Form 81-110
(Revised for 2008)

MISSISSIPPI

INSTRUCTIONS FOR COMPLETING FORM 81-110, FIDUCIARY INCOME TAX RETURN FOR ESTATES AND TRUSTS

Generally, Federal rules and regulations relating to Estates and Trusts will be followed for State purposes to the extent they are not deemed contrary to the context and intent of Mississippi law.

Taxation of Estates and Trusts.

The income tax imposed upon individuals shall be applicable to the income of estates or of any kind of property held in trust as well as the net income received during the taxable year by deceased individuals who, at the time of death, were residents and who have died during the taxable year or subsequent thereto without having made a return, and the net income of resident insolvent or incompetent individuals where the fiduciary has complete charge of such income. The rate of tax, the statutory provisions respecting gross income, and with certain exceptions, the deductions, exemptions and credits allowed to individuals apply also to estates and trusts.

Resident Estate or Trust

The fiduciary of a resident estate or trust must file a Mississippi fiduciary return (Form 81-110) if the estate or trust had any taxable income.

Non-resident Estate or Trust

The fiduciary of a non-resident estate or trust must file a Mississippi fiduciary return (Form 81-110) if the estate or trust had taxable income or gain derived from Mississippi sources.

Definitions

A resident estate is the estate of a person who was a Mississippi resident at the time of death. All other estates are non-resident estates.

A resident trust is any trust which is administered by the trustee in Mississippi. A trust being administered outside of Mississippi shall not be considered a resident trust merely because the governing instrument or a law requires that the laws of Mississippi be followed with respect to interpretation or administration of the trust. All other trusts are non-resident trusts.

Income from Mississippi sources includes income or gain from:

a. Real or tangible personal property located in Mississippi;
b. A business, profession or occupation carried on within Mississippi; or
c. Services performed within Mississippi.

For a nonresident estate or trust, income from the following is not considered to be derived from Mississippi sources: annuities, interest, dividends, or gains from the sale or exchange of intangible personal property, unless it is part of the income from a business, trade, profession, or occupation that is carried on within Mississippi.

Form 81-110, Mississippi Fiduciary Income Tax Return for Estates and Trusts is a reconciliation type return which uses the income from the U. S. Income Tax Return for Estates and Trusts, Form 1041, as a starting point. Accordingly, **a complete copy of the Federal return must be attached to this return. Note: If you had income not directly included on your federal income tax return, such as income as a Qualified Subchapter "S" Trust (QSST), include such amounts under lines 2f, 2g, and 2h as needed along with supporting detail.**

WHO MUST FILE

Every fiduciary (or one of the joint fiduciaries) is required to file a Mississippi Fiduciary Income Tax Return, Form 80-110, for any resident individual, trust or estate for which he acts, or for any nonresident individual, trust or estate for which he acts that has taxable income or gain derived from Mississippi sources.

WHEN TO FILE.

Calendar year estates and trusts must file a fiduciary income tax return on or before April 15th. Fiscal year estates and trusts must file a fiduciary income tax return on or before the 15th day of the fourth month following the close of the tax period. A fiduciary's taxable year and its method of accounting are required to be the same for Mississippi income tax purposes as determined for Federal income tax purposes.

EXTENSION OF TIME TO FILE RETURN

An extension of time to file a Mississippi Fiduciary Income Tax Return may be requested. **The authorized extension of time to file does not extend the time for payment of income tax due.** Interest and penalty shall apply on any underpayment of tax. Taxpayers having a tax liability who request an extension of time must remit the tax due with their Mississippi application for extension. Fiduciaries may submit Form 80-180 on or before the due date of their return, including remittance for any remaining tax liability, and receive an automatic extension of time to file. An extension of time to file a Federal Fiduciary Return will be accepted if no additional Mississippi tax is due.

WHERE TO FILE

Balance due returns (or returns with no tax due) and refund returns are to be mailed to different addresses. The completed returns should be mailed as follows:

Additional Tax Due (or No Tax Due):	**Refund Requested:**
OFFICE OF REVENUE	OFFICE OF REVENUE
Post Office Box 23050	Post Office Box 23058
Jackson, MS 39225-3050	Jackson, MS 39225-3058

You can visit our Web page to answer many of the questions you may have and to obtain information regarding tax laws. Our address is ***www.mstc.state.ms.us*** **.**

Line by Line Instructions: Page 1

Lines 1 - 4. Check the applicable block as instructed.
Line 5a. A copy of the Mississippi Schedule K-1 issued to each beneficiary must be attached the fiduciary tax return. Enter the number of Mississippi Schedule K-1's attached to the return.
Line 5b. For an **Estate,** enter the date of Decedent's Death; for a **Trust,** enter the date the trust was established.
Line 6. Taxable Income of Fiduciary - Enter the amount from Page 2, Line 12. If a loss was incurred, enter 0.
Line 6a. Enter the first $5,000 of taxable income or part ($0-$5,000) in the Taxable Income column. Multiply this amount by 3% and enter the result in the Income Tax Column (Column C).
Line 6b. Enter the next $5,000 of taxable income or part ($5,001-$10,000) in the Taxable Income column. Multiply this amount by 4% and enter the result in the Income Tax Column (Column C).
Line 6c. Enter the remaining taxable income ($10,001 and over) in the Taxable Income column. Multiply this amount by 5% and enter the result in the Income Tax column (Column C).
Line 7. Total Income Tax - Add the income tax amounts from Lines 6a, 6b and 6c (Column C) and enter result.
Line 8. Overpayment From Prior Year, Estimated Payments, and Payments With Extensions - Enter the total of the amount credited from prior year overpayment, estimated payments, and amount paid with extension Form 80-180.
Line 9. Ad Valorem Tax and/or Other Credits - Complete Form 80-108 (see credit codes in form 80-100 page 9). Enter trust's or estate's share of credits here.
Line 10. Total Credits - Add Lines 8 and 9 and enter result here.
Line 11. Overpayment - If Line 10 is greater than Line 7, enter the amount of Overpayment here.
Line 12. Amount of Overpayment Credited to Next Year - Enter the amount of Line 11 to be credited to 2007 estimated tax.
Line 13. Amount of Overpayment to be Refunded - Subtract Line 12 from Line 11. Enter the balance to be Refunded.
Line 14. Balance Due - If Line 7 is greater than Line 10, enter balance of tax due.
Line 15. Late Payments - Compute interest at 1% per month or part of a month on tax unpaid after the original due date. Include penalty at 1/2 of 1% per month or part of a month to a maximum of 25% of the tax unpaid after the original due date. A late filing penalty is added if the return is not filed on time (including extensions). The penalty is 5% of the amount due for each month or a part of a month your return is late, not to exceed 25% total penalty. The minimum late filing penalty is $100.
Line 16. Amount Paid - Enter the sum of Lines 14 and 15. Attach payment for **Total Amount** due to: **State Tax Commission.**

Line by Line Instructions: Page 2 - Computation of Taxable Income
Line 1. Enter the amount of **Adjusted Total Income or (Loss)** from Federal Form 1041, page 1, **Line 17.**
Line 2a. State Income Tax Adjustment - Taxes based on income are not deductible. Enter the amount of state, local and foreign government income taxes claimed as a deduction on Form 1041.
Line 2b. Depletion Adjustment - No deduction is allowed for depletion in excess of the cost basis of the depletable asset. Enter the amount of depletion claimed on Form 1041 in excess of the cost basis of the asset on which the depletion is claimed.
Line 2c. Interest Adjustment - Interest on obligations of states and political subdivisions thereof **outside** Mississippi is taxable for Mississippi purposes. Enter the amount of interest on obligations of states and political subdivisions thereof (other than from Mississippi) received by the Fiduciary.
Line 2d. Expenses of Earning Exempt Income - Interest received on U. S. Government obligations is not taxable for Mississippi purposes, and expenses incurred in earning the tax exempt income are not deductible. Enter the amount of expenses directly applicable to earning interest on U. S. Government obligations.
Line 2e. Adjustment for Itemized Deductions - If you elect to claim the standard deduction on the Mississippi Fiduciary Income Tax Return (Line 5e below), enter the amount of itemized deductions claimed on the Fiduciary return in arriving at the amount shown on Line 17 of Federal Form 1041. Attach a schedule of the deductions added back.
Lines 2f - 2h. Other Additions - Add back any other item which is treated differently for Mississippi income tax purposes than was treated for Federal income tax purposes. Itemize here. Attach schedule if needed. Include any income not included as a part of Federal Form 1041. Line 17.
Line 3. Total Additions - Add Lines 2a through 2h.
Line 4. Enter the total of Lines 1 and 3.
Line 5a. Exempt Interest - Interest received on U. S. Government obligations is not taxable to Mississippi. Enter the amount of such interest reported as income on Federal Form 1041.

Line 5b. Wages Adjustment - Federal income tax laws allow certain tax credits based on wages paid to employees, and a portion of the wages on which the credit was based is not allowed as a deduction. Mississippi does not allow these credits. Enter the amount by which wages on the Form 1041 were reduced by employment tax credits (such as the Targeted Jobs Credit).
Line 5c. Capital Gains Adjustment - Enter the amount of capital gains on the sale of authorized shares in financial institutions domiciled in Mississippi and domestic corporations, or partnership interests in domestic limited partnerships and domestic limited liability companies exempt from Mississippi tax by Section 27-7-9(f)(10) of the Mississippi Code. Attach Form 83-135.
Line 5d. Expenses of Earning Interest Income - Enter the amount of expenses directly applicable to earning the interest income shown on Line 2c above. Such expenses would not have been deductible on Form 1041 since they related to tax-exempt income.
Line 5e. Standard Deduction - A standard deduction of $ 1,700 is allowed to fiduciaries **in lieu of** itemized fiduciary expenses. If the standard deduction is claimed, see Line 2e above.
Lines 5f. NONRESIDENT FIDUCIARY RETURNS ONLY - Enter the amount of income from Non-Mississippi sources, net of expenses. Attach schedule. This adjustment is necessary to determine taxable income or loss for Mississippi purposes.
Lines 5g -5h. Other Deductions - Deduct any other item which is treated differently for Mississippi income tax purposes than was treated for Federal income tax purposes. Itemize here. Attach schedule if needed.
Line 6. Total Deductions - Enter the total of Lines 5a through 5h.
Line 7. Adjusted Net Income or Loss for Mississippi Purposes - Subtract Line 6 from Line 4.
Line 8. Amount Distributed to Beneficiaries - Complete Schedule K, Form 81-131, and deduct any income of the estate or trust for its taxable year which is distributable currently by the fiduciary to a beneficiary, whether or not such income is actually distributed OR any income of the estate or trust for its taxable year which is properly paid or credited during such year to a beneficiary if there was vested in the fiduciary a discretion either to distribute or to accumulate such income. Income distributed to non-residents of this state from investments in intangibles (dividends, interest, etc.) having a situs in Mississippi may be excluded from the non-resident's Mississippi taxable income. Income from other sources distributed or distributable to nonresidents shall be included in gross income and reflected in the return filed by such non-resident with this state.
Line 9. Estate Tax Deduction - An estate may be entitled to claim the estate tax deduction if the estate must include in gross income for any tax year an amount of income in respect to a decedent. The estate tax deduction is computed based on the Mississippi estate tax attributable to the net value of all the items included in the estate that represent income in respect of the decedent less adjustment for distribution of this income to beneficiaries. Attach a schedule showing computation of deduction.
Line 10. Exemption - Estates and trusts are allowed the same exemptions that are allowed for Federal purposes:

Estates	$ 600
Simple Trust	$ 300
Complex Trust	$ 100

Line 11. Total - Enter the total of Lines 8 through 10.
Line 12. Taxable Income or Loss for Mississippi Purposes - Subtract Line 11 from Line 7 and enter the result here and on Page 1, Line 6, of this form. **Note:** If the amount on this line is a loss, enter a 0 on Page 1, Line 6, of this form.

Instructions for Schedule K - Beneficiaries Shares of Income (Form 81-131)

Column A - Enter the name, complete current address and FEIN (Social Security Number or Employer Identification Number) of each beneficiary having a beneficial interest in the Estate or Trust.

Column B - Enter the percentage of beneficial interest owned by each beneficiary. You must account for 100% of the ownership. Also, enter the State of Residency of each beneficiary.

Columns C and D - Distributions to Beneficiaries - Enter the total amount distributed to each beneficiary based on their respective percentage of beneficial interest in the Estate or Trust. **Column C** is used to report to both resident and non-resident beneficiaries the distributions which are taxable to Mississippi. For resident beneficiaries, the amount of distribution includes income from all sources. For non-resident beneficiaries, the amount of distribution includes only Mississippi sourced income. **Column D** is used to report to the non-resident beneficiary the amount of the distribution from non-Mississippi sourced income (not taxable to the Non-resident beneficiary an a Mississippi return).

Amount Distributed to Beneficiaries (Bottom of Page 1) - Enter the combined totals of Columns C and D. This represents the deduction allowed to the Estate or Trust for distributions to beneficiaries. The total should be transferred to Form 81-110, Page 2, Line 8.

If additional space is needed, use another Form 81-131.

Instructions for Mississippi Fiduciary Schedule K-1 (Form 81-132)

Schedule K-1, (Form 81-132) is used to report the beneficiary's share of income, deductions, and credits from a trust or a decedent's estate. The fiduciary (or one of the joint fiduciaries) must prepare Schedule K-1 for each beneficiary having a beneficial interest in the trust or estate at any time during the taxable year. C**opies of Schedule K-1 are required to be filed with Form 81-110 filed with the State.**

Mississippi will follow Federal rules relating to character of income and allocation of deductions as shown in the instructions for preparing Schedules K-1 which are included in the instructions for Federal Form 1041.

Each Schedule K-1 (Form 81-132) must be completed to show the beneficiary's SSN or FEIN; the trust or estate's FEIN; the name of the trust or decedent's estate; the name and address of the beneficiary; the name and address of the fiduciary; and the beneficiary's percentage of interest in the entity for the tax year.

Specific Line Instructions:

Line 1 - Interest Enter the beneficiary's share of the taxable interest income minus allocable deductions.
Line 2 - Dividends Enter the beneficiary's share of dividend income minus allocable deductions.
Line 3a - Net Short-Term Capital Gain Enter the beneficiary's share of net short-term capital gain minus allocable deductions. Do not enter a loss on Line 3a.
Line 3b - Net Long-Term Capital Gain Enter the beneficiary's share of net long-term capital gain minus allocable deductions. Do not enter a loss on Line 3b.
Line 4a - Annuities, Royalties, and Other Nonpassive Income Enter the beneficiary's share of annuities, royalties, or any other income, minus allocable deductions (other than directly apportionable deductions).
Lines 4b and 5b - Depreciation Enter the beneficiary's share of the depreciation deductions attributable to each activity reported on Lines 4a and 5a. Follow Federal instructions for apportioning depreciation deductions between the beneficiaries and the trust or estate.
Lines 4c and 5c - Depletion Enter the beneficiary's share of the depletion deduction under IRC section 611 attributable to each activity reported on Lines 4a and 5a. Follow Federal instructions for apportioning depletion deductions between the beneficiaries and the trust or estate.
Lines 4d and 5d - Amortization Itemize the beneficiary's share of the amortization deductions attributable to each activity reported on Lines 4a and 5a. Apportion the amortization deductions between the trust or estate and the beneficiaries in the same way the depreciation and depletion deductions are divided.
Line 5a - Trade or business, rental real estate, and other rental income Enter the beneficiary's share or trade or business, rental real estate, and other rental income, minus allocable deductions (other than directly apportionable deductions).
Line 6 - Estate Tax Deduction If the distribution deduction consists of any income in respect of a decedent, and the estate or trust was allowed a deduction under IRC section 691(c) for the estate tax paid attributable to such income, the beneficiary is allowed an estate tax deduction in proportion to his or her share of the distribution that consists of such income.
Line 7 - Deductions in the final year of trust or decedent's estate

a. **Excess deductions on termination** Follow Federal Schedule K-1 instructions.
b. **Short-term capital loss carryover, and**
c. **Long-term capital loss carryover** Upon termination of the trust or decedent's estate, the beneficiary succeeding to the property is allowed as a deduction any unused capital loss carryover under IRC section 1212.
d. **Net Operating Loss (NOL) carryover** Upon termination of a trust or decedent's estate, a beneficiary succeeding to its property is allowed to deduct any unused NOL carryover if the carryover would be allowable to the estate or trust in a later tax year but for the termination.

Line 8 - Other Itemize here, or on a separate sheet if more space is needed, the beneficiary's tax information not entered elsewhere on Schedule K-1.

a. **Payment of estimated tax to be credited to the beneficiary**
b. **Tax exempt Interest** Tax exempt interest income received or accrued by the trust or estate (including exempt-interest dividends from a mutual fund or other regulated investment company). For non-resident beneficiaries, indicate the amount distributed from investments in intangibles (dividends, interest, etc.) having a situs in Mississippi which may be excluded from the non-resident's Mississippi taxable income.

Line 9 - Credits On the appropriate lines, enter the beneficiary's share of Ad Valorem Tax Credit (Line 9a) or Other Credits (Line 9b) earned by the trust or estate. Show the type of credit and code number as reflected on Form 80-100, Page 9, Income Tax Credit Codes.