

1 HB504  
2 115811-1  
3 By Representative Newton (C)  
4 RFD: Education Appropriations  
5 First Read: 04-FEB-10

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8 SYNOPSIS: Under current law, individual income  
9 taxpayers are required to make estimated tax  
10 payments if their income exceeds certain amounts,  
11 and corporate income taxpayers are required to make  
12 estimated tax payments if their tax liability  
13 exceeds \$5,000.

14 This bill will simplify individual income  
15 tax and corporate income tax estimate payments by  
16 conforming the state system with the federal  
17 system.

18 This bill will also increase the estimated  
19 tax payment threshold for individuals and decrease  
20 the estimated tax payment threshold for  
21 corporations.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Sections 40-18-80 and 40-18-80.1 and repeal  
2 Sections 40-18-82, 40-18-83, 40-18-83.1, and 40-18-85, Code of  
3 Alabama 1975, relating to estimated income tax payments to  
4 conform Alabama with the federal system; and to increase the  
5 estimated tax payment threshold for individuals and decrease  
6 the estimated tax payment threshold for corporations.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8           Section 1. Sections 40-18-80 and 40-18-80.1 of the  
9 Code of Alabama 1975, are amended to read as follows:

10           "~~§40-18-80.~~

11           "~~(a) If 90 percent of the tax, determined without~~  
12 ~~regard to the credit under Section 40-18-78, in the case of~~  
13 ~~individuals other than farmers exercising an election under~~  
14 ~~Sections 40-18-82 and 40-18-83, or 66 2/3 percent of such tax~~  
15 ~~so determined in the case of such farmers, exceeds the~~  
16 ~~estimated tax increased by such credit, there shall be added~~  
17 ~~to the tax an amount equal to such excess, or equal to six~~  
18 ~~percent of the amount by which such tax so determined exceeds~~  
19 ~~the estimated tax so increased, whichever is the lesser.~~

20           "~~(b) Subsection (a) shall not apply to the taxable~~  
21 ~~year in which:—~~

22           "~~(1) The death of the taxpayer occurs.~~

23           "~~(2) The taxpayer makes a timely payment on April~~  
24 ~~15, June 15, and September 15 of that year, and on January 15~~  
25 ~~of the year succeeding the taxable year, or in the case of~~  
26 ~~farmers exercising an election under Section 40-18-83(a) (6)~~  
27 ~~and who make payment in an amount equal to one hundred percent~~

1 of the tax shown on the return for the preceding taxable year  
2 (or, if no return is filed, ninety percent of the tax for such  
3 year).

4 ~~(3) The liability for the previous year was zero (0)~~  
5 ~~(except for a net operating loss carryback to that year).~~

6 "(a) Individuals. Individuals shall pay estimated  
7 income tax in accordance with 26 U.S.C. § 6654 except:

8 "(1) The provisions of 26 U.S.C. §  
9 6654(d)(2)(C)(iii) and 26 U.S.C. § 6654(f)(2) shall not apply;

10 "(2) Five hundred dollars (\$500) will be substituted  
11 for the amount provided for in 26 U.S.C. § 6654(e)(1).

12 "(b) For the purposes of this section:

13 "(1) Section 40-18-2 will be substituted when 26  
14 U.S.C. § 6654 refers to "Chapter 1" and "Chapter 2";

15 "(2) Section 40-18-71 will be substituted when 26  
16 U.S.C. § 6654 refers to "Section 31";

17 "(3) Sections 40-18-21(a), 40-18-132, 40-18-136,  
18 40-18-194, 40-18-220, 40-18-243, and 41-23-24 will be  
19 substituted when 26 U.S.C. § 6654 refers to "part IV of  
20 subchapter A of Chapter 1";

21 "(4) "Commissioner" will be substituted when 26  
22 U.S.C. § 6654 refers to "Secretary";

23 "(5) The terms "alternative minimum taxable income"  
24 and "adjusted self-employment income" referred to in 26 U.S.C.  
25 § 6654(d)(2)(C)(i) will be ignored for Alabama purposes.

26 "§40-18-80.1.

1           ~~"(a) Addition to tax. Except as otherwise provided~~  
2 ~~in this section, in the case of any underpayment of estimated~~  
3 ~~tax by a corporation, there shall be added to the tax under~~  
4 ~~this chapter for the taxable year an amount determined by~~  
5 ~~applying the underpayment rate established under 26 U.S.C. §~~  
6 ~~6621, to the amount of the underpayment for the period of the~~  
7 ~~underpayment.~~

8           ~~"(b) Amount of underpayment; period of underpayment.~~  
9 ~~For purposes of subsection (a):~~

10           ~~"(1) Amount is the required installment, in excess~~  
11 ~~of the amount (if any) of the installment paid on or before~~  
12 ~~the due date for the installment.~~

13           ~~"(2) The period of the underpayment shall run from~~  
14 ~~the due date for the installment to whichever of the following~~  
15 ~~dates is the earlier:~~

16           ~~"a. The 15th day of the 3rd month following the~~  
17 ~~close of the taxable year, or~~

18           ~~"b. With respect to any portion of the underpayment,~~  
19 ~~the date on which such portion is paid.~~

20           ~~"(3) For purposes of paragraph (2)b, a payment of~~  
21 ~~estimated tax shall be credited against unpaid required~~  
22 ~~installments in the order in which such installments are~~  
23 ~~required to be paid.~~

24           ~~"(c) Number of required installments; due dates. For~~  
25 ~~purposes of this section there shall be four required install-~~  
26 ~~ments for each taxable year, the time for payment of install-~~  
27 ~~ments shall be:~~

1	Installment	The Due Date Is
2	1st	April 15
3	2nd	June 15
4	3rd	September 15
5	4th	December 15

6           ~~"(d) Amount of required installments. For purposes~~  
7 ~~of this section:~~

8           ~~"(1) a. Except as otherwise provided in this~~  
9 ~~section, the amount of any required installment shall be 25~~  
10 ~~percent of the required annual payment.~~

11           ~~"b. Except as otherwise provided in this subsection,~~  
12 ~~the term "required annual payment" means the lesser of:~~

13           ~~"1. 100 percent of the tax shown on the return for~~  
14 ~~the taxable year (or, if no return is filed, 100 percent of~~  
15 ~~the tax for such year), or~~

16           ~~"2. 100 percent of the tax shown on the return of~~  
17 ~~the corporation for the preceding taxable year. However, this~~  
18 ~~shall not apply if the preceding taxable year was not a~~  
19 ~~taxable year of 12 months, or the corporation did not file a~~  
20 ~~return for such preceding taxable year showing a liability for~~  
21 ~~tax. For the first taxable year beginning after December 31,~~  
22 ~~2000, the first sentence of this subparagraph shall be applied~~  
23 ~~using 130 percent of the tax shown on the return for the~~  
24 ~~preceding taxable year in lieu of 100 percent of such amount.~~

1           ~~"(2) Large corporations are required to pay 100~~  
2 ~~percent of the current year tax.~~

3           ~~"(3) Except as provided in paragraph b, subparagraph~~  
4 ~~2 of paragraph (1)b shall not apply in the case of a large~~  
5 ~~corporation.~~

6           ~~"a. The corporation may use the amount of last~~  
7 ~~year's tax for first installment.~~

8           ~~"b. Paragraph a shall not apply for purposes of~~  
9 ~~determining the amount of the first required installment for~~  
10 ~~any taxable year. Any reduction in such first installment by~~  
11 ~~reason of the preceding sentence shall be recaptured by~~  
12 ~~increasing the amount of the next required installment~~  
13 ~~determined under subdivision (1) by the amount of such~~  
14 ~~reduction.~~

15           ~~"(e) Lower required installment where annualized~~  
16 ~~income installment or adjusted seasonal installment is less~~  
17 ~~than amount determined under subsection (d). In the case of~~  
18 ~~any required installment, the corporation may establish that~~  
19 ~~the accrued income installment or the adjusted seasonal~~  
20 ~~installment is less than the amount determined under (d) (1)~~  
21 ~~in accordance with 26 U.S.C. § 6655(e).~~

22           ~~"(f) Exception where tax is small amount. No~~  
23 ~~addition to tax shall be imposed under subsection (a) for any~~  
24 ~~taxable year if the tax shown on the return for such taxable~~  
25 ~~year (or, if no return is filed, the tax) is less than \$5000.~~

26           ~~"(g) Definitions and special rules. For purposes of~~  
27 ~~this section, the meaning of the following terms are:~~

1                   ~~"(1) TAX:~~

2                   ~~"a. The excess of the tax levied by Sections~~  
3 ~~40-18-31, over~~

4                   ~~"b. The credits against tax provided by Sections~~  
5 ~~40-18-35(b) and 40-18-243.~~

6                   ~~"(2) LARGE CORPORATION:~~

7                   ~~"a. Any corporation if such corporation (or any~~  
8 ~~predecessor corporation) had taxable income of \$1,000,000 or~~  
9 ~~more for any taxable year during the testing period.~~

10                   ~~"b. Rules for applying subparagraph a.~~

11                   ~~"1. Testing period. For purposes of subparagraph a~~  
12 ~~the term "testing period" means the 3 taxable years~~  
13 ~~immediately preceding the taxable year involved.~~

14                   ~~"2. Certain carrybacks and carryovers not taken into~~  
15 ~~account. For purposes of subparagraph a., taxable income shall~~  
16 ~~be determined without regard to any net operating loss carried~~  
17 ~~to the taxable year under Section 40-18-35.1.~~

18                   ~~"(3) CERTAIN TAX-EXEMPT ORGANIZATIONS:~~

19                   ~~"a. Any organization subject to the tax on unrelated~~  
20 ~~business taxable income shall be treated as a corporation~~  
21 ~~subject to tax under Section 40-18-31.~~

22                   ~~"b. Any reference to taxable income shall be treated~~  
23 ~~as including a reference to unrelated business taxable income.~~  
24 ~~In the case of any organization described in subparagraph a,~~  
25 ~~subsection (b) (2) a shall be applied by substituting "5th~~  
26 ~~month" for "3rd month."~~



1           ~~"(4) APPLICATION OF SECTION TO CERTAIN TAXES IMPOSED~~  
2 ~~ON S CORPORATIONS. In the case of an S corporation, for~~  
3 ~~purposes of this section:~~

4           ~~"a. The following taxes shall be treated as imposed~~  
5 ~~by Section 40-18-31:~~

6           ~~"1. The tax imposed by Section 40-18-174(a) (or the~~  
7 ~~corresponding provisions of prior law.)~~

8           ~~"2. The tax imposed by Section 40-18-175(a).~~

9           ~~"b. Paragraph (2) of subsection (d) shall not apply.~~

10           ~~"c. Subparagraph 2 of subsection (d) (1)b shall be~~  
11 ~~applied as if it read as follows:~~

12           ~~"2. The sum of~~

13           ~~"(i) The amount determined under subparagraph 1 by~~  
14 ~~only taking into account the taxes referred to in~~  
15 ~~subparagraphs 1 and 3 of subsection (g) (4)a and~~

16           ~~"(ii) 100 percent of the tax imposed by Section~~  
17 ~~40-18-175(a) which was shown on the return of the corporation~~  
18 ~~of the preceding taxable year.~~

19           ~~"d. The requirement in the last sentence in~~  
20 ~~subsection (d) (1)b that the return for the preceding taxable~~  
21 ~~year show a liability for tax shall not apply.~~

22           ~~"e. Any reference to subsection (e) to taxable~~  
23 ~~income shall be treated as including a reference to the net~~  
24 ~~recognized built-in gain or the excess passive income (as the~~  
25 ~~case may be.)~~

26           ~~"(h) Fiscal years and short years.~~

1           ~~"(1) FISCAL YEARS. In applying this section to a~~  
2 ~~taxable year beginning on any date other than January 1, there~~  
3 ~~shall be substituted, for the months specified in this~~  
4 ~~section, the months which correspond thereto.~~

5           ~~"(2) SHORT TAXABLE YEAR. This section shall be~~  
6 ~~applied to taxable years of less than 12 months in accordance~~  
7 ~~with regulations prescribed by the commissioner.~~

8           ~~"(i) Regulations. The commissioner shall prescribe~~  
9 ~~such regulations as may be necessary to carry out the purposes~~  
10 ~~of this section.~~

11           ~~"(a) Corporations. Corporations shall pay estimated~~  
12 ~~income tax in accordance with 26 U.S.C. § 6655 except:~~

13           ~~"The provisions of 26 U.S.C. § 6655(g)(1)(A)(ii)~~  
14 ~~through (iv) shall not apply.~~

15           ~~"(b) For the purposes of this section:~~

16           ~~"(1) Section 40-18-2 will be substituted when 26~~  
17 ~~U.S.C. § 6655 refers to "Chapter 1";~~

18           ~~"(2) The terms "alternative minimum taxable income"~~  
19 ~~and "modified alternative minimum taxable income" referred to~~  
20 ~~in 26 U.S.C. § 6655(e)(2)(B)(i) will be ignored for Alabama~~  
21 ~~purposes;~~

22           ~~"(3) Section 40-18-31 will be substituted when 26~~  
23 ~~U.S.C. § 6655 refers to "Section 11";~~

24           ~~"(4) The terms "1201(a)" and "subchapter L of~~  
25 ~~Chapter 1" referred to in 26 U.S.C. § 6655(g)(1)(A)(i) will be~~  
26 ~~ignored for Alabama purposes;~~

1                   "(5) Sections 40-18-35(e), 40-18-136, 40-18-194,  
2                   40-18-220, 40-18-243, and 41-23-24 will be substituted when 26  
3                   U.S.C. § 6655(g) (1) (B) refers to "part IV of subchapter A of  
4                   Chapter 1";

5                   "(6) "Alabama Affiliated Group" will be substituted  
6                   when 26 U.S.C. § 6655 refers to "Controlled Group";

7                   "(7) The term "carrybacks" referred to in 26 U.S.C.  
8                   § 6655(g) (2) (B) (iii) will be ignored for Alabama purposes;

9                   "(8) "Commissioner" will be substituted when 26  
10                   U.S.C. § 6655 refers to "Secretary"."

11                   Section 2. The provisions of this act are severable.  
12                   If any part of this act is declared invalid or  
13                   unconstitutional, that declaration shall not affect the part  
14                   which remains.

15                   Section 3. All laws or parts of laws which conflict  
16                   with this act are repealed. Specifically, Sections 40-18-82,  
17                   40-18-83, 40-18-83.1, and 40-18-85, Code of Alabama 1975, are  
18                   hereby repealed.

19                   Section 4. This act shall become effective for all  
20                   tax years beginning after December 31, 2009, following its  
21                   passage and approval by the Governor, or its otherwise  
22                   becoming law.