

HB217 ENROLLED



1 GYIF66-4

2 By Representatives Daniels, Ledbetter, Garrett, Chestnut,
3 Lawrence, Bracy, Drummond, Warren, Whitt, Faulkner, Colvin,
4 Clarke, Woods, Jones, Plump, Moore (M), Hollis, Boyd, Travis,
5 Stubbs, Starnes, Reynolds, Mooney, Harrison

6 RFD: Ways and Means Education

7 First Read: 23-Mar-23

8 2023 Regular Session



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9 Enrolled, An Act,

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12 Relating to gross income; to amend Section 40-18-14,
13 Code of Alabama 1975; to exclude hours worked above 40 in any
14 given week from gross income.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 40-18-14, Code of Alabama 1975, is
17 amended to read as follows:

18 "§40-18-14

19 (a) The term "gross income" as used herein:

20 (1) Includes gains, profits and income derived from
21 salaries, wages, or compensation for personal services of
22 whatever kind, or in whatever form paid, including the
23 salaries, income, fees, and other compensation of state,
24 county, and municipal officers and employees, or from
25 professions, vocations, trades, business, commerce or sales,
26 or dealings in property whether real or personal, growing out
27 of ownership or use of or interest in such property; also from
28 interest, royalties, rents, dividends, securities, or
29 transactions of any business carried on for gain or profit and
30 the income derived from any source whatever, including any
31 income not exempted under this chapter and against which
32 income there is no provision for a tax. The term "gross
33 income" as used herein also includes alimony and separate
34 maintenance payments to the extent they are includable in
35 gross income for federal income tax purposes under 26 U.S.C. §
36 71 (relating to alimony and separate maintenance payments).



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37 The term "gross income" as used herein also includes any
38 amount included in gross income under 26 U.S.C. § 83 at the
39 time it is so included under 26 U.S.C. § 83.

40 (2) For purposes of this chapter, the reductions in tax
41 attributes required by 26 U.S.C. § 108 shall be applied only
42 to the net operating losses determined under this chapter and
43 the basis of depreciable property. The basis reductions of
44 depreciable property shall not exceed the basis reductions for
45 federal income tax purposes. All other tax attribute
46 reductions required by 26 U.S.C. § 108 shall not be
47 recognized.

48 (3) Gross income does not include the following items
49 which shall be exempt from income tax under this chapter:

50 a. Amounts received under life insurance policies and
51 contracts paid by reason of the death of the insured in
52 accordance with 26 U.S.C. § 101;

53 b. Amounts received, other than amounts paid by reason
54 of the death of the insured, under life insurance, endowment
55 or annuity contracts, determined in accordance with 26 U.S.C.
56 § 72;

57 c. The value of property acquired by gift, bequest,
58 devise, or descent, but the income from such property shall be
59 included in the gross income, in accordance with 26 U.S.C. §
60 102;

61 d. Interest upon obligations of the United States or
62 its possessions; or securities issued under provisions of the
63 Federal Farm Loan Act of July 18, 1916;

64 e. Any amounts received by an individual which are



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65 excludable from gross income under 26 U.S.C. § 104 (relating
66 to compensation for injuries or sickness) or 26 U.S.C. § 105
67 (relating to amounts received under accident or health plans);

68 f. Interest on obligations of the State of Alabama and
69 any county, municipality, or other political subdivision
70 thereof;

71 g. The rental value of a parsonage provided to a
72 minister of the gospel to the extent excludable under 26
73 U.S.C. § 107;

74 h. Income from discharge of indebtedness to the extent
75 allowed by 26 U.S.C. § 108;

76 i. For each individual resident taxpayer, or each
77 husband and wife filing a joint income tax return, as the case
78 may be, any gain realized from the sale of a personal
79 residence of the taxpayer shall be excluded to the extent
80 excludable for federal income tax purposes under 26 U.S.C. §
81 121;

82 j. Contributions made by an employer on behalf of an
83 employee to a trust which is part of a qualified cash or
84 deferred arrangement (as defined in 26 U.S.C. § 401(k)(2), or
85 5 U.S.C. § 8437) under which the employee has an election
86 whether the contribution will be made to the trust or received
87 by the employee in cash and contributions made by an employer
88 for an employee for an annuity contract, which contributions
89 would be excludable from the gross income (for federal income
90 tax purposes) of the employee in accordance with the
91 provisions of 26 U.S.C. § 403(b). The limitations imposed by
92 26 U.S.C. § 402(g) shall apply for purposes of this paragraph;



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93 k. Amounts that an employee is allowed to exclude from
94 gross income for federal income tax purposes pursuant to 26
95 U.S.C. § 125 (relating to cafeteria plans) and 26 U.S.C. § 132
96 (relating to certain fringe benefits); and

97 1. Amounts paid or incurred by an employer on behalf of
98 an employee if the amounts may be excluded from gross income
99 for federal income tax purposes by an employee pursuant to 26
100 U.S.C. § 129 (relating to dependent care expenses).

101 m. 1. Amounts received by a full-time hourly waged paid
102 employee as compensation for work performed in excess of 40
103 hours in a week.

104 2. The exemption provided pursuant to this paragraph
105 shall be available for tax years that begin after December 31,
106 2023, and end prior to January 1, 2027 June 30, 2025.

107 ~~3. The Department of Revenue shall adopt rules to~~
108 ~~ensure that no more than \$25 million, annually, in aggregate~~
109 ~~income taxes otherwise due from all taxpayers is exempt from~~
110 ~~income tax pursuant to this paragraph.~~

111 3. Each employer shall submit to the Department of
112 Revenue, on forms prescribed by the department, the following:

113 (i) For the tax year beginning January 1, 2023, the
114 total amount received by full-time hourly wage-paid employees
115 as compensation for work performed in excess of 40 hours in a
116 week and the total number of employees for which it was paid.
117 The data shall be due no later than January 31, 2024.

118 (ii) For the tax year beginning on or after January 1,
119 2024, and each tax year thereafter, the total amount received
120 by full-time hourly wage-paid employees as compensation for



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121 work performed in excess of 40 hours in a week and the total
122 number of employees for which it was paid. The data shall be
123 provided monthly or quarterly and shall be due no later than
124 the due date for the corresponding monthly or quarterly
125 withholding tax returns.

126 (iii) Additional information as may be required by the
127 department.

128 4. The department shall report to the Legislative
129 Services Agency - Fiscal Division and the Department of
130 Finance the data collected and compiled pursuant to
131 subparagraph 3. no later than 30 days after the due date of
132 such data.

133 (4) The term "gross income," in the case of a resident
134 individual, includes income from sources within and outside
135 Alabama, including without limitation, the resident's
136 proportionate share of any income arising from a Subchapter K
137 entity, Alabama S corporation, or estate or trust, regardless
138 of the geographic source of the income. The term gross income,
139 in the case of a nonresident individual, includes only income
140 from property owned or business transacted in Alabama. For
141 purposes of this article, proportionate share shall be defined
142 by reference to (i) the status of the individual owner as a
143 partner or member of a Subchapter K entity, shareholder of an
144 Alabama S corporation, or beneficiary of an estate or trust,
145 and (ii) the allocable interest in that entity owned by the
146 individual.

147 (b) The Department of Revenue may adopt rules to
148 provide for the administration of the provisions of this



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149 [section.](#)"

150 Section 2. This act shall become effective on January
151 1, 2024, following its passage and approval by the Governor,
152 or its otherwise becoming law.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 02-May-23, as amended and was passed again as amended by Executive Amendment 06-Jun-23.

Yeas 103, Nays 0, Abstains 0

John Treadwell
Clerk

Senate 06-Jun-23 Passed

Senate 06-Jun-23 Passed, as amended by
Executive Amendment
Yeas 30, Nays 0, Abstains 0

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