Schedule PAB (Form 65, 20S)

Establishment of Qualification for §40-18-35(b), §40-18-24(b) Exceptions.

If the taxpayer incurred related member intangible and/or interest expenses that were not added back to apportionable income on its Alabama Income Tax Return, it must establish there is a qualified exception. The possible exceptions are listed below:

Section 5 – The recipient related member's corresponding item of income was post-allocation and apportionment subject to a tax on net income in Alabama or another state or a foreign nation (of which, the recipient related member is a resident) which has in force an income tax treaty with the United States. §40-18-35(b)(1), §40-18-24(b).

Section 6 – The taxpayer establishes that the add-back of interest and/or intangible expenses is unreasonable or the Commissioner of Revenue and the taxpayer have agreed, in writing, to an Alternative Adjustment Agreement. §40-18-35(b)(2), §40-18-24(d), §40-18-35(b)(4).

Section 7 – The recipient related member is (a) not primarily engaged in the acquisition, use, licensing, etc. of intangible property or the financing of related entities and (b) the underlying transaction(s) giving rise to the related member intangible/interest expenses did not have as a principal business purpose the avoidance of Alabama tax. 40-18-35(b)(3), 40-18-24(e).

General Instructions

- 1. Schedule PAB must be completed for all recipient related members receiving interest and/or intangible payments. Columns are provided on Schedule PAB to report each recipient separately. For more detailed help on how to complete this form, see the example following these instructions.
- If a partnership or S corporation makes interest/intangible payments to a related member, Form PAB should be completed and attached to the entity's return.
- 3. To determine Lines 2 and 3, multiply the total interest/intangible payment by the ownership percentage of the entity.

Section 5 - Exemption related to §40-18-35(b)(1), §40-18-24(b)

To verify that the related member intangible/interest expense qualifies for the exception in 40-18-35(b)(1), 40-18-24(b), please provide the following:

- A. The jurisdiction(s) where the recipient related member is "subject to tax" and income is not being allocated. The recipient related member interest/ intangible income must be "subject to tax" on a post-allocation and apportionment basis in these jurisdictions. A document listing the applicable jurisdictions may be attached if the space provided is not sufficient. Do not include consolidated/combined return jurisdictions where intercompany expenses are eliminated or offset.
- B. The amount of expense subject to apportionment that the taxpayer paid to the recipient related member but is not required to add back pursuant to §40-18-35(b)(1), §40-18-24(b).
- C. Enter the sum of all recipient related member apportionment factors for the jurisdictions listed on Line 5a.
- D. Multiply the sum of all apportionment factors on Line 5c by the amount of expense subject to apportionment on 5b.
- E. If the recipient related member files in a jurisdiction where intangible and/or interest income is allocated rather than apportioned, enter the amount of intangible and/or interest income allocated to this jurisdiction. Also enter the jurisdictions where the expense is allocated in the blank line provided. If necessary, attach a statement.
- F. Enter the sum of amounts apportioned to jurisdiction(s) on Line 5d and the amounts allocated to jurisdiction(s) on Line 5e.

Section 6 – Application for Exception Pursuant to Section 40-18-35(b)(2) and Section 40-18-35(b)(4), Section 40-18-24(d) and Section 40-18-24(f)

• Section 40-18-35(b)(2), Section 40-18-24(d) – Application for the exception provided in Section 40-18-35(b)(2) and Section 40-18-24(d) must be made in the following prescribed manner. Applicants must provide: (1) Detailed financial data and

corresponding work papers produced in the analysis of the circumstances particular to the taxpayer that make the adjustment unreasonable pursuant to Rule 810-3-35-.02(3)(h) and/or (2) A signed Alternative Adjustment Agreement between the taxpayer and the Commissioner of Revenue. Please note that the presence of a non-tax business purpose, arm's length pricing, and economic substance of these transactions alone do not qualify for an exception. See Section 40-18-35(b)(3).

• Section 40-18-35(b)(4), Section 40-18-24(f) – Application for the exception provided in Section 40-18-35(b)(4) and Section 40-18-24(f) must be made in the following prescribed manner. Applicants must provide a detailed calculation of the interest being transferred through the "recipient related member" to an unrelated third party. If the recipient related member receives interest payments from multiple sources and does not pass-through the entire interest payment, the amount passed through is determined on a pro rata basis.

Section 7 - Exemption related to §40-18-35(b)(3) and 40-18-24(e)

To establish that the related member intangible/interest expenses qualify for the exception in §40-18-35(b)(3) and §40-18-24(e), provide the following:

7. The amount of expense the taxpayer paid to the recipient related member, but is not required to add back pursuant to §40-18-35(b)(3) and §40-18-24(e).

NOTE: If the related member is a partnership or disregarded entity for federal income tax purposes, the receipts included on lines 9a through 9e should only include the receipts for the related member receiving the interest or intangible income, not the owner or the other disregarded entities that the related member may be owned by or exist in the same group or division within the same group.

Sections – 8 and 9 The recipient related member's receipts by category.

Example:

Intangible Receipts – (Royalties, Factoring Expenses, etc.) Interest Receipts Gross receipts from the sale of tangible property Rental Income

10. If interest or intangible receipts are greater than any other category of receipts, the recipient related member is deemed to be primarily engaged in the specified activities and is not eligible for the exception in §40-18-35(b)(3) and §40-18-24(e). If another category of receipts is greater than interest/intangible receipts, the recipient related member is deemed to be primarily engaged in an activity other than the financing of related members or the management of intangibles and satisfies part of the exception listed in §40-18-35(b)(3) and §40-18-24(e).

NOTE: If the taxpayer is not primarily engaged in the financing of related members and the management of intangibles, it qualifies for only part of the exception listed in §40-18-35(b)(3) and §40-18-24(e). In order to qualify for the exception in full an informed officer must affirm that the transaction(s) giving rise to the interest/intangible expenses does not have as a principal purpose tax avoidance (which includes the avoidance of a meaningful amount of Alabama tax) by signing the affidavit portion of Schedule PAB.

11 - Determining Your Exempt Amount

To determine the taxpayer's deductible amount of interest/intangible expenses, enter the greater of Lines 5f, 6 or 10a or 10b.

12. Enter the amount of Interest Expense Disallowed on the Federal Return Pursuant to IRC 163(j). This should be calculated on a pro rata basis for each recipient related member. Example: Taxpayer pays total interest expense of \$10,000,000 including \$5,000,000 to related party C. Taxpayer incurs a \$2,000,000 "net interest limitation" (taxpayer was able to deduct \$8,000,000 of interest expenses). To determine line 12, the taxpayer would divide the interest paid to related party C (\$5,000,000) by the total interest expense (\$10,000,000) and then multiply that percentage by the amount of interest disallowed under IRC 163(j) (\$2,000,000).

12a. Calculate the amount of IRC 163(j) interest expense that would have been exempt under §40-18-35 or §40-18-24, if not disallowed under federal rules. Divide Line 11 Exempt Amount by the Total Intangible/Interest expenses paid on line 4, then multiply this amount by the Disallowed Interest Expense on line 12. This is the portion of interest expense that would be exempt from add back pursuant to §40-18-35 and §40-18-24 but is not deductible pursuant to IRC 163(j). However,

this interest expense may be carried forward and deducted in a subsequent tax year in accordance with IRC 163(j).

13. Enter the total of all intangible/interest payments made to related members less the total of all disallowed IRC 163(j) interest (sum of all Line 4's for each related member recipient minus all line 12's for each related member recipient).

14. Enter the total exempt amount by subtracting line 12a for all related members from line 11 for all related members. Subtract Line 14 from Line 13 and enter the difference on Line 1, Schedule A, Form 65 or Line 2, Schedule A, Form 20S.

Schedule				
PAD				
(Form 65, 20S)				



Alabama Department of Revenue

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Add-Back Form

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b. If Lines 9a, 9b, 9c, or 9d are greater than Lines 8a or 8b, enter amount from Line 7 11 Exempt Amount. Enter the greater of Lines 5f, 6, 10a or 10b	d.•Rental Income	9d •	1,000,000	• 0	•	0 •	C
11 Exempt Amount. Enter the greater of Lines 5f, 6, 10a or 10b 12 11 50,000,000 3,000,000 3,425,000 4,000 12 11 50,000,000 3,529,416 7,058,820 1,411 12 Exempt amount of Disallowed IRC 163 (j) (allocated pro rata see instructions). 12 0 3,529,416 7,058,820 1,411 13 Total Intangible/Interest expenses paid to all related members less total disallowed IRC 163 (j) Interest (sum of all Line 4 for all related members minus all Line 12 for all re	10 a. If either Lines 8a or 8b are greater than Lines 9a, 9b, 9c, or 9d, enter zero	10a 🔹	0	• 0	•	0 •	С
12 Interest Expense Disallowed per IRC 163 (j) (allocated pro rata see instructions). 12 0 3,529,416 7,058,820 1,411 12a Exempt amount of Disallowed IRC 163 (j) (Line 11 divided by Line 4, multiplied by Line 12). 12 0 1,058,825 1,208,823 1,411 13 Total Intangible/Interest expenses paid to all related members less total disallowed IRC 163 (j) Interest (sum of all Line 4 for all related members minus all Line 12 for all related members) 12 7,2,000,000 0,000 0 1,058,825 1,208,823 1,411	b. If Lines 9a, 9b, 9c, or 9d are greater than Lines 8a or 8b, enter amount from Line 7	10b •	50,000,000	• 0	•	0 •	С
12 Interest Expense Disallowed per IRC 163 (j) (allocated pro rata see instructions). 12 0 3,529,416 7,058,820 1,411 12a Exempt amount of Disallowed IRC 163 (j) (Line 11 divided by Line 4, multiplied by Line 12). 12 0 1,058,825 1,208,823 1,411 13 Total Intangible/Interest expenses paid to all related members less total disallowed IRC 163 (j) Interest (sum of all Line 4 for all related members minus all Line 12 for all related members) 12 7,2,000,000 0,000 0 1,058,825 1,208,823 1,411	11 Exempt Amount. Enter the greater of Lines 5f, 6, 10a or 10b	11 •	50,000,000	• 3,000,000	• 3,425,0	00 •	4,000,000
12a Exempt amount of Disallowed IRC 163 (j) (Line 11 divided by Line 4, multiplied by Line 12). 12a 0 1,058,825 1,208,823 1,411 13 Total Intangible/Interest expenses paid to all related members less total disallowed IRC 163 (j) Interest (sum of all Line 4 for all related members minus all Line 12 for all related members) 12a 7,2,000,000 0 1,058,825 1,208,823 1,411	12 Interest Expense Disallowed per IRC 163 (j) (allocated pro rata see instructions)	12 •					1,411,764
13 Total Intangible/Interest expenses paid to all related members less total disallowed IRC 163 (j) Interest (sum of all Line 4 for all related members minus all Line 12 for all related members)	12a Exempt amount of Disallowed IRC 163 (j) (Line 11 divided by Line 4, multiplied by						
13 Total Intangible/Interest expenses paid to all related members less total disallowed IRC 163 (j) Interest (sum of all Line 4 for all related members minus all Line 12 for all related members)	Line 12)	12a 🔸	0	• 1,058,825	• 1,208,8	23 •	1,411,764
related members)	13 Total Intangible/Interest expenses paid to all related members less total disallowed					I	· · ·
related members) 720000 was not a principal motivating factor with respect to the transaction(s) giving rise to the related member's interest/intang	IRC 163 (j) Interest (sum of all Line 4 for all related members minus all Line 12 for all			In order to qualify for the exemption prese	ented in §40-18-35(b)(3) and §40-18-24	(e), Line 10	b must be greater than zero and an in
14 Total Exempt Amount. (Line 11 minus Line 12a for all related members from all pages. Subtract Line 14 from Line 13 and enter the difference on Form 65, Schedule A, Line 1 or	related members).	13 •	72,000,000	was not a principal motivating factor with	respect to the transaction(s) giving rise	to the relate	ed member's interest/intangible ex-
Subtract Line 14 from Line 13 and enter the difference on Form 65, Schedule A, Line 1 or	14 Total Exempt Amount. (Line 11 minus Line 12a for all related members from all pages.		, ,	penses and costs.	or norato. 11	2.21	ion
	Subtract Line 14 from Line 13 and enter the difference on Form 65, Schedule A, Line 1 or					00	
Form 20S, Schedule A, Line 2.) 14 56, 745, 588 Title C Date 4//15	Form 20S, Schedule A, Line 2.)	14	56,745,588	Title	70		Date 4/15/21

THIS FORM MUST BE ATTACHED TO FORM 65 or 20S.

Schedule					
DAD					
FAD					
(Form 65, 20S)					



Alabama Department of Revenue

20	
2/2020	ADOR

TAXPAYER NAME:	TAXPAYER FEIN:	FOR THE TAX PERIOD	_ , 20	through	, 20
Related member is defined to include a corporation, association, disregarded e entities are related members separate and apart from their owner. A column mu		· · · ·	and (29)).	Disregarded entities and s	ubchapter K

Recipient related member who received interest/intangible income from the taxpayer:	Τ	Related Member 1	Related Member 2	Related Member 3	Related Member 4
1 a. Recipient related member FEIN	1a	•	•	•	•
b. Recipient related member name.			•	•	•
2 List the intangible expense amounts paid to the recipient related member	2	•	•	•	•
3 List the interest expense amounts paid to the recipient related member	3	•	•	•	•
4 Total intangible/interest expenses paid (total lines 2 and 3)	4	•	•	•	•
To determine the exempt amount of intangible/interest expense, complete the applicable section	i(s) be	low.			1
5 Exemption related to §40-18-35(b)(1):	\square				
a. Jurisdiction(s) where recipient related member income is "subject to tax" and not allocated.	5a	•	•	•	•
b. Amount of Interest/Intangible subject to apportionment in jurisdiction(s)	5b	•	•	•	•
c. Recipient related member's total apportionment percentage in the above jurisdictions.	50	• %	• %	• %	• %
d. Interest/Intangible apportioned to jurisdictions (multiply Line 5b by Line 5c)	5d	•	•	•	•
e. Intangible/Interest income allocated to jurisdiction(s)	5e	•	•	•	•
f. Add Line 5d and Line 5e	5f	•	•	•	•
6 Exemption related to §40-18-35(b)(2) and §40-18-35(b)(4) - Amount of Line 4	\square				
expense not added back.	6	•	•	•	•
NOTE: For Section 7, 8, 9, and 10 the receipts of a disregarded entity/subchapter K entity, which	:h maj	be a related entity in and unto itself, may not b	be combined with receipts of its owner for purp	oses of this schedule.	•
7 Exemption related to §40-18-35(b)(3) - Amount of Line 4 expense not added back	7	•	•	•	•
8 Recipient related member receipts by category: a. Intangible receipts	88	•	•	•	•
b. Interest receipts	8b	•	•	•	•
9 a. •	9a	•	•	•	•
b. •	9b	•	•	•	•
c. •	90	•	•	•	•
d. ●	9d	•	•	•	•
10 a. If either Lines 8a or 8b are greater than Lines 9a, 9b, 9c, or 9d , enter zero	10a	•	•	•	•
b. If Lines 9a, 9b, 9c or 9d are greater than Lines 8a or 8b, enter amount from Line 7	10b	•	•	•	•
11 Exempt Amount. Enter the greater of Lines 5f, 6, 10a or 10b	11	•	•	•	•
12 Interest Expense Disallowed per IRC 163 (j) (allocated pro rata see instructions)	12	•	•	•	•
12a Exempt amount of Disallowed IRC 163 (j) (Line 11 divided by Line 4, multiplied by					
Line 12)	12a	•	•	•	•
13 Total Intangible/Interest expenses paid to all related members less total disallowed					1
IRC 163 (j) Interest (sum of all Line 4 for all related members minus all Line 12 for all			In order to qualify for the exemption pres	ented in §40-18-35(b)(3) and §40-18-24(e), L dule PAB, executed under penalty of perjury.	ine 10b must be greater than zero and an in-
related members)	13	•	was not a principal motivating factor with	respect to the transaction(s) giving rise to the	e related member's interest/intangible ex-
14 Total Exempt Amount. (Line 11 minus Line 12a for all related members from all pages.			penses and costs. Signature		
Subtract Line 14 from Line 13 and enter the difference on Form 65, Schedule A, Line 1 or					
Form 20S, Schedule A, Line 2.)	14	•	Title		Date

THIS FORM MUST BE ATTACHED TO FORM 65 or 20S.

Schedule
DAD
FAD
(Form 65, 20S)



Alabama Department of Revenue

Add-Back Form

FOR THE ______, 20 _____ through ______

ADOR , 20 ____

TAXPAYER NAME:	TAXPAYER FEIN:	FOR THE TAX PERIOD	, 20	through
A column must be completed for each recipient related member. Attach additional pages as ne	eded and enter the totals of Lines 4 and	11 for all related members fro	om all pages on Page [.]	1, Line 13 and 14.

Recipient related member who received interest/intangible income from the taxpayer:		Related Member 1	Related Member 2	Related Member 3	Related Member 4
1 a. Recipient related member FEIN	1a	•	•	•	•
b. Recipient related member name.	1b	•	•	•	•
2 List the intangible expense amounts paid to the recipient related member	2	•	•	•	•
3 List the interest expense amounts paid to the recipient related member	3	•	•	•	•
4 Total intangible/interest expenses paid (total lines 2 and 3)	4	•	•	•	•
To determine the exempt amount of intangible/interest expense, complete the applicable section	(s) be	low.	1		
5 Exemption related to §40-18-35(b)(1):					
a. Jurisdiction(s) where recipient related member income is "subject to tax" and not allocated.	5a	•	•	•	•
b. Amount of Interest/Intangible subject to apportionment in jurisdiction(s)	5b	•	•	•	•
c. Recipient related member's total apportionment percentage in the above jurisdictions.	50	• %	• %	• %	• %
d. Interest/Intangible apportioned to jurisdictions (multiply Line 5b by Line 5c)	5d	•	•	•	•
e. Intangible/Interest income allocated to jurisdiction(s)	5e	•	•	•	•
f. Add Line 5d and Line 5e	5f	•	•	•	•
6 Exemption related to §40-18-35(b)(2) and §40-18-35(b)(4) - Amount of Line 4					
expense not added back	6	•	•	•	•
NOTE: For Section 7, 8, 9, and 10 the receipts of a disregarded entity/subchapter K entity, which	h maj	be a related entity in and unto itself, may not b	be combined with receipts of its owner for purp	oses of this schedule.	·
7 Exemption related to §40-18-35(b)(3) - Amount of Line 4 expense not added back	7	•	•	•	•
8 Recipient related member receipts by category: a. Intangible receipts	8a	•	•	•	•
b. Interest receipts	8b	•	•	•	•
9 a. •	9a	•	•	•	•
b. •	9b	•	•	•	•
c. ●	90	•	•	•	•
d. ●	9d	•	•	•	•
10 a. If either Lines 8a or 8b are greater than Lines 9a, 9b, 9c, or 9d , enter zero	10a	•	•	•	•
b. If Lines 9a, 9b, 9c, or 9d are greater than Lines 8a or 8b, enter amount from Line 7. \ldots	10b	•	•	•	•
11 Exempt Amount. Enter the greater of Lines 5f, 6, 10a or 10b	11	•	•	•	•
12 Interest Expense Disallowed per IRC 163 (j) (allocated pro rata see instructions)	12	•	•	•	•
12a Exempt amount of Disallowed IRC 163 (j) (Line 11 divided by Line 4, multiplied by					
Line 12)	12a	•	•	•	•

FOR RECIPIENT RELATED MEMBERS WHO RECEIVED INTEREST/INTANGIBLE INCOME FROM THE TAXPAYER, PLEASE ATTACH ADDITIONAL SCHEDULES PAB. (ONLY USE THIS PAGE FOR ADDITIONAL MEMBERS)

Page _____ of _____

THIS FORM MUST BE ATTACHED TO FORM 65 or 20S.