

1 HB64
2 172478-2
3 By Representatives Greer, Fridy and Garrett
4 RFD: Ways and Means Education
5 First Read: 02-FEB-16

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8 SYNOPSIS: Currently, income from defined contribution
9 deferred compensation plans is taxable as state
10 income.

11 This bill would provide that the first 90
12 percent of such annual income is exempt. The
13 exemption would be phased in over a five-year
14 period.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

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20 To provide for the Alabama Fair Income Tax Act of
21 2016; to amend Section 40-18-19, Code of Alabama 1975, as
22 amended by Act 2015-442, relating to exemptions from state
23 income taxation; to provide for exemptions of certain
24 percentages of annual income received as a benefit from
25 defined contribution deferred compensation plans; and to
26 provide for a period of five years to fully implement an
27 exemption of 90 percent of such benefits.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. (a) This act shall be known as and may be
3 cited as the Alabama Fair Income Tax Act of 2016.

4 (b) Nothing in this act shall have an effect on
5 defined contribution deferred compensation plans or the tax
6 treatment of such plans.

7 Section 2. Section 40-18-19, Code of Alabama 1975,
8 as amended by Act 2015-442 of the 2015 Regular Session, is
9 amended to read as follows:

10 "§40-18-19.

11 "(a) The following exemptions from income taxation
12 shall be allowed to every individual resident taxpayer:

13 "(1) Retirement allowances, pensions and annuities,
14 or optional allowances, approved by the Board of Control of
15 the Teachers' Retirement System of Alabama, which exempt
16 status is set out in Section 16-25-23.

17 "(2) Retirement allowances, pensions and annuities,
18 or optional allowances, approved by the Board of Control of
19 the Employees' Retirement System of Alabama, which exempt
20 status is set out in Section 36-27-28.

21 "(3) The first eight thousand dollars (\$8,000) of
22 any retirement compensation, retirement allowances, pensions
23 and annuities, or optional allowances, received by any
24 eligible firefighter, as defined in Sections 36-32-1 and
25 36-32-2, or his or her designated beneficiary, from any
26 firefighting agency established in the State of Alabama, but
27 only if such retirement compensation, retirement allowances,

1 pensions and annuities, or optional allowances as are awarded
2 as a result of fire protection services rendered. This
3 subdivision shall become effective for the taxable years
4 beginning January 1, 1987, and thereafter following its
5 passage and approval by the Governor, or upon its otherwise
6 becoming a law; provided, that for the taxable years beginning
7 on or after January 1, 1991, all of the pension and retirement
8 payments shall be exempt from taxation.

9 "(4) The first eight thousand dollars (\$8,000) of
10 any retirement compensation, retirement allowances, pensions
11 and annuities, or optional allowances received by any eligible
12 peace officer, as defined in subsection (11) of Section
13 36-21-60, or his or her designated beneficiary, from any
14 police retirement system established in the State of Alabama,
15 but only if the retirement compensation, retirement
16 allowances, pensions and annuities, or optional allowances are
17 awarded as a result of police services rendered. This
18 subdivision shall become effective for taxable years beginning
19 January 1, 1984, and thereafter; provided, that for the
20 taxable years beginning on or after January 1, 1991, all of
21 the pension and retirement payments shall be exempt from
22 taxation.

23 "(5) Income received as annuities under the United
24 States Retirement System from the United States Government
25 Civil Service Retirement and Disability Fund including income
26 received from the Tennessee Valley Authority's pension system,
27 income received as annuities under the United States Foreign

1 Service Retirement and Disability Fund, or income received
2 from any other United States government retirement and
3 disability fund.

4 "(6) Beginning January 1, 1991, all payments made on
5 or after such date to a retiree or his designated beneficiary
6 under a "defined benefit plan," as defined under Section
7 414(j) of the Internal Revenue Code of 1986, as amended from
8 time to time, to the extent such payment would be taxable for
9 federal income tax purposes.

10 "(7) Net income realized by individuals and
11 partnerships from time to time in the business of conducting a
12 financial business employing moneyed capital coming into
13 competition with the business of national banks, but only if
14 such individuals and partnerships are subject to an excise tax
15 imposed by this state on or with respect to such income.

16 "(8) In the case of a single person or a married
17 person not living with husband or wife, a personal exemption
18 of one thousand five hundred dollars (\$1,500) or, in the case
19 of a head of a family or a married person living with husband
20 or wife, a personal exemption of three thousand dollars
21 (\$3,000), but a husband and wife living together shall receive
22 only one personal exemption of three thousand dollars (\$3,000)
23 against their aggregate income, and in case they make separate
24 returns each must claim a personal exemption of one thousand
25 five hundred dollars (\$1,500).

26 "(9) a. Three hundred dollars (\$300) for each
27 person, other than husband or wife, dependent upon the

1 taxpayer, and over half of whose support, for the calendar
2 year in which the taxable year for the taxpayer begins, was
3 received from the taxpayer.

4 "b. For tax years beginning after December 31, 2006,
5 for taxpayers with adjusted gross income equal to or less than
6 \$20,000, one thousand dollars for each person other than
7 husband or wife, dependent upon the taxpayer, and over half of
8 whose support, for the calendar year in which the taxable year
9 for the taxpayer begins, was received from the taxpayer.

10 "c. For tax years beginning after December 31, 2006,
11 for taxpayers with adjusted gross income in excess of \$20,000
12 and equal to or less than \$100,000, five hundred dollars for
13 each person other than husband and wife, dependent upon the
14 taxpayer, and over half of whose support, for the calendar
15 year in which the taxable year for the taxpayer begins, was
16 received from the taxpayer.

17 "For the purposes of this section, "dependent" shall
18 mean: A son or daughter of the taxpayer or a descendant of
19 either; a stepson or stepdaughter of the taxpayer; a brother,
20 sister, stepbrother, or stepsister of the taxpayer; the father
21 or mother of the taxpayer or an ancestor of either; a
22 stepfather or stepmother of the taxpayer; a son or daughter of
23 a brother or sister of the taxpayer; a brother or sister of
24 the father or mother of the taxpayer; a son-in-law,
25 daughter-in-law, father-in-law, mother-in-law, brother-in-law,
26 or sister-in-law of the taxpayer. As used in this paragraph
27 the terms "brother" and "sister" include a brother or sister

1 by the half blood. For the purpose of determining whether any
2 of the foregoing relationships exist, a legally adopted child
3 of a person shall be considered a child of such a person by
4 blood.

5 "(10) Beginning January 1, 1998, all income,
6 interest, dividends, gains, or benefits of any kind received
7 from savings accounts or prepaid tuition contracts
8 administered under Title 16, Chapter 33C, are exempt from all
9 income taxation by the state and by all of its political
10 subdivisions to the extent that the amounts remain on deposit
11 in the PACT Trust Fund or the ACES Trust Fund, or are used to
12 pay the designated beneficiary's qualified higher education
13 expenses as defined in Section 529 of the Internal Revenue
14 Code of 1986, as amended, or are refunded under such terms as
15 would not carry a penalty under Section 529 of the Internal
16 Revenue Code of 1986, as amended.

17 "(11) Beginning January 1, 2016, all income,
18 interest, dividends, gains or benefits of any kind received
19 from ABLE savings accounts administered under Title 16,
20 Chapter 33C, are exempt from all income taxation by the state
21 and by all of its political subdivisions to the extent that
22 the amounts remain on deposit in the ABLE Trust Fund, or are
23 used to pay the designated beneficiary's qualified disability
24 expenses as defined in Section 529A of the Internal Revenue
25 Code of 1986, as amended, or are refunded under such terms as
26 would not carry a penalty under Section 529A of the Internal

1 Revenue Code of 1986, as amended, or other applicable federal
2 law.

3 "(12) Beginning January 1, 2017, 20 percent of
4 annual income received as a benefit from a defined
5 contribution deferred compensation plan shall be exempt from
6 income taxation by the state and by all of its political
7 subdivisions. Beginning January 1, 2018, 40 percent of annual
8 income received as a benefit from a defined contribution
9 deferred compensation plan shall be exempt from income
10 taxation by the state and by all of its political
11 subdivisions. Beginning January 1, 2019, 60 percent of annual
12 income received as a benefit from a defined contribution
13 deferred compensation plan shall be exempt from income
14 taxation by the state and by all of its political
15 subdivisions. Beginning January 1, 2020, 80 percent of annual
16 income received as a benefit from a defined contribution
17 deferred compensation plan shall be exempt from income
18 taxation by the state and by all of its political
19 subdivisions. Beginning January 1, 2021, and each tax year
20 thereafter, 90 percent of annual income received as a benefit
21 from a defined contribution deferred compensation plan shall
22 be exempt from income taxation by the state and by all of its
23 political subdivisions. The Department of Revenue may
24 promulgate rules as necessary to implement and administer this
25 subdivision.

26 "(b) Of the following personal exemptions allowed
27 resident taxpayers, each nonresident individual taxpayer shall

1 be allowed that proportion thereof that the adjusted gross
2 income received by said nonresident individual taxpayer from
3 sources within the State of Alabama bears to his or her
4 adjusted gross income received from sources within and without
5 the State of Alabama: In the case of a single person or a
6 married person not living with husband or wife, a personal
7 exemption of one thousand five hundred dollars (\$1,500) or, in
8 the case of a head of a family or a married person living with
9 husband or wife, a personal exemption of three thousand
10 dollars (\$3,000), a husband and wife living together shall
11 receive but one personal exemption of three thousand dollars
12 (\$3,000) against their aggregate income; and, in case they
13 make separate returns, each must claim a personal exemption of
14 one thousand five hundred dollars (\$1,500); and the amount in
15 subdivision (9) of subsection (a) for each person, other than
16 husband or wife, dependent upon and receiving his or her chief
17 support from the taxpayer."

18 Section 3. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.