

1 SB145
2 216448-1
3 By Senator Shelnutt
4 RFD: Finance and Taxation Education
5 First Read: 01-FEB-22

SYNOPSIS: Under existing law, a municipality may require a business to obtain a local business license that is based on gross receipts.

This bill would allow any business paying a municipal business license based on gross receipts to deduct from gross receipts any excise tax imposed by the federal, state, and local governments.

A BILL
TO BE ENTITLED
AN ACT

Relating to municipalities; to amend Section 11-51-90.1, Code of Alabama 1975, relating to the municipal business license tax; to specify that the definition of gross receipts does not include any excise tax imposed by the federal, state, and local governments.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 11-51-90.1, Code of Alabama 1975,
2 is amended to read as follows:

3 "§11-51-90.1.

4 "As used in this article, the following terms shall
5 have the following meanings:

6 "(1) BUSINESS. Any commercial or industrial activity
7 or any enterprise, trade, profession, occupation, or
8 livelihood, including the lease or rental of residential or
9 nonresidential real estate, whether or not carried on for gain
10 or profit, and whether or not engaged in as a principal or as
11 an independent contractor, which is engaged in, or caused to
12 be engaged in, within a municipality.

13 "(2) BUSINESS LICENSE. An annual license issued by a
14 taxing jurisdiction for the privilege of doing any kind of
15 business, trade, profession, or any other activity in that
16 jurisdiction, by whatever name called, which document is
17 required to be conspicuously posted or displayed except to the
18 extent the taxpayer's business license tax or other financial
19 information is listed thereon or unless the municipality
20 affirmatively elects not to so require. However, municipal
21 occupational licenses, municipal gasoline taxes, municipal
22 tobacco taxes, or gross receipts taxes in the nature of a
23 sales tax, or any other municipal tax now in existence or that
24 may hereafter be adopted by a municipality pursuant to Section
25 11-51-90, or any other provision of state law other than an
26 annual license, shall not be considered "business licenses."

1 "(3) BUSINESS LICENSE REMITTANCE FORM. Any business
2 license return, renewal reminder notice, or other writing on
3 which a taxpayer calculates its business license tax liability
4 for all or part of the license year and remits the amount so
5 calculated with the form.

6 "(4) DEPARTMENT or DEPARTMENT OF REVENUE. The
7 Alabama Department of Revenue, as created under Section
8 40-2-1, et seq.

9 "(5) DESIGNEE. An agent of a taxing jurisdiction
10 authorized to administer or collect, or both, the
11 jurisdiction's business license taxes, which may include
12 another taxing jurisdiction, the Department of Revenue, or a
13 "private auditing or collecting firm" as defined in Section
14 40-2A-3.

15 "(6) GROSS RECEIPTS. A measure of any and all
16 receipts of a business from whatever source derived, to the
17 maximum extent permitted by applicable laws and constitutional
18 provisions, to be used in calculating the amount due for a
19 business license. Provided, however, that:

20 "a. Gross receipts shall not include any of the
21 following taxes collected by the business on behalf of any
22 taxing jurisdiction or the federal government: All taxes which
23 are imposed on the ultimate consumer, collected by the
24 taxpayer, and remitted by or on behalf of the taxpayer to the
25 taxing authority, whether state, local, or federal, including
26 utility gross receipts taxes levied pursuant to Article 3,
27 Chapter 21, Title 40; license taxes levied pursuant to Article

1 2, Chapter 21, Title 40; or any excise tax imposed by the
2 federal or state government or any local government whether
3 called an excise tax or license fee; or reimbursements to
4 professional employer organizations of federal, state, or
5 local payroll taxes or unemployment insurance contributions;
6 but no other deductions or exclusions from gross receipts
7 shall be allowed except as provided in this article.

8 "b. A different basis for calculating the business
9 license may be used by a municipality with respect to certain
10 categories of taxpayers as prescribed in Section 11-51-90.2.

11 "c. For a utility or other entity described in
12 Section 11-51-129, gross receipts shall be limited to the
13 gross receipts derived from the retail furnishing of utility
14 services within a municipality during the preceding year that
15 are taxed under Article 3 of Chapter 21 of Title 40, except
16 that nothing herein shall affect any existing contract or
17 agreement between a municipality and a utility or other
18 entity. The gross receipts derived from the furnishing of
19 utility services shall not be subject to further business
20 license taxation by a municipality.

21 "d. Gross receipts shall not include dividends or
22 other distributions received by a corporation, or proceeds
23 from borrowings, the sale of a capital asset, the repayment of
24 the principal portion of a loan, the issuance of stock or
25 other equity investments, or capital contributions, or the
26 undistributed earnings of subsidiary entities.

1 "(7) LICENSE FORM. Any business license application
2 form, renewal reminder notice, business license remittance
3 form, or business license return by whatever name called.

4 "(8) LICENSE OFFICER or MUNICIPAL LICENSE OFFICER.
5 The municipal employee charged by the governing body of the
6 municipality with the primary responsibility of administering
7 the municipality's license tax and related matters.

8 "(9) LICENSE YEAR. The calendar year.

9 "(10) MUNICIPALITY. Any town or city in this state
10 that levies a business license tax from time to time. The term
11 shall also include the town's or city's police jurisdiction,
12 where the business license tax is levied in the police
13 jurisdiction.

14 "(11) PERSON. Any individual, association, estate,
15 trust, partnership, limited liability company, corporation, or
16 other entity of any kind, except for any nonprofit corporation
17 formed under the laws of Alabama which is operated to enable
18 municipalities that become members of such nonprofit
19 corporation to finance or refinance capital projects and
20 related undertakings, on a cooperative basis, and whose board
21 of directors or other governing body consists primarily of
22 elected officials of municipalities.

23 "(12) TAXING JURISDICTION. Any municipality that
24 levies a business license tax, whether or not a business
25 license tax is levied within its police jurisdiction, or the
26 Department of Revenue acting as agent on behalf of a

1 municipality pursuant to Section 11-51-180, et seq., as the
2 context requires.

3 "(13) TAXPAYER. Any person subject to or liable
4 under this chapter for any business license tax; any person
5 required to file a return with respect to, or pay or remit the
6 business license tax levied under this chapter or to report
7 any information or value to the taxing jurisdiction; or any
8 person required to obtain, or who holds any interest in, any
9 business license issued by the taxing jurisdiction; or any
10 person that may be affected by any act or refusal to act by
11 the taxing jurisdiction under this chapter, or to keep any
12 records required by this chapter.

13 "(14) U.S.C. The applicable title and section of the
14 United States Code, as amended from time to time.

15 "(15) OTHER TERMS. Other capitalized or specialized
16 terms used in Act 2006-586, and not defined above, shall have
17 the same meanings ascribed to them in Section 40-2A-3 unless
18 the context otherwise requires."

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