

INSTRUCTIONS FOR THE PREPARATION OF
ALABAMA DEPARTMENT OF REVENUE
Form 41
Fiduciary Income Tax Return

2023

**Alabama Form 41
General Instructions**

What's New for 2023

Credit Card Options available:

My Alabama Taxes (MAT) – Taxpayers who have an account with the Alabama Department of Revenue may register and make credit card payments using MAT. Visit the Department's website at www.revenue.alabama.gov (click the MAT icon on the home page).

For technical assistance with making a payment using MAT call toll free (1-800-322-4106, option 5 or 334-242-1170, option 5) from 8:00 a.m. through 5:00 p.m. (Central Standard Time).

Alabama Income Tax Law Concerning Estates and Trusts.

Available on the Alabama Department of Revenue's website, www.revenue.alabama.gov are the Alabama tax laws and rules, including the following concerning estates and trusts:

Section 40-18-25 Estates and Trusts

Section 40-18-25.1

Section 40-18-29 Fiduciary Returns

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

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

Electronic Payment. Electronic payments can be made by direct debit through the approved e-file software vendors or via My Alabama Taxes (MAT).

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

Due Date for the Alabama Form 41. Calendar year returns are due on or before the 15th day of April following the close of the calendar year. Fiscal year or short year returns are due on or before the 15th day of the fourth month following the close of the fiscal or short year. If the due date falls on a Saturday, Sunday, or holiday, the return is due on the following business day.

Mailing Address for the Alabama Form 41

Mail returns with payments to:

Alabama Department of Revenue
Income Tax Administration Division
Alabama Form 41
P. O. Box 327444
Montgomery, AL 36132-7444

Make check or money order payable to Alabama Department of Revenue and enclose Form FDT-V when payment is mailed.

Returns without payments must be mailed to:

Alabama Department of Revenue
Income Tax Administration Division
Alabama Form 41
P. O. Box 327440

Montgomery, AL 36132-7440

Extension. Any extension of time to file an income tax return allowed by federal income tax purposes will be recognized for Alabama purposes. However, the extension of time for filing the return is not an extension of time for payment of tax. The amount of tax due must be paid on or before the due date of the return without regard to the extension of time to file the return.

Estimate payments are not required by Alabama law. Voluntary estimated payments can be submitted with Form FDT-V.

Required Attachments. To be considered a complete return, the Alabama Fiduciary Income Tax Return must have attached a complete copy of the federal Form 1041, U.S. Income Tax Return for Estates and Trusts, with all federal K-1s, all statements and all attachments. Failure to attach a complete copy of the federal Form 1041 will constitute improper preparation, subjecting the return to treatment as a delinquent return. Voluminous depreciation and like schedules may be omitted; however, a list of all omitted schedules must be attached and must be provided if requested. In addition, for the Alabama Form 41 to be considered a complete return, a properly completed Alabama Schedule K-1 or Schedule G must be attached for each person or tax entity that was a beneficiary at any time during the taxable year.

Instructions for CRATs, CRUTs, and Tax Exempt Organizations

Taxpayers completing Form 41 for a CRAT, CRUT or tax exempt organization (TEO) should follow the standard instructions for lines 1 through 5. A zero (0) should be entered on line 5a and the proper box should be checked to identify the type of entity. For tax years beginning on or after January 1, 2016, the due date for TEOs is the same as the due date for filing the required federal income tax return. Any taxes owed must be paid by the original due date of the return.

Extensions approved for the federal return will be recognized for Alabama purposes. An extension of time to file is not an extension of time to pay.

Instructions for Grantor Trusts

Grantor trusts, as described in 26 U.S.C. §671, have an Alabama return filing requirement specified by §§40-18-25 (g) and 40-18-29. Those returns will be prepared as follows: 1. The upper part of page 1 of the Alabama Form 41 will be completed, providing the information requested concerning the grantor trust. Page 1 of the Alabama Form 41 must indicate the trust is a grantor trust. 2. Enter zeroes on page 1, line 1- 7, page 2, lines 1-15 and page 3, lines 1-19. 3. Alabama Schedule G (Grantor's Statement of Income, Deductions, and Other Items) must be completed. (See instructions for Schedule G).

**Alabama Form 41
Return Preparation Instructions**

Page 1 – Taxpayer and Tax Return Information – Please provide the information requested as instructed by the upper portion of the form.

Note: Do not use the Employer Identification Number of the accounting firm, the trustee, the attorney's firm, or of an interest payor.

Line 1. Enter the amount from page 3, Schedule C, line 18c.

Line 2. Enter the amount from page 2, Schedule A, line 15. The amount entered should be the amount of income distributed to or distributable to the beneficiaries during the tax year, in accordance with Section 40-18-25(a). The Alabama income distribution deduction is generally computed in accordance with 26 U.S.C. §§651 and 661, including any limitations, using amounts determined in accordance with Title 40, Chapter 18.

Line 3. The exemption allowed estates or trusts in computing Alabama taxable income is \$1,500, the amount allowed a single individual under Section 40-18-19. Nonresident estates or trusts receiving income or conducting a business in Alabama and another state or states must apportion the exemption in accordance with 40-18-19.

Line 4. Enter the sum of lines 2 and 3.

Line 5. Enter the amount that results from subtracting line 4 from line 1.

Line 5a. Using the Tax Computation worksheet, enter the amount of taxable income subject to the different tax rates and the amount of tax for each tax rate. Enter on line 5a the total income tax due. The tax rates are established by Section 40-18-5.

If a CRAT/CRUT or NOL, indicate by checking box and attaching a computation schedule. If a Qualified Funeral Trust indicate by checking the box.

Tax Computation Worksheet

at 2% (on first \$500, or fraction thereof, of
\$ _____ Alabama Taxable Income) . _____

at 4% (on next \$2500, or fraction thereof, of
\$ _____ Alabama Taxable Income) . _____

at 5% (on all over \$3000 of
\$ _____ Alabama Taxable Income) . _____

Total Income Tax Due . . . _____

Line 6. If trust is using ESBT, attach Schedule ESBT for electing small business trust computation schedule and enter ESBT adjusted total income or loss from line 19b. Schedule ESBT shall include income and deductions, related to the trust ownership, that consists of S Corporation stock on the column labeled ESBT. Non-ESBT column should include income and deductions from Form 41, Schedule C, Column C.

Line 6a. Multiply the amount from Line 6 by 5%. If an ESBT NOL applies, submit Schedule NOL-F85A and check the ESBT NOL box.

Line 7. Enter the sum of lines 5a plus 6a.

Line 8a. Enter allowable credits from Schedule FC.

Line 8b. Enter the amount of Alabama Income Tax withheld from Forms W-2 and/or 1099. Attach a copy of Form W-2 or Form 1099.

Line 8c. Enter any overpayment from the 2022 return.

Line 8d. Enter the amount of estimated, extension, and WNR-V payments.

Line 8e. Enter any payments made with the original return.

Line 8f. 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 41 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 8g. Enter as a negative number the amount of composite/electing pass-through entity payments allocated to the beneficiary.

Line 8h. Enter the refundable portion of the 2017 Alabama Historic Rehabilitation Tax Credit from Schedule FC, Section G, Line 1.

Line 8i. Enter the refundable portion of the Railroad Modernization Act of 2019 from Schedule FC, Section G, line 2.

Line 9. Enter the sum of the amounts entered on lines 8a, 8b, 8c, 8d, 8e, 8f, 8g, 8h and 8i.

Line 10. Subtract line 9 (total credits) from Line 7 (total tax due) and enter the difference on line 10. If total tax due is larger than total credits, enter the difference as a positive number. This is the amount of tax you owe. If total tax due is less than total credits, enter the difference as a negative number. This is the amount of overpayment which may be refunded or carried forward.

Line 11a. Enter the amount of refund to be carried to your 2024 estimated tax.

Line 11b. Enter the amount of interest due on the balance of tax due. This is to be computed from the due date (without extension) of this return to the date paid. The Alabama interest rate is the same as provided in 26 U.S.C. §6621.

Line 11c. If this return is not filed on or before the due date (with extension), enter a failure to timely file penalty of 10% of the tax due on Line 10 or \$50, whichever is greater. This penalty is due even if the return indicates a refund or zero balance. Tax amounts not paid by the due date will be subject to a failure to timely pay penalty of 1% per month up to a maximum of 25%.

Line 11d. Enter the total of lines 11a through 11c.

Line 12. Enter the sum of lines 11d and 10. If amount owed, **FORM FDT-V MUST ACCOMPANY PAYMENT.** If payment has been made via electronic funds please check the indicator box.

Schedule A – Computation of Alabama Income Distribution Deduction

Line 1. Enter the amount from page 1, line 1.

Line 2. Enter the amount of gain from the sale of capital assets, only if the gain was allocated to corpus and was not paid, credited, or required to be distributed to any beneficiary or owner during the taxable year.

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

Line 4. Enter, as a positive amount, the amount of loss from the sale of capital assets, only if the loss was not considered in the determination of the amount to be paid, credited, or required to be distributed to any beneficiary or owner during the taxable year.

Line 5. Enter the amount of tax exempt interest excluded in computing Alabama taxable income for the estate or trust.

Line 6. Enter other adjustments not addressed by lines 2, 4, or 5, above. Enter adjustments that would increase the Alabama Distributable Net Income (DNI) as a positive amount. Enter adjustments that would decrease the Alabama DNI as a negative amount. Please attach a complete explanation for each of the adjustments entered in line 6.

Line 7. Enter the sum of lines 3 through 6. The computations of lines 8 through 15 of Schedule A adjust Alabama DNI and compute certain limits for the Alabama Income Distribution Deduction. The Alabama Income Distribution Deduction is generally computed in accordance with 26 U.S.C. §§651 and 661. If zero or less, enter zero.

Line 8. This line applies to complex trusts only. Enter the accounting income of the trust for the tax year determined under the

terms of the governing instrument, applicable local law, and Alabama income tax law.

Line 9. This line applies to simple and complex trusts only. Enter the amount of income required to be distributed currently, whether distributed or not.

Line 10. This line applies to decedent's estates or complex trusts only. These distributions consist of any other amounts paid, credited, or required to be distributed and are referred to as second tier distributions.

Line 11. Enter the sum of lines 9 and 10.

Line 12. Enter the amount of Alabama tax-exempt income included on line 11.

Line 13. Subtract the line 12 from line 11.

Line 14. Subtract line 5 from line 7. Enter zero if equal to zero or less.

Line 15. Enter the smallest of the amounts entered on lines 13 or 14, **but not less than zero.**

Schedule B – Alabama Charitable Donation

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

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

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

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

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

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

Schedule C – Computation of Alabama Adjusted Total Income

Do not include net operating losses on Schedule C.

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

Lines 1 through 8 – Enter the income items identified by the line titles:

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

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

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

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

Line 4. If a business was operated, attach Federal Schedule C.

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

Line 6. If the estate or trust operated a farm, attach Federal Schedule F.

Line 9. Enter in each column the sum of the amounts entered in lines 1 through 8.

Lines 10 through 16 – For the deduction items identified by the line titles:

– Enter in column A the amount of deduction claimed on the federal Form 1041 return.

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

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

Non-Alabama Source Income. Nonresident estates or trusts must report as Alabama source income that income earned from property owned or business transacted in Alabama. An explanation for the difference in the federal amount of income and the Alabama amount of income must be clearly provided for each source of income. Any non-Alabama source income must be disclosed as an adjustment for arriving at the proper amount of Alabama income

Federal Estate Tax and Federal Income Tax. Include in the amount entered on Line 11, the deduction for federal estate tax and federal income tax. A copy of any federal income tax returns should provide for support.

Alabama Adjusted Gross Income. Line 16 refers to a 2% of Adjusted Gross Income (AGI) floor. AGI for federal income tax purposes may differ from the Alabama AGI. Alabama Adjusted Gross Income is computed by subtracting from Schedule C, line 9, column C (Total Income – Alabama Amount): (1) the administration costs of the estate or trust included in Schedule C, lines 12, 14, and 15, column C; (2) the Alabama Income Distribution Deduction (page 1, line 2); and (3) the exemption Allowed the Estate or Trust (page 1, line 3). If Alabama AGI is less than zero, use zero in any computations where Alabama AGI is required.

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

Line 18a. Subtract line 17, column A, (Total Ordinary Deductions) from line 9, column A (Total Income). The amount entered on line 18a must agree with the amount entered on page 1, line 17, of the federal Form 1041 filed for the estate or trust.

Line 18b. Subtract line 17, column B from line 9, column B. Enter the net effect the Alabama adjustments have on the Federal Adjusted total income shown on line 18a. Adjustments resulting in an increase in total income would be reflected on line 18b as a positive amount, and adjustments resulting in an increase in total ordinary deductions would be reflected on line 18b as a negative amount.

Line 18c. Subtract line 17, column C from line 9, column C. The amount entered on line 18c must agree with the amount entered on page 1, line 1, of the Alabama Form 41 filed for the estate or trust. The amount on line 18c must equal the difference in line 18a and line 18b.

Line 19. Please provide the requested information concerning tax exempt income. Column C must equal the amount of tax exempt income in accordance with Alabama income tax law. Please also provide a complete explanation for the items reported on this line.

Schedule C – Possible Reasons for an Alabama Adjustment. Although Internal Revenue Code Subchapter J has been adopted by Alabama income tax law, the computations of Subchapter J will be applied to income and deductions determined under Alabama income tax law.

Tax Exempt Income. Tax exempt interest income for Alabama income tax purposes can differ from tax exempt interest income for fed-

eral purposes. Interest income from obligations of the United States or its possessions is taxable for federal income tax purposes and is exempt for Alabama income tax purposes. Interest income from the obligations of the State of Alabama and the obligations of Alabama local political subdivisions is exempt for federal income tax purposes, and is exempt for Alabama income tax purposes. Interest income from non-Alabama state and local government obligations is exempt for federal income tax purposes, but not for Alabama income tax purposes – see §40-18-14.

Federal Passive Activity Loss Restrictions. Estates and trusts are subject to certain federal passive activity loss restrictions, which are not applicable in computing Alabama taxable income.

Deductions not Claimed on the Federal Return in Order to Take a Federal Employment Tax Credit. Certain federal employment tax credits require the wages to be reduced by the amount of the credit taken. For Alabama income tax purposes a deduction is allowed for the amount the wages were reduced.

Schedule D

Capital Gains and Losses. While federal income tax laws limit the amount of capital losses that may be claimed by a taxpayer in a tax year, in computing Alabama taxable income estates and trusts shall report gains and losses in accordance with §40-18-8.

Use Schedule D (Form 41) to report the sale of real estate, stocks, bonds, etc. Resident trust and estates report all sources of income. Nonresident trust and estates will report only income sources from property owned or business transacted in Alabama.

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

Line 1. Enter in Column (a) Kind of Property and a description of the property. (Example 100 shares of ABC Co.).

Enter in Column (b) Date Acquired (month, day, and year). If the shares were acquired on different dates enter “Various” in column (b).

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

Enter in Column (d) Gross Sale price.

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

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

Line 2. Enter the total of items reported in column (f).

Line 3. Enter the totals from page 2, column F.

Line 4 through 8. Report gain or loss and attach applicable schedules.

Line 9. Report total capital gain or loss of lines 2 through 8 and, enter total here and on Form 41, page 3, Schedule C, Column C, line 3c or Schedule G, Column A, line 3.

Line 10. Act 2019-392 provides that a qualified investment fund’s gain shall not be recognized upon the disposition of the fund’s ownership interest in a qualified entity. A qualified investment fund is any company which meets all the following: a. The fund made its investments in the qualified entity after the August 5, 2019 and b. For a period of five years after the disposition date, the fund invests the money resulting from the disposition in another qualified entity. Enter the Section 40-18-8.1 gain exclusion.

Line 11. Subtract line 10 from line 9 and enter the total here and on Form 41, page 3, Schedule C, Column C, line 3c or Schedule G, Column A, line 3.

Schedule E

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

estates report all sources of income. Nonresident Trust and estates will report only income sources from property owned or business transacted in Alabama.

Part I

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

Line 2. Indicate yes or no if the unit was used by you or your family for personal purposes more than 14 days or 10% percent of the total days rented to others at a fair rental price.

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

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

Part II

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

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

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

Part III

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

Line 26. Report total income or (loss) from estates and trusts. Add the amounts in column (n) . Enter here and on Form 41, page 3, Schedule C, line 5b or Schedule G, Column A, line 6.

Schedule K – Summary of Alabama K-1 Information

Schedule K is a summary of the information reported on the Alabama Schedule K-1s, which are prepared and filed as a part of the Alabama Form 41 return. Lines 1 through 17 on Schedule K coincide with the lines on the Alabama Schedule K-1 (Form 41). The amount on line 9 cannot be below zero.

Schedule K is divided into 3 columns. Column (a) shows the total Alabama distributable income that is taken as a deduction on page 1, line 2. This amount includes Alabama sourced and Alabama non-sourced income. Column (b) shows the nonresident beneficiary or owner’s share of non-Alabama source income. The adjustments in Column B will include adjustments to arrive at the proper amount of Alabama sourced income. Column (c) shows amounts reportable on the Alabama return of the beneficiary by subtracting Column (b) from Column (a). Amounts in Column C are reportable to Alabama for both resident and nonresidents.

Character of Income – In accordance with §40-18-25(b), the char-

acter of the income that is reported by the beneficiary or owner of an estate or trust must reflect the same character the income possessed when the income was originally received by the estate or trust.

Allocation of the Alabama Income Distribution Deduction –

The amount entered on page 1, line 2 must be allocated to the different classes of income included in the Alabama Distributable Net Income, so that the income reported by the beneficiaries or owners will retain its character. Generally, the allocation is completed in accordance with Internal Revenue Code §§652 and 662.