

1 SB348
2 128558-1
3 By Senators Coleman, Figures, Dunn, Fielding, Beasley, Irons,
4 Bedford, Singleton, Keahey, Ross, Sanders and Smitherman
5 RFD: Finance and Taxation Education
6 First Read: 05-APR-11

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8 SYNOPSIS: Under existing law, Alabama levies an income
9 tax on resident and nonresident individuals. Gross
10 income for resident individuals includes income
11 from sources within and without Alabama.

12 This bill would amend Section 40-18-14, Code
13 of Alabama 1975, to clarify that gross income for
14 Alabama resident individuals includes an owner's
15 entire allocable share of income from a
16 pass-through entity.

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18 A BILL
19 TO BE ENTITLED
20 AN ACT
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22 To amend Section 40-18-14, Code of Alabama 1975,
23 relating to gross income for individuals subject to Alabama
24 income tax, to clarify that gross income for Alabama resident
25 individuals includes an owner's entire allocable share of
26 income from a pass-through entity.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 40-18-14, Code of Alabama 1975,
2 is amended to read as follows:

3 "§40-18-14.

4 "The term "gross income" as used herein:

5 "(1) Includes gains, profits and income derived from
6 salaries, wages, or compensation for personal services of
7 whatever kind, or in whatever form paid, including the
8 salaries, income, fees, and other compensation of state,
9 county, and municipal officers and employees, or from
10 professions, vocations, trades, business, commerce or sales,
11 or dealings in property whether real or personal, growing out
12 of ownership or use of or interest in such property; also from
13 interest, royalties, rents, dividends, securities, or
14 transactions of any business carried on for gain or profit and
15 the income derived from any source whatever, including any
16 income not exempted under this chapter and against which
17 income there is no provision for a tax. The term "gross
18 income" as used herein also includes alimony and separate
19 maintenance payments to the extent they are includable in
20 gross income for federal income tax purposes under 26 U.S.C. §
21 71 (relating to alimony and separate maintenance payments).
22 The term "gross income" as used herein also includes any
23 amount included in gross income under 26 U.S.C. § 83 at the
24 time it is so included under 26 U.S.C. § 83.

25 "(2) For purposes of this chapter, the reductions in
26 tax attributes required by 26 U.S.C. § 108 shall be applied
27 only to the net operating losses determined under this chapter

1 and the basis of depreciable property. The basis reductions of
2 depreciable property shall not exceed the basis reductions for
3 federal income tax purposes. All other tax attribute
4 reductions required by 26 U.S.C. § 108 shall not be
5 recognized.

6 "(3) Gross income does not include the following
7 items which shall be exempt from income tax under this
8 chapter:

9 "a. Amounts received under life insurance policies
10 and contracts paid by reason of the death of the insured in
11 accordance with 26 U.S.C. § 101;

12 "b. Amounts received, other than amounts paid by
13 reason of the death of the insured, under life insurance,
14 endowment or annuity contracts, determined in accordance with
15 26 U.S.C. § 72;

16 "c. The value of property acquired by gift, bequest,
17 devise, or descent, but the income from such property shall be
18 included in the gross income, in accordance with 26 U.S.C. §
19 102;

20 "d. Interest upon obligations of the United States
21 or its possessions; or securities issued under provisions of
22 the Federal Farm Loan Act of July 18, 1916;

23 "e. Any amounts received by an individual which are
24 excludable from gross income under 26 U.S.C. § 104 (relating
25 to compensation for injuries or sickness) or 26 U.S.C. § 105
26 (relating to amounts received under accident or health plans);

1 "f. Interest on obligations of the State of Alabama
2 and any county, municipality, or other political subdivision
3 thereof;

4 "g. The rental value of a parsonage provided to a
5 minister of the gospel to the extent excludable under 26
6 U.S.C. § 107;

7 "h. Income from discharge of indebtedness to the
8 extent allowed by 26 U.S.C. § 108;

9 "i. For each individual resident taxpayer, or each
10 husband and wife filing a joint income tax return, as the case
11 may be, any gain realized from the sale of a personal
12 residence of the taxpayer shall be excluded to the extent
13 excludable for federal income tax purposes under 26 U.S.C. §
14 121;

15 "j. Contributions made by an employer on behalf of
16 an employee to a trust which is part of a qualified cash or
17 deferred arrangement (as defined in 26 U.S.C. § 401(k)(2), or
18 5 U.S.C. § 8437) under which the employee has an election
19 whether the contribution will be made to the trust or received
20 by the employee in cash and contributions made by an employer
21 for an employee for an annuity contract, which contributions
22 would be excludable from the gross income (for federal income
23 tax purposes) of the employee in accordance with the
24 provisions of 26 U.S.C. § 403(b). The limitations imposed by
25 26 U.S.C. § 402(g) shall apply for purposes of this paragraph;

26 "k. Amounts that an employee is allowed to exclude
27 from gross income for federal income tax purposes pursuant to

1 26 U.S.C. § 125 (relating to cafeteria plans) and 26 U.S.C. §
2 132 (relating to certain fringe benefits); and

3 "1. Amounts paid or incurred by an employer on
4 behalf of an employee if the amounts may be excluded from
5 gross income for federal income tax purposes by an employee
6 pursuant to 26 U.S.C. § 129 (relating to dependent care
7 expenses).

8 "(4) The term "gross income," in the case of a
9 resident individual, includes income from sources within and
10 outside Alabama, and in the case of a nonresident individual,
11 includes only income from property owned or business
12 transacted in Alabama. Because gross income includes income
13 from sources within and outside of Alabama, for resident
14 individual owners of an entity taxed under subchapter K or C
15 of the Internal Revenue Code, gross income includes the
16 entirety of the individual owners' allocable share of the
17 entity's income and is not limited to the portion of the
18 entity's income arising from an Alabama source."

19 Section 2. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.