

TAX INCENTIVES *For* **INDUSTRY**



Alabama
Department of Revenue
www.revenue.alabama.gov

Alabama Tax Incentives For Industry



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The variety of tax incentives available in Alabama contributes to the state's attractiveness for business investment. Stability of the tax environment is exhibited through Alabama's Constitution and the various tax laws. The discussions that follow provide a brief summary of the major tax areas of interest to prospective investors, outline the tax incentives available within these areas, and address the various filing requirements.

BUSINESS PRIVILEGE TAX

Alabama Business Privilege Tax

The business privilege tax is a tax on the net worth, in Alabama, of corporations, limited liability entities and disregarded entities. The tax accrues as of January 1 of every taxable year. However, in the case of a taxpayer organized during the year, qualifying during the year, or doing business in Alabama for the first time, the tax accrues as of the date of organization, qualification, or beginning to do business. The rate is based on the ability to pay and is determined by the entity's federal taxable income in Alabama. The rate ranges from \$.25 to \$1.75 for each \$1,000 of net worth in Alabama.

The minimum privilege tax is \$100; the maximum privilege tax is \$15,000 per year, with the exception of financial institutions, financial institution groups, and insurance companies, which have a maximum privilege tax liability of \$3 million. An electing family limited liability entity has a maximum of \$500 business privilege tax.

Incentives

1. Deduction for Pollution Control Equipment. A corporation, limited liability entity or disregarded entity can deduct from their Alabama net worth the net amount invested in all devices, facilities, or structures, and all identifiable components or materials acquired or constructed primarily for the control, reduction, or elimination of air, ground or water pollution or radiological hazards. (Section 40-14A-24(b)(2), Code of Alabama 1975.)

2. Deduction for Air Carrier with Hub Operation. A corporation, limited liability entity or disregarded entity can deduct from their Alabama net worth the net amount invested in all real and tangible personal property, equipment, facilities, structures and components affixed or used on an

aircraft, and ground support equipment and vehicles used by or for the aircraft, when used by certified or licensed air carrier with a hub operation within this state. (Section 40-14A-24(b)(3), Code of Alabama 1975.)

3. Enterprise Zone Credit. The enterprise zone credit is discussed later under the heading of “Enterprise Zone Tax Incentives.”

Filing Requirements

The business privilege tax is filed and remitted on the Alabama Business Privilege Tax Return and Annual Report (Form PSA). Form PSA is due not later than March 15 (LLE’s must file no later than April 15) of the taxable year or, in the case of a taxpayer not in existence or not doing business in Alabama on January 1 of the taxable year, 45 days after the taxpayer comes into existence or commences doing business in Alabama. Form PSA can be obtained from the Department’s web site at **www.revenue.alabama.gov**.

CORPORATE INCOME TAX

Background

Corporations pay Alabama income tax based on their net taxable income derived from business conducted within the state. The amount of net income apportioned to Alabama is determined by applying an equally weighted three-factor formula of property, payroll, and sales to total net income.

There are constitutional restrictions that add to the stability of Alabama's corporate tax environment. Amendment 212 of the Constitution of Alabama of 1901 (the Constitution) allows the corporate taxpayer to deduct from its gross apportioned and allocated income, the apportioned amount of federal income tax paid. Alabama is one of only two states that allows a full deduction of all federal income taxes apportioned to Alabama.

The rate of corporate income taxation is 6.5%. At 6.5%, Alabama still maintains one of the lowest corporate income tax rates in the nation.

Incentives

1. Net Operating Loss Carryforward. Corporate income tax law provides for a 15 year carry-forward of net operating losses (Section 40-18-35.1, Code of Alabama 1975). In computing net income, a corporation is allowed a deduction for the sum of the net operating losses which are carried forward. Each net operating loss may be carried forward and deducted only during the 15 consecutive year period immediately following the year in which it arose.

2. Pollution Control Equipment. Corporate income tax law provides for a deduction for pollution control equipment, as defined by, and in conformity with, federal income tax law and regulations.

3. Income Tax Capital Credit. The Capital Credit is discussed later under the heading "Income Tax Capital Credit."

4. Enterprise Zone Credit. The enterprise zone credit is discussed later under the heading of “Enterprise Zone Tax Incentives.”

5. Basic Skills Educational Tax Credit. A tax credit of 20 percent of the actual costs of an approved employer provided/sponsored education program that enhances basic skills of employees up to and including the twelfth grade functional level is available under Section 40-18-136, Code of Alabama 1975. This credit is limited to the employer’s income tax liability. For more information on program criteria, contact the:

Alabama Department of Education
Adult and Community Education Program
Gordon Persons Bldg., Room 5343
50 North Ripley Street
Montgomery, AL 36130
Telephone: 800-392-8086

6. Coal Credit. Producers of coal mined in Alabama shall be allowed a state income tax credit in the amount of one dollar (\$1.00) per ton of increased production of Alabama coal over such production in a base period under Section 40-18-220, Code of Alabama 1975. For information regarding the coal credit, you may contact the:

Alabama Department of Revenue
Individual and Corporate Tax Division
Corporate Income Tax Section
P.O. Box 327430
Montgomery, AL 36132-7430
Telephone: 334-242-1200

Filing Requirements

Corporate income tax returns (Form 20C) are due by March 15 or the 15th day of the third month after the end of the fiscal year. Corporations with an anticipated tax liability over \$5,000 must file and pay estimates on a quarterly basis by April 15 or by the 15th day of the fourth month of the fiscal year. The second, third, and fourth installments are due and payable on the 15th day of the sixth, ninth, and twelfth months of the fiscal year.

If a corporation files as a federal S corporation, that corporation must also file as an Alabama S corporation (Form 20S). The tax return and any tax due should be remitted on or before the 15th day of the third month following the close of the accounting period.

A multi-member Limited Liability Company (LLC) must elect (IRS' "check-the-box") to be treated as a corporation with the IRS, otherwise the LLC will be treated as a partnership for federal tax purposes and correspondingly for Alabama tax purposes. A single-member LLC, treated as a disregarded entity for income tax purposes, will be considered a division of its parent. LLC's treated as a partnership must file Form 65 "Partnership Return of Income" by April 15 or by the 15th day of the fourth month following the close of the taxable year.

If the corporation plans to employ a work force in Alabama, it must register with the Alabama Department of Revenue and make the proper withholding tax reports and payments. A registration form (COM-101) must be completed and approved by the Department of Revenue before an employer begins withholding Alabama income tax from an employee's wages. Form COM-101, as well as all other tax forms and tables, can be obtained from the Department's web site at **www.revenue.alabama.gov**.

INCOME TAX CAPITAL CREDIT

Section 40-18-190 et seq., Code of Alabama 1975 provides for a capital credit to be applied to the income tax liability generated by income from a project approved by the Alabama Department of Revenue. The capital credit is an annual credit that is available each year, for 20 years. The annual capital credit is calculated at five percent (5%) of the total capital costs of the qualifying project and the credit begins in the year the qualifying project is “placed in service.” The capital credit is available to all types of business entities, including, but not limited to: C corporations, S corporations, limited liability companies (LLCs), partnerships, trusts, and sole proprietorships.

Act 2001-965 amended the income tax capital credit law to allow for lower thresholds for the requirements for new employees and for capital costs for projects locating or expanding in a “favored geographic area.” The changes became effective December 1, 2001 and the “favored geographic area” is defined as either of the following:

- a) State Enterprise Zones (as defined by the Alabama Enterprise Zone Act, including parts of 25 counties and parts of 3 cities).
- b) Less Developed Counties. The Department of Industrial Relations (DIR) determines these counties based on three criteria in the law:
 1. Percent change in population over the most recent 5-year period
 2. Personal per capita income in the last calendar year
 3. Average percent employed over the last 12 months

DIR must re-determine Less Developed Counties every year on January 1. A current Favored Geographic Area listing is available on the Department of Revenue’s web site at www.revenue.alabama.gov under “Tax Incentives.” A project that qualifies in a Favored Geographic Area will continue to be a qualified project, even if the county later loses its designation as a Favored Geographic Area, as long as the project otherwise remains in compliance with the law.

There are four statutory requirements that must be met in order to qualify for the credit:

1. The qualifying project must constitute either a “headquarters facility” or an “industrial, warehousing, or research activity” defined as any trade or business described in the 1997 North American Industry Classification System (NAICS), promulgated by the Executive Office of the

President of the United States, Office of Management and Budget as:

- Sectors 31 (other than National Industry 311811), 32, 33 and 42,
- Subsector 511,
- Industry Groups 5142 and 5415,
- Industries 54138 and 54171,
- Industry 514191,
- or any process or treatment facility which recycles, reclaims, or converts materials, which include solids, liquids, or gases, to a reusable product.

A headquarters facility is defined as a facility which will serve as the national, regional or state headquarters for an investing company that conducts significant business operations outside the state and will serve as the principal office of the principal operating officer of the qualifying project. The principal operating officer is defined as the person with chief responsibility for the daily business operations of the qualifying project.

2. A capital investment of:

- Not less than \$2,000,000 for new, expansion, and headquarters facility projects
- Not less than \$1,000,000 for small business addition projects
- Not less than \$500,000 for favored geographic area projects

3. Employment requirements of:

- At least 20 new employees at new, expansion, or headquarters facility projects
- At least 15 new employees at small business addition projects
- At least 5 new employees at favored geographic area projects
- New employees must meet the statutory definition of new employees, found in Section 40-18-190(9), Code of Alabama 1975. "New employees" cannot have worked at the site before, and cannot have worked for the project entity in Alabama before. Required jobs must be provided by the date which is not later than one (1) year after the project is placed in service, continuing each year thereafter.

4. New employees at the project must be paid either an average hourly wage of at least eight dollars (\$8) per hour or an average total compensation of not less than ten dollars (\$10) per hour, including benefits. This requirement, however, does not include employees of direct processors of agricultural food products; these employee's wages shall be determined by the local labor market rate.

Qualifying projects can be set up as either a 'one step' project or as a 'phased' project. The law does specify that a report of intent (Form INT) must be submitted to the Department of Revenue

before the project is placed in service to be eligible to receive the capital credit. For more information regarding the capital credit, visit the Department of Revenue's web site at **www.revenue.alabama.gov/taxincentives/index.html** or contact:

Alabama Department of Revenue
Commissioner's Office
ATTN: Capital Credit Program Administrator
P.O. Box 327001
Montgomery, AL 36132-7001
Telephone: 334-242-1175

ALABAMA STATE DOCKS CAPITAL CREDIT PROJECT

A project with capital costs which are not less than \$8,000,000, and at which the predominant trade or business activity conducted will constitute industrial, warehousing, or research activity as defined in Section 40-18-240(4) as North American Industry Classification System (NAICS) Subsector 493 (Warehousing and Storage), Industry Number 488310 (Port and Harbor Operations), or Industry Number 488320 (Marine Cargo Handling), when the trade or business is conducted on premises in which the Alabama State Port Authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of the Alabama State Port Authority. The Alabama State Docks Capital Credit Project is provided under Section 40-18-240 et seq., Code of Alabama 1975, which became effective August 1, 2001. Written approval of the Governor, Finance Director, and Alabama State Port Authority must be included with Form INT for State Docks Capital Credit projects as required by Section 40-18-241. Report of Intent to Invest in Project For Income Tax Capital Credit – Form INT – must be filed with the Department of Revenue.

For more information on filing Form INT for the State Docks Capital Credit, visit the Department of Revenue's web site at www.revenue.alabama.gov/taxincentives/capcreditforms.htm or contact:

Alabama Department of Revenue
Commissioner's Office
ATTN: Capital Credit Program Administrator
P.O. Box 327001
Montgomery, AL 36132-7001
Telephone: 334-242-1175

PROPERTY TAX

Background

All real and personal property is subject to property tax unless specifically exempted by law. The Constitution of Alabama of 1901 (the Constitution) contains various property tax provisions that may be considered as industrial incentives. For example, Section 214 of the Constitution limits the state rate on both real and personal property to 6.5 mills. This rate is equivalent to a tax of \$6.50 for every \$1,000 of assessed value. However, both counties and cities may levy rates in addition to the state's 6.5 mills. These local rates vary but the average rate for any one locality is 43 mills, including the state's 6.5 mills.

Amendment 373 of the Constitution further provides that business property, both real and personal, will be taxed on 20% of its fair market value. For example, for property with a fair market value of \$5,000,000, a business would pay state property taxes of \$6,500 (i.e., \$5,000,000 x 20% x .0065 mills).

Incentives

1. Abatements. The abatement of noneducational property taxes is discussed later under the heading of "Abatements."

2. Pollution Control Equipment. All equipment, facilities, or materials constructed or acquired primarily for the control, reduction, or elimination of air or water pollution are statutorily exempt from property taxation (Section 40-9-1(20), Code of Alabama 1975).

3. Inventory. Unlike many other states, Alabama does not levy property tax on inventory (Section 40-9-1(23), Code of Alabama 1975). There are also exemptions for raw materials inventory (Section 40-9-1(13), Code of Alabama 1975) and finished goods inventory (Section 40-9-1(14), Code of Alabama 1975). However, it should be noted that inventory used for lease or rental purposes is subject to property tax.

4. Other Incentives. In addition to the incentives listed above, current property tax statutes

contain numerous exemptions. Some of these exemptions are limited to particular organizations or industries (Section 40-9-et al, Code of Alabama 1975), but certain exemptions are relevant to all taxpayers.

5. Local Incentives. Special local property tax incentives exist for Class 6 municipalities. The following is a list of Class 6 cities and each should be contacted individually for information pertaining to these incentives.

Alexander City	Fairfield	Prattville
Athens	Homewood	Sheffield
Auburn	Mountain Brook	Sylacauga
Cullman	Opelika	Talladega
Enterprise	Ozark	

Filing Requirements

Although the Department of Revenue oversees the administration of property tax, the county assessing officials are responsible for assessing property and collecting the property tax. Property taxes are paid annually to county assessing officials between October 1 - December 31 following assessment. For more information, visit www.revenue.alabama.gov under "Property Tax."

SALES AND USE TAX

Background

Alabama's sales and use tax statutes contain many items which give Alabama a definite advantage over other states. These statutes allow exemptions for specific organizations and commodities (see Section 40-23-et al, Code of Alabama 1975). Some of the more common items which are exempt include: gasoline, fertilizer and insecticides (when used for agricultural purposes), feed for livestock, wholesale sales, and sales to governmental entities. Additionally, there are four state rate differentials, which include: a 1-1/2% rate for manufacturing and farm machinery, a 2% rate for automotive vehicles, a 3% rate for food sold through vending machines, and a 4% general rate for all other items. Local governments may also impose a sales and/or use tax. The average state and local general tax rate is approximately 8%; the average state and local manufacturing machinery tax rate is approximately 2.75%. For specific local sales and use tax rates, see the Department's web site at www.revenue.alabama.gov.

Incentives

- 1. Abatements.** The abatements of state and noneducational local construction related sales and use taxes are discussed later under the heading of "Abatements."
- 2. Vendor Discount.** A discount is allowed if sales tax is timely paid. The discount is 5% on the first \$100 of tax due and 2% of all tax over \$100 and is limited to a total maximum of \$400 per month regardless of the number of retail locations in the state.
- 3. Exemption for Raw Materials.** Raw materials used by manufacturers or compounders as an ingredient or component part of their manufacturing or compounded product (Sections 40-23-1(a)(9)b. and 40-23-60(4)b., Code of Alabama 1975) are specifically exempt from sales and use taxation. Alabama Department of Revenue Regulations 810-6-1-.137 and 810-6-1-.80 address the raw materials exemption.
- 4. Sales and Use Tax Reciprocity.** If a sales or use tax equal to or greater than the amount of

Alabama tax is paid to another state, or any subdivision thereof, then the property which is subject to the tax is not taxable in Alabama (Sections 40-23-65 and 40-27-IV.1., Code of Alabama 1975). If the sales and use tax rate paid to the other state and its subdivisions is lower than Alabama's rate, then the taxpayer owes Alabama the difference between the tax calculated at the lower rate and Alabama's rate. In essence, the taxpayer actually gets a credit for sales and use tax paid to another state and its subdivisions. Please refer to Alabama Department of Revenue Regulation 810-6-5-.04 for more information.

5. Pollution Control Equipment. Equipment or materials purchased primarily for the control, reduction, or elimination of air or water pollution is exempt from sales and use tax (Sections 40-23-4(a)(16) and 40-23-62(18), Code of Alabama 1975). For further information, please refer to Alabama Department of Revenue Regulation 810-6-3-.46.

6. Exemption for Quality Control Testing and Donations to Charitable Entities. The withdrawal, use, or consumption of a manufactured product by the manufacturer thereof, for use in quality control testing or to be donated to certain charitable entities, shall not be subject to the state sales tax (Section 40-23-1(e), Code of Alabama 1975). For further information, please refer to Alabama Department of Revenue Regulation 810-6-1-.196.

7. Utility Gross Receipts Tax Exclusions. Within the area of utility gross receipts taxes, Alabama law (Sections 40-21-83 and 40-21-103, Code of Alabama 1975) allows exclusions from the utility gross receipts tax and the utility service use tax for utility services used in certain types of manufacturing and compounding processes. Alabama Department of Revenue Regulation 810-6-5-.26 provides more information on these exclusions.

8. Exclusion for Poultry Houses. The furnishing of natural gas or electricity for use or consumption as a fuel in and for the heating of poultry houses shall be exempt from the utility gross receipts tax (Section 40-21-83(9), Code of Alabama 1975).

9. Enterprise Zone Credit. The enterprise zone credit is discussed later under the heading of "Enterprise Zone Tax Incentives."

10. Film Productions. The film production exemption is discussed later under the heading of "Film Production Exemptions."

Filing Requirements

Once a retail business registers with the Alabama Department of Revenue, it is assigned a sales and/or use tax number and receives its forms. **Due Dates for Sales Tax** – A taxpayer whose total state sales tax liability averages less than two hundred dollars (\$200) per month during the preceding

calendar year may elect to file and pay state sales tax and state-administered local sales taxes on a calendar quarter basis. The election to file and pay quarterly must be made in writing to the Revenue Department no later than February 20 of each year in which the taxpayer wishes to file and pay taxes quarterly. Quarterly returns and payments are due by the 20th of January, April, July, and October for the previous calendar quarter's sales. A taxpayer whose total state sales tax liability during the preceding calendar year was ten dollars (\$10) or less shall file and pay state sales tax and state-administered local sales taxes annually. The annual return and payment is due by January 20th for the previous year's sales.

Taxpayers who do not qualify to report and pay taxes annually or do not qualify and elect to file and pay taxes quarterly must report and pay state sales tax and state-administered local sales taxes on a monthly basis. Monthly tax returns and payments are due by the 20th of each month for the previous month's sales.

Taxpayers with state sales tax accounts whose average monthly state sales tax liability was \$1,000 or greater during the preceding calendar year must pay an estimated tax by the 20th day of the month in which the liability occurs. This estimated amount is the lesser of 2/3 of the taxpayer's actual tax liability for the same calendar month of the preceding year or 2/3 of the current month's estimated liability. To register or for more information, contact the:

**Alabama Department of Revenue
Business Registration Unit
P.O. Box 327001
Montgomery, AL 36132-7001
Telephone: 334-242-1584**

In addition to the state sales and use tax, various cities and counties within Alabama also levy sales and use taxes. Presently, the Alabama Department of Revenue administers over 170 different city and county sales and use taxes, but the Department does not administer all local sales and use taxes. Therefore, it is advisable to first contact the Department or view our web site at **www.revenue.alabama.gov** under "Sales and Use Tax" to find out if the localities in which you plan to do business are administered by the Department. If you determine that you will do business in a self-administering locality, you are responsible for contacting and registering with the local taxing authorities.

PROPERTY TAX AND SALES TAX ABATEMENTS

The Tax Incentive Reform Act of 1992 (Chapter 9B of Title 40, Code of Alabama 1975) gives cities, counties, and public authorities the ability to abate: noneducational state, county, and city property taxes; state sales and use taxes; and noneducational county and city sales and use taxes.

In order to receive an abatement for either sales tax, use tax, or property tax, a business must follow certain procedures. The checklists for these procedures are found on the following pages. For property tax purposes, an abatement must be granted prior to placing the project in service (see Alabama Department of Revenue Regulations 810-4-3-.01 through 810-4-3-.07). Similarly, for sales and/or use tax purposes, an abatement must be granted prior to taking title to any equipment or construction materials in a taxable transaction (see Alabama Department of Revenue Regulations 810-6-4-.22 through 810-6-4-.25).

In order to qualify for an abatement for either sales tax, use tax, or property tax, a business must fall within certain industry classification codes as follows:

- 1) a trade or business described in 1987 Standard Industrial Classification Industry Group Number 0724, Major Groups 20 to 39, inclusive, 50 and 51, Industrial Group Number 737, and Industry Numbers 4613, 8731, 8733, and 8734 or
- 2) a trade or business described in the 1997 North American Industry Classification System within Subsector 493 (Warehousing and Storage), Industry Number 488310 (Port and Harbor Operations), or Industry Number 488320 (Marine Cargo Handling)

In addition, the Brownfield Development Tax Abatement Act (Chapter 9C of Title 40, Code of Alabama 1975) gives cities and counties the ability to abate noneducational city and county sales and use taxes and noneducational state, city, and county property taxes.

In order to qualify for an abatement under this section, the property must be a Brownfield property and must be in the Alabama Department of Environmental Management's Voluntary Cleanup Program. There is no business activity requirement for brownfield abatements.

The Department publishes the "Abatement Booklet," an informative guide to assist with the application and filing procedures for an abatement. The booklet contains the procedures, forms, and instructions to apply for an abatement of property, and sales and use taxes in accordance with

Section 40-9B-1 and 40-9C-1 et seq., Code of Alabama 1975. To receive a copy of the “Abatement Booklet” you may view our web site at www.revenue.alabama.gov/taxincentives/index.html, or contact:

Alabama Department of Revenue
Commissioner’s Office
ATTN: Abatement Program Administrator
P.O. Box 327001
Montgomery, AL 36132-7001
Telephone: 334-242-1175

ENTERPRISE ZONE TAX INCENTIVES

Sections 41-23-20 through 41-23-32, Code of Alabama 1975 offer a tax credit/exemption to help encourage economic growth in areas considered to have depressed economies. There are two types of tax incentives in Alabama Enterprise Zones; a tax credit under “Section 5”, and an exemption under “Section 11” (“5” and “11” are the sections of the original law, Act 87-573.).

“Section 5” allows for a tax credit up to \$2500 per new permanent employee to be applied against the income tax liability and/or the business privilege tax liability of the entity qualifying for the enterprise zone credit. “Section 5” incentives are specifically referenced in Section 41-23-24.

“Section 11” allows for an exemption(s) against certain taxes from enterprise zone operations. An exemption can be applied to the income, sales and use, as well as the business privilege tax liability. “Section 11” incentives are specifically referenced in Section 41-23-30.

To qualify for the enterprise zone credit or exemption, a business must meet detailed requirements concerning site location and employee qualifications. For more information on these requirements, please contact the Alabama Department of Economic and Community Affairs (ADECA) at:

**Enterprise Zone Coordinator
401 Adams Avenue
P.O. Box 5690
Montgomery, AL 36103-5690
Telephone: 334-353-5682**

CHECKLIST OF PROCEDURES TO FOLLOW FOR ABATEMENT OF NONEDUCATIONAL PROPERTY TAXES, STATE AND NONEDUCATIONAL COUNTY AND CITY SALES AND USE TAXES

1. The private user should determine the site for development. The site must be chosen before an abatement can be granted, because the abatement will be dependent upon the location of the site.
2. Subject to geographical or jurisdictional limitations, the public body involved may grant abatements of all non-educational property taxes, state and noneducational county and city sales and use taxes allowed to be abated with respect to private use industrial property.
- A city may grant abatements on property located within the city limits or police jurisdiction.
 - A county may grant abatements on property located within the county but not within the city limits or police jurisdiction unless the county is given authority by the governing body of the municipality.
 - A public industrial authority may grant an abatement on property within the authority's jurisdiction.
3. The private user should apply for an abatement of state and noneducational county and city sales and use taxes and noneducational property taxes on industrial development property to the appropriate governing body (i.e., county, city, or industrial development authority or board) by petitioning the appropriate body. To petition, the private user should submit a completed "Application to Local Granting Authority for Abatement of Taxes" (Form CO: CAA) to the appropriate body. The application should include a list of all real and personal property for which an abatement is requested.

All applicable forms relating to the abatement of the above taxes can also be retrieved from the Department's web site at www.revenue.alabama.gov, under "Tax Incentives" (Property & Sales Tax Abatements).

4. The granting of an abatement for noneducational property taxes, state and noneducational county and city sales and use taxes by a public body (i.e., county, city, industrial development authority or board) should be incorporated into a written abatement agreement between the public body and the private user. The abatement agreement shall specify the following:

- a) an estimated amount of each abatement;
- b) the maximum exemption period for each abatement;
- c) projections of the amount to be invested, the number of individuals to be employed (initially and in the succeeding three years), and the payroll; and
- d) The Standard Industrial Classification Code number of the business.
- e) If the project is for an addition to an existing industrial development property, the agreement should contain information to document that the addition is at least the lesser of 30 percent of the original cost of the industrial development property or \$2,000,000.

5. An abatement applies to all real and personal property incorporated into the project.
- For sales and use tax purposes, the abatement shall start on the date which the abatement is granted and shall continue in effect until the entire project is placed in service. Only purchases made after the abatement is granted can be abated.
 - For property tax purposes, if bonds are issued, the abatement shall start on the date the bonds are issued to finance the cost of a private use property; else, the abatement shall start on the date the project is placed in service or such date as specified in the abatement agreement. An abatement for noneducational property taxes shall not exceed ten years from the date the abatement begins.

6. The private user should forward a copy of the executed abatement agreement, a copy of the certified resolution by the public body, a copy of the Application to Local Granting Authority for Abatement of Taxes (Form CO: CAA), and the original application for a certificate of exemption (Form ST: EX-A2) with an original signature to the Department of Revenue at the following address within 90 days after the abatement is granted:

**Alabama Department of Revenue
Commissioner's Office
ATTN: Abatement Program Administrator
P.O. Box 327001
Montgomery, AL 36132-7001**

7. Contractors and subcontractors may also apply for a Sales and Use Tax Certificate of Exemption to be used when making purchases of tangible personal property to be incorporated into a project for which the private user has been granted an abatement of construction-related sales and use taxes. It is important to note that each certificate of exemption shall be “project specific.” Accordingly, contractors or subcontractors making tax-exempt purchases in conjunction with more than one project for which abatements have been granted shall apply for and obtain a separate certificate of exemption for each project. Each contractor or subcontractor should submit an application for a sales and use tax certificate of exemption (Form ST: EX-A2) with an original signature, along with a **letter of confirmation** from the private user or the prime contractor, to:

Alabama Department of Revenue
Commissioner’s Office
ATTN: Abatement Program Administrator
P.O. Box 327001
Montgomery, AL 36132-7001

8. For **Sales and Use tax** purposes, the Department of Revenue will issue a Certificate of Exemption to the private user, as well as to any contractor or subcontractor who will make purchases in conjunction with the project, when the following items have been received by the Department:

- Copy of the executed abatement agreement
- Copy of the certified resolution
- Copy of the application to local granting authority for abatement of taxes
- Originals of all appropriate applications for Sales & Use Tax Certificate of Exemption
- If abatement is granted by city or city industrial development board, copy of certified mail receipt to county commission.

9. Once the Certificate(s) of Exemption are issued, the Certificate(s) of Exemption will be used to make all purchases of tangible personal property to be incorporated into the project without payment of sales or use tax to the vendor. The certificate holder will not have to file and remit any **state** sales and use tax returns with respect to the project unless the certificate is used to make a tax-exempt purchase of property which does not qualify for the abatement.

10. When local taxes are administered by the Department, the certificate holder is required to remit separately that portion of local sales and use taxes which have been earmarked for educational purposes and any local taxes due on purchases which do not qualify for the abatement but were purchased tax-exempt using the exemption certificate.

11. It should be noted that if the site is located in an area which administers its own local sales and use taxes, then the certificate holder would be responsible for coordinating the amount of local abatements and taxes due with the local taxing authority.

12. The private user must send a copy of the abatement agreement to the county tax assessing official in the county where the property is located, and any property tax abatement that has been granted to the private user **must** be assessed with the county tax assessing official before Dec. 31 in the year the project is placed in service.

13. Once an abatement is granted, the Department of Revenue will supervise the valuation, equalization, and assessment of the abated property. Also, the Department will review and conduct inspections and investigations of property for which abatements are granted.

CHECKLIST OF PROCEDURES TO FOLLOW FOR ABATEMENT OF NONEDUCATIONAL PROPERTY TAXES AND NONEDUCATIONAL LOCAL SALES AND USE TAXES FOR BROWNFIELD DEVELOPMENT PROPERTY

1. The brownfield site must be in the Alabama Department of Environmental Management's Voluntary Cleanup Program.

2. Based on the site of the brownfield property, the city or county may grant abatements of all noneducational property taxes and noneducational city and county sales and use taxes .

- A city may grant abatements on property located within the city limits or police jurisdiction. However, the appropriate county must consent to the abatement of noneducational county taxes by resolution.
- A county may grant abatements on property located within the county but not within the city limits or police jurisdiction of a city unless the city consents to the abatement of noneducational city taxes by resolution.

3. The private user should apply for an abatement of noneducational city and county sales and use taxes and noneducational property taxes for brownfield development property to the appropriate governing body (city or county) by petitioning the appropriate body. To petition, the private user should submit a completed "Combined Application for Abatement of Taxes" (Form CO: CAA) to the appropriate body. The application should include a list of all real and personal property for which an abatement is requested. **The application must be accompanied by an approval of the voluntary cleanup plan.**

All applicable forms relating to the abatement of the above taxes can also be retrieved from the Department's web site at www.revenue.alabama.gov, under "Tax Incentives" (Property & Sales Tax Abatements).

4. The granting of a brownfield abatement by a governing body (i.e., city or county) should be incorporated into a written abatement agreement between the public body and the private user. The

abatement agreement shall specify the following:

- a) an estimated amount of each abatement
 - b) the maximum exemption period for each abatement
 - c) projections of the amount to be invested, the number of individuals to be employed (initially and in the succeeding three years), and the payroll
 - d) If the project is for an addition to an existing industrial development property, the agreement should contain information to document that the addition is at least \$2,000,000 or 30 percent of the original cost of the remediated developed property.
5. An abatement applies to all real and personal property incorporated into the project.
- For sales and use tax purposes, the abatement shall start on the date the abatement is granted and shall continue in effect until the entire project is placed in service. Only purchases made after the abatement is granted can be abated.
 - For property tax purposes, the abatement is for a period of up to 20 years following the date the voluntary cleanup plan is approved by the Alabama Department of Environmental Management.

6. The private user should forward a copy of the executed abatement agreement, a copy of the certified resolution by the public body, a copy of the application to local granting authority for abatement of taxes (Form CO: CAA), a copy of the approval letter of the voluntary cleanup plan, and the original application for a certificate of exemption (Form ST:EX-A2) with an original signature to the Department of Revenue at the following address within 90 days after the abatement is granted:

**Alabama Department of Revenue
Commissioner's Office
ATTN: Abatement Program Administrator
P.O. Box 327001
Montgomery, AL 36132-7001**

7. Contractors and subcontractors may also apply for a Sales and Use Tax Certificate of Exemption to be used when making purchases of tangible personal property to be incorporated into a project for which the private user has been granted an abatement of construction-related sales and use taxes. It is important to note that each certificate of exemption shall be "project specific." Accordingly, contractors or subcontractors making tax-exempt purchases in conjunction with more

than one project for which abatements have been granted shall apply for and obtain a separate certificate of exemption for each project. Each contractor or subcontractor should submit an application for a sales and use tax certificate of exemption (Form ST:EX-A2) with an original signature, along with a letter of confirmation from the private user or the prime contractor, to:

**Alabama Department of Revenue
Commissioner's Office
ATTN: Abatement Program Administrator
P.O. Box 327001
Montgomery, AL 36132-7001**

8. For Sales and Use tax purposes, the Department of Revenue will issue a Certificate of Exemption to the private user, as well as to any contractor or subcontractor who will make purchases in conjunction with the project, when the following items have been received by the Department:

- Copy of the executed abatement agreement
- Copy of the certified resolution
- Copy of the application to local granting authority for abatement of taxes
- Originals of all appropriate applications for Sales and Use Tax Certificate of Exemption

9. Once the Certificate(s) of Exemption are issued, the Certificate of Exemption will be used to make all purchases of tangible personal property to be incorporated into the project without the payment of sales or use tax to the vendor. The certificate holder will be required to file and remit the state sales tax on those purchases to the Alabama Department of Revenue.

10. When local taxes are administered by the Department, the certificate holder is required to remit separately that portion of local sales and use taxes which have been earmarked for educational purposes and any local taxes on purchases which do not qualify for the abatement but were purchased tax-exempt using the exemption certificate.

11. It should be noted that if the site is located in a jurisdiction which administers its own local sales and use taxes, then the certificate holder would be responsible for coordinating the amount of local abatements and taxes due with the local taxing authority.

12. The private user must send a copy of the abatement agreement to the county tax assessing official in the county where the property is located, and any property tax abatement that has been granted to the private user must be assessed with the county tax assessing official.

13. Once an abatement is granted, the Department of Revenue will supervise the valuation, equalization, and assessment of the abated property. Also, the Department will review and conduct inspections and investigations of property for which abatements are granted.

DOING BUSINESS IN ALABAMA

All Businesses:

Contact the Internal Revenue Service (1-800-829-1040 for tax information, or 1-800-829-3676 for forms and publications) in order to determine if:

- A Federal Employer's Identification Number (FEIN) is needed (Form SS-4).
- Requirements for Federal Estimated Income Tax are met (proprietors, partners, corporate shareholders, etc.), (Form 1040ES).
- Federal Self-Employment Tax is required.
- Or request the following forms and/or publications: SS-4 (FEIN application form), W-4's (Federal Exemption Certificates), Circular E (Federal Tax Tables), 1040ES (Federal Declaration of Estimated Income Tax), Publication 334 (Tax Guide for Small Businesses) and/or other forms or publications.

Contact the Alabama Department of Revenue's Taxpayer Service Center in your area to determine what (if any) state taxes apply.

Determine if a privilege license is required (see below). If so, purchase it.

- County and State Licenses – County Courthouse (Probate Judge or License Commissioner).
- City Licenses – City Hall.

Contact the local county tax assessor's office in the county or counties in which you own property in order to meet all requirements of assessing all of your real property and business personal property.

Contact the Alabama Department of Revenue, Individual Income Tax Section at 334-242-1000 to determine if requirements for Alabama Individual Estimated Income Tax (Form 40ES) are met (proprietors, partners, corporate shareholders, etc.).

- Proprietors, partners and certain other individuals must report estimated earnings and remit the income tax on those earnings quarterly. (See Alabama Form 40ES and Federal Form 1040ES.)

At year-end, resident individuals must file Alabama Form 40 and Federal Form 1040 to report actual yearly earnings. (See Forms 40, 1040, and Schedule C for instructions.) Non-resident individuals who receive income from business operations in Alabama must file a composite return or file Alabama Form 40NR to report Alabama earned income.

You must keep all financial and accounting records that clearly reflect income and expenses from three (3) to six (6) years.

If you are late with any tax return, contact the appropriate agency immediately. Instructions will be given as to what course of action you must follow. Reply to all correspondence from these agencies immediately.

Contact the Small Business Development Center closest to you in order to determine what, if any, other requirements there may be. The Small Business Development Centers around Alabama are good sources for determining local requirements, any requirements exclusive to the type of business you are in, marketing information for your business, how to obtain small business loans, etc. Please see the list provided at the end of this publication.

All Businesses That Have Employees:

Contact the IRS in order to determine if federal withholding requirements apply (see previous).

To register for a withholding tax account number contact the Alabama Department of Revenue, Business Registration Unit, 334-242-1170 and request Form COM-101 (Combined Registration Form), A-4's (Alabama Exemption Certificates), and Alabama Withholding Tax Tables. These forms and tables can also be obtained from the Department's web site at www.revenue.alabama.gov/withholding/index.html.

Contact the Alabama Department of Industrial Relations to obtain requirements for Worker's Compensation Insurance at 334-353-0990 or 1-800-528-5166 and State Unemployment Compensation tax at 334-242-8025 Additional information can be obtained at www.dir.alabama.gov.

Contact city and county officials to determine if any occupational taxes are applicable.

Have all employees complete Forms A-4 (state) and W-4 (federal) and keep these on file.

Withhold income tax from your employees according to the Alabama Withholding Tax Tables and the Federal Circular E using the information on the A-4 and W-4.

Forward your Alabama Form A-1 or A-6 along with a check for Alabama income tax withheld to the Department of Revenue. Forward Federal Forms 941 (Federal income tax withheld, social security and medicare) and 940 (Federal unemployment) along with checks to the appropriate agencies. (See the appropriate forms and booklets for the due dates, penalties, etc.)

At the end of the year, complete Form A-3 (state) and Form W-3 (federal) and send them to the appropriate agency along with the proper copies of W-2s.

Furnish each employee with a copy of the employee's W-2 on or before the last day of January.

If you have "Contract Labor," please contact the Alabama Taxpayer Service Center in your area for verification that it actually qualifies as "Contract Labor" and if subject to withholding requirements. (See list of offices at the end of this publication.)

All Retail Businesses:

(businesses which sell tangible personal property to the end user or the consumer.)

Check previous categories to determine if any apply.

New applicants may register online through the Alabama Electronic Registration System at <http://www.revenue.alabama.gov/salestax/register.html> or contact the Alabama Department of Revenue, Business Registration Unit at 334-242-1170, and request Form COM-101 (Combined Registration Form) to register for a sales or local seller's use tax license*. This form can also be obtained from the Department's web site at www.revenue.alabama.gov (Sales and Use Tax).

Contact city and county officials to determine if there are any local sales taxes that you must register to collect and report. A current list of all city and county tax rates are available on the Department's web site at www.revenue.alabama.gov (Sales & Use Tax).

*Rental businesses must register for a state rental tax license, and lodgings establishments (i.e. hotels, motels, etc.) must register for state and local lodgings tax licenses. The Department collects and administers local sales, use, lodgings and rental taxes on behalf of approximately 200 cities and counties; however, certain cities and counties are self-administered or contract with a private firm.

All Wholesalers (businesses which sell exclusively to retailers, manufacturers, or other wholesalers) and/or Manufacturers:

Check previous categories to determine if any apply.

Contact the Alabama Department of Revenue, Sales, Use & Business Tax Division, or any local Taxpayer Service Center to determine if a Certificate of Exemption, Consumer's Use Tax License, or other registration is required.

All Corporations and Limited Liability Entities:

Check previous categories to determine if any apply.

Contact the Secretary of State's Office.

- Foreign corporations (those that are incorporated in states other than Alabama) must qualify to do business in Alabama with the Alabama Secretary of State. Call the Secretary of State's office at 334-242-5324 or visit **www.sos.state.al.us** to obtain an application for certificate of authority (Form CD-2). Form CD-2 must be filed with the Secretary of State along with a \$175 qualification fee and a certified copy of the articles of incorporation.
- Domestic corporations (those that are incorporated in Alabama) must incorporate by first reserving the corporate name with the Alabama Secretary of State and then filing articles of incorporation (original and two copies) and the certificate of name reservation with the probate judge of the county in which the corporation has its initial registered office, along with the appropriate filing fees (\$50 for Secretary of State and a probate judge fee of a minimum of \$35). Contact the Secretary of State's Office at 334-242-5324 or visit **www.sos.state.al.us** for more information.
- Contact the Alabama Secretary of State's office at 334-242-5324 or visit **www.sos.alabama.gov** for questions regarding organizing domestic (those that are created in Alabama) or registering foreign (those that are created in states other than Alabama) limited liability entities (Limited Partnerships, Limited Liability Partnerships and Limited Liability Companies).

File and remit Alabama Business Privilege Tax.

- All corporations and limited liability entities (Limited Partnerships, Limited Liability Partnerships and Limited Liability companies) are required to file and pay Alabama Business Privilege Tax no later than 45 days after the taxpayer comes into existence, qualifies, or registers to do business or commences to do business in Alabama. Contact the Alabama Department of Revenue at 334-353-7923 or **www.revenue.alabama.gov/incometax/bpt_index.htm** to obtain an initial Schedule BPT-IN with appropriate business privilege tax forms.

All Contractors:

Check previous categories in order to determine if any of the other requirements previously mentioned will apply.

Contact the Alabama Department of Revenue, Sales, Use & Business Tax Division toll free 1-866-576-6531 or 334-242-1490, to determine if any taxes will apply to your business activity (i.e., sales tax, contractor's gross receipts tax, consumer's use tax, etc.).

Contact the Contractor's Licensing Board at 334-272-5030 for additional licensing requirements.

All Other Business Types Not Listed Here:

If your business falls into a category that has not been covered, you should:

- Check previous categories to determine if any of the above requirements apply to your business.
- Contact the Alabama Department of Revenue's Taxpayer Service Center in your area to determine what (if any) state taxes apply.
- Contact the IRS at 1-800-829-1040 to determine what (if any) federal taxes will apply.

In Alabama there is no one central licensing authority for the various regulatory and professional licenses which may be required for businesses and individuals. You may wish to consult with your accountant and/or make inquiries at the local level to ensure that you have met all necessary licensing requirements.

ALABAMA DEPARTMENT OF REVENUE OFFICES

Main Office:

- **Alabama Department of Revenue**
50 N. Ripley Street
P.O. Box 327001
Montgomery, AL 36132-7001
Phone: 334-242-1170
- **Auburn/Opelika Taxpayer Service Center**
3300 Skyway Drive
P.O. Box 2929
Auburn, AL 36831-2929
Phone: 334-887-9549
- **Birmingham Taxpayer Service Center**
2024 3rd Avenue North
P.O. Box 10128
Birmingham, AL 35202-0128
Phone: 205-323-0012 (Sales)
205-323-6387 (Income)
- **Dothan Taxpayer Service Center**
344 North Oates Street
P.O. Box 5739
Dothan, AL 36302-5739
Phone: 334-793-5803
- **Gadsden Taxpayer Service Center**
235 College Street
P.O. Drawer 1190
Gadsden, AL 35902-1190
Phone: 256-547-0554
- **Huntsville Taxpayer Service Center**
994 Explorer Boulevard
P.O. Box 11487
Huntsville, AL 35814-1487
Phone: 256-922-1082
- **Mobile Taxpayer Service Center**
955 Downtowner Boulevard
P.O. Drawer 160406
Mobile, AL 36616-1406
Phone: 251-344-4737
- **Montgomery Taxpayer Service Center**
1021 Madison Avenue
P.O. Box 327490
Montgomery, AL 36132-7490
Phone: 334-242-2677
- **Muscle Shoals Taxpayer Service Center**
874 Reservation Road
P.O. Box 3148
Muscle Shoals, AL 35662-3148
Phone: 256-383-4631
- **Tuscaloosa Taxpayer Service Center**
518 19th Avenue
P.O. Box 2467
Tuscaloosa, AL 35403-2467
Phone: 205-759-2571

SMALL BUSINESS DEVELOPMENT CENTERS

- **Small Business Development Center
University of Alabama at Birmingham**
1055 Eleventh Street S.
Room 202
Birmingham, AL 35294-4480
Phone: 205-934-6760 FAX: 934-0538
- **Small Business Development Center
University of North Alabama**
Box 5250 Keller Hall
Florence, AL 35632-0001
Phone: 256-765-4629 FAX: 765-4813
- **Northeast Alabama Regional Small
Business Development Center**
225 Church Street – PO Box 168
Huntsville, AL 35801-0168
Phone: 256-535-2061 FAX: 535-2050
- **Small Business Development Center
Jacksonville State University**
114 Merrill Hall, 700 Pelham Road N.
Jacksonville, AL 36265-1602
Phone: 256-782-5271 FAX: 782-5179
- **Small Business Development Center
University of Alabama**
250 Bidgood Hall
Box 870397
Tuscaloosa, AL 35487-0397
Phone: 205-348-7011 FAX: 348-9644
- **Small Business Development Center
University of West Alabama**
Station 35
Livingston, AL 35470
Phone: 205-652-3665 FAX: 652-3516
- **Small Business Development Center
Auburn University**
Suite 108 College of Business
Auburn University, AL 36849-5243
Phone: 334-844-4220 FAX: 844-4268
- **Small Business Development Center
Troy State University**
Bibb Graves, Room 102
Troy, AL 36082
Phone: 334-670-3771 FAX: 670-3636
- **Small Business Development Center
Alabama State University**
915 South Jackson Street
Montgomery, AL 36104
Phone: 334-229-4138 FAX: 269-1102
- **Small Business Development Center
University of South Alabama**
Mitchell College of Business,
Room 118
Mobile, AL 36688-0002
Phone: 251-460-6004 FAX: 460-6246
- **Alabama International Trade Center
University of Alabama**
201 Bidgood Hall
Box 870396
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Phone: 205-348-7621 FAX: 348-6974