

Income/Franchise:

Alabama DOR Proposes Rules on Pass-through Entity-Level Tax and Financial Institution Excise Tax

Proposed Regs. new section 810-3-36-.01; Proposed Regs. repeal of and new section 810-9-1-.02 and Proposed repeal of Regs. section 810-9-1-.01 and section 810-9-1-.03, Ala. Dept. of Rev. (8/31/21). The Alabama Department of Revenue (Department) has proposed a new rule reflecting legislation enacted earlier this year [see H.B. 170 (2021) and H.B. 588 (2021), as well as previously issued Multistate Tax Alert, for more details on this new law] that allows some pass-through entities to elect to be taxed at the entity level for tax years beginning on or after January 1, 2021. The new law includes a corporate or individual income tax credit for owners, members, partners, and/or shareholders of such electing passthrough entities in an amount equal to their respective pro rata or distributive share of the Alabama income taxes paid by such entities. According to the Department, this new rule “is being promulgated to provide taxpayers guidance on the requirements for the filing of an electing passthrough entity return and the payment of tax.”

URL: <https://revenue.alabama.gov/wp-content/uploads/2017/05/810-3-36-.01-1.pdf>

URL: <https://revenue.alabama.gov/wp-content/uploads/2017/05/810-9-1-.02-2.pdf>

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URL: http://alisondb.legislature.state.al.us/ALISON_LCC/SESSBillStatusResult.ASPX?BILL=HB588&WIN_TYPE=BillResult

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-alabama-passes-wide-ranging-tax-legislation-addressing-the-cares-act-and-federal-covid-relief.pdf>

Another proposed rule released by the Department covers Alabama’s financial institution excise tax (FIET) and purports to conform with FIET requirements as updated under Alabama’s “Financial Excise Tax Reform Act of 2019-284.” This proposed new rule may be read as making significant changes to the entity classification and filing obligations of certain flow-through entities and thus interested parties may want to monitor it closely as it moves through the promulgation process.

Collectively, the Department has scheduled a public hearing for October 5, 2021 via web-conference to discuss these proposed rule changes, and any written comments on the proposals are due by the conclusion of this hearing. Please contact us with any questions.

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