

1 SB293
2 180643-2
3 By Senators Marsh, Melson, Blackwell, Waggoner, McClendon,
4 Livingston and Reed
5 RFD: Finance and Taxation Education
6 First Read: 09-MAR-17

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8 SYNOPSIS: Currently, the State of Alabama allows a
9 maximum standard deduction for taxpayers in a
10 specified adjusted gross income range for Alabama
11 individual income tax purposes.

12 This bill would expand the adjusted gross
13 income range allowable for a maximum standard
14 deduction for Alabama individual income tax
15 purposes.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Section 40-18-15, Code of Alabama 1975, to
22 expand the adjusted gross income range allowable for a maximum
23 standard deduction.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. 40-18-15, Code of Alabama 1975, is hereby
26 amended as follows:

27 "§40-18-15.

1 "(a) No deduction shall be allowed for any losses,
2 expenses, or interest deferred or disallowed pursuant to 26
3 U.S.C. § 267 or for any cost required to be capitalized in
4 accordance with 26 U.S.C. § 263A; otherwise, there shall be
5 allowed as deductions:

6 "(1) All ordinary and necessary expenses paid or
7 incurred during the taxable year in carrying on any trade or
8 business, as determined in accordance with 26 U.S.C. § 162.

9 "(2) Interest paid or accrued within the taxable
10 year on indebtedness, limited to the amount allowable as an
11 interest deduction for federal income tax purposes in the
12 corresponding tax year or period pursuant to the provisions of
13 26 U.S.C. §§ 163, 264, and 265.

14 "(3) The following taxes paid or accrued within the
15 taxable year:

16 "a. Income taxes, Federal Insurance Contribution Act
17 taxes, taxes on self-employment income and estate and gift
18 taxes imposed by authority of the United States or any
19 possession of the United States.

20 "b. State and local, and foreign, occupational
21 license taxes, and contributions to state unemployment funds.

22 "c. State and local, and foreign, real property
23 taxes.

24 "d. State and local personal property taxes.

25 "e. The generation-skipping transfer (GST) tax
26 imposed on income distributions by 26 U.S.C. § 2601.

1 "f. The taxes described in paragraphs c., d., and e.
2 shall be deductible only to the extent that the taxes are
3 deductible for federal income tax purposes under 26 U.S.C. §
4 164 (relating to taxes).

5 "g. In addition, there shall be allowed as a
6 deduction, state and local, and foreign taxes, except income
7 taxes, and taxes imposed by authority of the United States or
8 any possession of the United States, which are paid or accrued
9 within the taxable year in carrying on a trade or business or
10 an activity described in 26 U.S.C. § 212 (relating to expenses
11 for the production of income).

12 "h. Notwithstanding paragraph g., any tax described
13 in any paragraph preceding paragraph g. that is paid or
14 accrued in connection with an acquisition or disposition of
15 property shall be treated as part of the cost of the acquired
16 property or, in the case of a disposition, as a reduction in
17 the amount realized on the disposition of that property.

18 "(4) Losses sustained during the taxable year and
19 not compensated for by insurance or otherwise if incurred in a
20 trade or business, in accordance with 26 U.S.C. § 165(c) (1).

21 "(5) Losses sustained during the taxable year and
22 not compensated for by insurance or otherwise, if incurred in
23 any transaction entered into for profit, though not connected
24 with the trade or business in accordance with 26 U.S.C. §
25 165(c) (2); but, in the case of a taxpayer other than a
26 resident of the state, only as to those transactions within
27 the state.

1 "(6) Casualty and theft losses sustained during the
2 taxable year of property not connected with the conduct of a
3 trade or business or a transaction entered into for profit as
4 determined in accordance with subsections (c) (3) and (h) of 26
5 U.S.C. § 165. In the case of a nonresident, the deduction
6 shall be allowed only for the losses arising from property
7 located within the State of Alabama and the limitations in 26
8 U.S.C. § 165 shall be applied with regard only to the
9 taxpayer's Alabama adjusted gross income. No loss shall be
10 allowed if at the time of filing the return, the loss has been
11 claimed on a federal estate tax return.

12 "(7) Losses from debts ascertained to be worthless
13 and charged off during the taxable year of ascertainment, if
14 sustained in the conduct of the regular trade or business of
15 the taxpayer.

16 "(8) A reasonable allowance for the exhaustion, wear
17 and tear of property from which any income is derived,
18 including a reasonable allowance for obsolescence, in
19 accordance with 26 U.S.C. §§ 167 and 168, and an allowance for
20 the amortization of intangibles determined in accordance with
21 26 U.S.C. § 197.

22 "(9) In the case of mines, oil, and gas wells, other
23 natural deposits and timber, a reasonable allowance for
24 depletion and for depreciation of improvements, according to
25 the peculiar condition in each case based upon the cost,
26 including the cost of development not otherwise deducted, such
27 reasonable allowance in all cases to be made under rules and

1 regulations to be prescribed by the Department of Revenue;
2 and, in the case of leasehold interests, the deduction allowed
3 by this section shall be equitably apportioned between the
4 lessor and the lessee.

5 "(10) Charitable contributions to the extent allowed
6 for federal income tax purposes under 26 U.S.C. § 170
7 (relating to charitable contributions and gifts).

8 "(11) The deduction allowed to the individual for
9 federal income tax purposes by 26 U.S.C. § 219 (relating to
10 retirement savings).

11 "(12) The deduction allowed for federal income tax
12 purposes by 26 U.S.C. § 404 (relating to qualified pension,
13 profit sharing, stock bonus, and annuity plans).

14 "(13) For each individual income taxpayer, medical
15 and dental expenses, including amounts paid for medicine and
16 drugs and amounts paid for accident and health insurance, as
17 determined in accordance with 26 U.S.C. § 213; provided,
18 however, that the limitation of the deduction to the excess of
19 those expenses over 7.5 percent of adjusted gross income as
20 provided in 26 U.S.C. § 213 shall instead be limited to the
21 excess of those expenses over 4.0 percent of adjusted gross
22 income.

23 "(14) For each individual income taxpayer, the
24 deduction determined in accordance with 26 U.S.C. § 212 for
25 all the ordinary and necessary expenses paid or incurred
26 during the taxable year for the production or collection of
27 income, or for the management, conservation, or maintenance of

1 property held for the production of income, or in connection
2 with the determination, collection, or refund of any tax.

3 "(15) Any expense not exceeding \$1,000 actually
4 incurred during the taxable year in constructing on his or her
5 property a family radioactive fallout shelter, as approved and
6 certified by the State Department of Emergency Management, and
7 any amount not exceeding \$1,000 which he or she contributed
8 during the taxable year toward the construction of a community
9 radioactive fallout shelter.

10 "(16) A deduction from the taxpayer's adjusted gross
11 income for state income tax purposes of the total cost of
12 installation for conversion from gas or electricity to wood as
13 the primary energy source for heating their individual
14 domestic homes for the taxable year during which a conversion
15 was completed.

16 "(17) Alimony and separate maintenance payments, the
17 amount deductible to be the same as the amount deductible for
18 federal income tax purposes under 26 U.S.C. § 215 (relating to
19 alimony payments).

20 "(18) Moving expenses paid or incurred during the
21 taxable year as allowed under 26 U.S.C. § 217 (relating to
22 moving expenses). However, in applying 26 U.S.C. § 217, the
23 term "new principal place of work" means only places of work
24 located within the State of Alabama.

25 "(19) Any expense not exceeding \$35,000 actually
26 incurred during the taxable year in removing from his or her
27 property any architectural or transportation barriers to

1 handicapped persons with nonambulatory and semiambulatory
2 disabilities; provided, however, that any improvements
3 resulting from that expense shall not be eligible to be
4 capitalized for depreciation.

5 "(20) Notwithstanding subdivision (1), the deduction
6 for expenses of travel, entertainment, and meals shall be
7 determined in accordance with 26 U.S.C. § 274.

8 "(21) The deduction allowed by 26 U.S.C. § 179
9 (relating to expensing certain depreciable property), provided
10 that no deduction shall be allowed under subdivision (8) for
11 any amount allowed as a deduction under this subdivision.

12 "(22) The deduction allowed by 26 U.S.C. § 195
13 (relating to amortization of start-up expenditures), but in
14 the case of a nonresident, only if the principal place of
15 business of the business investigated, created, or acquired is
16 located in the State of Alabama.

17 "(23) The deduction allowed by subdivision (1), to
18 the extent that it consists of unreimbursed employee business
19 expenses, and the deduction allowed by subdivision (14) shall
20 be allowed only to the extent that the aggregate of the
21 deductions exceeds 2 percent of adjusted gross income.

22 "(24) The reasonable medical and legal expenses paid
23 or incurred by the taxpayer in connection with the adoption of
24 a minor. For purposes of this subdivision, medical expenses
25 shall include any medical and hospital expenses of the adoptee
26 and the adoptee's biological mother which are incident to the
27 adoptee's birth and subsequent medical care and which, in the

1 case of the adoptee, are paid or incurred before the petition
2 is granted.

3 "(25) The amount of any aid or assistance, whether
4 in the form of property, services, or monies, provided to the
5 State Industrial Development Authority pursuant to Section
6 41-10-44.8(d) in order to induce an approved company to
7 undertake a major project within the state.

8 "(26) The amount of premiums paid pursuant to a
9 qualifying insurance contract for qualified long-term care
10 coverage.

11 "(27) The amount deductible by the taxpayer in
12 accordance with 26 U.S.C. § 162(h).

13 "(28) The amount, up to five thousand dollars
14 (\$5,000) per annum, contributed subsequent to December 31,
15 2007, to the Alabama Prepaid Affordable College Tuition
16 Program or the Alabama College Education Savings Program as
17 defined in Chapter 33C of Title 16. If the taxpayer makes a
18 nonqualified withdrawal as defined by Section 529 of the
19 Internal Revenue Code (26 U.S.C. 529), the amount of the
20 nonqualified withdrawal, plus 10 percent of the amount
21 withdrawn, shall be added back to the income of the
22 contributing taxpayer in the year the nonqualified withdrawal
23 was distributed.

24 "(b) (1) In lieu of the deductions allowable to
25 individual taxpayers, as provided in subdivision (1) of
26 subsection (a) to the extent of unreimbursed employee business
27 expenses, and as provided in subdivisions (2), (3), (5), (6),

1 (10), (13), (14), (15), (16), (19), (22), and (26) of
2 subsection (a), the taxpayer may elect to take the optional
3 standard deduction of 20 percent of the adjusted gross income
4 or \$2,000, whichever is the lesser. Taxpayers filing jointly
5 as defined in Section 40-18-27 may elect to take the optional
6 standard deduction of 20 percent of the adjusted gross income
7 or \$4,000, whichever is the lesser.

8 "(2) For tax years beginning after December 31,
9 2006, the optional standard deduction shall be determined as
10 follows:

11 "a. The standard deduction for married taxpayers
12 filing jointly with adjusted gross income of \$20,000 or less
13 shall be \$7,500. For married taxpayers filing jointly with
14 adjusted gross income of greater than \$20,000, the standard
15 deduction shall be reduced by \$175 for each \$500 of adjusted
16 gross income in excess of \$20,000. Notwithstanding the
17 preceding sentence, the standard deduction shall not be less
18 ~~that~~ than \$4,000 for married taxpayers filing jointly.

19 "b. The standard deduction for married taxpayers
20 filing separate returns with adjusted gross income of \$10,000
21 or less shall be \$3,750. For married taxpayers filing separate
22 returns with adjusted gross income of greater than \$10,000,
23 the standard deduction shall be reduced by \$88 for each \$250
24 of adjusted gross income in excess of \$10,000. Notwithstanding
25 the preceding sentence, the standard deduction shall not be
26 less than \$2,000 for married taxpayers filing separate
27 returns.

1 "c. The standard deduction for head of family
2 taxpayers with adjusted gross income of \$20,000 or less shall
3 be \$4,700. For head of family taxpayers with adjusted gross
4 income of greater than \$20,000, the standard deduction shall
5 be reduced by \$135 for each \$500 of adjusted gross income in
6 excess of \$20,000. Notwithstanding the preceding sentence, the
7 standard deduction shall not be less than \$2,000 for head of
8 family taxpayers.

9 "d. The standard deduction for single taxpayers with
10 adjusted gross income of \$20,000 or less shall be \$2,500. For
11 single taxpayers with adjusted gross income of greater than
12 \$20,000, the standard deduction shall be reduced by \$25 for
13 each \$500 of adjusted gross income in excess of \$20,000.
14 Notwithstanding the preceding sentence, the standard deduction
15 shall not be less than \$2,000 for single taxpayers.

16 "(3) For tax years beginning after December 31, 2017,
17 the optional standard deduction shall be determined as
18 follows:

19 "a. The standard deduction for married taxpayers
20 filing jointly with adjusted gross income of less than \$23,000
21 shall be \$7,500. For married taxpayers filing jointly, the
22 standard deduction shall be reduced further by \$175 for each
23 \$500 of adjusted gross income in excess of \$23,000.
24 Notwithstanding the preceding sentence, the standard deduction
25 shall not be less than \$4,000 for married taxpayers filing
26 jointly.

1 "b. The standard deduction for married taxpayers
2 filing separate returns with adjusted gross income of less
3 than \$10,500 shall be \$3,750. For married taxpayers filing
4 separate returns, the standard deduction shall be reduced
5 further by \$88 for each \$250 of adjusted gross income in
6 excess of \$10,500. Notwithstanding the preceding sentence, the
7 standard deduction shall not be less than \$2,000 for married
8 taxpayers filing separate returns.

9 "c. The standard deduction for head of family
10 taxpayers with adjusted gross income of less than \$23,000
11 shall be \$4,700. For head of family taxpayers, the standard
12 deduction shall be reduced further by \$135 for each \$500 of
13 adjusted gross income in excess of \$23,000. Notwithstanding
14 the preceding sentence, the standard deduction shall not be
15 less than \$2,000 for head of family taxpayers.

16 "d. The standard deduction for single taxpayers with
17 adjusted gross income of less than \$23,000 shall be \$2,500.
18 For single taxpayers, the standard deduction shall be reduced
19 further by \$25 for each \$500 of adjusted gross income in
20 excess of \$23,000. Notwithstanding the preceding sentence, the
21 standard deduction shall not be less than \$2,000 for single
22 taxpayers.

23 "(c) A deduction is allowable for the amount of
24 federal income tax paid or accrued within the taxable year. In
25 the case of a nonresident taxpayer, the amount of federal
26 income tax deductible to Alabama shall be determined by the
27 ratio that the amount of adjusted gross income received from

1 sources within the State of Alabama bears to the amount of
2 adjusted gross income received from sources within and outside
3 the State of Alabama.

4 "(d) If separate returns are filed by husband and
5 wife and one spouse elects to claim the optional standard
6 deduction, the other spouse must also claim the optional
7 standard deduction, unless, for the tax returns filed for the
8 2014 and subsequent tax years, the spouses have lived apart
9 for the entire year. In this case, each spouse may claim
10 either the optional standard deduction or itemized deductions.
11 Neither spouse may claim a deduction for expenses paid by the
12 other spouse.

13 "(e) In the case of a nonresident individual:

14 "(1) The deductions allowed in subdivisions (1),
15 (2), (3), (4), (5), (7), (8), (9), (11), (12), (19), (21),
16 (23), and (25) of subsection (a) shall be allowed only to the
17 extent that they are paid or incurred in carrying on a trade
18 or business within the State of Alabama and the deduction
19 allowed by Section 40-18-15.2 shall be allowed only to the
20 extent it arose from a trade or business carried on in
21 Alabama.

22 "(2) The deductions allowed by subdivisions (2),
23 (3), (5), (8), (9), (14), and (19) of subsection (a) shall be
24 allowed only to the extent arising from property located in
25 Alabama or transactions producing income that is subject to
26 tax in the State of Alabama.

1 "(3) The amount of the deductions allowed by
2 subdivisions (2), (3), (6), (10), (13), (15), (16), (17),
3 (19), (24), and (26) of subsection (a) (and not allowed by
4 subdivisions (1) or (2) of this subsection), or by subsection
5 (b) if the taxpayer elects the standard deduction, shall be
6 limited to the amount determined by multiplying the total of
7 such deductions by a fraction, the numerator of which is the
8 taxpayer's adjusted gross income determined using the rules
9 provided in subdivisions (1) and (2) of this subsection and
10 the denominator of which is the taxpayer's adjusted gross
11 income determined under Section 40-18-14.2. The deduction
12 allowed in subdivision (17) of subsection (a) shall not be
13 subtracted in calculating either the numerator or denominator
14 in the previous sentence.

15 "(f) Nothing in this section shall allow any item to
16 be deducted more than once."

17 Section 2. All laws or parts of laws which conflict
18 with this act are repealed.

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