

What's New for 2022

Schedule CP-B, Composite Payments/Electing Pass-Through Entity Credits. The Alabama Department of Revenue now requires the use of Schedule CP-B. This schedule is used to enter the amount of any composite payments and/or electing pass-through credits made on behalf of the entity by another entity. Each composite payment/electing pass through credit should be listed separately. See Schedule CP-B instructions for additional information.

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

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

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

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

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

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

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

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

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

Composite Payment and Return Requirements for Subchapter K Entities and S Corporations

A partnership, or other entity classified as a Subchapter K entity, is required to file a composite return and make composite payments on behalf of its nonres-

ident owners or members if there are one or more nonresident owners or members at any time during the taxable year.

A pass-through entity is not generally required to remit a composite payment on behalf of a nonresident member that is an entity exempt from Alabama income taxation, in accordance with §40-18-32, *Code of Alabama 1975*. The pass-through entity is required to disclose the tax-exempt entity's name, taxpayer identification number and distributive share of income items on the composite return filed for the taxable year, as is required for all nonresident members. The amount of the composite payment due with respect to the tax-exempt entity would be zero, unless the income is considered unrelated business taxable income in accordance with 26 U.S.C. §512 or the income is otherwise specifically subject to the composite payment requirement of §40-18-24.2, *Code of Alabama 1975*.

The Alabama composite return is not filed as an attachment to the Alabama income tax return for the entity.

Every Subchapter K entity and every S corporation that is credited with a composite payment on a composite return must also file a composite return to properly allocate the composite payment made on its behalf.

The allocation and apportionment requirements established by the Multistate Tax Compact, codified in Chapter 27, Title 40, *Code of Alabama 1975*, and all rules pertaining to the Multistate Tax Compact are applicable to composite returns required to be filed by Subchapter K entities and S corporations.

In computing the amount of the composite payment, the entity shall apply the maximum tax rate provided in §40-18-5 (5%) to each nonresident owner's distributive share of income.

The nonresident owner's distributive share of income shall be computed in accordance with §40-18-24, *Code of Alabama 1975*, for Subchapter K entities. The nonresident shareholder's distributive share of income shall be computed in accordance with §40-18-162, *Code of Alabama 1975*, for S corporations.

In computing the amount of the composite payment, an entity may not offset the income or gain of a nonresident owner/shareholder with the loss of another owner/shareholder.

In computing the amount of the composite payment, a net operating loss carryforward may not be used to offset income or gain.

Every nonresident owner or shareholder whose income is reported on a composite return must file an Alabama income tax return and report the Alabama source income-even if the income earned in Alabama is included on a composite return, unless the nonresident owner or shareholder is a nonresident who has no other Alabama source income. In order for a nonresident individual to have the benefit of any net operating losses generated by a partnership or S corporation, the nonresident individual must establish those losses by filing an Alabama income tax return.

Should you have any additional questions, please call the Pass-through Entity Section at (334) 242-1170, Option 6.

Nonresident Agreements (S corporation only)

An Alabama S corporation may file the agreement of each nonresident shareholder of the entity (1) to file a return and make timely payments of all taxes imposed on the shareholder with respect to the income of the Alabama S corporation, and (2) to be subject to personal jurisdiction in this State for the purpose of the collection of unpaid income tax, together with related interest and penalties, from the nonresident shareholder. An S corporation is not required to make a composite payment for any nonresident shareholder that certifies in writing, under penalty of perjury, to the entity prior to the original due date of the entity's income tax return that the nonresident shareholder has fully paid its Alabama income tax attributable to its distributive share of the entity's net taxable income allocated and apportioned to Alabama with respect to its taxable year. If the nonresident shareholder that has filed a NRA does not pay the tax due at the required time, the S corporation shall make the required payment of income tax due within

60 days after notice and demand from the Department. The tax due is the total of each owner's distributive share of the entity's net taxable income allocated and apportioned to Alabama multiplied by 5% for all nonresident owners.

General Instructions

Original Due Date

The calendar year return is due on or before March 15, 2023. For fiscal year or short year taxpayers, the return is due on or before the 15th day of the 3rd month following the close of the tax period. If the 15th falls on Saturday, Sunday, or a state holiday then the due date will be considered the following business day.

Any changes must be made on an amended Form PTE-C no later than the extended due date of the Subchapter K entity's/S corporation's return. Any changes in income affecting the owner's/shareholder's tax after the extended due date, must be made on the owner's/shareholder's applicable tax return. (Individual – Form 40NR, C corporation – Form 20C, S corporation – Form 20S, or Fiduciary – Form 41.)

Extension

Any extension of time to file an income tax return allowed for by federal income tax purposes will be recognized for Alabama purposes. However, the extension of time for filing the return is not an extension of time for payment of tax. The amount of tax due must be paid on or before the due date of the return without regards to the extension of time to file the return. All calendar year PTE-C returns have an extended due date of Sept. 15, 2022.

Estimates

Estimate payments are not required by Alabama law. If you wish to make voluntary estimated payments, your payment should be submitted with Form PTE-V.

NOTE: Form PTE-C is no longer required to be submitted with an estimated payment.

Payment of Tax

The total tax liability on the calendar year composite return is due on or before March 15, 2023. For fiscal year or short year taxpayers, the payment is due on or before the 15th day of the 3rd month. Payments made after the original due date will be subject to interest and penalty charges. Make check or money order payable to: Alabama Department of Revenue. Write the Subchapter K entity's/S corporation's Federal Employer Identification Number (FEIN), Form PTE-C, and the tax year on the payment and enclose Form PTE-V when payment is mailed.

Section 41-1-20, *Code of Alabama 1975* requires all single tax payments of \$750 or more to be made electronically. My Alabama Taxes (MAT) is a secure way to view and access your tax information using the Internet. Anyone who has an account with the Alabama Department of Revenue (ADOR) may register to access their tax information through MAT. To sign up for MAT, go to <https://myalabamataxes.alabama.gov/>. Form PTE-V is not required when payment is made electronically.

CAUTION: Do not attach the Form PTE-C or the Form PTE-C payment to the Form 65/Form 20S or vice versa.

Signature

The return must be signed by an authorized officer of the Subchapter K entity/S corporation. Enter the date signed and the officer's title. If the return is prepared by someone other than an employee of the Subchapter K entity/S corporation, enter the signature and identification information of the preparer.

Specific Instructions

File the 2022 return for calendar year, fiscal year or short year that begins in 2022. Mark the appropriate box at the top of the form for a calendar, fiscal or short year.

NOTE: A 52/53 week filer can only file a fiscal year or short year return.

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

Also, check the 52/53 week checkbox if the tax return is being filed by an entity with a 52/53 week filing election in place for the tax year. The fiscal year or short year checkbox must be selected for a 52/53 week filer.

Check the appropriate box indicating a Subchapter K entity or S corporation. Check the Qualified Investment Partnership box if the return is being filed for a Qualified Investment Partnership. Check the Series LLC box if the return is being filed for a Series LLC. Check the box if this return serves as an amendment. Enter the Federal Employer Identification Number (FEIN), Federal Business Code, name, and mailing address (with complete ZIP code) of the Subchapter K entity/S corporation. Enter the number of owners/shareholders, and number of nonresident owners/shareholders included in composite return. Check the Federal Audit Change box if you are amending the return due to changes that resulted from an IRS audit. Check the Amended box if you are amending the return for any other reason other than changes that resulted from an IRS audit.

LINE 1 – Enter the total amount of tax due from Schedule PTE-CK1, page 3 of PTE-C for every owner/shareholder.

LINE 2 – If payment is being remitted after the original due date of the return, compute interest on the late payment in accordance with Section 40-1-44, *Code of Alabama 1975*, and enter the interest amounts in the applicable columns.

LINE 3 – If the return is not filed on or before the due date, enter a failure to timely file penalty (the greater of 10% of the amount of net tax due or \$50). The tax due if not paid by the original due date of the return will be subject to a failure to timely pay penalty of 1% per month (for a maximum of 25%), which should be entered on line 3.

LINE 4 – Total amount of tax, interest, and penalty due. (Add lines 1 through 3)

LINE 5a – Enter the amount of overpayment as shown on the Form PTE-C return for the previous tax year.

LINE 5b – Enter the total amount of estimated tax payments, extension payments, and WNR-V payments made for the tax year.

LINE 5c – Enter the total Composite Payment(s) and/or Electing Pass-Through Entity Credit(s) from Schedule CP-B, line 3. **Schedule CP-B must be completed and attached to the Form PTE-C if you are claiming composite payment(s) or Electing Pass-Through Entity credit(s).** Refer to the Schedule CP-B instructions for additional information.

LINE 5d – Enter the total amount of all payments/credits. (Add lines 5a through 5c.)

LINE 6 – Amount to be Remitted or (Overpayment)

Enter the amount to be remitted or overpayment by subtracting line 5d from line 4. A positive amount represents an amount due. A negative amount represents an overpayment.

Form PTE-V must accompany the payment unless the payment is made electronically. Complete the indicator on the return if the payment is made electronically.

LINE 7a – Enter the amount of overpayment to be credited to the following tax year.

LINE 7b – Enter the amount of overpayment to be refunded.

PAGE 2 – Provide the requested information concerning the entity filing the composite return if a partnership or LLC.

SCHEDULE PTE-CK1, LINES 1-11.

Schedule PTE-CK1 serves as the third page of Alabama Form PTE-C, and summarizes the required information concerning nonresident shareholders and owners. Give complete information regarding each nonresident owner/shareholder as requested in columns (A), (B), (C), (D), (E), (F), (G), (H), and (I). Column (C) should indicate one of the following: I = individual; F = trust/estate; P = partnership, LTD, LLC, LLP; S = S corporation, E = exempt entity; C = corporation; IRA = individual retirement arrangement; FGOV = foreign government or DE =

disregarded entity.

Column (E) should include the amount of each nonresident owner's/shareholder's nonseparately stated income, separately stated income, and guaranteed payments as reported on Schedule K-1, Line G, Line H, Line I, Line J, Line K, Line L and Line M. Column (E) should not include separately stated items of deduction or expense. If a nonresident owner/shareholder has a loss, do not include him/her on Form PTE-C unless the loss is used to offset guaranteed payment(s). See Administrative Rule 810-3-24.2-.01 for additional information.

Column (F) should be the amount from Column (E) multiplied by 5%. Column (G) should be completed if the nonresident member has elected and the entity has been approved to have the nonresident's portion of the Alabama Investment credit included as part of the composite return. Schedule PTE-AJA must be attached if Column G is completed. Note: Allocation of this credit is required to be submitted through MAT. Column (H) should be Column (F) minus Column (G). Column (I) should be completed if the nonresident member has certified exemp-

tion from the composite payment requirements. Schedule NRC-Exempt must be attached if the box on Column (I) is checked.

The totals from the additional pages of Schedule PTE-CK1 should be combined and reported on line 13 of Schedule PTE-CK1.

LINE 12 – Enter the totals from Page 3, columns (E) through (H).

LINE 13 – Enter the total from any additional pages of PTE-CK1, columns (E) through (H).

LINE 14 – Enter the totals columns (E) through (G), (lines 12 + 13).

LINE 15 – Add lines 12 and 13, column H and enter here and on Page 1, line 1.

Unless Schedule PTE-CK1 is attached, this return is considered incomplete.

Note: For entities needing additional information about composite filing requirements for Affordable Rental Housing Developments and Publicly Traded Partnerships, please call (334) 242-1170, Option 6.