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## Lower E-filing Requirements for Employers and Filing Agents

Effective January 1, 2010, employers and filing agents who issue 50 or more Form W-2s (and/or Form 1099s with Alabama tax withheld) must electronically file this

information and the Form A-3 through the Alabama Department of Revenue's paperless filing and payment system online for corporate and personal income tax purposes.

## Reminder to Commercial Construction Industry

Beginning in October 2009, the Alabama Department of Revenue will begin collecting a payroll tax from commercial construction companies. The tax is set at 0.0009 cents of each dollar of gross wages for taxable construction job payroll and will be due quarterly to the Department of Revenue. The funds raised from the tax, which was passed during the 2009 legislative session, are to be used to promote craft trade jobs in Alabama through the Alabama 21<sup>st</sup> Century Authority

to benefit the Alabama Construction Recruitment Institute. The institute will provide recruitment and training promotion programs to attract workers to the construction industry in Alabama.

Note that the tax applies to construction industry employers that employ skilled construction workers directly involved in commercial operations in the state, not residential construction.

## Change in Composite Return Provisions for Pass-Through Entities

As an offset for the tax incentives approved for the film industry, the Alabama Legislature, in the 2009 regular session, passed legislation that, *effective for tax years beginning after December 31, 2008*, repeals *Alabama Code* section 40-18-24.1 and adds sections 40-18-24.2 and -24.3. The result of these changes is that Alabama now requires pass-through entities to file composite income tax returns on behalf of their nonresident members at the time the entity's annual return is due. The law also requires the pass-through entity to report and pay the income tax imposed at the highest applicable

marginal rate on the nonresident members' distributive shares of the entity's income apportioned and allocated at the entity level to Alabama.

A nonresident member that has been included in a composite return can file its own Alabama income tax return and receive credit for Alabama income tax paid on the member's behalf by the pass-through entity.

A member of a pass-through entity that is itself a pass-through entity is subject to the same requirements to file a composite return

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## Change in Composite Return Provisions for Pass-Through Entities

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with respect to the distributive shares of the apportioned and allocated income of the lower-tier pass-through entity.

A pass-through entity is not required to remit tax on behalf of a nonresident member if: (1) the Alabama Department of Revenue determines by regulation or ruling that the nonresident member's income should not be subject to composite return reporting, or (2) the pass-through entity is a qualified investment partnership or a publicly traded partnership, as defined by *Internal Revenue Code* § 7704(b), that is treated as a partnership for federal income tax purposes, which on reasonable notice provides for inspection the names of each of its nonresident owners or unit holders with other specified information.

No income tax is due from a nonresident member of a qualified investment partnership, or from the qualified investment partnership, with

respect to the nonresident member's distributive share of interest, dividends, distributions, or gains and losses from qualifying investment securities owned by the entity, as long as the nonresident member does not actively participate in the entity's day-to-day management. If, however, a qualified investment partnership invests in the qualifying investment securities of an entity that is majority owned by a nonresident member of the qualified investment partnership, income tax is due from the nonresident member with respect to the member's distributive share of interest, dividends, distributions, or gains and losses from the qualifying investment securities of the other entity.

Furthermore, the addition of *Alabama Code* section 40-2A-11(b)(2) now imposes a penalty if a taxpayer fails to pay any tax required to be shown on any return, which is not shown, within 30 calendar days from the date of notice and demand for it.



## Alabama Tax Law Blog is Live on the Web!

If you are interested in current Alabama state and local tax issues, you may want to consider visiting the web log, or blog, for Alabama Tax Law. Be sure to not only read the blog entries

from time to time, but instigate and participate in discussions on Alabama state and local tax issues.

You can find the blog at <http://alabamataxlaw.blogspot.com/>.



## Speakers Available



Members of the Tanner & Guin, LLC SALT Law Group regularly speak before trade associations, business groups, and clients. If you have questions about any programs, please feel free to contact any member of the SALT Law Group; or if you would like a copy of the handout materials from any seminar, please contact Carolyn Smith, Practice Group Assistant, at (205) 633-0234 or e-mail [csmith@tannerquin.com](mailto:csmith@tannerquin.com).

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