

1 HB336  
2 155643-3  
3 By Representative Williams (J)  
4 RFD: Commerce and Small Business  
5 First Read: 22-JAN-14

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8 SYNOPSIS: Under current law, the business privilege  
9 tax due date for financial institutions is March  
10 15. The Alabama excise tax return filed by  
11 financial institutions is due April 15. Taxpayers  
12 often need to extend the filing date of the  
13 business privilege tax return in order to have  
14 complete information not available until the  
15 financial institution excise tax return is  
16 completed. All other entity types have  
17 corresponding due dates for both the business  
18 privilege tax return and the income tax return.

19 This bill would amend the business privilege  
20 tax due date for taxpayers subject to the financial  
21 institution excise tax from March 15 to April 15,  
22 to provide for corresponding tax return due dates  
23 for financial institutions.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

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To amend Section 40-14A-22 of the Code of Alabama 1975, to change the business privilege tax due date for taxpayers subject to the financial institution excise tax to April 15.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-14A-22 of the Code of Alabama 1975, is amended to read as follows:

"§40-14A-22.

"(a) Levy of tax. There is hereby levied an annual privilege tax on every corporation, limited liability entity, and disregarded entity doing business in Alabama, or organized, incorporated, qualified, or registered under the laws of Alabama. The tax shall accrue as of January 1 of every taxable year, or in the case of a taxpayer organized, incorporated, qualified, or registered during the year, or doing business in Alabama for the first time, as of the date the taxpayer is organized, incorporated, registered, or qualifies to do business, or begins to do business in Alabama, as the case may be. The taxpayer shall be liable for the tax levied by this article for each year beginning before the taxpayer has been dissolved or otherwise ceased to exist or has withdrawn or forfeited its qualification to do business in Alabama. The amount of the tax due shall be determined by multiplying the taxpayer's net worth in Alabama by the rate determined in subsection (b).

1                   "(b) Rate of tax. For all taxable years of taxpayers  
2 that begin after December 31, 1999, the rate of tax shall be  
3 as set forth below.

4                   "If taxable in-  
5 come of the tax-  
6 payer is:

7	at least	but less than	The tax rate shall be
8		\$1	\$0.25 per \$1,000
9	\$1	\$200,000	\$1.00 per \$1,000
10	\$200,000	\$500,000	\$1.25 per \$1,000
11	\$500,000	\$2,500,000	\$1.50 per \$1,000
12	\$2,500,000		\$1.75 per \$1,000

13                   "(c) Minimum tax. Except as provided in subsection  
14 (f), the privilege tax levied by this article on certain  
15 corporations, business trusts, limited liability entities, and  
16 disregarded entities shall not be less than \$100.

17                   "(d) Maximum tax.

18                   "(1) Except as provided in subdivision (2), the  
19 privilege tax levied by this article shall not exceed \$15,250  
20 for any taxpayer for the taxable year beginning January 1,  
21 2000. For each taxable year thereafter, the maximum tax shall  
22 not exceed \$15,000 for any taxpayer, except as provided in  
23 subdivision (2).

1           "(2) With respect to any (i) financial institution  
2 groups as defined in subsection (f) (1); (ii) insurance  
3 company that is subject to the premium taxes levied by Chapter  
4 4A of Title 27; and (iii) corporation, company, limited  
5 liability entity, or association whose property is assessed  
6 for taxation pursuant to the provisions of Chapter 21 and is  
7 ~~also~~ obligated to serve the general public, but is not subject  
8 to the Alabama corporate income tax, the privilege tax levied  
9 by this article shall not exceed \$3,000,000, for any taxpayer  
10 or, for a financial institution group, for the financial  
11 institution group as a whole each year except as provided in  
12 subsection (e). With respect to any real estate investment  
13 trust as defined in Chapter 13 of Title 10, the privilege tax  
14 levied by this article shall not exceed \$500,000, for any  
15 taxpayer each year except as provided in subsection (e). The  
16 privilege tax levied by this article on any electing family  
17 limited liability entity shall not exceed \$500.

18           "The privilege tax levied by this article on any  
19 corporation organized as a not-for-profit corporation that  
20 does not engage in any business other than holding title to  
21 property and paying the expenses thereof, including, without  
22 limitation, a property owners' association or a corporation  
23 organized solely to hold title to property on a temporary  
24 basis, shall not exceed \$100.

25           "(e) Short taxable years. If any taxpayer's taxable  
26 year is less than 12 months because the taxpayer is  
27 incorporated or organized within the taxable year, or if any

1 foreign corporation or foreign limited liability entity  
2 qualifies, registers, or begins to do business in this state  
3 within the taxable year or converts to a taxable year other  
4 than the calendar year, the amount of the tax levied by this  
5 article shall be determined in the manner specified in this  
6 article but apportioned to the short taxable year in same  
7 proportion as the number of days in the short taxable year  
8 bears to 365, but in no event less than \$100 nor more than the  
9 applicable amount specified in subsection (d).

10 "(f) Minimum taxes for financial institution groups.

11 "(1) For purposes of this subsection, the following  
12 terms shall mean:

13 "a. Affiliated Group. (i) One or more chains of  
14 corporations or limited liability entities connected through  
15 the ownership of stock or ownership interests with a common  
16 parent which is a corporation or limited liability entity, but  
17 only if the common parent owns directly stock or ownership  
18 interests meeting the requirements of item (ii) in at least  
19 one of the other corporations or limited liability entities,  
20 and only if stock or ownership interests meeting the  
21 requirements of item (ii) in each of the corporations or  
22 limited liability entities (except the common parent) is owned  
23 directly by one or more of the other corporations or limited  
24 liability entities. (ii) The ownership of stock or ownership  
25 interests of any corporation or limited liability entity meets  
26 the requirements of this paragraph if it possesses at least 80

1 percent of the total voting power or capital and profits  
2 interest of the corporation or limited liability entity.

3 "b. Financial Institution. The meaning given in  
4 Section 40-16-1.

5 "c. Financial Institution Group. All taxpayers in an  
6 affiliated group where at least one member of the group is a  
7 financial institution that is subject to the provisions of  
8 Chapter 16. In the event a financial institution taxpayer is  
9 not a member of an affiliated group, that financial  
10 institution shall be treated as a financial institution group.

11 "(2) To the extent that the members of a financial  
12 institution group have different taxable years, the group  
13 shall be deemed, for purposes of the business privilege tax  
14 and corporate shares tax levied by Articles 2 and 3, to have a  
15 calendar taxable year.

16 "(3) Taxpayers who are members of a financial  
17 institution group shall complete their corporate shares tax  
18 and business privilege tax returns without regard to this  
19 subsection. Those taxpayers shall submit their returns  
20 together, and the minimum tax amount provided in subdivision  
21 (5) shall apply to the aggregate business privilege tax and  
22 corporate shares tax liability of the group. To the extent  
23 that the minimum amount provided in subdivision (5) applies to  
24 determine the liability of the group, each taxpayer which is a  
25 member of the group shall be liable for that portion of the  
26 group liability which is equal to the amount multiplied by the  
27 ratio of the taxpayer's liability without regard to this

1 subsection over the liability of the group without regard to  
2 this subsection. Upon the annual election of the common  
3 parent, a financial institution group may file a single  
4 return, executed by the common parent of that financial  
5 institution group. The return shall be completed as if the  
6 financial institution group were a single taxpayer. Each  
7 member of the financial institution group shall be jointly and  
8 severally liable for the group's business privilege tax and  
9 corporate shares tax liabilities.

10 ~~"(4) For the taxable year beginning January 1, 2000,~~  
11 ~~the tax returns of all members of a financial institution~~  
12 ~~group shall be due July 10, 2000.~~ For taxable years beginning  
13 after December 31, 2000, and before January 1, 2015, the tax  
14 returns for all members of a financial institution group shall  
15 be due March 15 of the taxable year. For taxable years  
16 beginning after December 31, 2014, the tax returns for all  
17 members of a financial institution group shall be due no later  
18 than three and one-half months after the beginning of the  
19 taxable year. Extensions for filing these returns shall not be  
20 granted ~~beyond September 15 of the taxable year~~ for more than  
21 six months. ~~For the return due July 10, 2000, any corporate~~  
22 ~~shares taxes and business privilege taxes accrued and paid by~~  
23 ~~any member of the financial institution group before July 10,~~  
24 ~~2000, shall be applied against the minimum tax amount provided~~  
25 ~~in subdivision (5).~~

26 "(5) For taxable years beginning on or after January  
27 1, 2000, the minimum aggregate business privilege and

1 corporate shares taxes levied by Articles 2 and 3 on all  
2 members of a financial institution group shall be:

3 "a. For financial institutions with total deposits  
4 inside Alabama of less than one billion dollars  
5 (\$1,000,000,000) within that financial institution group, as  
6 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the  
7 immediately preceding taxable year, the tax rate shall be  
8 \$.125 per one thousand dollars (\$1,000) of such deposits. For  
9 deposit rate purposes for all future periods, the deposits  
10 shall in no event be less than the deposits listed as of June  
11 30, 1999.

12 "b. For financial institutions with total deposits  
13 inside Alabama of one billion dollars (\$1,000,000,000) or  
14 greater up to and including six billion dollars  
15 (\$6,000,000,000) within that financial institution group, as  
16 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the  
17 immediately preceding taxable year, the tax rate shall be \$.17  
18 per one thousand dollars (\$1,000) of such deposits. For  
19 deposit rate purposes for all future periods, the deposits  
20 shall in no event be less than the deposits listed as of June  
21 30, 1999.

22 "c. For financial institutions with total deposits  
23 inside Alabama greater than six billion dollars  
24 (\$6,000,000,000) within that financial institution group, as  
25 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the  
26 immediately preceding taxable year, the tax rate shall be  
27 \$.225 per one thousand dollars (\$1,000) of such deposits. For

1 deposit rate purposes for all future periods, the deposits  
2 shall in no event be less than the deposits listed as of June  
3 30, 1999.

4 "e. In the event a financial institution group sells  
5 Alabama deposits to another financial institution group that  
6 reports those deposits in Alabama for purposes of Act  
7 2000-705, those deposits shall not be taxed more than once  
8 pursuant to the provisions of Act 2000-705 in the same taxable  
9 year. The liability for such taxes shall be the responsibility  
10 of the purchaser, and the tax base for the selling group shall  
11 be adjusted accordingly.

12 "f. In the event an existing financial institution  
13 group reports deposits in any year less than 96.5 percent of  
14 the deposits reported as of June 30, 1999, the alternative  
15 minimum tax shall be based on the deposits reported as of June  
16 30, 1999. In the event an existing financial institution group  
17 reports deposits in any year more than 96.5 percent of the  
18 deposits reported as of June 30, 1999, the alternative minimum  
19 tax shall be based on the deposits reported for that taxable  
20 year. For financial institutions coming into existence after  
21 June 30, 1999, the deposits upon which the alternative minimum  
22 tax is based shall not be less than the deposits reported the  
23 first full year that financial institution reported deposits  
24 to the FDIC, OTS, or NCUSIF."

25 Section 2. The provisions of this act are severable.  
26 If any part of this act is declared invalid or

1       unconstitutional, that declaration shall not affect the part  
2       which remains.

3               Section 3. All laws or parts of laws which conflict  
4       with this act are repealed.

5               Section 4. This act shall become effective on the  
6       first day of the second month following its passage and  
7       approval by the Governor, or its otherwise becoming law.