

## ASCPA TAX COMMITTEE MEETING

January 12, 2011

**Q:** Is the ADOR going to delay the April 15<sup>th</sup> filing date until April 18<sup>th</sup>, like the IRS has done due to the observation of Emancipation Day on April 15<sup>th</sup>?

**A:** Alabama follows the federal filing date of April 18<sup>th</sup>, 2011

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**Q:** Will ADOR publish a press release stating that Alabama conforms to all aspects of depreciation and estate tax provisions in the Tax Relief, Unemployment Insurance Reauthorization and Jobs Creation Act of 2010?

**A:** Alabama is tied to the new Depreciation limits for 2010. There has been no mention of decoupling. Alabama does NOT tie to the step up provisions in IRC 1014 and 1022. There is also a question about whether or not AL will have an estate tax for 2010. Richard is looking into the matter and will report back to Kim Smith.

We are not able to find a tie in the Alabama law to the federal changes that allow the step up in basis for property inherited in 2010, so Alabama will not follow this provision.

Alabama will not have an estate tax in 2011 or 2012. The provisions of the "Economic Growth and Tax Relief Reconciliation Act of 2001" were extended two years (see below) and the phase out of the credit and allowance a deduction for taxes paid the States are in Title 5 of the above bill .

Section 101 of HR 4853 Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 reads as follows:

### **TITLE I--TEMPORARY EXTENSION OF TAX RELIEF**

#### **SEC. 101. TEMPORARY EXTENSION OF 2001 TAX RELIEF.**

(a) Temporary Extension-

(1) IN GENERAL- Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking `December 31, 2010' both places it appears and inserting `December 31, 2012'.

(2) EFFECTIVE DATE- The amendment made by this subsection shall take effect as if included in the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001.

(b) Separate Sunset for Expansion of Adoption Benefits Under the Patient Protection and Affordable Care Act-

(1) IN GENERAL- Subsection (c) of section 10909 of the Patient Protection and Affordable Care Act is amended to read as follows:

` (c) Sunset Provision- Each provision of law amended by this section is amended to read as such provision would read if this section had never been enacted. The amendments made by the preceding sentence shall apply to taxable years beginning after December 31, 2011.'

(2) CONFORMING AMENDMENT- Subsection (d) of section 10909 of such Act is amended by striking `The amendments' and inserting `Except as provided in subsection (c), the amendments'.

Sec 901of the Economic Growth and Tax Relief Reconciliation Act of 2001reads as follows:

**SEC. 901. SUNSET OF PROVISIONS OF ACT.**

(a) IN GENERAL- All provisions of, and amendments made by, this ACT shall not apply-

(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

(2) in the case of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

(b) APPLICATION OF CERTAIN LAWS- The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsection (a) as if the provisions and amendments described in subsection (a) had never been enacted.

The 2011 bill extends the 2001 bill for two years with some amendments, but the estate tax credit section was not amended, so the credit stays in place.

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**Q:** Please share an update on the State's E-File capabilities for the 2010 filing season. In particular, we have had issues with the slowness of E-File acceptance by Alabama. We do not encounter this problem with other states. Is there any way to check the status of returns that have not been accepted other than calling ADOR to inquire about the status?

**A:** No significant changes in E-Filing. Acceptances will be slow on the weekends due to the fact that ADOR does not have personnel working on the weekends. With the new MEF format, we should see an increase in speed for confirmations. Business returns and some form 40 (MEF Format) will be faster this year and next year all will be in MEF format. Please remember that if you receive a rejection notice, you may use the 8453 signature document in lieu of asking the client to sign a paper return.

Richard stated that refunds will be extremely slow this year. He encourages taxpayers to use Direct Deposit. A question was posted about the relationship between large refunds and audit notices – Richard stated that notices are received based upon parameters in the Department's computer system. The notices are the result of the issue that falls outside the Department's parameter – not the refund itself.

We inquired about the naming conventions for PDF attachments to E-Filed returns. Richard said he didn't think we were doing that this year but will provide something for the CPAs to know what, if any specific names must be used for business return PDF attachments.

The PDF naming convention is still required. The Federal return is no longer required in PDF; since ADOR now has a way to view the XML formatted federal return. The PDFs and the naming convention for PDFs will probably never go away due to the wide variety of attachments to the returns. See the end of the document for naming information.

Fiduciary returns may not be E-Filed for 2010 but ADOR will have fiduciary E-filing when the IRS opens a joint Fed state fiduciary program.

Nonresident returns may be E-Filed for 2011– no E-Filing for 2010.

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**Q:** We have seen an increase in the number of notices asking for information regarding K1s from pass through entities. Most of the notices have asked for information that is already contained on the flow-through entity's return. Is there any way to cross reference or check the business return first before sending a notice to the individual?

**A:** One reason for the notice may be that the individual return is E-Filed and the Business return is paper filed so there is no way to cross-reference. Kim mentioned that the notices refer to something that is plainly on the K1 but it seems ADOR is ignoring the item on the K1....for example, the 179 expense deduction. Kim will send examples to Richard for him to look into the matter. Have not gotten any examples.

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**Q:** We received a notice asking for verification of the Alabama Health Insurance Deduction for an employer. Can you give us an idea about what the ADOR is looking for as adequate substantiation for the deduction?

**A:** Richard replied that they would like to confirm the computation and that we did not have to provide source documentation (i.e., documents signed by the employees that AGI was under the specified limit). He stated that we should provide the total insurance expense (per federal return), the number of employees covered and the computation of the allowed amount multiplied by 50%.

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**Q:** Please provide an update on the status of the deduction for investments in entities doing business in Alabama on the Business Privilege Tax Return. (In light of the veto by the Legislative Council of Proposed Reg 810-2-.08)

**A:** Per the Legal Dept. at ADOR, there is no deduction. ADOR will hold any return that takes a deduction for the investments in equity of a taxpayer doing business in Alabama pending further legislation. No refunds issued for this deduction.

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**Q:** Please provide us with an update on the uniformity of the treatment/classification of disregarded entities for the various types of Alabama taxes.

**A:** Presently, ADOR treats all disregarded entities as they are treated for income tax purposes. ADOR is working with a committee that is seeking to change the law for withholding and sales taxes such that the DE is treated as independent for these taxes. No legislation has been introduced but is in process.

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**Q:** With the amount of delinquent taxes noted in Governor Bentley's speeches, is the ADOR considering another Tax Amnesty Program?

**A:** Not at this time.

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**Q:** What initiatives does the ADOR have on its agenda for the upcoming legislative session? Any items that ASCPA can assist with?

**A:** No agenda items at this time. ADOR is waiting on the new administration and Commissioner to direct the goals of the Department.

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**Q:** As time permits, please provide an update on the following:

Gross Income Regulation:

**A:** No effort to do anything at this time.

Streamlined Sales Tax:

**A:** New Governor has expressed an interest.

Modification of Starting Point:

**A:** A lot of collaboration will be required to make this happen (unlikely to be enacted anytime soon).

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### **Other Items Discussed:**

ADOR will continue to send BPT notices. There is a new provision that states that before a foreign entity may dissolve with the Secretary of State they must have a certificate of good standing from ADOR for all taxes.

In 2011, the 65, 20S and 20C will have a BPT schedule on the income tax return....no additional BPT form will be filed. Richard will look at a similar schedule for disregarded entities owned by individuals.

We received a presentation about the MAT program – My Alabama Taxes. Taxpayers may sign up online for MAT and can look at copies of returns, correspondence, amounts due or paid, etc. Taxpayers may also allow a third party representative access this information online by using a shared pass code. The taxpayer receives notification that someone has signed onto their account via US Mail. Any committee members who wish to participate in testing the new system may send their contact information to Kim Smith or Richard Henninger.

If you would like to volunteer to test the MAT program, please forward your contact information to Kim Smith, ASCPA or directly to Richard Henninger.

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### **PDF Naming Information**

<http://www.revenue.alabama.gov/incometax/corpefilemain.htm>

#### ***Attachments to the Electronic return:***

The tax return may also include non-XML documents, known as “binary attachments”, submitted in PDF format. **The maximum total size for all PDF attachments transmitted with a return is 60MB.**

Approved tax preparation software must provide the necessary instructions for creating and submitting all required attachments. These attachments include items from the following sources:

- Required by the return. Example – a line on the form states “attach itemized schedule”
- Required by the form instructions. Example – instructions state “attach a statement to line XX...”

Approved MeF tax preparation software should provide the necessary instructions for creating, scanning or exporting documents in PDF format and submitting these documents as attachments that are required by Alabama and IRS Publications, Code, and/or Regulations. Preparers will create the binary attachments as pdf documents and submit them as electronic files attached to the MeF return. Check with your software provider to see if your software will support binary attachments.

These binary attachments are included to allow taxpayers to provide requested documentation that includes required signatures and third party documents as required by forms and instructions (signed copy of lease, signed appraisal statement, etc).

**MeF tax preparation software must use the following names for binary attachments because they will be validated by business rules.**

Conditional Binary Attachments	Required Binary Attachment Title
Consolidated 1120 Pages 1-5 (If applicable)	Consolidated1120.pdf
Federal Form 851 (if applicable)	Federal 851.pdf
Signed Schedule NRAs – Non-resident Agreements (if applicable) (20S)	ALNRA.pdf
Alabama 20CCRE – Election to File Consolidated Income Tax Return (if applicable)	AL20CCRE.pdf
If the Multistate Corporation Separate Accounting checkbox (MultiStateCorpSepAcct) is checked. A copy of the Separate Accounting Approval letter signed by the Commissioner of Revenue must be attached	SeparateAccountingApproval.pdf
If the taxpayer is a member of an affiliated group which files a consolidated federal return the parent company's current Federal Income Tax Deduction Election (1552) letter must be attached along with the Federal Income Tax Deduction Calculations	1552ElectionCalculations.pdf
.PDF copy of each Alabama corporate income tax return (page 1 only) where the Net Operating Loss listed on Schedule B that is more than six years old	NOLYYYYAL20CPg1.pdf
Alabama 20C/20S/65 additional depreciation allowed by Economic Stimulus Act of 2008 (computation for the difference)	Section179AddBack.pdf
Alabama Form 2220AL Underpayment of Estimated Tax for Corporations (if applicable)	Form2220AL.pdf
Enterprise Zone Capital Credit calculations (if applicable) - This PDF should include Schedule EZ, Certificates and all calculations.	EnterprizeZoneCredit.pdf or CreditStatements.pdf if combined with other credit statements
Employer Education Credit calculations (if applicable) - This PDF should include a copy of the document of approval along with a detailed schedule computing the credit.	EmployerEducationCredit.pdf or CreditStatements.pdf if combined with other credit statements
Income Tax Credit calculations (if applicable) - This PDF should include certificate/document of approval, computation of income generated from project, support for amount paid, and computation of the credit.	IncomeTaxCredit.pdf or CreditStatements.pdf if combined with other credit statements

Tax Increment Fund Payment Credit calculations (if applicable) - This PDF should include the document of approval along with proof of payment(s) into the fund relative to corporate income tax and a detailed schedule computing income generated from the project.	TaxIncrementFundPymtCredit.pdf or CreditStatements.pdf if combined with other credit statements
Coal Tax Credit calculations (if applicable) - This PDF should include a detailed schedule computing the coal tax credit.	CoalTaxCrdt.pdf or CreditStatements.pdf if combined with other credit statements
Capital Tax Credit (if applicable) - This PDF must include Form AR (Annual Report of Project) and Form K-RCC if applicable.	CapitalTaxCredit.pdf or CreditStatements.pdf if combined with other credit statements
Other Reconciliation Items (20S if applicable)- This PDF must clearly explain the nature and amounts of the reconciling items.	OtherReconciliationItems.pdf or Statements.pdf if combined with other statements
Other Separately Stated Items (20S if applicable)-This PDF must clearly explain the nature and amounts of the other separately stated items.	OtherSeparatelyStatedItems.pdf or Statements.pdf if combined with other statements
Separate Non-Business Income/Loss (20S/65 if applicable) This PDF must identifying the nature and amounts of the separately stated non-business items.	SeparateNonBusiness.pdf or Statements.pdf if combined with other statements
Other Expense Portfolio Income (20S/65 if applicable)- This PDF must identify the nature and amounts of the other expenses related to portfolio income.	OtherExpenses.pdf or Statements.pdf if combined with other statements
If there is Tax Due on the 20S return - A PDF with a computation schedule must be submitted.	StateIncTaxSCorp.pdf or Statements.pdf if combined with other statements
Form NMC must be completed by each qualifying nonresident member of certain affordable rental housing developments	ALNMC.pdf
If QIP Indicator is populated then a .pdf attachment named "ScheduleQIPC.pdf" must be attached (for forms 65 and PTEC)	ScheduleQIPC.pdf

**For all other binary attachments, the tax preparation software must provide the taxpayer the ability to enter a meaningful name. The following table provides a few examples of meaningful names.**

<b>CONDITION</b>	<b>BINARY ATTACHMENT TITLE</b>
If the regulations require you to attach a merger agreement.	1120 Merger Agreement for XYZ Corporation or Statements.pdf if combined with other statements
If required to attach a detailed schedule of Other Income.	OtherIncome.pdf or Statements.pdf if combined with other statements
If required to attach a schedule of Other Property for Schedule C (Forms 20S/65).	SchedCOtherProperty.pdf or Statements.pdf if combined with other statements
If required to attach a schedule of Other Property for Schedule D1 (Form 20C).	SchedD1OtherProperty.pdf or Statements.pdf if combined with other statements
If shareholder notes are more than 40 characters (20S/65 – K-1)	ShareholderNotes.pdf or K1Statements.pdf
If state notes are more than 20 characters (20S/65 K-1)	StateAdditionalInformation.pdf or K1Statements.pdf

The following is an excerpt from AL Publication 4163 and AL Publication 4164 page 4 [Changes for Tax Year 2010](#) posted on our website at

<http://www.revenue.alabama.gov/incometax/corpefilemain.htm>

### **Changes for Tax Year 2010**

2. The Alabama Department of Revenue **will no longer require** a copy of the **federal return** as a **binary attachment in .pdf format** for returns in the Business MeF Program (Forms 20C, 20CC, 20S, and 65). The complete federal return and the necessary supporting schedules (such as Schedule D and Form 4797) as filed with the IRS **are still required to be submitted in XML format** along with the Alabama return for the return to be considered complete. Failure to submit the complete federal return with the necessary supporting schedules in XML format may result in the imposition of delinquent penalties. Form 20C Filing Status 5 is the **only** return that is not required to submit a copy of the federal return because it will be provided with their parent's Form 20CC return.