and Other items), on the Alabama Schedule K-1 (Form 41). The amount on line 10 cannot be below zero.

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 on 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.