GYIF66-4

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

RFD: Ways and Means Education

First Read: 23-Mar-23

2023 Regular Session
HB217 Enrolled

Enrolled, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§40-18-14

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

(1) Includes gains, profits and income derived from salaries, wages, or compensation for personal services of whatever kind, or in whatever form paid, including the salaries, income, fees, and other compensation of state, county, and municipal officers and employees, or from professions, vocations, trades, business, commerce or sales, or dealings in property whether real or personal, growing out of ownership or use of or interest in such property; also from interest, royalties, rents, dividends, securities, or transactions of any business carried on for gain or profit and the income derived from any source whatever, including any income not exempted under this chapter and against which income there is no provision for a tax. The term "gross income" as used herein also includes alimony and separate maintenance payments to the extent they are includable in gross income for federal income tax purposes under 26 U.S.C. § 71 (relating to alimony and separate maintenance payments)."
The term "gross income" as used herein also includes any amount included in gross income under 26 U.S.C. § 83 at the time it is so included under 26 U.S.C. § 83.

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

(3) Gross income does not include the following items which shall be exempt from income tax under this chapter:
   a. Amounts received under life insurance policies and contracts paid by reason of the death of the insured in accordance with 26 U.S.C. § 101;
   b. Amounts received, other than amounts paid by reason of the death of the insured, under life insurance, endowment or annuity contracts, determined in accordance with 26 U.S.C. § 72;
   c. The value of property acquired by gift, bequest, devise, or descent, but the income from such property shall be included in the gross income, in accordance with 26 U.S.C. § 102;
   d. Interest upon obligations of the United States or its possessions; or securities issued under provisions of the Federal Farm Loan Act of July 18, 1916;
   e. Any amounts received by an individual which are
excludable from gross income under 26 U.S.C. § 104 (relating
to compensation for injuries or sickness) or 26 U.S.C. § 105
(relating to amounts received under accident or health plans);

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

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

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

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

j. Contributions made by an employer on behalf of an
employee to a trust which is part of a qualified cash or
delayed arrangement (as defined in 26 U.S.C. § 401(k)(2), or
5 U.S.C. § 8437) under which the employee has an election
whether the contribution will be made to the trust or received
by the employee in cash and contributions made by an employer
for an employee for an annuity contract, which contributions
would be excludable from the gross income (for federal income
tax purposes) of the employee in accordance with the
provisions of 26 U.S.C. § 403(b). The limitations imposed by
26 U.S.C. § 402(g) shall apply for purposes of this paragraph;
k. Amounts that an employee is allowed to exclude from
gross income for federal income tax purposes pursuant to 26
U.S.C. § 125 (relating to cafeteria plans) and 26 U.S.C. § 132
(relating to certain fringe benefits); and

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

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

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

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

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

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

(ii) For the tax year beginning on or after January 1,
2024, and each tax year thereafter, the total amount received
by full-time hourly wage-paid employees as compensation for
work performed in excess of 40 hours in a week and the total number of employees for which it was paid. The data shall be provided monthly or quarterly and shall be due no later than the due date for the corresponding monthly or quarterly withholding tax returns.

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

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

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

(b) The Department of Revenue may adopt rules to provide for the administration of the provisions of this
Section 2. This act shall become effective on January 1, 2024, following its passage and approval by the Governor, or its otherwise becoming law.
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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