

HB407 ENROLLED



1 HB407
2 UZBFGXD-3
3 By Representative Pettus
4 RFD: Ways and Means Education
5 First Read: 02-Apr-24



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1 Enrolled, An Act,

2 Relating to income taxes; to amend Section 40-18-14,
3 Code of Alabama 1975, as last amended by Act 2023-421; to
4 amend the definition of gross income; to exempt from state
5 income tax amounts paid as overtime compensation in accordance
6 with the U.S. Fair Labor Standards Act.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 40-18-14, Code of Alabama 1975, as
9 last amended by Act 2023-421, is amended to read as follows:

10 "§40-18-14

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

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



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29 term "gross income" as used herein also includes any amount
30 included in gross income under 26 U.S.C. § 83 at the time it
31 is so included under 26 U.S.C. § 83.

32 (2) For purposes of this chapter, the reductions in tax
33 attributes required by 26 U.S.C. § 108 shall be applied only
34 to the net operating losses determined under this chapter and
35 the basis of depreciable property. The basis reductions of
36 depreciable property shall not exceed the basis reductions for
37 federal income tax purposes. All other tax attribute
38 reductions required by 26 U.S.C. § 108 shall not be
39 recognized.

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

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

45 b. Amounts received, other than amounts paid by reason
46 of the death of the insured, under life insurance, endowment
47 or annuity contracts, determined in accordance with 26 U.S.C.
48 § 72;

49 c. The value of property acquired by gift, bequest,
50 devise, or descent, but the income from such property shall be
51 included in the gross income, in accordance with 26 U.S.C. §
52 102;

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

56 e. Any amounts received by an individual which are



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57 excludable from gross income under 26 U.S.C. § 104, relating
58 to compensation for injuries or sickness, or 26 U.S.C. § 105,
59 relating to amounts received under accident or health plans;

60 f. Interest on obligations of the State of Alabama and
61 any county, municipality, or other political subdivision
62 thereof;

63 g. The rental value of a parsonage provided to a
64 minister of the gospel to the extent excludable under 26
65 U.S.C. § 107;

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

68 i. For each individual resident taxpayer, or each
69 husband and wife filing a joint income tax return, as the case
70 may be, any gain realized from the sale of a personal
71 residence of the taxpayer shall be excluded to the extent
72 excludable for federal income tax purposes under 26 U.S.C. §
73 121;

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



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85 k. Amounts that an employee is allowed to exclude from
86 gross income for federal income tax purposes pursuant to 26
87 U.S.C. § 125, relating to cafeteria plans, and 26 U.S.C. §
88 132, relating to certain fringe benefits; and

89 1. Amounts paid or incurred by an employer on behalf of
90 an employee if the amounts may be excluded from gross income
91 for federal income tax purposes by an employee pursuant to 26
92 U.S.C. § 129, relating to dependent care expenses.

93 m.1.(i) Amounts received by a full-time hourly waged
94 paid employee as compensation for work performed in excess of
95 40 hours in a week.

96 ~~2.~~(ii) The exemption provided pursuant to this
97 subparagraph shall be available for tax years that begin after
98 December 31, 2023, and end ~~prior to June 30, 2025~~ on the
99 effective date of this act.

100 2.(i) Amounts paid as overtime compensation in
101 accordance with the U.S. Fair Labor Standards Act.

102 (ii) The exemption provided pursuant to this
103 subparagraph shall be available beginning on the effective
104 date of this act through June 30, 2025.

105 3. Notwithstanding subparagraph 2., for employers
106 governed by the National Railway Labor Act, the exemption
107 provided in this paragraph applies to hourly component
108 overtime compensation as defined in applicable collective
109 bargaining agreements.

110 ~~3.~~4. Each employer shall submit to the Department of
111 Revenue, on forms prescribed by the department, all of the
112 following:



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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 through September 30, 2024 the total amount received by
120 full-time hourly wage-paid employees as compensation for work
121 performed in excess of 40 hours in a week., and each tax year
122 thereafter, the total amount received by full-time hourly
123 wage-paid employees as compensation for work performed in
124 excess of 40 hours in a week Beginning on the effective date
125 of this act and each year thereafter the total amount paid
126 pursuant to this paragraph and the total number of employees
127 for which it was paid. The data shall be provided monthly or
128 quarterly and shall be due no later than the due date for the
129 corresponding monthly or quarterly withholding tax returns.

130 (iii) Additional information as may be required by the
131 department.

132 54. The department shall report to the Legislative
133 Services Agency - Fiscal Division and the Department of
134 Finance the data collected and compiled pursuant to
135 subparagraph 3. no later than 30 days after the due date of
136 such data.

137 (4) The term "gross income," in the case of a resident
138 individual, includes income from sources within and outside
139 Alabama, including without limitation, the resident's
140 proportionate share of any income arising from a Subchapter K



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141 entity, Alabama S corporation, or estate or trust, regardless
142 of the geographic source of the income. The term gross income,
143 in the case of a nonresident individual, includes only income
144 from property owned or business transacted in Alabama. For
145 purposes of this article, "proportionate share" shall be
146 defined by reference to (i) the status of the individual owner
147 as a partner or member of a Subchapter K entity, shareholder
148 of an Alabama S corporation, or beneficiary of an estate or
149 trust, and (ii) the allocable interest in that entity owned by
150 the individual.

151 (b) The Department of Revenue may adopt rules to
152 provide for the administration of this section."

153 Section 2. This act shall become effective on October
154 1, 2024.



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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 16-Apr-24, as amended.

John Treadwell
Clerk

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Senate	02-May-24	Amended and Passed
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House	02-May-24	Concurred in Senate Amendment
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