

1 HB46  
2 182671-2  
3 By Representative Scott  
4 RFD: State Government  
5 First Read: 07-FEB-17  
6 PFD: 01/25/2017



1 a mechanism to ensure that qualified individuals provide tax  
2 preparation services in Alabama.

3 Section 3. When used in this act, the following  
4 terms shall have the following meanings:

5 (1) DEPARTMENT. The Alabama Department of Revenue.

6 (2) INCOME TAX RETURN PREPARER.

7 (a) A person who prepares for compensation, or who  
8 employs one or more persons to prepare for compensation, any  
9 income tax return or claim for refund, required to be filed  
10 pursuant to Title 40, Chapter 18, Code of Alabama 1975. The  
11 preparation of a substantial portion of a return or claim for  
12 refund shall be treated as the preparation of that return or  
13 claim for refund.

14 (b) A person is not an income tax preparer if all he  
15 or she solely performs the following duties:

16 1. furnishes typing, reproducing, or other  
17 mechanical assistance;

18 2. prepares returns or claims for refunds for the  
19 employer by whom he or she is regularly and continuously  
20 employed, or for an affiliate of that employer, including a  
21 subchapter K entity for which he or she prepares a return;

22 3. prepares as a fiduciary, returns or claims for  
23 refunds for any person; or

24 4. prepares claims for refunds for a taxpayer in  
25 response to any notice of deficiency issued to that taxpayer  
26 or in response to any waiver of restriction after the  
27 commencement of an audit of that taxpayer or of another

1 taxpayer if a determination in the audit of the other taxpayer  
2 directly or indirectly affects the tax liability of the  
3 taxpayer whose claims he or she is preparing.

4 (3) PERSON. An individual, firm, proprietorship,  
5 association, corporation, or another entity.

6 (4) PTIN. Preparer Tax Identification Number issued  
7 by the Internal Revenue Service and referenced in Internal  
8 Revenue Service Notice 2011-6.

9 Section 4. No person may provide tax preparation  
10 services for Alabama income tax returns, unless an IRS issued  
11 Preparer Tax Identification Number is provided by such  
12 preparer when submitting a return and signing as a paid  
13 preparer.

14 Section 5. Duties of the Department.

15 (a) For taxable years beginning on or after January  
16 1, 2018, the Department shall, by rule, require any income tax  
17 return preparer, as defined in this act, to include his or her  
18 PTIN on any tax return prepared by the income tax return  
19 preparer and filed under Title 40, Chapter 18, Code of Alabama  
20 1975, or any claim for refund of tax imposed by Title 40,  
21 Chapter 18, Code of Alabama 1975.

22 (b) The Department shall develop and by rule  
23 implement a program using the PTIN as an oversight mechanism  
24 to assess returns, to identify high error rates, patterns of  
25 suspected fraud, and unsubstantiated basis for tax positions  
26 by income tax return preparers.

1 (c) The Department shall, by rule, establish formal  
2 and regular communication protocols with the Commissioner of  
3 the Internal Revenue Service to share and exchange PTIN  
4 information on income tax return preparers who are suspected  
5 of fraud, disciplined, or barred from filing tax returns with  
6 the Department or the Internal Revenue Service. The Department  
7 may, by rule, establish additional communication protocols  
8 with other states to exchange similar enforcement or  
9 discipline information.

10 Section 6. Enforcement.

11 (a) The Department may investigate the actions of  
12 any income tax return preparer filing Alabama income tax  
13 returns and may bar or suspend an income tax return preparer  
14 from filing returns with the Department for good cause,  
15 subject to the appeal rights under Chapter 2A of Title 40.

16 (b) In addition to all other penalties provided by  
17 law, any person violating this act by failing to provide his  
18 or her PTIN shall pay a civil penalty to the Department in the  
19 amount of \$50 per offense, but not to exceed \$25,000 per  
20 calendar year; however, no penalty shall be imposed if the  
21 failure is due to reasonable cause and not due to willful  
22 neglect, as determined by the Department.

23 Section 7. Section 40-14A-22 is hereby amended as  
24 follows:

25 "§40-14A-22.

26 "(a) Levy of tax. There is hereby levied an annual  
27 privilege tax on every corporation, limited liability entity,

1 and disregarded entity doing business in Alabama, or  
2 organized, incorporated, qualified, or registered under the  
3 laws of Alabama. The tax shall accrue as of January 1 of every  
4 taxable year, or in the case of a taxpayer organized,  
5 incorporated, qualified, or registered during the year, or  
6 doing business in Alabama for the first time, as of the date  
7 the taxpayer is organized, incorporated, registered, or  
8 qualifies to do business, or begins to do business in Alabama,  
9 as the case may be. The taxpayer shall be liable for the tax  
10 levied by this article for each year beginning before the  
11 taxpayer has been dissolved or otherwise ceased to exist or  
12 has withdrawn or forfeited its qualification to do business in  
13 Alabama. The amount of the tax due shall be determined by  
14 multiplying the taxpayer's net worth in Alabama by the rate  
15 determined in subsection (b).

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

19 If taxable  
20 income of the  
21 taxpayer is:

22	at least	but less	The tax rate
		than	shall be
23		\$1	\$0.25 per
			\$1,000

1	\$1	\$200,000	\$1.00 per \$1,000
2	\$200,000	\$500,000	\$1.25 per \$1,000
3	\$500,000	\$2,500,000	\$1.50 per \$1,000
4	\$2,500,000		\$1.75 per \$1,000

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

9           "(d) Maximum tax.

10           "(1) Except as provided in subdivision (2), the  
11 privilege tax levied by this article shall not exceed \$15,250  
12 for any taxpayer for the taxable year beginning January 1,  
13 2000. For each taxable year thereafter, the maximum tax shall  
14 not exceed \$15,000 for any taxpayer, except as provided in  
15 subdivision (2).

16           "(2) With respect to any (i) financial institution  
17 groups as defined in subsection (f) (1); (ii) insurance  
18 company that is subject to the premium taxes levied by Chapter  
19 4A of Title 27; and (iii) corporation, company, limited  
20 liability entity, or association whose property is assessed

1 for taxation pursuant to the provisions of Chapter 21 and is  
2 ~~also~~ obligated to serve the general public, but is not subject  
3 to the Alabama Corporate Income tax, the privilege tax levied  
4 by this article shall not exceed \$3,000,000, for any taxpayer  
5 or, for a financial institution group, for the financial  
6 institution group as a whole each year except as provided in  
7 subsection (e). ~~With respect to any real estate investment~~  
8 ~~trust as defined in Chapter 13 of Title 10, the privilege tax~~  
9 ~~levied by this article shall not exceed \$500,000, for any~~  
10 ~~taxpayer each year except as provided in subsection (e).~~ The  
11 privilege tax levied by this article on any electing family  
12 limited liability entity shall not exceed \$500.

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

20 "(e) Short taxable years. If any taxpayer's taxable  
21 year is less than 12 months because the taxpayer is  
22 incorporated or organized within the taxable year, or if any  
23 foreign corporation or foreign limited liability entity  
24 qualifies, registers, or begins to do business in this state  
25 within the taxable year or converts to a taxable year other  
26 than the calendar year, the amount of the tax levied by this  
27 article shall be determined in the manner specified in this



1 article but apportioned to the short taxable year in same  
2 proportion as the number of days in the short taxable year  
3 bears to 365, but in no event less than \$100 nor more than the  
4 applicable amount specified in subsection (d).

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

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

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

24 "b. Financial Institution. The meaning given in  
25 Section 40-16-1.

26 "c. Financial Institution Group. All taxpayers in an  
27 affiliated group where at least one member of the group is a

1 financial institution that is subject to the provisions of  
2 Chapter 16. In the event a financial institution taxpayer is  
3 not a member of an affiliated group, that financial  
4 institution shall be treated as a financial institution group.

5 "(2) To the extent that the members of a financial  
6 institution group have different taxable years, the group  
7 shall be deemed, for purposes of the business privilege tax  
8 ~~and corporate shares tax~~ levied by ~~Articles~~ Article 2 and 3,  
9 to have a calendar taxable year.

10 "(3) Taxpayers who are members of a financial  
11 institution group shall complete their ~~corporate shares tax~~  
12 ~~and~~ business privilege tax returns without regard to this  
13 subsection. Those taxpayers shall submit their returns  
14 together, and the minimum tax amount provided in subdivision  
15 (5) shall apply to the aggregate business privilege tax ~~and~~  
16 ~~corporate shares tax~~ liability of the group. To the extent  
17 that the minimum amount provided in subdivision (5) applies to  
18 determine the liability of the group, each taxpayer which is a  
19 member of the group shall be liable for that portion of the  
20 group liability which is equal to the amount multiplied by the  
21 ratio of the taxpayer's liability without regard to this  
22 subsection over the liability of the group without regard to  
23 this subsection. Upon the annual election of the common  
24 parent, a financial institution group may file a single  
25 return, executed by the common parent of that financial  
26 institution group. The return shall be completed as if the  
27 financial institution group were a single taxpayer. Each

1 member of the financial institution group shall be jointly and  
2 severally liable for the group's business privilege tax and  
3 corporate shares tax liabilities.

4 ~~"(4) For the taxable year beginning January 1, 2000,~~  
5 ~~the tax returns of all members of a financial institution~~  
6 ~~group shall be due July 10, 2000. For taxable years beginning~~  
7 ~~after December 31, 2000, the tax returns for all members of a~~  
8 ~~financial institution group shall be due March 15 of the~~  
9 ~~taxable year. The tax returns for all members of a financial~~  
10 ~~institution group shall be due no later than the corresponding~~  
11 ~~Alabama financial institution excise tax return due date.~~

12 Extensions for filing these returns shall not be granted for  
13 more than six months. ~~beyond September 15 of the taxable year.~~  
14 ~~For the return due July 10, 2000, any corporate shares taxes~~  
15 ~~and business privilege taxes accrued and paid by any member of~~  
16 ~~the financial institution group before July 10, 2000, shall be~~  
17 ~~applied against the minimum tax amount provided in subdivision~~  
18 ~~(5).~~

19 "(5) For taxable years beginning on or after January  
20 1, 2000, the minimum aggregate business privilege ~~and~~  
21 ~~corporate shares taxes~~ tax levied by ~~Articles~~ Article 2 ~~and 3~~  
22 on all members of a financial institution group shall be:

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

1       \$.125 per one thousand dollars (\$1,000) of such deposits. For  
2       deposit rate purposes for all future periods, the deposits  
3       shall in no event be less than the deposits listed as of June  
4       30, 1999.

5                "b. For financial institutions with total deposits  
6       inside Alabama of one billion dollars (\$1,000,000,000) or  
7       greater up to and including six billion dollars  
8       (\$6,000,000,000) within that financial institution group, as  
9       reported to the FDIC, OTS, or the NCUSIF as of June 30 of the  
10       immediately preceding taxable year, the tax rate shall be \$.17  
11       per one thousand dollars (\$1,000) of such deposits. For  
12       deposit rate purposes for all future periods, the deposits  
13       shall in no event be less than the deposits listed as of June  
14       30, 1999.

15                "c. For financial institutions with total deposits  
16       inside Alabama greater than six billion dollars  
17       (\$6,000,000,000) within that financial institution group, as  
18       reported to the FDIC, OTS, or the NCUSIF as of June 30 of the  
19       immediately preceding taxable year, the tax rate shall be  
20       \$.225 per one thousand dollars (\$1,000) of such deposits. For  
21       deposit rate purposes for all future periods, the deposits  
22       shall in no event be less than the deposits listed as of June  
23       30, 1999.

24                "d. Provided, however, that in the case of a  
25       financial institution group that, as of June 30, 1999, (i) had  
26       total deposits of less than one billion dollars  
27       (\$1,000,000,000) and (ii) derived at least a majority of its

1 deposits, as reported to FDIC, OTS, or NCUSIF, that were  
2 booked to one or more branches or offices located within  
3 Alabama from account holders whose addresses of record on the  
4 books of the financial institution group were outside the  
5 State of Alabama, the phrase "total deposits in Alabama," for  
6 purposes of calculating the minimum aggregate business  
7 privilege ~~and shares tax~~ levied by ~~Articles~~ Article 2 ~~and 3~~  
8 for all taxable years beginning on and after January 1, 2000,  
9 shall only include deposits of account holders whose addresses  
10 of record on the books of the financial institution group are  
11 inside the State of Alabama.

12 "e. In the event a financial institution group sells  
13 Alabama deposits to another financial institution group that  
14 reports those deposits in Alabama for purposes of Act  
15 2000-705, those deposits shall not be taxed more than once  
16 pursuant to the provisions of Act 2000-705 in the same taxable  
17 year. The liability for such taxes shall be the responsibility  
18 of the purchaser, and the tax base for the selling group shall  
19 be adjusted accordingly.

20 "f. In the event an existing financial institution  
21 group reports deposits in any year less than 96.5 percent of  
22 the deposits reported as of June 30, 1999, the alternative  
23 minimum tax shall be based on the deposits reported as of June  
24 30, 1999. In the event an existing financial institution group  
25 reports deposits in any year more than 96.5 percent of the  
26 deposits reported as of June 30, 1999, the alternative minimum  
27 tax shall be based on the deposits reported for that taxable

1 year. For financial institutions coming into existence after  
2 June 30, 1999, the deposits upon which the alternative minimum  
3 tax is based shall not be less than the deposits reported the  
4 first full year that financial institution reported deposits  
5 to the FDIC, OTS, or NCUSIF."

6 Section 8. Section 40-14A-25 is hereby amended as  
7 follows:

8 "§40-14A-25.

9 "(a) Every taxpayer shall file a privilege tax  
10 return, which shall include the public record disclosures  
11 required by Section 10-2B-16.22, with the department for every  
12 taxable year for which it is subject to the tax levied by this  
13 article. A disregarded entity that is owned by an individual,  
14 general partnership, or other entity not subject to the tax  
15 levied by this article shall file a return and pay the tax  
16 levied on it by this article. Except as provided in Section  
17 40-14A-22(f) (4), the return required by this section is due  
18 ~~not no~~ later than the corresponding federal income tax return  
19 as required to be filed as provided under federal law.~~March 15~~  
20 ~~of the taxable year for all taxpayers except limited liability~~  
21 ~~entities for which the due date of the return shall be April~~  
22 ~~15 of the taxable year, or, in In the case of a taxpayer's~~  
23 ~~initial return, 30 days two and one half months after the~~  
24 ~~taxpayer comes into existence, qualifies or registers to do~~  
25 ~~business, or commences doing business in Alabama as the case~~  
26 ~~may be. For all taxable years beginning after December 31,~~  
27 ~~2000, a corporation shall file the return required by this~~

1 ~~section not later than two and one-half months after the~~  
2 ~~beginning of the corporation's taxable year; a limited~~  
3 ~~liability entity shall file the return required by this~~  
4 ~~section not later than three and one-half months after the~~  
5 ~~beginning of the limited liability entity's taxable year; and~~  
6 a A disregarded entity that is required to file a return by  
7 this section shall file the return not later than the time its  
8 owner is required to file its return. If a taxpayer is  
9 required to change its taxable year pursuant to the previous  
10 sentence, then it shall file a return for the short taxable  
11 year beginning January 1, 2001, and ending on the day before  
12 the beginning of its new taxable year, and the return shall be  
13 filed ~~not~~ no later than the corresponding federal income tax  
14 return as required to be filed as provided under federal law.  
15 ~~two and one-half months, if a corporation, and three and~~  
16 ~~one-half months, if a limited liability entity, after the~~  
17 ~~beginning of its new taxable year.~~ In cases where receivers,  
18 trustees in bankruptcy, or assignees are operating the  
19 property or business of taxpayers, those receivers, trustees,  
20 or assignees shall file returns for the taxpayers in the same  
21 manner and form as the taxpayers are required to file returns.  
22 Any tax due on the basis of returns filed by receivers,  
23 trustees, or assignees shall be collected in the same manner  
24 as if collected from the taxpayers for whose business or  
25 property they have custody and control. The department may  
26 grant a reasonable extension of time for filing returns under

1 rules and regulations prescribed by the department. No  
2 extension shall be for more than six months.

3 "(b) The tax provided in this article shall be  
4 reported on forms and in the manner as prescribed by the  
5 department. The failure to receive a form from the department  
6 shall not relieve a taxpayer from liability for any tax,  
7 penalty, or interest otherwise due. The tax due, as reported,  
8 shall constitute an admitted liability for that amount. The  
9 department may compute and assess additional tax, penalty, and  
10 interest against a taxpayer as provided in Chapter 2A.  
11 Interest on overpayments of business privilege tax will be  
12 computed and paid in the manner provided in Section  
13 40-1-44(b)(1)b.

14 "(c) A corporation that is a member of an Alabama  
15 affiliated group that has elected to file a consolidated  
16 return pursuant to Section 40-18-39 or Section 40-16-3(b), if  
17 it is subject to the tax imposed by this article, shall file a  
18 separate return reporting and paying tax on its net worth  
19 without regard to other members of the affiliated group."

20 Section 9. The Code Commissioner, pursuant to  
21 Section 29-7-8, Code of Alabama 1975, shall change all  
22 references to the Taxpayer Advocate in Title 40, Chapter 2A,  
23 to Taxpayer Assistance Officer or Taxpayer Assistance  
24 Officers.

25 Section 10. The Department shall adopt rules to  
26 assist with the implementation and enforcement of this act.



1                   Section 11. If any part of this act is declared  
2                   invalid or unconstitutional, that declaration shall not affect  
3                   the part which remains.

4                   Section 12. All laws or parts of laws which conflict  
5                   with this act are hereby repealed.

6                   Section 13. This act shall become effective for tax  
7                   returns due on or after January 1, 2018, following its passage  
8                   and approval by the Governor, or upon its otherwise becoming  
9                   law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on State Government  
..... 07-FEB-17

Read for the second time and placed  
on the calendar..... 23-FEB-17

Read for the third time and passed  
as amended..... 04-APR-17

Yeas 101, Nays 0, Abstains 0

Jeff Woodard  
Clerk