Alabama
Department of Revenue

Starting a New Business

AN EDUCATIONAL BROCHURE FOR ALABAMA TAXPAYERS

Alabama Department of Revenue
50 North Ripley Street
Montgomery, AL 36132

www.revenue.alabama.gov

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This information was produced to give new business owners a general overview of the different areas of taxation required by the State of Alabama. Please note that this brochure was produced as a guide and it is not the final word on Alabama law.

INTRODUCTION

One of the most frustrating things to deal with as a new business is taxes. Taxes require not only the money to pay them, but also a great deal of time to plan for them and prepare the returns correctly.

The Alabama Department of Revenue (ADOR) administers over 50 different state and local taxes that affect business and individual taxpayers. The following is a listing of the business-related taxes that are administered by the ADOR. This overview is intended to be an introduction to the tax requirements for businesses. If you need more information, contact your accountant or the ADOR.

STARTING A NEW BUSINESS

Contact all necessary agencies that you feel may affect your business or yourself. Do not rely on secondhand information or someone else to contact all the agencies for you. There are forms that must be completed with information that only you will know about your business; and, usually, these must be signed with your original signature. All participants in the business should be actively involved in this process.

Be aware of how your tax returns, reports, and other paperwork are being handled regardless of whether you have an accountant, bookkeeper, etc. This paperwork affects your business and you should know what is going on. Do not blindly accept anything.

Keep at least six years of records so you can substantiate why you made a particular sale or took a particular deduction.

Be informed. Keep up with changes in state and federal tax laws which may affect you personally or your business. Your accountant or local district Revenue office should know of any changes and how they may affect your business. For any federal changes, contact the appropriate federal agency or office.

PLEASE respond to all correspondence from the Internal Revenue Service (IRS) or the Alabama Department of Revenue even if the notice or billing seems incorrect; your response is the only way to resolve tax matters. No response to correspondence creates problems for both you and the agency involved.

DEALING WITH THE ALABAMA DEPARTMENT OF REVENUE

Employees of the Alabama Department of Revenue recognize that dealing with any government agency can, at times, be very frustrating to taxpayers. The causes of those frustrations can be varied: legal requirements, rules, regulations, policies, procedures, etc. Of course, such causes have legitimate bases and are put in place to serve the general good of the taxpaying public. However, sometimes, individual taxpayers may feel hampered in efforts toward resolution because of one of the above-stated factors. Consequently, the department wants to make every reasonable effort to assist each taxpayer reach a successful conclusion to any issue that may arise.

In order to communicate effectively with taxpayers, certain information and action taken by the affected taxpayers will be beneficial. In communicating with the department, please:

- State your full name.
- Provide your social security number or federal Employer's Identification Number (EIN).
- Provide a telephone number where you may be contacted during the day.
- Provide your mailing address, as well as your physical address.
- If you have an E-mail address and/or fax number and want to use those addresses as possible methods of contact, provide the address/number.
- State either orally (telephone) or in writing (if sending a letter) your problem as you perceive it to be.
- State what you think should be done to resolve the problem.
- Keep a written record of your efforts to resolve your problem. In those records, make notes of:
  - Date of discussions.
  - Were the discussions in person or by telephone?
  - What was the name of the department employee?
  - What was the function of the department employee – i.e., his/her section and division?
  - What was the department employee's telephone number?
  - What was agreed upon between you and the department employee?

In your dealings with the Alabama Department of Revenue, please keep in mind that the department receives thousands of telephone calls and letters each day from taxpayers throughout Alabama, as well as the United States. Therefore, in order to provide efficient service, detailed information is necessary for effective resolution of issues. Consequently, your efforts to provide the department with meaningful information about your particular situation as indicated above will contribute substantially toward providing you with service that minimizes prolonged delays in issue resolution.

PATHWAY TO REGISTRATION

ALL BUSINESSES:

Contact the Internal Revenue Service (1-800-829-1040 for tax information, or 1-800-829-3676 for forms and publications) to determine if:

- A federal Employer's Identification Number (EIN) is needed (Form SS-4).
- Requirements for federal Estimated Income Tax are met (proprietors, partners, corporate shareholders, etc.), (Form 1040ES).
- Federal Self-Employment Tax is required.

You may request the following forms and/or publications from the IRS: SS-4 (EIN application form), Form W-4 (Federal Exemption Certificate), Circular E (Federal Tax Tables), 1040ES (Federal Declaration of Estimated Income Tax), Publication 334 (Tax Guide for Small Businesses) and/or other forms or publications.

IRS forms and publications may be downloaded from the IRS Web site at www.irs.gov.

Contact the Alabama Department of Revenue's Taxpayer Service Center in your area or visit the department's Web site at www.revenue.alabama.gov to determine what (if any) state and local taxes apply.

Determine if a privilege license is required (see below). If so, purchase it.

- County and State Licenses – County Courthouse (Probate Judge or License Commissioner).
- City Licenses – City Hall.

Contact the local county tax assessor's office in the county or counties in which you own property in order to meet the requirements of assessing all of your real property.

Contact the Alabama Department of Revenue, Individual Income Tax Section at (334) 242-1000 to determine if requirements for Alabama Individual Estimated Income Tax (Form 40ES) are met (proprietors, partners, corporate shareholders, etc.).

- Proprietors, partners and certain other individuals must report estimated earnings and remit the income tax on those earnings quarterly. (See Alabama Form 40ES and Federal Form 1040ES.)

At year-end, resident individuals must file Alabama Form 40 and Federal Form 1040 to report actual yearly earnings. (See Forms 40, 1040, and Schedule C for instructions.) Nonresident individuals that receive income from business operations in Alabama must be covered by a composite return or file Alabama Form 40NR to report Alabama income earned.

You must keep all financial and accounting records that clearly reflect income and expenses from three (3) to six (6) years or dependent on your situation.

If you are late with any tax return, contact the appropriate agency immediately. Instructions will be given as to what course of action you must follow. Reply to all correspondence from these agencies immediately.

Contact the Small Business Development Center closest to you in order to determine what, if any, other requirements there may be. The Small Business Development Centers around Alabama are good sources for determining local requirements, any requirements exclusive to the type of business you are in, marketing information for your business, how to obtain small business loans, etc.

ALL BUSINESSES THAT HAVE EMPLOYEES:

Contact the IRS to determine if federal withholding requirements apply (see previous).

To register for an Alabama withholding tax account number contact the Alabama Department of Revenue, Business Registration Unit, (334) 242-1170 and request Form COM:101 (Combined Registration Form), Forms A-4 (Alabama Exemption Certificates), and Alabama Withholding Tax Tables. These forms and tables can also be obtained from the department's Web site at www.revenue.alabama.gov/withholding/index.html.

Contact the Alabama Department of Industrial Relations to obtain requirements for Worker's Compensation Insurance at (334) 242-2868 or 1-800-528-5166 and State Unemployment Compensation tax at (334) 242-8830. Additional information can be obtained at www.dir.alabama.gov.

Contact city and county officials to determine if any occupational taxes are applicable.

Have all employees complete Forms A-4 (state) and W-4 (federal) and keep these on file.

Withhold income tax from your employees according to the Alabama Withholding Tax Tables and the Federal Circular E using the information on the A-4 and W-4.

File your Alabama Form A-1 or A-6 and remit payment for Alabama income tax withheld to the Alabama Department of Revenue. File Federal Forms 941 (Federal income tax withheld, social security and Medicare) and 940 (Federal unemployment) and remit payments to the appropriate agencies. (See the appropriate forms and instructions for the due dates, penalties, etc.)

At the end of the year, complete Form A-3 (state) and Form W-3 (federal). These should be filed with the appropriate agency along with the proper copies of Forms W-2. Furnish each employee with a copy of the Form W-2 on or before the last day of January.

If you have "contract labor," please contact the Alabama Taxpayer Service Center in your area for verification that it actually is "contract labor" and/or that withholding is required.

ALL RETAIL BUSINESSES:

(Businesses which sell tangible personal property to the end user or the consumer.)

Check previous categories to determine if any apply.

First time applicants may register online through the Alabama Paperless Registration System at http://www.revenue.alabama.gov/salestax/register.html or contact the Alabama Department of Revenue, Business Registration Unit at (334) 242-1170, and request Form COM:101 (Combined Registration Form) to register for sales and local** or seller's use tax license*. This form can also be obtained from the department's Web site at www.revenue.alabama.gov/salestax/index.html.

Contact city and county officials to determine if there are any other local sales and use taxes that you must register to collect and report. A current list of all city and county tax rates are available on the department's Web site at www.revenue.alabama.gov/salestax/index.html.

**Rental businesses must register for a state rental tax license, and lodgings establishments (e.g., hotels, motels, etc.) must register for state and local lodgings tax licenses.*

***The ADOR collects and administers local sales, use, lodgings and rental taxes on behalf of approximately 200 cities and counties; however, the department does not administer these local taxes for all counties or cities.*

ALL WHOLESALERS (Businesses which sell exclusively to retailers, manufacturers, or other wholesalers) and/or MANUFACTURERS:

Check previous categories to determine if any apply.

Contact ADOR's Sales, Use & Business Tax Division or any local Taxpayer Service Center to determine if a Certificate of Exemption, Consumers Use Tax License, or other registration is required.

ALL CORPORATIONS AND LIMITED LIABILITY ENTITIES:

Check previous categories to determine if any apply.

Contact the Secretary of State's Office.

- Foreign corporations (those that are incorporated in states other than Alabama) must qualify to do business in Alabama with the Alabama Secretary of State. Call the Secretary of State's office at (334) 242-5324 or visit www.sos.state.al.us to obtain an application for certificate of authority (Form CD-2). Form CD-2 must be filed with the Secretary of State along with a $175 qualification fee and a certified copy of the articles of incorporation.
- Domestic corporations (those that are incorporated in Alabama) must incorporate by first reserving the corporate name with the Alabama Secretary of State and then filing articles of incorporation (original and two copies) and the certificate of name reservation with the probate judge of the county in which the corporation has its initial registered office, along with the appro-

priate filing fees ($50 for Secretary of State and a probate judge fee of a minimum of $35). Contact the Secretary of State's Office at (334) 242-5324 or visit www.sos.state.al.us for more information.

- Contact the Alabama Secretary of State's office at (334) 242-5324 or visit www.sos.state.al.us for questions regarding organizing domestic (those that are created in Alabama) or registering foreign (those that are created in states other than Alabama) limited liability entities (Limited Partnerships, Limited Liability Partnerships and Limited Liability Companies).

File and remit Alabama Business Privilege Tax.

- All corporations and limited liability entities (Limited Partnerships, Limited Liability Partnerships, and Limited Liability Companies) are required to file and pay Alabama Business Privilege Tax no later than 2½ months after the taxpayer comes into existence, qualifies, or registers to do business or commences to do business in Alabama. Contact the Alabama Department of Revenue at (334) 353-7923 or www.revenue.alabama.gov/incometax/bpt_index.htm to obtain an initial Schedule BPT-IN with appropriate Business Privilege Tax forms.

ALL CONTRACTORS:

Check previous categories in order to determine if any of the other requirements previously mentioned will apply.

Contact the Alabama Department of Revenue, Sales, Use & Business Tax Division toll free at 1-866-576-6531 or (334) 242-1490, to determine if any taxes will apply to your business activity (e.g., sales tax, contractor's gross receipts tax, consumers use tax, etc.).

Contact the Contractor's Licensing Board at (334) 272-5030 for additional licensing requirements.

ALL OTHER BUSINESS TYPES NOT LISTED HERE:

If your business falls into a category that has not been covered, you should:

- Check previous categories to determine if any of the above requirements apply to your business.
- Contact the Alabama Department of Revenue's Taxpayer Service Center in your area to determine what (if any) state taxes apply.
- Contact the IRS at 1-800-829-1040 to determine what (if any) federal taxes will apply.
- In Alabama there is no one central licensing authority for the various regulatory and professional licenses which may be required for businesses and individuals. You may wish to consult with your accountant and/or make inquiries at the local level to ensure that you have met all necessary licensing requirements.

SALES, USE & BUSINESS TAX

THE TAX

The Alabama sales tax is a license tax paid for the privilege of selling tangible personal property at retail in Alabama. It is also a license tax for the privilege of operating places of entertainment or amusement.

THOSE WHO MUST REPORT AND PAY SALES TAX

All persons or businesses that sell tangible personal property at retail or operate places of entertainment or amusement must collect the tax and make reports and payments to the Alabama Department of Revenue.

RATE OF TAX

The rate of state tax is 4% of the gross sales of tangible personal property or of the cost of any property purchased at wholesale but withdrawn from stock and used or consumed (except sales of all new and used automotive vehicles, truck trailers, semi-trailers, and house trailers which are taxed at 2% of the net difference paid, farm machinery which is taxed at 1½% of the net difference paid, and all sales of machines, parts, and attachments for machines, parts, and attachments for machines used in manufacturing, processing, compounding, mining, and quarrying tangible personal property which are taxed at 1½%), 4% of the gross receipts from places of entertainment or amusement, and 3% of the gross sales of food products sold through coin-operated vending machines.

In addition to the state sales tax, local sales taxes are also due and these rates vary for each city and county. A current list of all city and county tax rates is available on the department's Web site at www.revenue.alabama.gov/salestax/index.html.

WHEN REPORTS ARE MADE AND TAX PAID

Sales tax reports must be made for each calendar month, that is, from the first day of the month through the last day of the month, except at the beginning or termination of a business.

Sales tax reports with a payment of the amount of tax are due on the first of the month following the month in which sales are made and are considered delinquent and subject to penalty and interest charges if filed or paid after the 20th day of the month following the month covered by the report. After filing for a full calendar year, you may qualify for an alternative filing status as indicated below.

If your total state sales tax liability averages less $200 per month during the preceding calendar year, you may elect to file and pay state sales tax and state-administered local sales taxes on a calendar quarter basis. The election to file and pay quarterly must be made in writing to the Alabama Department of Revenue no later than February 20 of each year in which you wish to file and pay taxes quarterly. Quarterly

returns and payments are due by the 20th of January, April, July, and October for the previous calendar quarter's sales receipts.

If your total state sales tax liability during the preceding calendar year was $10 or less, you shall file and pay state sales and state-administered local sales taxes annually. The annual return and payment are due by January 20 for the previous year's sales.

If you do not qualify to report and pay sales taxes annually or you do not qualify or have not elected to file and pay sales taxes quarterly, you must report and pay state sales tax and state-administered local sales taxes on a monthly basis. Monthly tax returns and payments are due by the 20th of each month for the previous month's sales.

ELECTRONIC RETURNS

All state and state-administered sales tax returns are required to be filed electronically through the department's Alabama Paperless Filing System. Visit www.revenue.alabama.gov for electronic filing information.

ELECTRONIC FUNDS TRANSFER

Section 41-1-20 requires the use of Electronic Funds Transfers (EFT) for all single tax payments of $25,000 or more. After Oct. 1, 2006, the payment threshold amount decreases to $750. Visit the department's EFT Web pages at www.revenue.alabama.gov for more information.

SALES NOT TAXED

There are certain sales to which the sales tax does not apply. They are mainly prescription drugs, sales of gasoline and motor oil (kerosene and fuel oil are taxable); fertilizer/insecticides/fungicides (when used for agricultural purposes), seeds for planting purposes, feed for livestock and poultry (not including prepared food for dogs and cats), baby chicks and poults; livestock; sales to the United States, state of Alabama and other governmental agencies of the state.

PENALTIES

Returns not timely filed are subject to a "failure to timely file" penalty equal to the greater of 10% of the tax required to be paid on the return or $50. Check payments postmarked after the due date or electronic payments settling after the due date are subject to a "failure to timely pay" penalty equal to 10% of the delinquent tax. If the tax is not timely paid, interest is also due at the same rate established by the Secretary of the Treasury under authority of 26 USC 6621.

DISCOUNT FOR PROMPT PAYMENT

A discount of 5% is allowed on tax amounting to $100 or less and 2% on tax due in excess of $100 provided the payment of tax is postmarked by the United States

Postal Service on or before the 20th day of the month following the month for which the tax is paid, or the electronic payment of tax settles by the due date. Please note that the monthly sales tax discount may not exceed $400.

ALABAMA CONSUMER USE TAX

WHAT IS USE TAX?

Use tax is the counterpart of sales tax. It is due when merchandise is purchased for use inside Alabama and tax is not paid to the seller. The use tax rate is the same amount as the state sales tax rate.

WHY A USE TAX?

The Alabama use tax was enacted in 1939 to prevent vendors located outside the state from having an unfair competitive advantage against the instate vendors who have to charge the sales tax. The liability for paying the use tax falls on the purchaser. If the vendor does not collect the use tax, it is the responsibility of the purchaser to self-assess and report the tax due to the Alabama Department of Revenue.

WHAT IS TAXABLE?

The use tax applies to the same type merchandise that is taxable under the Alabama sales tax law. This includes all tangible personal property that is purchased at retail and brought into Alabama for storage, use, or consumption in Alabama unless it is specifically exempted by law.

WHAT IS THE STATE TAX RATE?

Automotive Rate – 2% – If you purchased an automotive vehicle from outside the state and did not pay the casual sales and use tax when you purchased your tag, or, if no tag is required for the vehicle, you owe use tax at the rate of 2% of the purchase price. Examples of items not requiring tags which qualify as automotive vehicles include: off-road motorcycles, ATVs, and self-propelled construction equipment.

Agriculture Rate – 1½% – Machines and equipment and parts for machines and equipment used in connection with the production of agricultural products, livestock, or poultry on farms are subject to tax at the rate of 1½%.

Machine Rate – 1½% – Machines and the parts for machines used in mining, quarrying, compounding, processing and manufacturing tangible personal property are taxed at the rate of 1½%.

General Rate – 4% – All other taxable tangible personal property is taxed at the rate of 4% of the purchase price.

QUESTIONS OFTEN ASKED

DO I HAVE TO PAY USE TAX ON TELEPHONE OR MAIL-ORDER PURCHASES?

If you make a purchase by telephone or mail order and the vendor fails to charge you tax, you are responsible for paying use tax.

In addition to the state tax, local use taxes are also due and these rates vary for each city and county. A current list of all city and county tax rates is available on the department's Web site at www.revenue.alabama.gov/salestax/index.html.

WHO SHOULD PAY USE TAX?

Individuals and businesses are required to pay use tax when making out-of-state purchases that are subject to use tax.

HOW IS USE TAX REPORTED AND PAID?

All state and state-administered use tax returns are required to be filed electronically through the department's Alabama Paperless Filing System. Visit www.revenue.alabama.gov for electronic filing information.

Section 41-1-20 requires the use of Electronic Funds Transfers (EFT) for all single tax payments of $25,000 or more. After Oct. 1, 2006, the payment threshold amount decreases to $750. Visit the department's EFT Web pages at ww.revenue.alabama.gov for more information.

WHEN IS THE TAX DUE?

The tax is due on the first of the month following the month in which the merchandise is purchased. A return should be completed for each month. The tax is considered delinquent after the 20th of the succeeding month. Example: Purchases made in January – the tax is due on February 1 and delinquent after February 20.

After filing for a full calendar year, a taxpayer may be entitled to an alternative filing status as indicated below:

If your total state use tax liability averages less that $200 per month during the preceding calendar year you may elect to file and pay state use tax on a calendar quarter basis. If your total state sales tax liability averages less than $200 per month during the preceding calendar year and your total state use tax liability also averages less than $200 per month during the preceding calendar year you may elect to file and pay state-administered local use taxes on a calendar quarter basis. The election to file and pay quarterly must be made in writing to the Alabama Department of Revenue no later than February 20 of each year in which you wish to file and pay taxes quarterly. Quarterly returns and payments are due by the 20th of January, April, July, and October for the previous calendar quarter's sales.

If your total state use tax liability during the preceding calendar year was $10 or less you shall file and pay state use taxes annually. If your total state sales tax liability during the preceding calendar year was $10 or less, you shall file and pay state-

administered local use taxes annually. The annual return and payment are due by January 20 for the previous year's sales.

If you do not qualify to report and pay use taxes annually or do not qualify or have not elected to file and pay use taxes quarterly, you must report and pay state use taxes and state-administered local use taxes on a monthly basis. Monthly tax returns and payments are due by the 20th of each month for the previous month's sales.

No discount is allowed for prompt payment.

WHERE CAN I GET HELP?

The Alabama Department of Revenue operates nine Taxpayer Service Centers located across the state. Visit ADOR's Web site at www.revenue.alabama.gov to find the location nearest you, or call the Use Tax Section of the Sales, Use & Business Tax Division at (334) 242-1490 for assistance.

LOCAL USE TAX

Cities and counties have use tax requirements patterned after the state law. Purchases from in-state vendors located in areas outside of these Alabama cities and counties where sales are made for use within those city and county taxing jurisdictions could be subject to that particular city or county use tax. If a local city sales or use tax is paid on property under a requirement of law, no other additional city tax is due on the subsequent use, storage, or consumption of that property in another county. A current list of all city and county tax rates is available on the department's Web site at www.revenue.alabama.gov/salestax/index.html.

DUE DATES FOR USE TAX

The due date for local use tax is the same as for state use tax. The tax is due on the first of the month following the month in which the merchandise is purchased. A return should be completed for each month. The tax is considered delinquent after the 20th of the succeeding month. Example: Purchases made in January – the tax is due on February 1 and delinquent after February 20.

LODGINGS TAX

Lodgings tax is a privilege tax on persons, firms, and corporations engaged in renting or furnishing rooms, lodgings, or other accommodations to transients for periods of less that 180 days of continuous occupation and applies to all charges for providing such accommodations. This tax also applies to charges for personal property used or furnished in such rooms or lodgings. The tax should be remitted monthly by the 20th of each month following the month in which the tax accrues. The tax rate is:

- 5% of the charges for accommodations in counties of the geographic region comprising the Alabama Mountain Lakes area (Blount, Cherokee, Colbert, Cullman, DeKalb, Etowah, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, and Winston counties).
- 4% of the charges for accommodations in all other Alabama counties.

Some examples of entities subject to this tax are those entities engaged in the operation of: hotels, motels, lodges, inns, tourist courts, tourist homes, camps, trailer courts, or any other place where rooms, apartments, cabins, sleeping accommodations, house trailer parking accommodations or other accommodations are made available to travelers, tourist, or other transients.

The applicable local lodgings tax rate should be charged in addition to the state lodgings tax. A current list of all city and county tax rates is available on the department's Web site at www.revenue.alabama.gov/salestax/index.html.

ELECTRONIC RETURNS

All state and state-administered lodgings tax returns are required to be filed electronically through the department's Alabama Paperless Filing System. Visit www.revenue.alabama.gov for electronic filing information.

ELECTRONIC FUNDS TRANSFER

Section 41-1-20 requires the use of Electronic Funds Transfers (EFT) for all single tax payments of $25,000 or more. After Oct. 1, 2006, the payment threshold amount is decreased to $750. Visit the department's EFT Web pages at ww.revenue.alabama.gov for more information.

RENTAL TAX

Rental tax is a privilege tax levied on the lessor for the leasing or renting of tangible personal property. The gross receipts (including any rental tax invoiced) from the leasing or rental of tangible personal property are subject to the state rental tax at the following rates:

- Automotive vehicles 1.5%
- Linens / garments 2.0%
- Other 4.0%

This tax is due on "true leases" (those leases in which the title to the property is retained by the lessor at the end of the lease agreement). "Conditional sales leases" (those in which the title of the property is transferred to the lessee at the end of the lease agreement) are subject to sales tax. No discounts apply.

The applicable local rental tax should be computed and paid in addition to the state rental tax. A current list of all city and county tax rates is available on the department's Web site at www.revenue.alabama.gov/salestax/menu.html.

DUE DATES FOR RENTAL TAX

The tax is due on the first of the month following the month in which the tax accrues. A return should be completed for each month. The tax is considered delinquent after the 20th of the succeeding month. Example: Leases made in January – the tax is due on February 1 and delinquent after February 20. After filing for a full calendar year, a taxpayer may qualify for an alternative filing status as indicated below.

If your total state rental tax liability averages less than $200 per month during the preceding calendar year you may elect to file and pay state rental tax and state-administered local rental taxes on a calendar quarter basis. The election to file and pay quarterly must be made in writing to the ADOR no later than February 20 of each year. Quarterly returns and payments are due by the 20th of January, April, July, and October for the previous calendar quarter's rental receipts.

If your total state rental tax liability during the preceding calendar year was $10 or less, you shall file and pay state rental and state-administered local rental taxes annually. The annual return and payment are due by January 20 for the previous year's rental receipts.

If you do not qualify to report and pay rental taxes annually or you do not qualify or have not elected to file and pay rental taxes quarterly, you must report and pay state rental tax and state-administered local rental taxes on a monthly basis. Monthly tax returns and payments are due by the 20th of each month for the previous month's rental receipts.

ELECTRONIC RETURNS

All state and state-administered rental tax returns are required to be filed electronically through the department's Alabama Paperless Filing System. Visit www.revenue.alabama.gov for electronic filing information.

ELECTRONIC FUNDS TRANSFER

Section 41-1-20 requires the use of Electronic Funds Transfers (EFT) for all single tax payments of $25,000 or more. After Oct. 1, 2006, the payment threshold amount decreases to $750. Visit the department's EFT Web pages at www.revenue.alabama.gov for more information.

MISCELLANEOUS TAXES

COAL SEVERANCE TAX is a privilege tax levied on every person mining coal in Alabama. There are two tax levies totaling $.335 cents per ton.

UNIFORM SEVERANCE TAX is a tax on natural minerals severed from the ground within Alabama and sold as tangible personal property. The tax attaches at the point the products are sold by a producer to the first purchaser. The tax rate is $0.10 per ton. The tax does not apply to Geneva, Lamar, Lee, Marshall, and Wilcox counties.

LOCAL SOLID MINERALS TAXES – The Alabama Department of Revenue collects the taxes for Coosa, Jackson, and Marshall counties. Jackson and Marshall counties levy a tax on coal at a tax rate of $0.20 per ton. Coosa County levies a tax on earthen material severed at a tax rate of $0.25 per ton.

IRON ORE SEVERANCE TAX is a privilege tax levied on every person mining iron ore in Alabama. The tax rate is $0.03 per ton of 2,240 pounds.

FOREST PRODUCTS SEVERANCE is a tax on the severing of timber or other forest products from the soil. The tax rate varies according to the measurement specifications and types of forest products severed (See following).

- Pine lumber, $.50 per 1,000 board feet, or $.75 per 1,000 feet log scale, or $.10 per ton if sold as logs;
- Hardwood, and others, $.30 per 1,000 board feet, or $.50 per 1,000 feet log scale, or $.065 per ton if sold as logs;
- Pulpwood, chemical wood, and bolts are $.25 per cord, or $.10 per ton;
- Cross ties are $.015 per piece, or $.15 per ton;
- Switch ties are $.025 per piece, or $.17 per ton;
- Turpentine is $.15 per 400 lb. barrel;
- Mine ties and coal mine props are $.125 per 100 pieces, or $.15 per ton;
- Pine ore mine props are $.75 per 1,000 feet log scale, or $.15 per ton, or $3.125 per lineal feet;
- Hardwood ore mine props are $.50 per 1,000 feet log scale, or $.15 per ton, or $3.125 per lineal feet;
- Stumpwood is $.125 per ton;
- Poles and pilings are $1.875 per 1,000 board feet, or $.205 per ton;
- Additional privilege tax is levied on processors and manufacturers using timber at 50% of the severance tax.

OIL AND GAS PRIVILEGE TAX is an annual privilege tax on all persons engaged in the business of producing or severing oil or gas from beneath the soil or water. The tax rate varies from 2% to 8% of the gross value of the oil or gas at the point of production. Natural gas lawfully injected into oil or gas pools or reservoirs in the soil or beneath the soil or waters of the state is exempt from this tax. Natural gas lawfully injected into the earth for the purpose of lifting oil or gas in the state is

exempt from this tax. However, if any gas injected is sold for such purposes or injected into underground storage facilities, then the gas is not exempt from this tax. Natural gas lawfully vented or flared in connection with the production, treatment, or processing of oil or gas is exempt from the tax.

OIL AND GAS PRODUCTION TAX is levied on the production of oil or natural gas severed from any well or wells in Alabama and is paid on a monthly basis. The tax rate is 1% or 2% of the gross value of the oil or gas at the point of production. This tax is collected and calculated on the same basis as the oil and gas privilege tax.

AUTOMOTIVE DISMANTLER AND PARTS RECYCLER LICENSE is an annual license which is required of all persons engaged in the business of purchasing, dismantling, disassembling, or repairing wrecked, abandoned, or repairable motor vehicles and selling the usable parts. This tax also applies when selling these vehicles as a unit at wholesale, or selling the hull after parts have been removed.

MOTOR VEHICLE DEALER REGULATORY LICENSE is an annual license required of all persons engaged in the business of selling, reconditioning, or rebuilding motor vehicles in the state of Alabama.

STORE, BUSINESS, VOCATION, & OCCUPATIONAL LICENSE – City and county officials will also determine what local licenses and permits are necessary. A variety of business privilege licenses are administered by the Alabama Department of Revenue which affect proprietorships, partnerships, and corporations as well as certain professions. Licenses are issued and fees are collected at the local level usually by the probate judge or the license commissioner of the county where the business is located, or in some situations, where the business activity takes place. Fees vary dependent upon the type of license required, and in some cases, upon the population of the area where the business is located or upon the volume of business. It is important to be aware that one business may require several different types of business privilege licenses depending upon the services offered or products sold by the business. Licenses must be renewed each year by October 31.

GASOLINE TAX is an excise tax of $.16/gal. upon the sale, consumption, distribution, storage, or withdrawal from storage of gasoline. This includes gasoline, naphtha, and other liquid motor fuels or devices or substitute therefore used in internal combustion engines. This tax does not apply to those products known commercially as "kerosene oil" or "crude oil."

AVIATION GASOLINE AND JET FUEL TAX is on the sale, consumption, distribution, or withdrawing from storage in Alabama, for any use, of aviation products. Tax rates, per gallon, are:

- Aviation Gasoline $.024
- Jet Fuel $.008

LOCAL GASOLINE AND MOTOR FUEL TAXES –- Local governments may levy a gasoline and motor fuel tax on all gasoline and motor fuel sold in the county or city. The Alabama Department of Revenue collects the gasoline and motor fuel excise

taxes for Cullman, Jackson and Lowndes counties. The tax rates and exemptions vary by county. Local rates are posted on ADOR's Web site at http://www.revenue.alabama.gov/motorfuels/gas/gasindex.html.

LUBRICATING OILS TAX is levied on the selling, distributing, or withdrawing from storage in Alabama, for any use, lubricating oils, greases, or substitutes (this does not include kerosene, fuel oil, or crude oil). The tax rate is $.06 per gallon.

MOTOR CARRIER MILEAGE TAX – Certain contract carriers and common carriers are required to pay mileage tax to the state as compensation for use of the public highways. Tour bus and charter operations are exempt from this tax.

MOTOR FUELS TAX is an excise tax of $.19/gal. upon the receipt, by any means other than a transfer by a marine vessel or pipeline, of motor fuel from a terminal, refinery, barge, barge line, or pipeline terminal in Alabama or upon import into Alabama by means other than pipeline, marine vessel, or the fuel supply tank of the vehicle, for any use of the motor fuel not exempted. This includes diesel fuel, tractor fuel, fuel oil, distillate, kerosene, or jet fuel.

STATEMENT OF GROSS SALES (WHOLESALE OIL LICENSE) is an annual license which is paid by the first wholesaler selling fuel oils, illuminating oils, and lubricating oils at wholesale in Alabama. The license is based on a rate of one-half of 1 percent of the entity's gross sales for the preceding fiscal year (October 1 through September 30).

SCRAP TIRE ENVIRONMENTAL FEE is a fee that is to be collected at the point of sale from the consumer on replacement tires (new, used, and retread), whether or not the tires are mounted on a rim or wheel. The fee is $1.00 per tire.

TOBACCO PRODUCTS TAX is on the sale, storage, or distribution of tobacco or tobacco products by wholesalers and retailers, and use by consumers and is paid on a monthly basis by filing a report or by purchasing revenue stamps. The tax rates vary. The Sales, Use & Business Division also administers a variety of county tobacco taxes. Contact the Tobacco Tax Section of the Sales, Use & Business Division for the appropriate rates on all products, and to inquire about the issuance of a tobacco stamping permit. Local rates are posted on ADOR's Web site at http://www.revenue.alabama.gov/tobaccotax/tobacco/tobaccoindex.html.

PLAYING CARDS TAX is a tax on any business or individual selling, storing, or using playing cards. The tax is collected when the revenue stamp is purchased for application to the package of cards. In addition to this tax, each retailer must pay an annual fee for the privilege of selling playing cards. The tax rate is:

- $.10 per deck.
- $3 annual license tax on retail dealers selling playing cards.

PARI-MUTUEL POOL TAX/FEE includes a tax on the operators of dog race tracks and a fee on all operators of horse race tracks. The tax/fee is paid on a monthly basis and the rate is:

- 1% of the pari-mutuel pool on all pari-mutuel races.

- 1% of the pari-mutuel pool on all pari-mutuel races requiring the selection of three or more racers.
- 1% of the horse wagering handle.

HAZARDOUS WASTE FEE is a fee levied on the operators of commercial hazardous waste sites receiving waste for disposal. The fee is paid on a monthly basis. Fee rates are based on toxicity and are as follows:

Rates – Emelle Facility Only

- $21.60 per ton for "RCRA" (Resource Conservation and Recovery Act) and "PCB" (Poly Chlorinated Biphenyl) waste.
- $83.60 per ton for "P" waste.*
- $46.60 per ton for "U" waste.
- $11.60 per ton for emission control dust/sludge from the primary production of steel in electric arc furnaces (K061).
- $11.60 per ton for any hazardous waste that is de-characterized and rendered nonhazardous.
- $11.60 per ton for all other waste.
- $1.00 per ton on total tonnage.

Rates – All Other Facilities

- $41.60 per ton for "RCRA" (Resource Conservation and Recovery Act) and "PCB" (Poly Chlorinated Biphenyl) waste.
- $103.60 per ton for "P" waste.*
- $66.60 per ton for "U" waste.*
- $11.60 per ton for emission control dust/sludge from primary production of steel in electric arc furnaces (K061).
- $11.60 per ton for any hazardous waste that is de-characterized and rendered nonhazardous.
- $11.60 per ton for all other waste.
- $1.00 per ton on total tonnage.

**"P" and "U" wastes are outdated products or chemicals, with "P" wastes being acutely hazardous.*

For additional local fees levied, contact the county in which the site is located or the Sales, Use & Business Tax Division.

UNDERGROUND AND ABOVEGROUND STORAGE TANK TRUST FUND CHARGE is a charge imposed on the first withdrawal of motor fuels in this state and motor fuels delivered into this state. The operator of the motor fuels bulk facility and the owner of the motor fuels being delivered into Alabama are responsible for collecting and remitting the charge. The charge is due a monthly basis and the current rate is $0.01 per gallon.

WITHHOLDING TAX

STATE WITHHOLDING TAX

Alabama is one of many states which impose a state tax on personal income. State withholding tax is the money an employer is required to withhold from each employee's wages to pay the state income tax of the employee. The employer pays no part of the tax, but is responsible for collecting and remitting the tax withheld.

EMPLOYER – EMPLOYEE

An employer is any person or other entity for which an individual performs or performed a service, of any nature, as an employee of such person or entity. For more information on whether a worker is considered contract labor or an employee requiring income tax withholding, file Form SS-8 with the IRS for a determination.

WAGES SUBJECT TO ALABAMA WITHHOLDING TAX

Generally all wages earned in Alabama are subject to Alabama withholding tax. However, certain classes of employment are exempt from Alabama withholding tax. The chief exemptions from withholding tax are merchant seaman, agricultural and domestic employees, and duly ordained ministers.

Alabama income tax is required to be withheld from wages paid to employees who are physically working in the state of Alabama. Please note that residency is not a factor. Therefore, wages earned by a resident or a non-resident while working in Alabama are subject to Alabama withholding tax.

REGISTERING TO WITHHOLD ALABAMA INCOME TAX

You may register online at www.revenue.alabama.gov for a withholding tax account number or you may contact the Alabama Department of Revenue, Business Registration Unit at 334-242-1170 and request Form COM:101 (Combined Registration Application) to register. This form and other withholding tax forms are available online at www.revenue.alabama.gov/withholding/index.html. If registering online, you may elect to have your withholding tax account number emailed to you. Otherwise, this information will be mailed to you once the completed application is received and processed.

Due Dates For Alabama Withholding Tax Reports

Withholding tax reports are to be filed on a monthly or quarterly basis. A monthly report Form A-6 is required for each of the following months in which more than $1,000 in Alabama income tax is withheld: January, February, April, May, July, August, October, and November. The due date for the monthly Form A-6 is the 15th day of the month immediately following the month in which more than $1,000 was withheld. For example, a January Form A-6 monthly report is required to be filed by

February 15 if more than $1,000 in Alabama income tax was withheld in January. Two months should not be added together to reach the $1,000 threshold. Each calendar month should stand alone.

A quarterly report Form A-1 is required to be filed by all employers and withholding agents who withhold Alabama income tax or who are required to withhold Alabama income tax. The due date for the quarterly Form A-1 is the last day of the first month following the end of the quarters March 31, June 30, September 30, and December 31. For example, a March Form A-1 quarterly report is required to be filed by April 30. A quarterly Form A-1 is required to be filed whether or not any tax is withheld. Detailed instructions concerning due dates and other withholding information is included in the preprinted withholding tax forms sent to employers and in the *Withholding Tax Tables and Instructions for Employers and Withholding Agents* handbook which is available on the department's Web site.

ELECTRONIC RETURNS

Employers remitting payments of $750 or more are required to submit their payments and returns electronically through the department's Paperless Filing System. All employers, regardless of the payment amount, are encouraged to file and pay electronically using the Paperless Filing System. Forms which can be filed through the department's Paperless Filing System include the monthly Form A-6, the quarterly Form A-1, the annual reconciliation Form A-3, and the federal Wage and Tax Statement Form W-2. Employers submitting 250 or more Forms W-2 are required to file their Form A-3 and employee Forms W-2 electronically through the department's Paperless Filing System. Please visit the department's Web site at www.revenue.alabama.gov/withholding/efiling.html for more information concerning electronic filing.

WAGE AND TAX STATEMENTS (Federal Form W-2)

Employers are required to issue wage and tax statements (Forms W-2) to their employees by January 31. Copies of the federal Form W-2 must also be submitted to the department by February 28 along with the Form A-3. Employers submitting 250 or more Forms W-2 are required to file these with the department electronically. Employers filing less than 250 Forms W-2 are encouraged to voluntarily file their annual reconciliation electronically. Please visit the department's Web site at www.revenue.alabama.gov/withholding/efiling.html for more information concerning electronic filing.

EXEMPTION CERTIFICATES (Form A-4)

All employees are required to furnish their employers with a signed exemption certificate Form A-4. Because the value of state and federal exemptions differ, the federal Form W-4 cannot be substituted for the state Form A-4. If an employee fails to furnish an employer with a signed Form A-4 exemption certificate, the employer is

required to withhold using zero exemptions.

GENERAL INFORMATION

For more information about Alabama withholding tax requirements, visit ADOR's Web site at www.revenue.alabama.gov and download a copy of *Withholding Tax Tables and Instructions for Employers and Withholding Agents*.

FEDERAL EMPLOYER IDENTIFICATION NUMBER

A federal Employer Identification Number (EIN), also known as a Federal Tax Identification Number, is a nine-digit number that the Internal Revenue Service (IRS) assigns to business entities. Taxpayers that give tax statements to employees are required to have an EIN. Taxpayers can apply for an EIN with the IRS using the Federal Form SS-4 by:

1. Telephone: Call the Toll-Free EIN number, 1-800-829-4933, Monday-Friday, 7:00 am – 10:00 pm to receive an EIN immediately.
2. Fax: Fax the completed Form SS-4 to (215) 516-3990 to receive an EIN within four (4) business days. The fax number is available 24 hours a day, 7 days a week.
3. Mail: Complete Form SS-4, date and mail it to: Internal Revenue Service, Attn: EIN Operations, Philadelphia, PA 19255. You will receive your EIN within 4 to 6 weeks.
4. Internet: Form SS-4 Internet-EIN (I-EIN) application opens another avenue for customers to apply for and obtain an EIN. Visit www.irs.gov to apply online for an EIN. Online EIN is available 24 hours a day, 7 days a week.

INDIVIDUAL ESTIMATED TAX

WHO MUST PAY ESTIMATED TAX

Estimated tax is the method used to pay tax on income that is not subject to withholding. This includes income from self-employment, interest, dividends, alimony, rent, gains from the sale of assets, prizes, and awards.

A payment of estimated tax shall be made by every individual subject to Alabama income tax if such individual can reasonably be expected, during the taxable year, to have income from sources other than wages in the case of a single person or married person filing separate return of $1,875 or more; and in the case of a married person living with spouse and filing a joint return of $3,750 or more. To file estimated tax, use Alabama Form 40ES. If the amount of estimated tax due (line 11 of worksheet or line 1, Voucher 1, Form 40ES) is less than $100, no estimated tax return is required to be filed.

Every taxpayer must file an annual income tax return at the close of the taxable year. If the return indicates a balance due (tax owed exceeds tax paid through estimated and withholding tax), this balance must be remitted with the tax return. If tax paid exceeds tax due, the taxpayer will be entitled to a refund.

For information concerning corporate estimated tax filing requirements, see "Corporation Income Tax" on page 30.

PAYMENT OF ESTIMATE TAX

Your estimated tax may be paid in full or in equal installments on or before April 15, June 15, September 15, and January 15. If the 15th falls on a Saturday, Sunday, or state holiday the due date will then be the following business day. Checks or money orders should be made payable to the Alabama Department of Revenue and mailed to Alabama Department of Revenue, Individual Estimates, P.O. Box 327485, Montgomery, AL 36132-7485. Taxpayers may also file and pay estimated tax electronically. Visit www.revenue.alabama.gov and click on "E-Services" to learn more.

CHANGES IN INCOME

Even though your situation on April 15 is such that you are not required to file estimated tax, your expected income or tax credits may change so that you will be required to file estimated tax later. In such case, the time for filing is as follows: June 15, if the change occurs after April 1 and before June 2; September 15, if the change occurs after June 1 and before September 2; January 15, if the change occurs after September 1. If, after you have filed a voucher, you find that your estimated tax is substantially increased or decreased as the result of a change in your income or tax credits, you should file an amended voucher on or before the next filing date – June 15, September 15, January 15.

FARMERS

If at least two-thirds of your estimated gross income for the taxable year is derived from farming, you may pay estimated tax at the time on or before February 15 instead of April 15. If you wait until February 15, you must pay the entire balance of the estimated tax. However, if farmers file their final tax return on or before February 28, and pay the total tax at that time, they need not file estimated tax.

PENALTIES FOR UNDERESTIMATION

Penalties are provided for underestimating the Alabama tax by more than 10% (33⅓% for farmers).

PARTNERSHIPS & LLCS

One of the first steps in establishing a business is to determine the structure most appropriate for your business. There are several different business structures from which to choose and different establishment procedures depending on your desired structure. In order to provide you with fundamental information, the basic structures or forms of organization are described below in the following paragraphs. However, the descriptions are for informational purposes only and are not intended to be, nor should you rely on them as, legal advice. Before selecting a business structure, it is advisable to consult your attorney and/or accountant as each structure carries with it unique legal and tax consequences.

WHAT ARE PASS THROUGH ENTITIES?

Partnerships (general, limited, limited liability), LLCs, LLEs, Trusts and Estates (fiduciaries), and Subchapter S corporations are all terms for entities which exist for tax and/or legal purposes but are not living breathing "natural persons." These entities file informational tax returns and income tax is paid by the owners of the entity. These arrangements avoid double taxation as imposed on C corporations (corporate income tax and tax on dividends).

PARTNERSHIPS may also be referred to as Subchapter K entities as they fall under Subchapter K of the Internal Revenue Code. Alabama is specifically tied to Sections 701 through 761 of Subchapter K.

A partnership is "a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not ... a trust or estate or a corporation," and a partner is a member of such an entity. (IRC §7701(a)(2).) There are three types of partnerships: general, limited and limited liability. A general partnership consists of two or more members that are equally liable for the partnership debts and participate in the management of the entity. A limited partnership has at least one general partner and one or more limited partners. The limited partners do not participate in the management of the partnership and liable only for their contribution. Limited liability partnerships are usually a professional firm. The partners are mutually liable for the debts of the firm but not for the torts/actions of other partners. Most large accounting firms favor this type of entity. There are also electing large and publicly traded partnerships which are treated as corporations under the IRC. While Alabama is not specifically tied to the IRC code sections (771-777) covering these partnerships, the ADOR requires the entity to file the same type of return for state purposes as is filed for federal purposes. The partners draw up a partnership agreement to detail how to allocate income, deductions, and tax attributes. This allocation can be in any way they choose, subject only to the IRS requirement that the allocation have "substantial economic effect." Refer to IRC §704 for more information on this. A written partnership

agreement should cover capital investments, services, life of the partnership and any other matters concerning the operating of the partnership. If the partnership agreement is silent on a matter, local law will be treated as part of the agreement.

LLCs – limited liability companies or **LLEs** – limited liability entities are generally treated as partnerships but may elect to be treated as a corporation in some cases. There are also **SMLLCs** – single member limited liability companies. **SMLLCs** that do not elect to be classified as corporations are included in the return of their member/owner. Special rules apply to **SMLLCs** for business privilege tax purposes. One term you may hear in connection with these entities is "check-the-box regulations." For purposes of the taxing statutes in Title 40, ***Code of Alabama 1975***, all **LLCs** which, pursuant of Act 97-920, include both single member and multiple member **LLCs**, organized on or after Jan. 1, 1997, will be classified as they are classified for federal income tax purposes under the Internal Revenue Service's "check-the-box" regulations. With respect to **LLCs** organized before Jan. 1, 1997, the Alabama Department of Revenue will conform to the **LLCs** classification under the Internal Revenue Service's "check-the-box" regulations for all tax years preceding Jan. 1, 1997. Most entities will make an election through default. If the entity does not file an election, it will be classified as a partnership. The election to be taxed as a corporation is made on IRS Form 8832.

Subchapter K entities file Form 65. Form 65 is an informational return which includes separately and non-separately stated items. The entity is required to issue a K-1 to each owner. The federal K-1 and the Alabama K-1 may not be identical as to amounts of income and expense. The Alabama K-1 should be calculated based on the allocation and apportionment rules found in Title 40 Chapter 27 (Multi-state Tax Compact). Also required for non-resident owners is a composite return. The composite return will be covered in more detail later.

TRUST AND ESTATES (FIDUCIARIES) are covered under Subchapter J of the IRC and are sometimes referred to as Sub J entities. Alabama law follows federal law in the area of fiduciaries. (Reference Act 2006-114.)

Fiduciaries are allowed to make a choice: the tax may be paid on Form 41, or the income may be distributed to the beneficiary and reported as income on the individual return. If the tax is being paid by the fiduciary; deductions are subtracted from gross income, all distributions to beneficiaries are deducted, and a "personal" exemption of $1,500 is allowed before calculating the tax due. Fiduciary returns also have provisions for the deduction of NOL carryovers, capital credits and claiming composite payments made on behalf of the fiduciary. Federal law allows the excess loss on termination to be claimed by the beneficiary; however, Alabama law does not allow final year losses to be passed on to the beneficiary.

SUBCHAPTER S CORPORATIONS

SUBCHAPTER S CORPORATIONS are limited in size and type of owner. Alabama law is specifically tied to IRC §1361 and §1362 for the election to be an S corporation. Reference §40-18-160 through §40-18-176. A key to interpretation is found in §40-18-173 which says, "…Due consideration shall be given in the interpretation of this article to applicable sections of the U.S. Internal Revenue Code in effect from time to time, its rulings and regulations provided such Code, rulings, and regulations are not in direct conflict with any portion of this article". This directs the ADOR to look at other IRC sections addressing S corps. Reference IRC Sections 1361 through 1379. Some facts about S corporations:

1. S corporations can only have individuals, estates, certain trusts or certain tax-exempt organizations as shareholders.
2. For tax years after Dec. 31, 2004, family members may elect to be treated as one shareholder. Any family member can make the election and it may only be terminated as prescribed in IRS regulations.
3. Business interest expense is allowed as a deduction to offset K-1 income on the federal return, but Alabama considers it investment interest expense. Investment interest expense is limited on Form 4952A and reported on Alabama Schedule A.
4. Business expenses paid by the shareholder are not an allowable deduction directly against K-1 income. Expenses paid by the shareholder are considered unreimbursed employee expenses and reported on Alabama Schedule A.
5. A composite return may alleviate further filing requirements for individual shareholders, but will not alleviate further filing requirements of an estate or trust.

The recent American Jobs Creation Act (AJCA) relaxed the restrictions on S corporations and because Alabama is tied to the federal S corporation election, Alabama will follow these changes:

1. Number of shareholders increased from 75 to 100.
2. All members of a family may be treated as one shareholder – not more than six generations of lineal descendants plus their spouses/ex-spouses.
3. Suspend losses transfer in connection with divorce.
4. Q Subs have same relief on elections and terminations.

Subchapter S corporations file Form 20S for Alabama. This return is mainly for informational purposes, like the Form 65. The Form 20S includes separately and non-separately stated items and requires a K-1 for each investor. However, if the corporation has changed from a C corporation to an S corporation, there may be taxes due on the Form 20S. The two types of taxes that may be paid on the Form 20S are built-in gains tax and excessive passive income tax. Corporations which became S corpora-

tions after Dec. 31, 1989, may be liable for built-in gains tax. The tax is computed by multiplying the net recognized built-in gain of the Alabama S corporation for the taxable year by 5 percent. Section 40-18-174 defines "net recognized built-in gain," with respect to any taxable year in the 10-year recognition period as the lesser of (i) the amount taxable if only recognized builtin gains/losses were taken into account, or (ii) the corporation's taxable income as determined under §40-18-161 and without regard to the deduction provided by §§40-18-35(14), 35(15) and 35.1. A net operating loss carry-forward that arose in a taxable year for which the corporation was not an Alabama S corporation is allowed as a deduction against the net recognized built-in gain of the Alabama S corporation for the taxable year. The amount of net recognized built-in gain for a taxable year cannot exceed the excess (if any) of the net unrealized built-in gain over the net recognized built-in gain for prior taxable years beginning in the recognition period. "Net unrealized built-in gain" means the amount (if any) by which the fair market value of the assets of the corporation exceeds the aggregate basis of such assets as of the beginning of the first taxable year for which the corporation is treated as an Alabama S corporation. This tax does not apply if a corporation has had an S corporation status under the Internal Revenue Code for each of its taxable years. If an S corporation has subchapter C earnings and profits, has passive investment income in excess of 25 percent of gross receipts, and has taxable income at year end, it must pay a tax on the excess net passive income. The tax is computed by multiplying the excess net passive income by 5 percent. "Excess net passive income" means an amount which bears the same ratio to the net passive income for the taxable year as (i) the amount by which the passive investment income for the taxable year exceeds 25 percent of the gross receipts for the taxable year, bears to (ii) the passive investment income for the taxable year. The amount of excess net passive income shall not exceed the S corporation's income for the year as determined under §40-18-161. The term "net passive income" means passive investment income reduced by deductions allowed under Chapter 18, Title 40, ***Code of Alabama 1975***. The terms "passive investment income" and "gross receipts" have the same meanings as when used in IRC §1362(d)(3). However, the amount of passive investment income shall be determined without using any recognized built-in gain or loss of the Alabama S Corporation for any taxable year in the 10-year recognition period. See §40-18-175, ***Code of Alabama 1975***.

A Composite Return (Form PTE-C) is due each year from partnerships and subchapter S corporations that have non-resident owners/shareholders. For partnerships the return is due April 15 or the 15th day of the fourth month after the end of the fiscal year. For subchapter S corporations the return is due March 15 or the 15th day of the third month after the end of the fiscal year. Tax is paid on the total share of income and this return may fulfill the filing requirement for individuals but not for other entities. For more information contact the Pass Through Entity Section at (334) 242-1033 or at www.revenue.alabama.gov/incometax/subkmain.htm.

CORPORATION INCOME TAX

CORPORATIONS SUBJECT TO INCOME TAX:

Section 40-18-2, ***Code of Alabama 1975***, imposes an income tax on every corporation doing business in Alabama or deriving income from sources within Alabama including income from property located in Alabama and on every corporation licensed or qualified to transact business in Alabama except for those corporations specifically exempted by §40-18-32.

FILING REQUIREMENTS:

Every corporation, joint stock company, or association subject to income tax under Title 40, ***Code of Alabama 1975***, is required by §40-18-39 to file a return with the Alabama Department of Revenue for each taxable period, stating gross income and allowable deductions and credits. Penalties will be added for failure to timely file, failure to timely pay, or fraudulent filing. The commissioner of the ADOR is authorized to distribute, apportion or allocate income and deductions of related taxpayers to clearly reflect the income of the entities.

CONSOLIDATED FILING:

An Alabama affiliated group may elect to file an Alabama consolidated return. An Alabama consolidated return means an Alabama corporate income tax return filed by or on behalf of the member of an Alabama affiliated group. The election is made by filing Form 20C-CRE (Election to File Consolidated Corporate Income Tax Return). The completed election form must be submitted to the department on or before the due date, with extensions, for the first taxable year for which the election is applicable.

In accordance with §40-18-39, for tax periods after Dec. 31, 2001, and after, Alabama affiliated group means a group of corporations, each member of which is subject to tax under §40-18-31 and Public Law 86-272, which are members of an affiliated group for federal purposes and which file a federal consolidated corporation income tax return. Each member shall allocate and apportion its Alabama taxable income and losses separately, using separate apportionment factors. These separate company amounts are then combined and reported on a single Alabama return for the affiliate group. All transactions between and among members of the Alabama affiliated group shall be reported on an arm's length basis. (An income spreadsheet should be attached showing each separate company's Alabama taxable income with a total column for the Alabama consolidated return – Schedule 20C-AAGIS.) The election is made by the common parent of the Alabama affiliated group as the agent for all the members. If the common parent is not a member of the Alabama affiliated group, the members shall designate to the department which member of the group shall serve that role for this purpose. The election is binding and irrevocable for a

period of 120 consecutive months, beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the 120th consecutive month expires.

WHEN TO FILE:

ORIGINAL DUE DATE. The calendar year return is due on or before March 15 of the succeeding year. For fiscal year or short-year taxpayers, the return is due on or before the 15th day of the third month following the close of the tax period.

WHICH FORM TO USE:

FORM 20C: Corporations must file Form 20C, Corporation Income Tax Return, unless (1) a valid election is in effect to be an S corporation under 26 U.S.C. §1362, (2) a valid election is in effect to be a qualified subchapter S subsidiary under 26 U.S.C. §1361(b)(3) and all of its stock is owned by an Alabama S corporation, or (3) the corporation has exempt status under §40-18-25(e), 40-18-25(f), or 40-18-32 and the corporation has no unrelated business taxable income.

FORM 20CD: Corporation Estimated Tax Voucher. A corporation, which will have an Alabama income tax liability in excess of $5,000, must pay estimated tax. The first return and payment are due by the 15th day of the fourth month of the taxable year. The second, third, and fourth filings and payments are due by the 15th day of the sixth month, ninth month, and twelfth month, respectively of the succeeding tax year.

FORM 20-E. Payment Voucher and Extension Request. The Alabama Form 20-E may be used to request an extension of up to six (6) months for filing a return. It may also be used as a payment voucher. If estimated payments do not equal or exceed the amount of tax due for the period, the balance of the corporation's tax liability is due on or before the original due date of the return. Form 20-E should be submitted with the payment if the return is to be filed within the 6-month period.

CIVIL PENALTIES. Section 41-2A-11 provides additional penalties for (1) failure to timely file, (2) failure to timely pay, (3) underpayment due to negligence, and (4) underpayment due to fraud. These penalties may be assessed in addition to the penalties provided by §40-18-80.1, without regard for the underestimation exceptions provided for in that section.

ELECTRONIC FUNDS TRANSFER. Section 41-1-20 requires the use of Electronic Funds Transfer (EFT) for all single tax payments of $25,000 or more. After Oct. 1, 2006, the payment threshold amount is decreased to $750.

BUSINESS PRIVILEGE TAX

GENERAL INFORMATION

Every corporation, limited liability entity (LLE), business trust, disregarded entity and real estate investment trust (REIT) that is doing business in Alabama or is registered/qualified to do business in Alabama, is required to file an Alabama Business Privilege Tax Return and Annual Report.

Organizations described under 26 U.S.C. Section 501(a) are exempt from filing privilege tax. If additional time is needed to file the Business Privilege Tax Form, an extension for six months may be requested by completing an Extension Request for the Alabama Business Privilege Tax Return and Annual Report (Form PSE).

DEFINITIONS:

CORPORATION – An entity, including a limited liability company electing to be taxed as a corporation for federal income tax purposes, through which business can be conducted while offering limited liability to the owners of the entity. The term "corporation" shall include but not be limited to the following: corporations, professional corporations, joint stock companies, unincorporated professional associations, real estate investment trusts, limited liability companies electing to be taxed as corporations for federal income tax purposes, and all associations classified as corporations for federal income tax purposes. The term "corporation" shall not include any county, municipal corporation, political subdivision of the state, governmental corporation, instrumentality or agency thereof. (Section 40-14A-1(d))

LIMITED LIABILITY ENTITY – Any entity other than a C corporation, organized under the laws of this or any other jurisdiction through which business may be conducted while offering limited liability to the owners of the entity with respect to some or all of the obligations of the entity and which is taxable under subchapter K of the Internal Revenue Code, including, without limitation, limited liability partnerships, and limited partnerships. (Section 40-14A-1(k))

ELECTING FAMILY LIMITED LIABILITY ENTITY – An electing family limited liability is a limited liability entity that meets the following requirements: (Section 40-14A-1(h))

(1) An individual and the members of the individual's family as defined in Section 40-14A-1(h)(4) directly or constructively own 80 percent or more of the profits and capital interests.
(2) Must meet the requirements of either the gross receipts test as defined in Section 40-14A1(h)(3)(a) or the assets test as defined in Section 40-14A-1(h)(3)(b).
(3) Must attach a statement to the return making the annual election and declaring all of the requirements have been met.

DISREGARDED ENTITY – A limited liability company that is disregarded for purposes of federal income tax, or a qualified subchapter S subsidiary as defined in 26 U.S.C. Section 1361. (Reference Section 40-14A-1(g), ***Code of Alabama 1975.***)

INSURANCE COMPANY – An insurance company that is subjected to the premium taxes levied by Chapter 4A of Title 27, ***Code of Alabama 1975***.

FINANCIAL INSTITUTION GROUP – All taxpayers in an affiliated group where at least one member of the group is a financial institution that is subject to the provisions of Title 40, Chapter 16 (relating to financial institution exercise tax). In the event a financial institution taxpayer is not a member of an affiliated group, that financial institution shall be treated as a financial institution group. (Reference Section 40-14A-22(f)(1)(c)). *Note:* Financial institution group members are required to complete Schedule G of Form PSA, which can be obtained through the department's Web site at www.revenue.alabama.gov.

RELATED PARTY – A related party is any member of a controlled group of corporations as defined in 26 U.S.C. Section 1563, or a limited liability entity that would be a member of a controlled group if rules similar to those of 26 U.S.C. Section 1563 were applied to limited liability entities. (Reference Section 40-14A-(1) (L)).

Additional information concerning the related party debt add-back:

- Individual shareholders are NOT considered related parties.
- All related party debt should be itemized, including related parties' federal EIN, complete name, and whether the related party debt is Exempt or Non-Exempt.
- Related party debt cannot be negative.
- Related party debt and related party receivables are not netted under any circumstances.
- Exempt payables are defined as stated in Section 40-14A-23(e)(2)b, ***Code of Alabama 1975***. They include trade debt, accounts payable, or deposit liabilities to related parties that are doing business in Alabama.
- Non-Exempt Payables are all other related party debts.

FILING RULES

Effective Jan. 1, 2001, the balance sheet year for the business privilege tax will be the same year used by the taxpayer to file income tax, financial institution excise tax or insurance premium tax returns. The due date for corporations will be 2½ months after the first day of their fiscal year. **Short year returns will be due for privilege tax.** The due date for LLCs and partnerships will be 3½ months after the first day of their tax year.

BUSINESS PRIVILEGE TAX FORMS (In PDF Format)

Please visit ADOR's Web site at http://www.revenue.alabama.gov/incometax/bus_priv_tx/2005bptfrms.htm for all business privilege tax forms and instructions.

PROPERTY TAX

Property tax (an ad valorem tax) is a tax levied on all real and personal property within Alabama. All property must be assessed annually with taxes paid, between October 1 and December 31, in the county where the property is located. Property will be assessed for ad valorem taxes at one of the following four assessment ratios:

Assessment Class	Description	Assessment Ratio
Class I	All property of utilities used in the business of such utilities	30%
Class II	All property not otherwise classified	20%
Class III	All agricultural, forest and single family, owner occupied residential property, including owner occupied residential manufactured homes located on land owned by the manufactured home owner, and historic buildings and sites	10%
Class IV	All private passenger automobiles and motor trucks of the type commonly known as "pickups" or "pickup trucks" owned and operated by an individual for personal or private use and not for hire, rent, or compensation	15%

Any property that is assessed as Class I property is assessed by the department's Public Utilities Section. Total tax rates are expressed in terms of mills per dollar. One (1) mill is equivalent to 1/1000 of $1. When calculating taxes, it is necessary to express stated mills as decimals. (One mill can be expressed as a decimal as .001.) Millage rates will vary by jurisdiction. The state portion of the total tax rate will be 6.5 mills.

Example: Assume you have a $1,000,000 manufacturing facility (Class II property – 20% assessment ratio) located in the city of Montgomery (34.5 mills*), the taxes would be:

ASSESSED VALUE CALCULATION

Property Market Value	X	Assessment Ratio	=	Assessed Value
$1,000,000		20%		$200,000

PROPERTY TAX CALCULATION

Property Assessed Value	X	Millage Rate (expressed as a decimal)	=	Property Taxes
$200,000		0.0345		$6,900

PERSONAL PROPERTY

Personal property is generally defined as property not permanently affixed to or a part of realty. Basically, everything that is not real estate is considered personal property. The tax assessing official makes the differentiation between real property and personal property by considering the manner in which property is attached to or secured at the location and the purpose for which the property is used.

Personal property has two categories: tangible personal property and intangible personal property. Intangible personal property includes an owner's representation of

rights to property such as shares of stock, annuities, patents, market certificates, etc. Intangible personal property owned by businesses is not taxable under the property tax laws of this state. Tangible personal property includes material items such as machinery and equipment, tools, furniture and fixtures, among numerous other items. Tangible personal property is taxable to businesses for Alabama property tax purposes.

Aircraft and avionic equipment are taxable for business personal property, as well as, motor vehicle "add-on" equipment. The values published by the Alabama Department of Revenue in the *Alabama Uniform Motor Vehicle Assessment Schedule for Ad Valorem Taxes* represent market value of motor vehicle cab and chassis only and do not include equipment and/or bodies added after a vehicle leaves the manufacturer. The "add-on" equipment and/or bodies are components, which give the vehicle added value and they are taxed as business personal property.

Business personal property is considered Class II property and is taxed at 20% of market value. Market value multiplied by 20% equals the assessed value, which is then multiplied by the appropriate jurisdiction's millage rates to determine the amount of tax due.

The Alabama Department of Revenue publishes a personal property appraisal manual so that basic methods and procedures can be followed in the personal property appraisal process. This is done to ensure statewide property appraisal equity. The manual serves as a reference guide to Alabama's assessing and appraisal personnel.

Alabama is a situs state for the taxability of personal property; therefore, if property is located in the state on October 1 (the lien date), the property is taxable for Alabama purposes, unless specifically exempted. Alabama's property tax laws provide certain constitutional and statutory exemptions. If you have any questions regarding taxability of personal property, exemptions or millage rates, please call the ADOR's Property Tax Division at (334) 242-1525.

Example: Assume you have a $1,000,000 manufacturing facility (Class II property – 20% assessment ratio) located in the city of Montgomery (34.5 mills*), the taxes would be:

ASSESSED VALUE CALCULATION

Fair Market Value of Personal Property	X	Assessment Ratio	=	Assessed Value of Personal Property
$1,000,000		20%		$200,000

PROPERTY TAX CALCULATION

Personal Property Assessed Value	X	Millage Rate (expressed as a decimal)	=	Total Personal Property Taxes
$200,000		0.0345		$6,900

An example of property tax on an automobile would be:
For a 2004 Taurus LX with a market value of $11,800

Private Use Automobiles are assessed at 15%

Assessed Value	$1760	Tax
Montgomery City Millage Rate	12.5	$22.00
Montgomery County Millage Rate	15.5	$27.28
State Millage Rate	6.5	$11.44
Total Millage Rate	**34.5**	**$60.72**

Commercial Use Automobiles are assessed at 20%

Assessed Value	$2360	Tax
Montgomery City Millage Rate	12.5	$29.50
Montgomery County Millage Rate	15.5	$36.58
State Millage Rate	6.5	$15.34
Total Millage Rate	**34.5**	**$81.42**

*Millage Rate Summary:

State of Alabama	6.5
Montgomery County	7.5
Montgomery City	12.5
Local Schools	8.0
Total Millage Rate	**34.5**

For additional information, contact the Property Tax Division at the address below or visit the department's Web site at www.revenue.alabama.gov/advalorem/index.html.

Alabama Department of Revenue
Property Tax Division
P.O. Box 327210
Montgomery, AL 36132-7210
Phone: (334) 242-1525
Fax: (334) 242-0145

MOTOR CARRIER FUEL TAX

Alabama is a member of the *International Fuel Tax Association (IFTA)*. The International Fuel Tax Agreement (IFTA) is a fuel tax reciprocity agreement among the 48 continental states of the United States and the 10 provinces of Canada providing for a payment of motor fuel taxes on the basis of consumption of motor fuels used in the propulsion of motor vehicles.

The advantage of IFTA to both the jurisdictions and the motor carriers is a motor carrier is only required to obtain a single fuel tax license and vehicle credentials from their base jurisdiction which allows them to travel into all IFTA jurisdictions without further fuel registration. A single tax return is filed with the base jurisdiction and this tax return contains detailed information about vehicle operations within each IFTA jurisdiction.

For additional information, contact the Motor Fuel Tax Section or the Motor Carrier Fuel Tax Section at the address below or visit the department's Web site at www.revenue.alabama.gov/motorvehicle/index.html.

Motor Vehicle Division
P.O. Box 327620
Montgomery, AL 36132-7620
Phone: (334) 242-9000
Fax: (334) 353-8038

MANDATORY LIABILITY INSURANCE

In Alabama, all self-propelled motor vehicles operated on public highways must be covered by minimum liability insurance coverage.

Motor vehicle owners are required to have liability insurance in the following minimum amounts:

$20,000 for death or bodily injury to one person;
$40,000 for death or bodily injury to two or more persons; and
$10,000 for damage or destruction of property of others.

Minimum liability insurance is required for all self-propelled motor vehicles being operated, including cars, trucks, vans, SUVs, RVs, buses, and motorcycles. Trailers are exempt from the insurance requirements.

An operator must provide proof of insurance upon request by any law enforcement officer. The proof of insurance provided must display a current effective date. The insurance card issued to the motor vehicle owner by his/her insurance company is the best proof of liability insurance.

Owners must sign a statement at the time of registration affirming that their vehicles are insured as required by Alabama law. Insurance verification questionnaires are sent to randomly selected owners throughout the year. Questionnaire responses are forwarded to insurance companies for verification of coverage. Those not insured, or

those who fail to respond to the questionnaire will have their motor vehicle registration (license plate) suspended. Anyone convicted of failing to have insurance on his or her vehicle will be surveyed annually for four years. Additionally, a motor vehicle owner whose Alabama driver license is suspended will be surveyed for insurance coverage. Owners whose registrations have been suspended for the first time must pay a $100 reinstatement fee and provide proof of insurance before the registration may be reinstated. Owners whose registrations have been suspended for a second or subsequent time will have their vehicle registrations suspended for four months and must pay a reinstatement fee of $200. For additional information concerning Alabama's mandatory liability insurance requirements, contact the ADOR at (334) 353-2001 or visit ADOR's Web site at www.revenue.alabama.gov/motorvehicle/MLIForms.html.

PROOF OF LIABILITY INSURANCE REQUIREMENT FOR AUTOMOBILE DEALERS', RECONDITIONERS', REBUILDERS', AND WHOLESALERS' LICENSES

Alabama motor vehicle dealers, reconditioners, rebuilders, and wholesalers must provide proof of a blanket liability insurance policy for all business and inventory vehicles when filing their state license application with the Alabama Department of Revenue. Proof of insurance must be provided in the form of a Certificate of Liability Insurance before the ADOR can issue any one or more of the state licenses associated with motor vehicle dealers, reconditioners, rebuilders, and wholesalers. The coverage amounts must be no less than $20,000 bodily injury per person per accident; $40,000 combined bodily injury per accident; $10,000 property damage per accident. Instead of the detailed coverage amounts, a combined single limit of $50,000 per accident may be obtained. For more information, contact the ADOR at (334) 353-7827 or visit ADOR's Web site at www.revenue.alabama.gov/licenses/mvdrl.html.

IRP FAQ's

WHAT IS "IRP"?

"IRP" is an abbreviation for the **International Registration Plan**. The International Registration Plan is a commercial vehicle registration agreement that was entered into among the states of the United States (excluding Alaska and Hawaii), the District of Columbia, and various provinces of Canada. This agreement allows one IRP member (the base jurisdiction) to process commercial vehicle registrations and collect fees for other member jurisdictions. Total fees are based on the percentage of miles traveled or expected to be traveled by a registrant's fleet (one or more vehicles) in each member jurisdiction. Only one license plate and one registration receipt (cab card) are issued for each vehicle. All jurisdictions for which a vehicle is apportionally registered are listed on the vehicle's cab card.

WHEN SHOULD A VEHICLE BE APPORTIONALLY REGISTERED?

- You will need to apportionally register or secure an IRP trip permit for any vehicle that will travel into two or more jurisdictions and is used for the transportation of persons for hire or is designed, used, or maintained primary for the transportation of property, and;
- Is a power unit having a gross weight or having a registered gross weight in excess of 26,000 pounds; or
- Is a power unit having three or more axles regardless of weight; or
- Is a power unit which is used to pull another unit and the weight of such combination exceeds 26,000 pounds.
- Other vehicles that need to be apportionally registered include:
  - Full trailers and semi-trailers that will travel into California.
  - Converter gear that will be used in California.
  - Any truck, tractor, or truck-tractor, or combination vehicle in which the registrant plans to haul commercially intrastate in a jurisdiction other than the base jurisdiction.
- Certain types of vehicles are exempted from securing apportioned registration or trip permits. (See "WHAT VEHICLES ARE EXEMPTED FROM IRP REGISTRATION.")

WHAT VEHICLES ARE EXEMPTED FROM IRP REGISTRATION?

The Plan specifically exempts the following vehicles from IRP registration:

(1) Government-owned vehicles.
(2) City pickup and delivery vehicles.
(3) Buses used for chartered parties. (Note: A registrant may want to apportionally register the chartered parties' bus(es) if there are plans to travel into any of the Western States. This is due to some Western states' non-

IRP registration requirements.)

(4) Recreational vehicles (defined as a vehicle used for personal pleasure or travel by an individual or the family).

(5) Vehicles operating with a restricted license plate. The plan defines restricted plate as a registration that has time (less than a registration year), geographic area, mileage, or commodity restriction.

Types of Alabama restricted plates include:

a. Alabama F1, F2, F3, and F4 plates. These plates are restricted in that Alabama law allows these plates to be used only by a farmer transporting farm products or transporting personal property of the farmer for his use on his farm. The maximum registered gross or combined gross weights allowable for these tag categories are: F1 maximum weight 30,000 pounds; F2 maximum weight 42,000 pounds; and, F3 and F4 maximum weight 80,000 pounds. F1-F3 license plates are allowed only on trucks. F4 plates are only allowed on tractors and are limited to only one tractor per farmer. (*Note:* A tractor is a motor vehicle designed and used to pull another vehicle and is not constructed to carry a load other than part of the pulled vehicle and its load.)

b. Alabama L1 and L2 plates. These plates are restricted in that they may only be used on trucks owned and used by any person for transporting forest products from the point of severance to sawmill, a paper mill, or to a concentration yard. (These tags are allowed only on trucks and not tractors or truck-tractors.)

c. Motor vehicle dealer plates.

d. Any fully registered Alabama vehicle that hauls logs to Mississippi. Alabama and Mississippi have an informal agreement whereby Mississippi recognizes full fee registered Alabama trucks, tractors, or truck-tractors to haul logs in an interstate movement into or out of Mississippi. This agreement involves the transportation of logs (not sawdust or similar products) and does not permit intrastate operation in the state in which the vehicle is not licensed.

MOTOR CARRIER ELECTRONIC FILING SERVICES

Various online services are available for Alabama motor carriers. For more information about the department's IFTA Quarterly E-File Program, IRP/IFTA Permitting Program, IFTA License Decal Program, and the IRP Registration Program contact the department's Motor Carrier Services office at (334) 242-2999 or visit the department's Web site at www.revenue.alabama.gov.

EFT INFORMATION

WHO IS REQUIRED TO MAKE TAX PAYMENTS VIA EFT?

Section 41-1-20, ***Code of Alabama 1975***, as amended, provides the Alabama Department of Revenue with the authority to require taxpayers making single tax payments in excess of $25,000 to make those payments using the Alabama Electronic Funds Transfer (EFT) Tax Payment Program. After Oct. 1, 2006, the payment threshold amount decreases to $750.

VOLUNTARY USE OF EFT TO MAKE TAX PAYMENTS

Taxpayers not required to make EFT payments for a tax may elect to pay any or all taxes using EFT. Please note that you must register for each tax type separately. Taxpayers making a voluntary election to make EFT payments for a tax are subject to the same rules of the Alabama EFT Tax Payment Program as taxpayers required to make EFT payments.

TAXES COVERED BY THE ALABAMA EFT TAX PAYMENT PROGRAM

Alabama Nursing Facility Privilege Tax
Alabama Pharmaceutical Services Tax
Business Privilege Tax
Coal Severance Tax (State and Local)
Contractor's Gross Receipts Tax
Corporate Income Tax
Financial Institutions Excise Tax
Forest Products Severance Tax (State and Local)
Freight Line Equipment Companies' Tax
Gasoline Tax (State and Local)
Gasoline Tax (Aviation)
Hazardous Waste Fee
Hydro-Electric KWH Tax
Income Tax Withholding Payments
International Fuel Tax Agreement
Local Solid Mineral
Lodgings Tax (State and Local)
Lubricating Oils Tax
Mobile Telecommunications Services Tax
Motor Carrier Mileage Tax
Motor Fuels (Diesel) Tax (State and Local)
Oil and Gas Privilege Tax
Pari-Mutuel Pool Tax
Playing Cards Tax

Rental or Leasing of Personal Property Tax (State and Local)
Sales Tax (State and Local)
Scrap Tire Environmental Fee
Tobacco Tax (State and Local)
T.V.A. Electric Payments
Uniform Severance Tax
Under/Above Ground Storage Fee
Use Tax (State and Local)
Utility Excise Tax
Utility Gross Receipts Tax
Utility License Tax (2.2%)
Wholesale Oil License Payments

EFT PAYMENT METHODS AVAILABLE:

ACH DEBIT PAYMENT METHOD:

The ACH Debit method is the primary method used by taxpayers to make payments for a tax under the Alabama EFT Payment Program. The process is safe, simple, and convenient, and the cost of processing ACH Debit payment transactions is borne by the Alabama Department of Revenue. Each individual EFT payment is only initiated upon the express authorization of the taxpayer.

ACH CREDIT PAYMENT METHOD:

The Alabama Department of Revenue will allow taxpayers to use the ACH Credit payment method only if certain qualifying conditions are met. A taxpayer must request permission from the Alabama Department of Revenue to use the ACH Credit method and submit a written request, accompanying the EFT:001 form, which demonstrates the existence of a valid business operational reason for using the ACH Credit payment method in lieu of the ACH Debit payment method. Taxpayer requests to use the ACH Credit method will be reviewed on a case-by-case basis. A taxpayer who is already using the ACH Credit method to pay taxes for other states is deemed to have a valid business reason for using the ACH Credit method to make payments for Alabama taxes.

The Alabama Department of Revenue reserves the right to revoke the ACH Credit method payment privilege of any taxpayer for the following reasons;

- Failure to transmit consistently error-free payments;
- Substantial variation from the requirements and specifications of the rules of the Alabama EFT Tax Payment Program;
- Failure to make timely EFT payments or to provide timely payment information; or,

- Failure to provide the addenda record, required by the Alabama EFT Tax Payment Program, with the EFT payment.

HOW DO I REGISTER TO PAY VIA EFT?

To register for EFT you must first determine the EFT method you will use and complete the EFT:001 form entitled EFT Authorization Agreement Form. Mail or fax the form to the Alabama Department of Revenue's EFT unit. The mailing address and fax number are given at the top of the EFT:001. The EFT:001 form and instructions can be downloaded from the Alabama Department of Revenue's Web site at http://revenue.alabama.gov/eft/eftindex.html. Please NOTE: There is no pre-registration required if you are making payment via ACH Debit Method for the following taxes that are required to be filed electronically through the Alabama Department of Revenue's Paperless Filing & Payment System:

- State Sales Tax Return (Forms 2100, 2105, 2110, 2115, 2120 and 2125)
- State Sellers Use Tax Return (Form 2620)
- State Consumers Use Tax Return (Form 2610)
- State Rental Tax Return (Form 2410)
- State Lodgings Tax Return (Forms 2310 and 2320)
- City & County Sales, Use, Lodgings & Rental Tax Return (Form 9501)
- State Utility Tax Return (Forms UPL-4, UPL-5 & UPL-6)
- State Mobile Telecommunications Service Tax Return (Form CTS-1)
- State Nursing Facility Tax Return (Form 2810)
- State Pharmaceutical Tax Return (Form 2800)
- Contractors Gross Receipts Tax (Form 2510)
- State Withholding Tax Return* (Forms A-1, A-3, and A-6)

  *Employers/withholding agents remitting payments of $750 or more are required to submit their payments and returns electronically through the department's Paperless Filing System.

One of the most important items of information required by the EFT:001 form is the information concerning the EFT contact person. The EFT contact person is the individual whom the Alabama Department of Revenue will contact if there is a question concerning an EFT payment made by the taxpayer.

IS THERE A TOLL-FREE NUMBER I CAN CALL FOR GUIDANCE AND TECHNICAL ASSISTANCE?

The Alabama Department of Revenue has established an EFT Unit to provide guidance and technical assistance to taxpayers participating in the Alabama EFT Tax Payment Program. A toll-free EFT hotline is available to taxpayers from 8 a.m. through 5 p.m. (Central Standard Time) each business day. The EFT hotline number is 1-800-322-4106.

COLLECTION OF YOUR TAX LIABILITY

When you file a tax return, but payment is not remitted with the return, a tax assessment is entered. After the assessment becomes final and the appeal period has expired, the file is transferred to the department's Collection Services Division. This division acts as an in-house collection agency for the Alabama Department of Revenue.

When your file reaches the Collection Services Division, the tax liability already has the full force and effect of a court judgment. This means that the department may proceed to collect the tax liability in an involuntary manner by using several different methods.

The Collection Services Division has responsibility for the collection of all taxes administered by the Alabama Department of Revenue (except ad valorem taxes) and the division's goal is to accomplish that task in the fastest and most economical manner possible. You are urged to pay your tax liability in full upon receipt of the first letter sent by Collection Services Division. This letter, called a "Final Notice Before Seizure," warns you that further collection action will be necessary if full payment is not remitted within 10 days. Personal checks, money orders, Visa, and MasterCard will be accepted. In order to pay the tax liability by credit card, the pink authorization form included with the "Final Notice Before Seizure" must be completed and returned within the first 10 days following the issuance of the letter.

If you ignore the "Final Notice Before Seizure" letter you will not be contacted by the Collection Services Division a second time. The next action will result in the issuance of a legal writ, such as a garnishment or an execution. These legal documents are issued directly to the sheriff of the county where you reside and direct him to seize property belonging to you or a third party so that the tax liability can be satisfied.

The issuance of a Writ of Garnishment to the sheriff is the most common action taken when there is no response from you. A garnishment is a legal process where money or wages belonging to you are seized from a third party (garnishee) and paid to the plaintiff (the department) in order to satisfy the judgment. The department may issue a garnishment to an employer for 25% of your wages. Many times, however, a garnishment is issued to your bank or credit union.

The department may issue a Writ of Execution to the sheriff in the county where you own property in order to collect the tax liability. The local sheriff may levy on personal or real property (your house, land, etc.) and ultimately sell your interest in the property. This includes personal property such as motor vehicles, trailers, motorcycles, boats, business inventory, furniture, and fixtures. Prior to the sale, an advertisement is published in a local paper informing the public of the pending sale.

100% PENALTY ASSESSMENTS

Most businesses have employees from whom they are required to withhold income taxes each time a payroll is met. In addition, many businesses are required to collect state and local sales taxes from customers. Once these taxes are withheld or collected, they are held "in trust" by the business or business owner until the tax return and payment become due. Because of this, these taxes are known as "trust fund" taxes. This means you as a business owner act in a fiduciary capacity for the state. You are charged with the legal duty to withhold and/or collect taxes for the state and hold them in trust until the law requires their payment on either a monthly or quarterly basis.

Most businesses regularly pay these trust funds taxes in a timely manner as the law requires. However, for a small minority of business owners, under-capitalization leads to financial problems which, in turn, leads to the temptation to "borrow" from these trust fund taxes to pay other business creditors. Yielding to such temptation has serious consequences. The tax statutes provide stiff criminal sanctions for failure to pay these trust fund taxes to the state. Equally important are the civil sanctions which can be applied against a business owner. Civil sanctions include injunctions and entry of assessments which, when final, have the weight and legal authority of judgments.

If you are a proprietor or a partner in a partnership, your personal assets may eventually be seized if it becomes necessary to assess you with these business-related taxes which go unpaid. Since all debts of proprietorships and partnerships follow their owners' assets, this fact is not surprising to most people. However, you may not be aware that, since 1984, the trust fund tax liabilities of corporations may be assessed to corporate officers and certain other key individuals within the corporation.

Many people purposely choose to incorporate their businesses for the protection afforded them under the limited liability concept. However, in 1984, the legislature passed a statute which gives the Alabama Department of Revenue the authority to "pierce the corporate veil" and go directly to those individuals responsible for collecting, accounting for, and/or paying the trust fund taxes to the state.

For example, if you occupy a position within a corporation in which you have authority and control over the payment of creditors, and choose to pay other creditors while trust fund taxes go unpaid, you may find yourself personally assessed with the corporation's tax liability. This procedure, commonly referred to as a "100% Penalty Assessment," has been used by the Internal Revenue Service since 1954. Its purpose is to ensure that tax revenues are not lost if a corporation becomes defunct or has insufficient assets from which the taxes can be collected.

Additionally, in recent years Alabama law has provided new forms of business ownership such as Limited Liability Companies and Registered Limited Liability Partnerships. Under both of these forms of business ownership, members and partners may be held personally responsible for the tax liability of the business if a "100%

Penalty Assessment" is entered by the department. Should you find yourself facing the prospect of not being able to pay all of the debts of your business or your corporation's business as they become due, the department encourages you to make payment of trust fund taxes your number one priority. Nothing is worse than having your business fail and still having to pay trust fund taxes that were collected or withheld by the business. Even filing a personal bankruptcy will not eliminate this type of liability. For more information regarding 100% Penalty Assessments, call or write the Alabama Department of Revenue, Collection Services Division at the address listed below.

Collection Services Division
P.O. Box 327005
Montgomery, AL 36132-7005
Phone: (334) 242-1220
Fax: (334) 242-0814

OFFICE OF TAXPAYER ADVOCACY

The Office of Taxpayer Advocacy is an ADOR service that provides an independent avenue of assistance to ensure that tax problems, which have not been resolved through normal ADOR channels, are handled fairly and promptly.

The Office of Taxpayer Advocacy is not a substitute for established ADOR procedures or formal Appeals process.

The purpose of the office is to allow those taxpayers who have followed standard operating procedures, but still find their tax matters to be unsatisfactorily resolved, access to a final, independent channel of assistance.

Taxpayer grievances can be caused by a number of reasons, for example, insufficient tax knowledge or preparation in handling a tax matter, confusing or erroneous instructions or actions, failure on the taxpayer's part to respond to ADOR correspondence, etc. The Office of Taxpayer Advocacy is designed to work through these problems to provide a measure of relief, identify probable causes, and offer suggestions for long-term, structural remedies.

PURPOSE/GOALS

The purpose and goals of the Office of Taxpayer Advocacy are as follows:

- To provide assistance to any citizen who has experienced a longstanding and/or recurrent problem with the Alabama Department of Revenue;
- To be a neutral voice for and liaison between the taxpayer and the department;
- To identify systemic or procedural difficulties or problems that exist within the department and various divisions; and
- To identify issues that create problems for taxpayers and bring those issues to the attention of the commissioner and offer suggestions addressing administrative policy, legislative proposals, and enhancement of taxpayer education programs.

WHO MAY USE THE TAXPAYER ADVOCATE SERVICE?

To be referred to the Office of Taxpayer Advocacy, one or more of the following criteria must be met:

- An individual must have made three attempts to resolve the problem through normal channels;
- Instructions/information provided or action taken by the department have been proven wrong or inadequate, resulting in confusion or hardship to the individual;
- A departmental response has not been provided by the date promised, within a specified length of time after initial contact (30 days), or within the statutorily required time; and/or

- Noted existence of an ongoing or persistent problem with a particular procedure.

It is expected that the Office of Taxpayer Advocacy will receive calls and/or letters from those who are simply frustrated because a line is busy, or from people impatient for a refund or simply trying to circumvent normal channels. These calls will be referred to the proper office with no follow-up. In addition, there are several types of problems that the Taxpayer Advocate should not handle. Inquiries or problems not meeting criteria for referral to the Office of Taxpayer Advocacy include:

- Any problem that is currently under litigation, audit, or under special investigation;
- Any routine inquiry, request for information, or request for forms from the department;
- Time frame for departmental response has not elapsed in accordance with ADOR procedures;
- Attempt is being made to stall or avoid normal collection procedures and administrative action; or
- Any problems or inquiries regarding personnel matters.

REFERRALS

Referrals to the Office of Taxpayer Advocacy may come from several sources:

1. Department Referral – When it is determined by a department employee that the criteria for referral has been met, the problem should be immediately referred to the Office of Taxpayer Advocacy for resolution.

2. Taxpayer Request – Taxpayers, meeting referral qualification, may directly request assistance.

3. Taxpayer Representative – The taxpayer's representative (e.g., accountant, CPA, etc.) may directly request assistance.

ALABAMA DEPARTMENT OF INDUSTRIAL RELATIONS

UNEMPLOYMENT COMPENSATION

Unemployment Compensation (UC) programs can trace their roots back to Europe. Private employers in this country adopted the European programs to match the needs of their employees. Eventually, during the Depression, the federal government established a program of public UC offices throughout the 50 states, District of Columbia, Puerto Rico, and the Virgin Islands.

Today's UC program covers most of the nation's workforce. The program is a federal-state partnership with the federal partner providing stewardship and the state partner actually operating the program. Taxes paid by employers fund the benefits and the administrative costs of the program.

Goals of the UC program include (1) paying benefits timely when due and (2) equitably collecting the minimum necessary taxes from employers to operate the program.

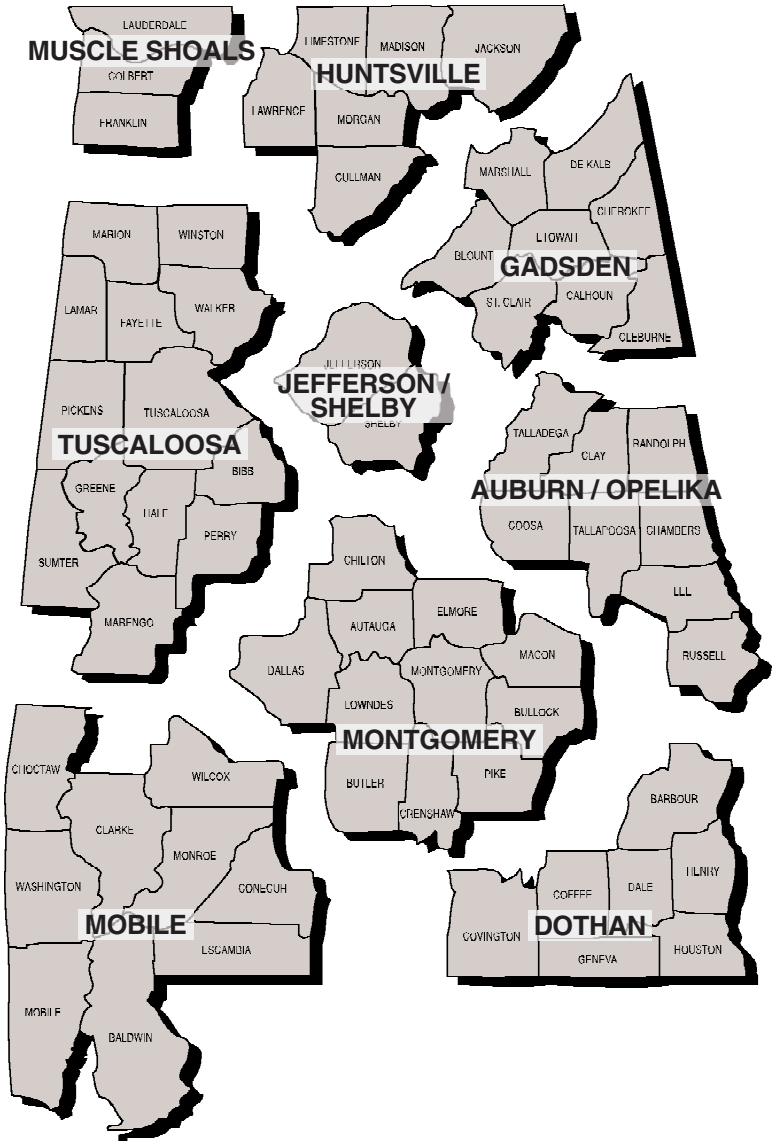
Contact information: Alabama Department of Industrial Relations at http://dir.alabama.gov/uc/employer.aspx

WORKERS' COMPENSATION

The Workers' Compensation Division is responsible for the administration of the Alabama Workers' Compensation Law to ensure proper payment of benefits to employees injured on the job and encourage safety in the work place. The main function of the division is to ensure proper payment of compensation benefits along with necessary medical attention to employees injured on the job or their dependents in case of death. Information and services are also provided to claimants, employers, insurance companies, attorneys, judges, legislators, labor and management groups, government agencies and other parties. The division also administers the rules and regulations for individual self-insurers and group self-insurers. Major activities include compliance inspections, safety promotion, auditing and enforcing claims payments and settlements, compiling injury and cost statistics, mediating disputes, and establishing and regulating cost containment standards.

ADOR TAXPAYER SERVICE CENTERS

The Alabama Department of Revenue operates nine Taxpayer Service Centers located across the state. For assistance, call or visit the nearest service center. Office hours are from 8 a.m. until 5 p.m. (CDT), Monday through Friday. The physical location, mailing address, telephone and fax numbers, and the areas served by each Taxpayer Service Center are provided.



Auburn/Opelika Taxpayer Service Center
3300 Skyway Drive (36830)
P.O. Box 2929
Auburn, AL 36831-2929
Phone: (334) 887-9549

Dothan Taxpayer Service Center
344 North Oates Street (36303)
P.O. Box 5739
Dothan, AL 36302-5739
Phone: (334) 793-5803

Gadsden Taxpayer Service Center
235 College Street (35901)
P.O. Drawer 1190
Gadsden, AL 35902-1190
Phone: (256) 547-0554

Huntsville Taxpayer Service Center
994 Explorer Boulevard (35806)
P.O. Box 11487
Huntsville, AL 35814-1487
Phone: (256) 922-1082
(256) 922-0438

Jefferson/Shelby Taxpayer Service Center
2020 Valleydale Road
Suite 208, Hoover (35244)
P.O. Box 1927
Pelham, AL 35124
Phone: (205) 733-2740

Mobile Taxpayer Service Center
955 Downtowner Boulevard (36609)
P.O. Drawer 160406
Mobile, AL 36616-1406
Phone: (251) 344-4737

Montgomery Taxpayer Service Center
1021 Madison Avenue (36104)
P.O. Box 327490
Montgomery, AL 36132-7490
Phone: (334) 242-2677

Muscle Shoals Taxpayer Service Center
874 Reservation Road (35661)
P.O. Box 3148
Muscle Shoals, AL 35662-3148
Phone: (256) 383-4631

Tuscaloosa Taxpayer Service Center
518 19th Avenue (35401)
P.O. Box 2467
Tuscaloosa, AL 35403-2467
Phone: (205) 759-2571

ALABAMA DEPARTMENT OF REVENUE KEY CONTACT INFORMATION

Sales, Use & Business Tax Division
P.O. Box 327710
Montgomery, AL 36132-7710
Phone: (334) 242-1490
Fax: (334) 353-7867
www.revenue.alabama.gov/salestax/menu.html

Sales, Use & Business Tax Division
Use Tax Section
P.O. Box 327710
Montgomery, AL 36132-7710
Phone: (334) 242-1490
Fax: (334) 353-7867
www.revenue.alabama.gov/salestax/index.html

Sales, Use & Business Tax Division
Severance & License Tax Section
P.O. Box 327560
Montgomery, AL 36132-7560
Phone: (334) 353-7827
Fax: (334) 353-7867
www.revenue.alabama.gov/severancetax/index.html

Sales, Use & Business Tax Division
Motor Fuels Section
P.O. Box 327540
Montgomery, AL 36132-7540
Phone: (334) 242-9608
Fax: (334) 353-7867
www.revenue.alabama.gov/motorfuels/index.html

Sales, Use & Business Tax Division
Tobacco Tax Section
P.O. Box 327555
Montgomery, AL 36132-7555
Phone: (334) 242-9627
Fax: (334) 353-7867
www.revenue.alabama.gov/tobaccotax/index.html

Individual & Corporate Tax Division
Withholding Tax Section
P.O. Box 327480
Montgomery, AL 36132-7480
Phone: (334) 242-1300
Fax: (334) 242-0112
www.revenue.alabama.gov/withholding/index.html

Individual & Corporate Tax Division
Individual Estimates
P.O. Box 327485
Montgomery, AL 36132-7485
Phone: (334) 242-1099
Fax: (334) 242-1914
www.revenue.alabama.gov/incometax/itindex2.html

Individual and Corporate Tax Division
Pass Thru Entity
P.O. Box 327900
Montgomery, AL 36132-7900
Phone: (334) 242-1033
Fax: (334) 242-1030
http://216.226.178.107/incometax/2005pshipfidestfrms.htm

Individual and Corporate Tax Division
Corporate Income Tax Unit
P.O. Box 327430
Montgomery, AL 36132-7430
Phone: (334) 242-1200
Fax: (334) 242-2537
www.revenue.alabama.gov/incometax/corporate_index.html

Individual and Corporate Tax Division
Business Privilege Tax Section
P.O. Box 327431
Montgomery, AL 36132-7431
Phone: (334) 353-7923
Fax: (334) 242-8915
www.revenue.alabama.gov/incometax/bpt_index.htm

Property Tax Division
P.O. Box 327210
Montgomery, AL 36132-7210
Phone: (334) 242-1525
Fax: (334) 242-0145
www.revenue.alabama.gov/advalorem/index.html

Motor Vehicle Division
P.O. Box 327620
Montgomery, AL 36132-7620
Phone: (334) 242-9000
Fax: (334) 353-8038
www.revenue.alabama.gov/motorvehicle/index.html

EFT Unit
P.O. Box 327950
Montgomery, AL 36132-7950
Phone: 1-800-322-4106
Fax: (334) 242-0251
www.revenue.alabama.gov/eft/eftindex.html

Office of Taxpayer Advocacy
P.O. Box 327005
Montgomery, AL 36132-7005
Phone: (334) 242-1055
Fax: (334) 242-0814
www.revenue.alabama.gov/taxpayerassist/index.html

Collection Services Division
P.O. Box 327820
Montgomery, AL 36132-7820
Phone: (334) 242-1220
Fax: (334) 242-8342
www.revenue.alabama.gov/coll/colindex.html

Alabama Department of Industrial Relations
Workers' Compensation Division
649 Monroe Street
Montgomery, AL 36131
Phone: (334) 242-2868
1-800-528-5166
http://dir.alabama.gov/wc