



ALABAMA DEPARTMENT OF REVENUE
Instructions for the Preparation of
Foreign Corporation Franchise Tax Return,
Permit Application and Annual Report

1997

I ELECTRONIC FUNDS TRANSFER TAX PAYMENT AND FILING

Section 41-1-20, **Code of Alabama 1975**, requires the use of Electronic Funds Transfer (EFT) for all tax payments of \$25,000 or more made during the calendar year 1997. Taxpayers must register to use EFT, and substantial penalties can be assessed for noncompliance. Call the Revenue Department EFT Hotline at 1-800-322-4106 or (334) 242-0192 for further information.

If payment is made by EFT – Mail Completed Return to: **Alabama Department of Revenue
Information Processing Division
EFT Unit
P.O. Box 327950
Montgomery, AL 36132-7950**

II GENERAL INSTRUCTIONS

Every Foreign Corporation qualified to do business or doing business in the State of Alabama as of January 1, 1997, must file either a 1997 Form FT: 1-1 or a 1997 Form FT: 1-1A on or before March 15, 1997. The appropriate remittance of Franchise Tax and Permit Fee based on the amount of capital employed in Alabama as of January 1, 1997 plus the Annual Report Fee should accompany either form, if applicable. A corporation failing to file either a 1997 Form FT: 1-1 or a 1997 Form FT: 1-1A with the appropriate remittance on or before March 15, 1997 will be subject to late filing and payment penalties plus interest. A corporation may use **fiscal year financial statements for the last fiscal year end** preceding January 1, 1997, provided such figures reasonably reflect the corporation's status in Alabama as of January 1, 1997. The financial statements whether fiscal year or calendar year must be as shown on corporate books and in reports to stockholders. Only corporations legally withdrawn through the office of the Alabama Secretary of State prior to January 1, 1997 are not subject to the 1997 Annual Report Fee, Permit Fee, and Franchise Tax.

III EXTENSION REQUEST

A corporation unable to file a 1997 Foreign Corporation Franchise Tax Return, Permit Application and Annual Report (Form FT: 1-1) on or before March 15, 1997, must file a 1997 Application For Tax Extension Request, Permit Application and Annual Report (Form FT: 1-1A) on or before March 15, 1997, in order to be granted an extension of time for filing a 1997 Form FT: 1-1. Both sides of the extension request (Form FT: 1-1A) must be completed; otherwise, the extension request will be denied. An extension which applies **only to the filing** of the 1997 Foreign Corporation Franchise Tax Return, Permit Application, and Annual Report (Form FT: 1-1) will be granted up to a maximum of six (6) months under the following conditions:

1. An extension request must be filed on or before the statutory filing date of March 15.
2. Payment of the Permit Fee, the Secretary of State Fee, and at least 80% of the taxpayer's Franchise Tax liability for the reporting period must be made with the extension request. No extension will be granted for the Permit Fee or Secretary of State Fee.

IV PENALTIES AND INTEREST

A corporation failing to pay the 1997 Permit Fee and Franchise Tax shown as due on a return required to be filed on or before the date prescribed for payment of the tax (determined with regard to any extension of time for payment) will be subject to a failure to timely pay penalty of 1% per month or fraction thereof (not exceeding 25% in the aggregate) as provided in Section 40-2A-11 (applicable to both Permit Fee and Franchise Tax) and interest at the rate provided in Section 40-1-44. The Alabama interest is the same as provided in IRC Section 6621. A corporation filing a 1997 Foreign Corporation Franchise Tax Return, Permit Application, and Annual Report after March 15, 1997, or after the extended due date will also be subject to a failure to timely file penalty of the greater of 10% of any additional tax(es) required to be paid or \$50.00 (applicable to both Permit Fee and Franchise Tax). Failure to timely pay tax penalty and interest charges will be calculated from March 15, 1997. Calculate the Permit Fee failure to timely pay penalty and the failure to timely file penalty (\$50.00 minimum) on the amount of Net Permit Fee due on line 17. Enter the total Permit Fee penalty due on line 18. Calculate the Permit Fee interest on the amount of Net Permit Fee due on line 17. Enter the amount of Permit Fee interest due on line 19. Calculate the Franchise Tax failure to timely pay penalty and the failure to timely file penalty (\$50.00 minimum) on the amount of Net Franchise Tax due on line 24. Enter the total Franchise Tax penalty due on line 25. Calculate the Franchise Tax interest on the amount of Net Franchise Tax due on line 24. Enter the amount of Franchise Tax interest due on line 26. For any underpayment of tax due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to 5% of that part of the tax attributable to negligence or disregard. In the case of a fraudulent return, there shall be added to the tax an amount equal to 50% of that portion of the underpayment which is attributable to fraud. Furthermore, if a frivolous return as used in 26 U.S.C. 6702 is filed, a penalty of up to \$250 may be imposed.

V PRIOR YEARS' OVERPAYMENT—CREDIT OR REFUND

If the prior years' Franchise Tax credit is being claimed on the 1997 Application For Tax Extension Request, Permit Application and Annual Report (Form FT: 1-1A), the amount of the prior years' Franchise Tax credit claimed – **not to exceed the amount of the 1997 Franchise Tax due on line 14** – should be indicated on line 15 and subtracted accordingly. This prior years' Franchise Tax credit plus the amount of any 1997 Franchise Tax paid should be indicated on line 22 of the 1997 Foreign Corporation Franchise Tax Return, Permit Application and Annual Report (Form FT1-1). If the prior years' Franchise Tax credit is being claimed on the 1997 Foreign Corporation Franchise Tax Return, Permit Application and Annual Report (Form FT: 1-1), the amount of the prior years' Franchise Tax credit claimed – **not to exceed the amount of the 1997 Franchise Tax due on line 21** – should be indicated on line 23 of Form FT: 1-1 and subtracted accordingly. If the prior years' Franchise Tax credit is being claimed on both Form FT: 1-1A and Form FT: 1-1, follow the above instructions for each form but ensure that any prior years' Franchise Tax credit claimed on Form FT: 1-1A is included on line 22 of Form FT: 1-1. If a refund is desired for an overpayment, indicate the amount to be refunded on line 32 of Form FT: 1-1.

(OVER)

VI SCHEDULES C & D

DETERMINATION OF CAPITAL EMPLOYED IN ALABAMA BY MULTI-STATE OPERATIONS:

All items in Schedule C pertaining to Alabama business must be completed.

Corporations that employ capital primarily in:

1. Manufacturing shall use an average of factors 1 & 2, factor 6 and factor 7, Schedule C.
2. Selling shall use an average of Alabama percent as shown in factors 2, 6, and 7, Schedule C.
3. Contracting shall use an average of Alabama percent as shown in factors 4, 6, and 7, Schedule C.
4. Transportation shall use an average of Alabama percent as shown in factors 3, 5, and 6, Schedule C.
5. Services shall use an average of Alabama percent as shown in factors 3, 6, and 7, Schedule C.
6. Rental and/or leasing shall use an average of Alabama percent as shown in factors 3 and 7, Schedule C.

A taxpayer shall be deemed to be employing capital primarily in manufacturing, processing, or fabricating if 50% or more of the items sold by the taxpayer are manufactured, processed, or fabricated by the taxpayer.

To determine the Alabama apportionment factor in Schedule D, divide the sum of the factors by 3. (Rental and/or leasing shall divide by 2.) If any apportionment factor has an everywhere amount (denominator) which is zero, the apportionment factor shall be eliminated and the number of factors in the divisor shall be reduced accordingly.

Alabama gross income shall include all amounts received which are attributable to business done in this state. This shall include revenue derived from passenger journeys and cargo shipments originating in Alabama, revenue received from rental and leasing of tangible and intangible property located in Alabama, and revenue from any other type service rendered to Alabama customers.

Alabama tangible property shall include all depreciable property, land, depletable property, oil and gas leases, interest in partnerships, total dollar amount of active construction contracts, and inventories.

VII SCHEDULE E: TOTAL CAPITAL EVERYWHERE

The following items must be included in total capital:

- Line 1. Outstanding capital stock and any additional paid in capital, whether positive or negative, but excluding the cost of treasury stock.
- Line 2. Retained earnings, whether positive or negative.
- Line 3. Accelerated depreciation or amortization.
- Line 4. All debt and lease obligations maturing and payable more than one year after the first day of the franchise tax year, but not including deposit liabilities of banks and other financial institutions.
- Line 5. All payables including open accounts payable and/or advances to parent and/or subsidiary corporations and individual stockholders owning 10% or more of the corporation's stock, but not including deposit liabilities of bank and other financial institutions. This should be reported on Line 5A, B, or C of Schedule E.

VIII SCHEDULE E: EXCLUSIONS

- Line 7. Exclusion of investment in capital of Alabama corporations.
- Line 8. Exclusion of investment in other foreign corporations paying Alabama franchise tax.
- Line 9. Exclusion of investment in the capital of any other corporation that does not pay a franchise tax to the State of Alabama if the taxpayer owns more than 50% of the outstanding capital stock of the other corporation, unless the other corporation is dormant and not regularly engaged in one or more business activities.

No exclusion shall be allowable on Lines 7, 8, and 9 unless the taxpayer (reporting corporation) submits supporting statements with its franchise tax return that evidences that the excluded investment qualifies as an exclusion under Regulation 810-2-3-.14. Such statements with regard to each investee corporation shall provide (a) name of investee corporation; (b) state of incorporation; (c) Federal identification number; (d) Alabama franchise tax account number; (e) amount of capital employed in Alabama; and (f) amount invested which is included on the taxpayer's balance sheet.