

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

2021

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

What's New

Growing Alabama Credit. Act Number 2016-102 and Section 40-18-413 authorize a tax credit to corporations that make cash contributions to economic development organizations (EDO) approved by the Renewal of Alabama Commission. The credit is the amount of the cash contribution made not to exceed the reservation amount as verified by the EDO. The credit cannot exceed 50% of the income tax liability for the current year. This credit is nontransferable and may be carried forward for up to five years.

Apportionment Factor Update. Alabama Act 2021-1 amends Section 40-27-1, to change the apportionment factor to a single sales factor. All business income shall be apportioned to this state by multiplying the income by the sales factor.

Electing Pass -Through Entity. Alabama Act 2021-1 allows Alabama S-Corporations and Subchapter K entities (pass-through entities or PTEs) to elect to pay Alabama income tax at the entity level. Entities making this election (Electing PTEs) must notify ALDOR by filing Form PTE-E via My Alabama Taxes at any time during the tax year but no later than the 15th day of the third month following the close of that tax year for which the entity elects to be taxed as an Electing PTE. Entities making this election are required to file Form EPT, in addition to Form 65 or Form 20S, and submit estimated tax payments.

Business entities must apply through My Alabama Taxes (MAT) at www.myalabamataxes.alabama.gov and receive approval before some credits are claimed on Schedule PC. Once logged into MAT, a taxpayer will need to **locate the Pass Through Entity Tax** as their account type then select "Submit a Credit Claim" and follow a short series of instructions/steps to claim a credit. Any supporting documentation for the credit certificate is required to be attached in MAT. The process of "Submitting a Claim" through MAT must be completed to allow the recipients a credit claim. Taxpayers needing assistance with signing up for a My Alabama Taxes Account or with reserving a tax credit may call (334) 242-1170 Option 6.

Issues Concerning the Preparation of the 2021 Alabama Partnership Return

Return and Payment Due Dates. Act Number 2016-412 provides for the due dates of certain state income tax returns to correspond to the due dates of federal income tax returns and provides for payments to be made on the original due date of the return. For tax years beginning on or after January 1, 2016, returns made on the basis of calendar year shall be filed on or before the 15th day of March following the close of the calendar year. Returns made on the basis of fiscal year shall be filed on or before the 15th day of the third month following the close of the fiscal year.

Composite Payment and Return Requirements for Partnerships. Generally, a partnership, or other entity classified as a Subchapter K entity, is required to file a composite return and make composite payments on behalf of its nonresident owners or members if there are one or more nonresident owners or members at any time during the taxable year.

Requests for relief of composite payment requirements will be considered on a case-by-case basis when properly submitted. To request relief, Form PTE-R must be completed and received at least 30 days before the original due date of the composite return. Form PTE-R and instructions for requesting relief are available at www.revenue.alabama.gov.

Qualified Investment Partnerships. §40-18-24.2, *Code of Alabama 1975*, generally defines a Qualified Investment Partnership (QIP). Alabama Form 65 and Schedule K-1 for Alabama Form 65 have been revised to accommodate the QIP income tax return requirements. An Alabama partnership return filed by a QIP must be indicated by completing the QIP indicator on page one of the Form 65 and on each K-1 accompanying the return. Nonresident members of the QIP that receive exempt income from the QIP should receive an Alabama Schedule K-1 with the QIP indicator properly marked and with the total amount of Alabama exempt income reported on Line J.

Schedule PC. The Alabama Department of Revenue requires the use of Schedule PC, Pass Through Credits, when claiming tax credits. The schedule allows the tax-

payer to compute the total amount of tax credits allowable. The amounts entered on the Schedule PC will carry over to the Form 65, Schedule K, Line 21. See instructions for Schedule PC for additional information.

Nexus. Act 2015-505 establishes a factor presence nexus standard for nonresident business activity. Substantial nexus in Alabama is established if any of the following thresholds are exceeded during the tax period: \$54,000 of property, \$54,000 of payroll, \$538,000 of sales, or 25% of total property, total payroll or total sales.

Schedule NRC-Exempt. Schedule NRC-Exempt is to be completed by a nonresident member to certify exemption from AL Code §40-18-24.2. This form should be attached to the Form 65 and Form PTE-C each year. Failure to attach form NRC-Exempt to the return shall cause the pass through entity to remit payment due as originally required.

The following members may be exempt from the composite payment requirement by filing Form NRC-Exempt:

1. Real Estate Investment Trusts that are not captive REITS as defined by Ala. Code Section 40-18-1(5) and that has no Alabama sourced income as a result of the dividends paid deduction.
2. Exempt organizations whose share of taxable income sourced to Alabama does not result in unrelated business taxable income.
3. Insurance companies that are subject to the Alabama premiums tax and are exempt from income tax as outlined in Ala. Code Section 40-18-32(5).
4. Pre-Approved Tiered Structures that wish to exempt a tier from withholding requirements for a direct owner in which the indirect owner agrees to be subject to the personal jurisdiction in this state for all income tax purposes together with related interest and penalties.

To request approval the pass through entity must submit a Form NRC-Exempt executed by the indirect owner along with Form PTE-R and Form NRA-R, completed by the direct owner, 30 days before the original due date (without extension) and documentation adequate to show the portion of the pass through entity's income flowing through to the indirect owner.

A copy of the written approval must be attached each year to the pass through entity's return.

5. Nonresidents whose only Alabama sourced income is derived from a capital credit project and the nonresident's capital credit is expected to fully offset any potential tax liability pursuant to Ala. Admin. Code Section 810-2-7-.04(4)(f).

6. A C-Corporation that has been in a loss position for the three most recent tax years and expects to be in a loss position for the current year.

General Instructions

Alabama income tax computation and reporting requirements for partnerships and limited liability companies are based on the federal requirements. The term "partnership" includes a limited partnership as well as a general partnership, and a syndicate, group, pool, or joint venture which is not a corporation, estate, trust or sole proprietorship within the meaning of the Alabama income tax law.

Required Attachments. To be considered a complete return and not subject to treatment as a delinquent return due to improper preparation the following must be attached:

1. A complete copy of federal Form 1065 including all federal K-1s, statements, and attachments. Voluminous schedules may be omitted; however, a list of all omitted schedules must be attached and provided if requested.
2. Completed Alabama Schedule K-1 for each person or tax entity that was a partner/owner at any time during the taxable year.

Paid Preparer Information. The check box provided above the signature line on page 2 is used to authorize the Department to discuss the Form 65 with the paid preparer. Checking this box can facilitate the process of resolving a problem with the return. Paid preparers must sign and provide the information requested in the Paid Preparer's section of the form. The signature can be made by hand, by rubber stamp, by mechanical device, or a computer program. The preparer must provide the entity with a copy of the prepared return.

Instructions for Filing. Returns made on the basis of calendar year shall be filed on or before the 15th day of March following the close of the calendar year. Returns made on the basis of fiscal year shall be filed on or before the 15th day of the third month following the close of the fiscal year. If the 15th falls on Saturday or Sunday, the following Monday shall be the last day for filing this return.

Mail the completed Alabama Form 65 to:

Alabama Department of Revenue
Income Tax Administration Division
Pass Through Entity Unit
P.O. Box 327441
Montgomery, AL 36132-7441

Extensions. An extension of time to file an income tax return allowed by federal income tax purposes will be recognized for Alabama purposes.

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

Specific Instructions

File the 2021 return for calendar year, fiscal year, or short year that begins in 2021. At the top, right-hand corner of page 1, check the appropriate box indicating a calendar year, fiscal year, or short year return. A **calendar tax year** is 12 consecutive months, beginning January 1 and ending December 31. It is not appropriate for 52/53 week filers. A **fiscal tax year** is 12 consecutive months ending on the last day of any month except December. A **short tax year** is a tax year of less than 12 months. A **52/53 week tax year** is a fiscal tax year that varies from 52 to 53 weeks that ends on a set day of the week but does not have to end on the last day of a month.

At the top, left-hand corner of page 1, check all applicable boxes indicating if the return is an Amended Return, Initial Return, Final Return, General Partnership, Limited Partnership, LLC/LLP, Qualified Investment Partnership, Public Housing Project, Publicly Traded, and/or Series LLC.

Check the Federal Audit Change box if amending the return due to changes that resulted from an IRS audit. Check the amended box if you are amending the return for any reason other than changes that resulted from an IRS audit.

Filing Status. Check the appropriate filing status. ONLY ONE BOX can be checked. Filing status 1, Company operating only in Alabama. Filing status 2, Multi-state company, is for taxpayers whose business activity in Alabama is represented by the apportionment percentage (has operations in Alabama and one or more states), or for taxpayers that have operations in other states only. Filing status 3, Separate (Direct) Accounting, should only be used by taxpayers that are directly allocating income/loss and have received prior permission from the Alabama Commissioner of Revenue or taxpayers that are only allocating nonbusiness items (Sch. B).

If the Partnership or LLC is an Electing Pass-Through Entity, check the applicable box.

Lines 1 – 21. Except for lines 8 and 21 which are totals, enter the amounts from the entity's Federal Form 1065 on the corresponding Form 65 line. Attach all Federal Schedules.

Line 22. Subtract Line 21 from Line 8.

Line 23. Enter the amount of Alabama Nonseparately Stated Reconciliations from Schedule A, Line 11.

Line 24. Add lines 22 and 23.

Line 25. Enter the amount of Income or Loss treated as Nonbusiness Income from Schedule B, Column E, line 1d. Enter a loss amount as a positive amount and an income amount as a negative amount.

Line 26. Enter the sum of the amounts entered in line 24 and 25.

Line 27. Enter the apportionment factor from Schedule C, line 9.

Line 28. Income or (Loss) Apportioned to Alabama. Multiply the amount in line 26 by the percentage in line 27.

Line 29. Enter the amount from Schedule B, Column F, line 1d.

Line 30. Enter 100% of the health insurance premiums paid during the taxable year that qualify, under Act Number 2011-155, as health insurance premiums on qualifying employees in connection with an employer-provided health insurance plan. Attach a computation of the amount entered on Line 30 to the return.

Line 31. Enter the sum of the amounts entered in lines 28, 29, and 30. This amount should also be entered on Schedule K, Line 1.

Line 32. Enter the refundable portion of the 2017 Alabama Historic Rehabilitation Tax Credit from Schedule PC, Part T, line 6.

Line 33. Enter the refundable portion of the Railroad Modernization Act Credit

from Schedule PC, Part T, Line 7.

Schedule A-Nonseparately Stated Reconciliation Adjustments.

The Alabama income tax laws are similar, but not identical, to the federal income tax laws. It is necessary to make certain adjustments to reconcile federal ordinary business income (loss) to total income from all allocations computed in accordance with Alabama income tax laws and rules. Use Schedule A to reconcile such differences.

Multistate entities must not use Schedule A to make adjustments for non-apportionable (nonbusiness) items. Adjustments for these items must be made on Schedule B.

Additions to Federal Taxable Income:

Line 1. Addback otherwise deductible related member interest or intangible expenses and costs except to the extent the corporation establishes that the expense satisfies an exception in Section 40-18-24.2. **(Schedule PAB must be attached).**

Line 2. Enter any gain attributable to property purchased and subject to the bonus depreciation or additional 179 expense as allowed by the 2008 Federal Economic Stimulus Act.

Line 3. Other items required to be added back to federal taxable income to arrive at Alabama taxable income should be entered on this line. Attach supporting documentation.

Line 4. Enter any state income taxes that are not deductible (i.e. Electing Pass Through Tax, etc.)

Line 5. Enter contributions not deductible on the state income tax return due to an election to claim a state tax credit, i.e. Growing Alabama credit, etc.

Line 6. Total the amounts reported on lines 1 through 5.

Deductions from Federal Taxable Income:

Line 7. Enter expenses not deductible on the federal income tax return due to an election to claim a federal tax credit, i.e., jobs credit, etc.

Line 8. Enter any difference in the Federal recapture amount (reported on line 35, Part IV, Form 4797) and the Alabama recapture amount due to the basis difference resulting from Alabama's decoupling from the provisions of the 2008 Federal Economic Stimulus Act or the additional Section 179 expense deduction having been taken as allowed by the 2008 Federal Economic Stimulus Act. Identify the items of property on an attachment to the return.

Line 9. Other items required to be added back to federal taxable income to arrive at Alabama taxable income should be entered on this line. Attach supporting documentation.

Line 10. Sum the deductions reported on lines 7 through 9.

Line 11. Subtract line 10 from line 6 and enter the result on line 11. If line 10 is larger than line 5 enclose the amount on line 10 in parentheses. Carry the amount on line 11 to page 1, line 23.

Schedule B – Allocation of Nonbusiness Income, Loss, and Expense

The purpose of Schedule B is to report nonbusiness income, nonbusiness losses, and nonbusiness expenses, as defined by Section 40-27-1, *Code of Alabama 1975*. Nonbusiness items can be both nonseparately stated items and separately stated items. Nonbusiness items are not subject to the multistate apportionment requirements of Chapter 27, Title 40, Code of Alabama 1975, but are allocated directly to Alabama or another state, in accordance with the Multistate Tax Compact (Chapter 27, Title 40, *Code of Alabama 1975*).

Do not complete Schedule B if the entity operates exclusively in Alabama. Enter under the Nonseparately Stated Items heading on line 1a, line 1b, and line 1c a description of the nonseparately stated item.

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

1. Enter on Column A the total gross income (from all states – everywhere) from the item.

2. Enter on Column B only the Alabama gross income from the item.

3. Enter on Column C the expenses related to the gross income (everywhere) entered in Column A.

4. Enter on Column D only the expenses related to the Alabama gross income entered in Column B.

5. Enter on Column E the amount resulting from subtracting the expense amount in Column C from the gross income (everywhere) amount in Column A.

6. Enter on Column F the amount resulting from subtracting the Alabama ex-

pense amount in Column D from the Alabama gross income amount in Column B.

Enter on Column E, line 1d, the sum of the amounts entered in Column E on line 1a, line 1b, and line 1c. The amount entered in Column E, line 1d is the net amount of nonseparately stated nonbusiness income items for all states (everywhere). The amount entered in Column E, line 1d is also entered on page 1, line 25. Please note that when an amount is entered in page 1, line 25, income is entered as a negative amount and losses are entered as a positive amount.

Enter on Column F, line 1d, the sum of the amounts entered in Column F on line 1a, line 1b, and line 1c. The amount entered in Column F, line 1d is the net amount of nonseparately stated nonbusiness income items to be allocated only to Alabama. The amount entered in Column F, line 1d is also entered on page 1, line 29.

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

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

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

Enter on Column B, line 1h, the sum of the amounts entered in Column B on line 1e, line 1f, and line 1g. The amount entered in Column B, line 1h is also entered on Schedule K, Line 12.

Enter on Column D, line 1h, the sum of the amounts entered in Column D on line 1e, line 1f, and line 1g. The amount entered in Column D, line 1h is also entered on Schedule K, Line 18.

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

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

Schedule C – Apportionment Factor Schedule

Do not complete Schedule C if the entity operates exclusively in Alabama. Enter 100% on Schedule C, line 9.

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

Alabama Department Revenue Regulation 810-27-1-.09 generally explains the Alabama apportionment factor. Regulations 810-27-1-.15 through .17 generally explain the Alabama sales (gross receipts) factor.

The use of separate or direct accounting must be approved in writing by the Department.

Amounts entered in this schedule cannot be negative.

Line 1. Enter in the appropriate columns gross receipts from sales. If the everywhere gross receipts from sales does not correspond with line 1 of federal Form 1065, attach an explanation and reconciliation.

Line 2. Enter in the appropriate columns gross business income from dividends.

Line 3. Enter in the appropriate columns the gross business interest income.

Line 4. Enter in the appropriate columns the gross business income from rents.

Line 5. Enter in the appropriate columns gross business income from royalties.

Line 6. Enter in the appropriate columns the gross receipts from the sale or disposition of assets used in the business. See Alabama Department of Revenue regulation number 810-27-1-.15 for exclusion of amounts which would distort the factor.

Line 7. Enter in the appropriate columns the amounts of other business gross receipts, and identify the nature of such receipts and their location on the federal return.

Line 8a. Total the Alabama column for lines 1 through 7.

Line 8b. Total the Everywhere columns for lines 1 through 7.

Line 9. Divide the amount on line 8a by the amount on line 8b, and enter the number on line 9, as a four decimal place percentage. The percentage entered on line 9 is the Alabama Apportionment Factor.

Schedule D. Disregarded Entity Schedule

List all disregarded entities in which the Subchapter K entity holds full ownership interest of 100%. For each entity, provide the name, FEIN, income/ (loss) from all sources, and Alabama source income/ (loss). Attach additional schedules as necessary.

Schedule E – Other Information

All partnerships and limited liability companies must provide the information required for Schedule E.

Schedule K – Partner’s Distributive Share Items

Multistate entities should not use Schedule K to allocate separately stated business income. See instructions for Schedule B.

Line 1. Alabama Ordinary income. Enter on the Apportioned column the Alabama Ordinary income from page 1, line 31.

Lines 2-20 (except lines 11 and 17). Enter the federal amount of the items described below as adjusted for Alabama income tax law in Column A, and the apportionment factor from Schedule C, line 9 in Column B. Column C is the income apportioned to Alabama. It is calculated by multiplying the amount in Column A by the amount in Column B. An attachment should be included to explain any adjustments made. See suggested format at the end of this section.

Line 2. Net rental real estate income (loss). The net rental real estate income (loss) from the Federal Form 1065, Schedule K as adjusted to Alabama basis. Attach Federal Form 8825.

Line 3a. Other gross rental income (loss). Other gross rental income (loss). Other gross rental income (loss) from the Federal Form 1065, Schedule K as adjusted to Alabama basis.

Line 3b. Expenses from other rental activities. Enter Expenses from other rental activities the Federal Form 1065, Schedule K.

Line 3c. Other Net Rental Income (loss). Subtract Line 3b from line 3a.

Line 4. Guaranteed Payments. The total amount of guaranteed payments to partners from the Federal Form 1065, Schedule K.

Line 5. Interest Income. The total amount of interest from the Federal Form 1065, Schedule K.

Line 6. Dividends. The total amount of dividends from the Federal Form 1065, Schedule K.

Line 7. Royalties. The total amount of Royalties from the Federal Form 1065, Schedule K.

Line 8a. Short-term capital gain(loss). Enter the total amount of the Net short-term and Net long-term capital gain(loss from the Federal Form 1065, Schedule K.)

Line 8b. Act 2019-392 created Section 40-18-6.1 which provides that the provisions in 26 U.S.C. Section 1400Z-2 would be applicable to an investment in an approved opportunity fund as approved by ADECA. If the project does not meet the qualifications of approved opportunity fund, any deferred gain should be added back to determine Alabama taxable income. Schedule OZ must be completed if a taxpayer has gains invested in Qualified Opportunity Funds. Enter the taxable gain from Schedule OZ, line 4 on line 8b.

Line 8c. Act 2019-392 provides that a qualified investment fund’s gain shall not be recognized upon the disposition of the fund’s ownership interest in a qualified entity. A qualified investment fund is any company which meets all the following: a. The fund made its investment in the qualified entity after August 5, 2019 and b. For a period of five years after the disposition date, the fund invests the moneys resulting from the disposition in another qualified entity. Enter the Section 40-18-8.1 gain exclusion.

Line 8d. Enter the total of Lines 8a, 8b, and 8c.

Line 9. Net Section 1231 gain (loss). The total amount of Net Section 1231 gain (loss) from the Federal Form 1065, Schedule K as adjusted to Alabama basis. Attach Federal Form 4797.

Line 10. Other Income. The total amount of Other Income from the Federal Form 1065, Schedule K as adjusted to Alabama basis.

Note: Enter casualty losses on line 16.

Line 11. Nonbusiness Items. Enter in the Apportioned Amount column the amount entered on Schedule B, Column B, line 1h. Attach a statement identifying the nature and amounts of the separately stated nonbusiness items.

Line 12. Section 179 Deduction. As a positive amount, enter the IRC §179 ex-

pense deduction entered on Federal Form 1065, Schedule K.

Line 13a. Contributions. As a positive amount, enter the contributions entered on Federal Form 1065, Schedule K.

Line 13b. Investment interest expense. The investment interest expense from Federal Form 1065, Schedule K.

Line 14. Other deductions. Other deductions from Federal Form 1065, Schedule K.

Line 15. Oil and Gas Depletion. As a positive amount, enter the oil and gas depletion entered on Federal Form 1065, Schedule K.

Line 16. Casualty Losses. As a positive amount, enter the casualty losses entered on Federal Form 1065, Schedule K.

Line 17. Nonbusiness Items. Enter in the Apportioned Amount column the amount entered on Schedule B, Column D, line 1h. Attach a statement identifying the nature and amounts of the separately stated nonbusiness items.

Line 18a. Tax-exempt interest income. The total amount of tax exempt interest income from the Federal Form 1065, Schedule K.

Line 18b. Other tax-exempt income. The total amount of other tax exempt interest income from the Federal Form 1065, Schedule K.

Line 18c. Nondeductible Expenses. The total amount of Nondeductible Expenses from the Federal Form 1065, Schedule K.

Line 19a. Distributions of cash and marketable securities. The amount of cash and marketable securities distributed to owners.

Line 19b. Distributions of other property. The amount of other property distributed to owners.

Line 20a. Investment income. The total amount of Investment Income from the Federal Form 1065, Schedule K.

Line 20b. Investment expenses. The total amount of Investment expense from

the Federal Form 1065, Schedule K.

Line 20c. Other items and amounts. The total amount of other items and amounts from the Federal Form 1065, Schedule K. Attach supporting documentation.

Line 21. Total Credits. Enter nothing in the Federal Amount column and the Apportionment Factor column. Enter in the Apportioned Amount column total credits from Schedule PC, Part T, Line 9. Attach Schedule PC.

Line 22. Composite Payment Made on Behalf of Owner. Enter nothing in the Federal Amount column and the Apportionment Factor column. Enter in the Apportioned Amount column the amount of total composite payments made on behalf of the owners.

Line 23. Electing Pass-Through Entity Tax. Enter nothing in the Federal Amount column and the Apportionment Factor column. Enter in the Apportioned Amount column. This amount is reported on Form EPT, line 2.

Note: Any adjustments made to lines 2, 3a, 8, 9 or 10 of Schedule K should have an accompanying explanation. A suggested format is shown below:

Item	Federal amount	Adjustment	AL amount
Net short term capital loss	(3,000.00)	(2,000.00)	(5,000.00)

Explanation: total amount claimed in year of loss for AL

Schedule P – Partnerships, Estates, and Trusts

Use Schedule P to report income received from partnerships, estates, and trusts. Show the name, address, and FEIN of each partnership, estate, and trust. Report the total income received from these sources in Column D and only the income earned from Alabama sources in Column E.