

## Topics

Legislature Hits the Ground Running. Dozens of Tax Bills Already Introduced ...	1
Business Council Sets Comprehensive Tax Reform as Top 2003 Legislative Goal.....	2
Manufacture Alabama Issues Its First Legislative Agenda .....	3
Alabama Historical Commission Seeks Preservation Tax Credit .....	4
ADOR Proposes New Anti-PIC Regulation and Regulatory Amendments Affecting Attributional Nexus and the Definition of Unitary Business.....	4
ADOR Reverses Position on Taxation of Nonresident Owners of Passive Investment Partnerships .....	6
Recent ADOR Notices .....	7
Upcoming BARW Tax Seminars .....	8

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## Legislature Hits the Ground Running. Dozens of Tax Bills Already Introduced

Although the 2003 regular session of the Alabama Legislature only began on March 4, almost one hundred tax-related legislative proposals have already been introduced and referred to committee. SALT Practice Group members Bruce Ely and Chris Grissom presented a summary of those bills to the annual meeting of the Alabama State Bar Tax Section on March 19. A copy of their outline is available through the firm's website:

<http://www.bradleyarant.com/pdf/SummaryOfPendingTaxLegislation.pdf>

The bills run the gamut from proposing even more amendments to the already massive Alabama Constitution of 1901 to making relatively minor technical corrections to bills passed last year. Several bills are especially noteworthy. Many are at least precursors to a more comprehensive tax reform effort that many expect to begin in May, either at the end of this regular session or during a special session called by Governor Bob Riley. The so-called "Alabama Arise package" has been re-introduced, but with some changes. HB 3 proposes a constitutional amendment to repeal the federal income tax deduction for both individuals and corporations while increasing the individual income tax rate to 6.5%, which has been the corporate income tax rate now for two filing seasons. In return, HB 3 would increase the personal exemption and dependent deductions to the federal levels and create a state earned income tax credit equal to 10% of the federal EITC. The credit represents an effort to offset the regressivity of the sales tax as applied to food items not covered by government food stamps.

An even more drastic change in the law would be implemented by HB 384. This bill repeals all sales and use tax exemptions other than a new exemption for food and the existing one for prescription drugs. The bill also drops the state general sales/use tax rate from 4% to 3%, effective October 1, 2003. The definition of "food" is troublesome and may generate some of the same classification disputes that presently arise in states that exempt food from their sales tax.

Another constitutional amendment is proposed by SB 303. This bill increases the state-level ad valorem tax rate from 6.5 mills to 15.5 mills for fiscal year 2005, and adds another 9 mills the following year and another 9 mills thereafter. The taxes levied by the amendment would not be subject to the homestead exemption. Alabama presently has the lowest ad valorem property taxes in the nation.

Several bills enhance state and local economic development efforts. For example, HB 378 expands the Capital Credits Act to include "rural advanced telecommunications services" and reduces the investment threshold to only \$250,000 in order to generate state income tax credits. SJR 68 and a companion HJR extend the Capital Credits Act for another 5 years. It is presently set to expire on December 31 of this year. We expect the Governor to sign the extension into law as this newsletter is going to print. A number of the organizations listed below, as well as the Economic Developers Association of Alabama, have made this extension a high priority. Another useful bill, SB 224, expands the definition of qualifying "new employees" for purposes of the Capital Credits Act to include leased employees, reflecting a common hiring practice among U.S. industries.

The Chairman of our firm's State Governmental Affairs Practice Group, George Harris, believes that most of these tax-related items will face an uphill battle during this year's regular session, but anticipates a more comprehensive tax reform package

to be offered in a special session in late Spring. Harris predicts that: "While a majority of Alabamians recognize the need for better financial support for our schools, public opinion polls are reflecting the public's clear preference to bring accountability to our government before trusting elected officials with additional tax revenue. There is likely to be a significant public debate on what that means, but any serious effort to improve funding for education will have to follow a new emphasis on accountability, however that is defined. That means accountability first, increased revenue second; the public will not trust the government to reverse the order. That appears to be the challenge facing the Campaign for Alabama, various education groups, and Governor Riley."

### **Business Council Sets Comprehensive Tax Reform as its Top 2003 Legislative Goal**

The Business Council of Alabama, a statewide business and trade organization with approximately 5,000 members, has set comprehensive tax reform as its top legislative goal for 2003. The BCA goes into this legislative session with the political clout that comes from having nearly 90 percent of the candidates it endorsed last fall win their races, including Governor Bob Riley.

Bill Canary, the BCA's new president, said 37% of its members voted to make comprehensive tax reform the top agenda item at the state level, followed by 21% that want changes in Alabama's tort laws and 18% that want increased choices in health care. According to the "2003 Legislative Agenda," "Alabama businesses and industries provide more than a billion dollars in tax revenue to our state. . . . Business tax dollars are fundamental to the quality of life in Alabama. For that reason, tax policy must enhance business growth and productivity." The BCA's Senior Vice President, Jim Gray, confirmed this policy statement and added that "[w]hile the BCA plans to work aggressively with state officials and others on comprehensive tax reform, it is our belief that the BCA must be a major component of this effort to create a more friendly business climate in Alabama."

The BCA's annual tax legislative agenda is often a harbinger of the major tax issues that will be considered by the Alabama Legislature each year. Members of our SALT Practice Group were directly involved in developing their agenda. From a state tax perspective, the BCA also supports the following proposals:

- Ongoing efforts to create a streamlined sales tax ("SST") system that puts in-state and out-of-state retailers on a level playing field, while providing a simplified sales tax system that makes the collection of sales taxes manageable for businesses and provides "one-stop" filing and payment mechanisms.
- The creation of an Alabama Tax Appeals Commission, *i.e.*, an independent state tax court headed by a judge with specific training in the area of state and local taxes. To avoid duplication, the BCA advocates the simultaneous abolition of the current Administrative Law Division of the Department of Revenue. The Chief Administrative Law Judge, William L. (Bill) Thompson, would become the first ATAC judge.
- A technical correction to the business privilege tax statute to change the definition of "financial institution group" to more closely reflect a group of true "financial institutions." A May 2000 amendment to the privilege tax extended the \$3 million cap (as opposed to the normal \$15,000 cap) to "financial institution groups." The term is considered to be vague and overly broad and could unintentionally sweep in regular business corporations, such as manufacturers or retailers operating in the state, that have an affiliated company engaged in financing or leasing activities and which qualifies as a "financial institution" under Alabama's financial institution excise tax.
- A permanent, or at least a five-year, extension of the Capital Credits Act, which automatically sunsets December 31, 2003, unless extended by the legislature. This state income tax credit is a very attractive and well-known tax incentive for new or expanding industries and should be extended or made permanent as early as possible during the 2003 regular session. The BCA also supports an extension of the credit to other qualifying Alabama taxpayers who are not subject to the corporate income tax, such as financial institutions.
- The repeal of contingent liability for partnerships and other limited liability entities, such as LLCs, LLPs, and LPs, with nonresident owners. This issue arises when a nonresident partner or

member files a written consent to jurisdiction and agrees to file a separate income tax return, which thereby relieves the LLE of a composite return obligation, but the nonresident later fails or refuses to pay the Alabama income tax he or she agreed to pay. Alabama appears to be one of only two states that impose contingent liability on the entity in these circumstances. If repealed, the BCA committed to work with the Department of Revenue to find another, more manageable means of ensuring nonresident owner compliance.

- The Subchapter J and Business Trust Conformity Act, which clarifies the state income tax rules for trusts and estates, so those rules would conform to their federal counterparts. The Alabama statute now largely tracks the pre-1954 Internal Revenue Code rules. This appears to be the last major vestige of dis-conformity between the Alabama income tax laws and their federal counterparts.

Unfortunately, with tax reform and likely tax increases looming on the horizon, some observers have already concluded that little will pass this session in the way of tax legislation—in anticipation of a special session later in the Spring, geared toward tax reform and plugging the expected \$500-600 million deficit for the fiscal year beginning October 1.

*[Members of our SALT Practice Group are involved with or drafted several of the legislative proposals mentioned above.]*

## Manufacture Alabama Issues Its First Legislative Agenda

A relatively new player on the scene, formed to represent Alabama manufacturers, is Manufacture Alabama (“MA”), which resulted from the recent merger of the Alabama Industry and Manufacturers Association (“AIM”) and two other trade associations. Rapidly becoming one of the more influential business trade groups in Alabama, MA now represents more than 370 manufacturers and “partner” companies in Alabama.

Like the BCA, MA also supports comprehensive tax reform. George Clark, president of MA, acknowledged to *The Birmingham News* that “Alabama’s tax structure is broken. We all know that tax reform is coming.” MA’s position paper on tax reform

maintains that the guiding principles of any tax reform effort should be fairness, simplicity, neutrality, and effectiveness. This position paper notes that these four principles are the very same principles identified in the Report of the Alabama Commission on Tax and Fiscal Policy Reform issued in 1991.

MA’s support for comprehensive tax reform, however, is conditioned upon the following: maintaining the existing relationship between tax revenues raised from individuals and businesses; eliminating the earmarking of tax revenues; avoiding major tax increases targeted at selected sectors of the business community; and maintaining the existing tax incentives for industrial expansions. These conditions make it apparent that MA is concerned that tax reform might result in increases to the tax burden on the manufacturing industry. Manufacturing jobs in Alabama have declined significantly in recent years.

With respect to other legislative items, MA supports the SST effort. However, MA’s only supports SST if certain elements of the existing law are maintained. Specifically, MA wants to retain the reduced 1.5% rate for manufacturing equipment and tax exemptions available to manufacturers. Also, MA believes that manufacturing equipment should be exempt from sales and use tax. Many states, like Georgia, exempt the purchase of certain types of manufacturing equipment.

### ***Other Leading Organizations Issue Their 2003 Legislative Agendas***

#### *Alabama Retail Association:*

The Alabama Retail Association’s (“ARA”) 2003 legislative agenda also advocates comprehensive tax reform. The ARA wants to see a complete overhaul of the state’s tax system rather than any patch-work or short-term solutions to Alabama’s tax problems. However, ARA indicates it is opposed to any reforms that would be unduly burdensome for taxpayers or constitute “punitive tax schemes.”

In addition, the ARA supports the following specific items: the SST effort (of which its President, Charles McDonald, has been a major proponent); the establishment of the Alabama Tax Appeals Commission (“ATAC”); municipal business license reform; and exempting gifts of retail inventory to qualifying charities from the sales tax.

*Birmingham Regional Chamber of Commerce:*

The Birmingham Regional Chamber of Commerce (“BRCOC”) announced recently that the following tax-related initiatives are part of its 2003 legislative agenda: the historic structures restoration tax credit, ATAC; and at least a five year extension of the Capital Credits Act. In addition, the BRCOC will be monitoring and supports in concept the following additional tax initiatives: the SST effort; double-weighting the sales factor for multi-state companies, to encourage in-state companies to sell their products out-of-state; establishing a fixed set of criteria for legislation dealing with future tax exemptions, rate reductions, and other similar items; a technical correction to the business privilege tax to clarify or narrow the definition of “financial institution group;” and the repeal of contingent liability for partnerships and other limited liability entities when nonresident owners fail to pay their income tax, after agreeing with the Department to do so.

*Alabama Society of Certified Public Accountants:*

The Alabama Society of Certified Public Accountants has announced that it endorses the following proposals: comprehensive tax reform, together with constitutional reform; the creation of the ATAC; and the Subchapter J and Business Trust Conformity legislation mentioned above.

*National Federation of Independent Business—Alabama Chapter:*

Phyllis Kennedy, long-time director of NFIB-Alabama was appointed recently by Governor Riley as Director of the Alabama Department of Industrial Relations. While we will miss Phyllis, she was succeeded last month by Rosemary Elebash, known as an articulate and forceful lobbyist, first for AT&T and later for Verizon. According to an interview with Rosemary, health care issues will top NFIB’s agenda this year but their members are also being polled regarding their interest in various state and local tax issues. The results of that survey will not be finalized until the end of this month.

### **Alabama Historical Commission Seeks Preservation Tax Credit**

The Alabama Historical Commission is seeking a state income tax credit for the restoration of historic

properties. The Historical Commission hopes the Legislature will pass H.B. 55 (S.B. 282 is the Senate companion bill) in the current regular session.

Brandon Brazil, of the Alabama Historical Commission, sees the tax credit as an economic development tool that will encourage private investment in “rundown” areas and create additional jobs. Brazil noted that a study conducted by Auburn University at Montgomery estimates that, over a four year period, such a tax credit will create 965 full-time construction jobs and generate \$32.3 million in taxes annually.

A federal income tax credit of 20% exists for historic restorations of properties listed on the National Register of Historic Places. The proposed legislation will offer a similar 20% tax credit for the restoration of properties on the National Historic Register. It is anticipated that investors will be able to couple the state tax credit with the federal tax credit. The dual tax credits would make restoration projects even more economically attractive. The proposed legislation also provides an additional 5% credit for projects in areas targeted by the U.S. Department of Housing and Urban Development for revitalization.

Brazil believes the tax credit legislation will benefit Alabama cities and counties not only through the creation of jobs and tax revenue from increased development activity, but, in the long-term, it will also increase property tax revenue on restored properties.

The historic restoration tax credit bill has more than 40 co-sponsors and has been endorsed by groups such as the Montgomery and Mobile Area Chambers of Commerce, the Birmingham Regional Chamber of Commerce, the Alabama League of Municipalities, and the Alabama Preservation Alliance.

### **ADOR Proposes New Anti-PIC Regulation and Regulatory Amendments Affecting Attributional Nexus and the Definition of Unitary Business**

In the February 28, 2003 *Alabama Administrative Monthly*, a new ADOR rule was issued for public comment regarding the intangibles addback statute enacted during the Fourth Special Session of 2001. Additionally, the ADOR proposes amendments to its Public Law 86-272 regulation regarding attributional nexus, and to Regulation 810-27-1-4.-01, adding a

definition of the “unitary business” principal. A public hearing will be held on these proposals on Friday, April 11, 2003 at 10:00 a.m. in Room 4118 of the Gordon Persons Building, Montgomery. Written comments should be submitted to Lewis Easterly, the Secretary of ADOR, during the 35-day comment period. Interested parties may also file comments by appearing at the hearing.

(1) “*Anti-PIC*” Regulation – Proposed Rule 810-3-35.02 attempts to address questions and ambiguities surrounding the recently-enacted intangibles addback statute, found at *Alabama Code* § 40-18-35(b). That statute requires the addback (i.e., disallows the deduction) of expenses attributable to certain related party loans and related party intangibles expenses. As many taxpayers, as well as ADOR officials, are aware, this statute is somewhat confusing and needs clarification in several respects. In issuing the proposed regulation, the ADOR attempts to define, and limit, certain of the pro-taxpayer exceptions in the addback statute, as well as to provide examples. There are several provisions in the proposed regulation that appear to be outside the statutory parameters of § 40-18-35(b).

For example, the ADOR imposes a ten-week deadline for submission of certain supporting documentation prior to the filing of the income tax return if the taxpayer expects to avail itself of one of the four exceptions to the addback statute. There is no such pre-filing requirement in the statute.

One of the more nebulous terms in the addback statute, “primarily engaged,” is defined in the proposed regulation so that a corporation is “primarily engaged” in the management, disposition, licensing, etc. of intangibles or in financing related entities if the “percentage of receipts from Alabama sources . . . exceed[s] the receipts from any other readily identifiable category of receipts.” The statute, however, does not define “primarily engaged” in terms of gross receipts. A more appropriate definition might focus on the primary business activities of the taxpayer, as opposed to using a percentage of receipts test.

One of the more pragmatic exceptions to the addback statute provides that if the corporation can show that the “corresponding item of income was in the same taxable year: . . . [s]ubject to a tax based on or measured by the related member’s net income in Alabama or any other state of the United States . . .”, that particular item of income is exempt from the addback requirement.

*Ala. Code* § 40-18-35(b)(1). The phrase “subject to a tax based on or measured by the related member’s net income” means that “the receipt of the payment by the recipient related member is reported and included in income for purposes of a tax on net income, and not offset or eliminated in a combined or consolidated return which includes the payor.” *Ala. Code* § 40-18-35(b)(1). However, the regulation seems to stretch the bounds of the statutory language.

The ADOR interprets the statutory phrase “reported and included in income for purposes of a tax on net income” to mean that the income is “reported and included in post-apportionment income for purposes of a tax applied to the net income apportioned or allocated to the taxing jurisdiction.” The requirement that the item of income be included in “post-apportionment income” is not in the statute. Additionally, the regulation limits the exception so it applies only “to the extent the recipient related member includes the corresponding item of income in post-apportionment income reported to another jurisdiction.”

The ADOR also attempts to limit the “unreasonable” exception, i.e., where the addback of certain income or expenses is not required if the taxpayer can prove that the adjustment is “unreasonable.” To meet this exception, the proposed regulation requires that “the [addback] adjustments provide a substantially greater tax liability than would have been incurred had the taxpayer filed a combined report including the recipient member whereby the combined net income of the taxpayer and the recipient related member is allocated and apportioned to Alabama using the taxpayer and recipient related member’s combined apportionment data.”

It appears that the Alabama statutes currently prohibit combined reporting (also called “unitary combined”). However, there are rumblings that the ADOR’s Legal Division believes it can now force combined reporting under its new Internal Revenue Code § 482-like powers, which were granted as part of the December 2001 legislation. It seems rather odd that the ADOR is contemplating such a filing methodology to determine whether certain addbacks are “unreasonable” since the consolidated return statute expressly prohibits the use of combined reporting in Alabama.

(2) *Definition of “Unitary” Business* – In the recent Administrative Law Division decision, *Perelman v. Alabama Department of Revenue*, Admin. Law Div. Dkt.

No. INC. 01-592 (April 17, 2002), Chief Administrative Law Judge Bill Thompson defined what he considered to be the proper parameters for determining whether two business segments were “unitary.” There is no statute or regulation in Alabama defining the unitary business principal. Thus, apparently in response to the *Perelman* decision, the ADOR issued a proposed regulation laying out its definition of the “unitary business principle.” As one would expect, the definition is fairly broad.

The regulation states that the “department is a proponent of the broadest possible apportionable tax base and intends to interpret the unitary business principle as broadly as Constitutionally possible” The regulation goes on to state that “to the extent the *Perelman* interpretation was narrower than Constitutionally required, this regulation expands the interpretation of ‘unitary business’ beyond the *Perelman* interpretation.” It is questionable whether, by regulation, the ADOR can: (1) enact such an all-encompassing and broad definition of unitary business principle without specific statutory authority, and (2) partially overrule the *Perelman* decision.

A presumption is created within the proposed regulation that “the activities carried on within the organizational structure of a single corporation, and the disregarded entities and/or limited liability entities it controls, to be the activities carried on within a single unitary business.” This is contrary to the *Perelman* decision, as well as several unitary business cases throughout the country holding that divisions of corporations may be non-unitary even though they are part of the same legal entity.

(3) *PL 86-272 Regulation amended*—The ADOR also proposes to strike in its (federal) Public Law 86-272 regulation the attributional nexus statement regarding the so-called “Joyce Rule.” According to one ADOR official, the Joyce Rule only applies in combined reporting states and therefore is inapplicable in Alabama. That rule generally stands for the proposition that nexus is not created for the entire unitary group by the mere presence within the state of one member. Only in-state activities that are conducted by or on behalf of the corporation will be considered in determining whether the corporation has nexus, outside of the protection of Public Law 86-272.

Taxpayers who are interested in filing comments with the ADOR regarding the proposed amendments or

new addback rule should contact Chris Grissom (205.521.8514; [cgrissom@bradleyarant.com](mailto:cgrissom@bradleyarant.com)).

## ADOR Reverses Position on Taxation of Nonresident Owners of Passive Investment Partnerships

In a recently filed Administrative Law Division appeal, *Lanzi v. State of Alabama Department of Revenue*, Admin. Law Div. Dkt. No. INC. 02-721, ADOR has reversed its longstanding position on the income taxation of nonresident limited partners of passive investment partnerships. This approach would also very likely include nonresident members of passive investment LLCs. The ADOR now asserts that income from passive investment partnerships “commercially domiciled” in Alabama will be subject to tax in Alabama, not by the state of residence or domicile of the partner/member.

As readers may recall, in Fall 2001 the ADOR and then-Finance Director Henry Mabry announced that the State of Alabama was losing millions of dollars of revenue due to the failure or refusal of nonresident investors in pass-through entities doing business in the state to pay Alabama income tax on their distributive share of Alabama-source income. To that end, the Alabama Legislature enacted Act 2001-1105, a composite return/nonresident owner consent requirement that applies to all general partnerships and limited liability entities taxed as partnerships (“Subchapter K entities”) that are doing business in and have business income apportioned to the state. *See Ala. Code* § 40-18-24.1. If the nonresident partner/member fails to remit the appropriate Alabama income tax, the Subchapter K entity is contingently liable. S corporations doing business in Alabama with nonresident shareholders have been subject to a similar compliance tool since 1989, but S corporations were not included in the 2001 legislation and therefore are not subject to this unique contingent liability provision.

Many tax practitioners argue that for decades the ADOR has taken the position that income derived from passive investments—held directly or through a Subchapter K entity—was properly sourced to the owner’s state of residence (if an individual or trust) or commercial domicile (if a corporate partner/member). Thus, a Georgia resident who invested in an investment limited partnership headquartered in Alabama would report the interest, dividend, or capital gains income on

his or her Georgia income tax return, and did not have a filing obligation with Alabama.

However, in *Lanzi*, the ADOR has signaled a change in position and now argues that the Georgia limited partner is liable for Alabama income tax on earnings from a passive investment partnership “commercially domiciled” in Alabama. That is true, according to the ADOR’s Answer filed in the case, even though Mr. Lanzi paid Georgia income tax on those earnings and regardless of the passive nature of the investments and his lack of participation in the management of the limited partnership.

The ADOR’s argument centers on the fact that partnerships and LLCs under Alabama law are now treated as entities distinct from their partners/members (under either the Alabama Uniform Limited Partnership Act or Alabama LLC Act), and that in this case, all the income should be sourced to Alabama because the limited partnership, the legal owner of the stocks and bonds, was (a) “commercially domiciled” in Alabama and (b) the partnership’s information return perhaps erroneously sourced all the income to Alabama. The ADOR’s Answer points out that the partnership’s office address is in Birmingham—the Lanzi parents’ home.

This case, and similar efforts to collect Alabama income tax from other nonresident partners of passive investment partnerships, potentially has both tax and economic consequences. For example, we have learned recently that several investment partnerships and hedge funds changed their domicile or were organized outside Alabama and have instead been organized or located in a state that either has a longstanding position that follows the ADOR’s historical rule or that has adopted a “safe harbor” for investment partnerships either by way of statute or regulation.

Our firm plans to file an *amicus* brief with the ADOR’s Administrative Law Division in favor of the taxpayer. Persons interested in more information about the issue should contact Russell Cunningham (205.521.8285; [rcunningham@bradleyarant.com](mailto:rcunningham@bradleyarant.com)) or Bruce Ely (205.521.8366; [bely@bradleyarant.com](mailto:bely@bradleyarant.com)).

## Recent ADOR Notices of Interest

**Consumer Use Tax Line Item Reminder:** On February 14, 2003, the ADOR issued a notice reminding taxpayers of the line item featured on the 2002 state income tax returns that can be used to report and pay any

state consumer use tax due on catalog and internet purchases. New Commissioner of Revenue Dwight Carlisle noted that many “electronic” and catalog shoppers are unaware that Alabama use tax is due if no tax is collected on the purchases by the Internet or catalog retailer. This is the third year the ADOR has offered a reporting option on the Alabama income tax return, but the return does not allow reporting of county and/or municipal consumer use tax. During the 2002 filing season, 6,540 Alabama households reported state consumer use tax liability on their individual returns, totaling \$219,276—up from \$203,344 reported in 2001.

### *Alabama Individual Income Tax Filing Update:*

On February 1, 2003, the ADOR issued a notice to taxpayers and their preparers outlining important items to be aware of in completing their 2002 Alabama income tax returns. Three of the items relate to federal changes that Alabama has adopted, while two items relate to federal changes that Alabama did not adopt. The threshold for filing federal Schedule B is now \$1,500—up from \$400. Alabama has adopted this change. In addition, the maximum Roth and “traditional” IRA contribution limit and “catch up” contribution limit is increased for the 2002 tax year. Alabama’s treatment of these contribution limits conforms to the federal changes. Businesses acquiring new qualified equipment after September 10, 2001 (but before September 11, 2004) may deduct [so far] an extra 30 percent of the equipment’s depreciable basis in the first year of use. This additional first-year depreciation is commonly referred to as “bonus” depreciation. Alabama recognizes this “bonus” depreciation, although there is legislation that would de-couple from the bonus depreciation rule, retroactive to January 1. Alabama law did not automatically adopt one recent change in federal law that allows teachers to deduct qualified out-of-pocket expenses for books and class-room supplies.

Also, Alabama does not exempt qualified withdrawals from Section 529 college education plans from income tax—even though such withdrawals are exempt from federal income tax. There is a technical corrections bill pending that would cure that defect, sponsored by the State Treasurer’s Office.

The other important reminders contained in the notice relate either to easing the administrative and compliance burden of paying Alabama income taxes or preventing taxpayers from making a mistake in computing their income tax liability: Form 40V must be attached to all payments, taxpayers may pay with a

major credit card, e-filers may have a tax refund direct deposited into their bank account, consumer use taxes may be paid via a line item on income tax returns, and taxpayer should only deduct the amount of their federal income tax liability—not the amount of their federal withholding. The notice also announces a new addition to ADOR's customer service efforts: a web-based refund inquiry system.

***Business Filings Made Faster and Easier:*** On March 3, 2003, ADOR issued an announcement encouraging businesses to use its Electronic Tax Filing Service ("ETS"). Commissioner Carlisle called the new filing service a "model of efficiency," which allows the state "to benefit from a streamlined internal process." Businesses can now electronically file their returns for a variety of taxes under this new system. Currently, the system will handle electronic filings for state and local sales, use, rental, lodgings, and income tax withholding. In order to use ETS, businesses must have a tax account number and establish an electronic funds transfer account with ADOR. Online filing performs all calculations for taxpayers, eliminating math errors and minimizing under and over-payments. ETS also saves taxpayers time by storing their key contact information. This eliminates having to enter duplicate data each time a taxpayer signs-on to file a return. According to the notice, business participation in ETS has been growing rapidly since its introduction in December 2002.

### Upcoming BARW Tax Seminars

Members of our SALT Practice Group are often asked to speak at various state, regional, or national tax forums or institutes. Following is a listing of upcoming venues at which members of our SALT Practice Group will be participating. For more information on any of the seminars listed below, please contact Sherry Barber at (205) 521-8681 or [sbarber@bradleyarant.com](mailto:sbarber@bradleyarant.com).

- ❖ *COST Income Tax Conference/Spring Audit Session*, Council On State Taxation, Memphis, Tennessee, April 27-28.
- ❖ *Advanced Income Tax School*, Council On State Taxation, Itasca, Illinois, May 5-9.
- ❖ *Alabama Sales and Use Tax Update*, Lorman Education Services, Birmingham, Alabama, June 5.
- ❖ *27th Annual American Institute on Federal Taxation*, Wynfrey Hotel, Birmingham, Alabama,

June 4-6. Please visit their website at [www.amfedtax.org](http://www.amfedtax.org). The program includes prominent national speakers, including Charles Levun (Chicago) on Pass-Through Entity Tax Traps and Hot Topics; Stef Tucker (Washington) on Tax-Free Exchanges/Hot Issues; Professor Jeff Pennell (Atlanta) on Recent Estate and Gift Tax Developments; Alson Martin (Kansas) on Qualified Retirement Plan Options; Robert Rosepink (Scottsdale) on Funding Trusts – Tax Perspectives; and Richard Ward (Atlanta) on Failed and Failing Business – Tax Consequences.

- ❖ *Unclaimed Property Reporting*, Lorman Education Services, Birmingham, Alabama, July 25.
- ❖ *LLCs: Advising Small Business Start-Ups and Larger Companies in Alabama*, Lorman Education Services, Montgomery, Alabama, July 30.
- ❖ *Recent Developments in LLC State Tax Cases, Rules and Regulations*, American Bar Association Annual Meeting, Section of Business Law, San Francisco, California, August 8.

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