

1 HB536
2 175221-2
3 By Representative Clouse
4 RFD: State Government
5 First Read: 12-APR-16

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8 SYNOPSIS: Under current law, all short form business
9 personal property tax returns are subject to audit
10 by a county assessing official or other applicable
11 agency.

12 This bill would provide all business
13 personal property tax returns to be subject to
14 audit by an independent, third party auditor
15 contracted by the Alabama Department of Revenue.
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17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Section 40-7-55 of the Code of Alabama
22 1975; relating to business personal property tax, to provide
23 further for audits of business personal property tax returns.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 40-7-55 of the Code of Alabama
26 1975 is amended to read as follows:

27 "§40-7-55.

1 "(a) Prior to October 1, 2014, the Department of
2 Revenue shall design a non-itemized business personal property
3 tax return short form "short form tax return" which, at the
4 taxpayer's option, may be utilized for reporting total taxable
5 tangible business personal property assets with original
6 acquisition costs equal to or less than ten thousand dollars
7 (\$10,000) under the provisions of this article and any rules
8 promulgated by the department related thereto. Any taxpaying
9 entity utilizing the short form return agrees to a business
10 personal property tax liability for that applicable tax year
11 that is based upon taxable tangible business personal property
12 assets valued at ten thousand dollars (\$10,000), and that the
13 submission of such short form return by the taxpayer is a
14 declaration to the county assessing official or other
15 applicable agency that the property is to be valued at ten
16 thousand dollars (\$10,000) for all taxable tangible business
17 personal property assets.

18 "(b) Effective October 1, 2014, and subject to the
19 provisions of this article, any taxpaying entity required to
20 file a business personal property tax return with a county
21 assessing official or other applicable agency may file the
22 short form tax return if: (1) the taxpayer has previously
23 filed with the county assessing official or other applicable
24 agency an itemized business personal property tax return in
25 which the total original acquisition cost of all the taxpaying
26 entity's taxable tangible business personal property assets
27 resulted in a total amount equal to or less than ten thousand

1 dollars (\$10,000); and (2) the taxpayer's total original
2 acquisition cost of all taxable tangible business personal
3 property assets for the current tax year results in the
4 taxpaying entity's total amount of taxable tangible business
5 personal property assets being equal to or less than ten
6 thousand dollars (\$10,000). The tax liability for any taxpayer
7 filing the short form tax return shall be calculated by the
8 county assessing official or other applicable agency based
9 upon a value of ten thousand dollars (\$10,000), and otherwise
10 in accordance with subsection (a).

11 "(c) Once a taxpaying entity has filed a business
12 personal property tax return which includes a detailed
13 itemized listing of all taxable tangible business personal
14 property assets with the county assessing official or other
15 applicable agency as required in subsection (b)(1), the
16 taxpayer may file the short form tax return in each
17 consecutive year that the total original acquisition cost of
18 all taxable tangible business personal property assets remains
19 equal to or less than ten thousand dollars (\$10,000).

20 "(d) In the event the total original acquisition
21 cost of all the taxpayer's taxable tangible business personal
22 property assets exceeds ten thousand dollars (\$10,000), the
23 taxpayer shall be required to file a business personal
24 property tax return which includes an itemized listing of all
25 taxable tangible business personal property assets with the
26 county assessing official or other applicable agency as

1 otherwise required by law and shall pay taxes calculated based
2 upon the assets itemized in the tax return.

3 "(e) All short form tax returns shall be subject to
4 audit by the appropriate county assessing official or other
5 applicable agency, in the discretion of such official or
6 agency. Such an audit may include the requirement that the
7 taxpaying entity provide an itemized listing of all taxable
8 tangible business personal property. Additionally, any
9 taxpayer who knowingly submits a false or incorrect short form
10 tax return shall be subject to penalties equaling 50 percent
11 of any additional taxes owed. Further, any relevant and
12 otherwise applicable state or local laws providing for
13 penalties, fines, or fees for violations of tax return filings
14 shall have full effect under the tax returns applicable to
15 this article and shall not be limited or abrogated by any
16 provision hereunder.

17 "(f) In addition to the provisions provided for in
18 subsection (e) and any other audit provisions, all business
19 personal property tax returns shall be subject to audit by an
20 independent, third party auditor contracted by the Alabama
21 Department of Revenue. Such independent, third party auditor
22 shall be paid at a rate agreed upon between the independent
23 contractor and the Alabama Department of Revenue. Any
24 remaining funds recovered shall be allocated as provided for
25 in Section 40-8-3."

26 Section 2. All laws or parts of laws which conflict
27 with this act are repealed.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.