

ALABAMA DEPARTMENT OF REVENUE
Add-Back Form



**Information Required by 810-3-35-.02, Restrictions on the Deductibility
of Certain Intangible Expenses and Costs and Interest Expenses and Costs**

For tax periods beginning after December 31, 2000, if the taxpayer incurred, directly or indirectly, related member intangible expenses and/or related member interest expenses, provide the information requested below.

1. List the recipient related member(s)' name and address.

a. _____

 b. _____

Attach information for additional recipient related members as necessary.

NOTE: Related member is defined to include a corporation, association, disregarded entity, or subchapter K entity (§40-18-1(13) and (15)). Disregarded entities and subchapter k entities are related members separate and apart from their owners.

2. List the taxpayer's related member intangible/interest expense amounts organized by: a) the recipient related member and b) the expense type (interest or intangible).

RELATED MEMBER NAME	INTEREST EXPENSE		INTANGIBLE EXPENSE	
	2a		2a	
a. _____				
b. _____				
3. Total interest/intangible expenses paid (total <u>all</u> lines 2a and 2b). (Enter here and on Form 20C, Schedule A, Line 7)			3	

Attach information for additional recipient related members as necessary.

If a taxpayer incurred related member interest/intangible expense, which it did not add-back on its corporate income tax return, it must reference the attached instructions and complete the applicable schedule.

Schedule One: Establishing Expenses Qualify for Exception One

1. Related Member _____
2. Expense Amount Not Added Back
3. Related Member Federal Taxable Income
4. Jurisdiction _____
5. Related Member Intangible/Interest Income Apportioned or Allocated to Jurisdiction.
 - a. Related Member's Apportionment Percentage %
 - OR -
 - b. Related Member Corresponding Intangible/Interest Income Allocated to Jurisdiction

2		
3		
5a		%
5b		

Repeat lines 4 and 5 for each of the related member's filing jurisdictions.

Separate recipient related members require separate schedules.

Schedule Two: Establishing Expenses Qualify for Exception Two

1. Related Member _____
2. Expense Amount Not Added Back
3. Receipts
 - a. Intangible Receipts
 - b. Interest Receipts
 - c. _____
 - d. _____
 - e. _____
4. Total

3a		
3b		
3c		
3d		
3e		

2		
4		

NOTE: The receipts of a disregarded entity/subchapter K entity, which may be a related entity in and unto itself, may not be combined with receipts of its owner for purposes of this schedule.

5. An informed corporate officer must sign the statement below, executed under penalty of perjury.
 "With respect to the transaction(s) giving rise to the related member interest/intangible expenses and costs, including both the direct interest/intangible expense transaction(s) between the taxpayer and the related member and any prior organizational restructuring transaction(s) that facilitated such direct interest/intangible expense transactions, tax avoidance (which included the avoidance of a meaningful amount of Alabama tax) was not a principal motivating factor."

Signature: _____ Date: _____

Office: _____

Separate related members require separate schedules.

Schedule Three: Establishing Expenses Qualify for Exception Three

- 1. Related Member _____
- 2. Expense Amount Not Added Back.

2		
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- 3. Attach a statement describing taxpayer circumstances that make the adjustments unreasonable.

Instructions

Establishment of Qualification for 40-18-35(b) Exception

Pursuant to Ala. Code §40-18-35(b) and Regulation 810-3-35-.02, related member interest and/or intangible expenses must be added back to the taxpayer's apportionable income *unless the taxpayer "shows" or "establishes" that it satisfies an exception described in §40-18-35(b) and Reg. 810-3-35-.02*. If the taxpayer incurred related member intangible and/or interest expenses that were not added back to apportionable income on its Alabama corporate income tax return, it must establish that it satisfies an exception. The possible exceptions are listed below:

Exception One – The 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 related member is a resident) which has in force an income tax treaty with the United States.

Exception Two – 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.

Exception Three – The add-back adjustments are unreasonable.

Exception One

To verify that the related member intangible/interest expense qualifies for Exception One, provide the following:

- a. the recipient related member's name,
- b. the amount of expense paid the recipient related member but not added back,
- c. the recipient related member's federal taxable income,
- d. the jurisdictions where the recipient related member filed income tax returns that included the corresponding item of income,
- e. the recipient related member's apportionment percentage to each such jurisdiction where the corresponding item of income was included in apportionable income, or the amount of the corresponding item of income allocated to any jurisdiction requiring the allocation of such income.

Provide this information as indicated in Schedule One. Separate related members will require separate schedules.

Exception Two

To establish that related member intangible/interest expenses qualify for Exception Two, provide the following:

- a. the recipient related member's name,
- b. the recipient related member's total receipts,
- c. the recipient related member's receipts organized by category including receipts from intangible or financing activities, and
- d. the statement provided in Schedule Two, signed by an informed corporate officer.

Provide this information as indicated in Schedule Two. Separate related members will require separate schedules.

Exception Three

To establish that related member intangible/interest expenses qualify for Exception Three, provide a detailed statement describing the circumstances particular to the taxpayer that make the adjustment unreasonable and attach to this form.

Provide this information as indicated in Schedule Three. Separate related members will require separate schedules.