

1 HB257
2 155566-2
3 By Representative Bracy
4 RFD: Ways and Means Education
5 First Read: 16-JAN-14

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ENROLLED, An Act,

To amend Section 40-18-15, Code of Alabama 1975, relating to the election to claim the optional standard deduction by married taxpayers filing separate tax returns.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-18-15, Code of Alabama 1975, is amended to read as follows:

"§40-18-15.

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

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

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

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

1 "a. Income taxes, Federal Insurance Contribution Act
2 taxes, taxes on self-employment income and estate and gift
3 taxes imposed by authority of the United States or any
4 possession of the United States.

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

7 "c. State and local, and foreign, real property
8 taxes.

9 "d. State and local personal property taxes.

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

12 "f. The taxes described in paragraphs c., d., and e.
13 shall be deductible only to the extent that the taxes are
14 deductible for federal income tax purposes under 26 U.S.C. §
15 164 (relating to taxes).

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

23 "h. Notwithstanding paragraph g., any tax described
24 in any paragraph preceding paragraph g. that is paid or
25 accrued in connection with an acquisition or disposition of

1 property shall be treated as part of the cost of the acquired
2 property or, in the case of a disposition, as a reduction in
3 the amount realized on the disposition of that property.

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

7 "(5) Losses sustained during the taxable year and
8 not compensated for by insurance or otherwise, if incurred in
9 any transaction entered into for profit, though not connected
10 with the trade or business in accordance with 26 U.S.C. §
11 165(c)(2); but, in the case of a taxpayer other than a
12 resident of the state, only as to those transactions within
13 the state.

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

1 "(7) Losses from debts ascertained to be worthless
2 and charged off during the taxable year of ascertainment, if
3 sustained in the conduct of the regular trade or business of
4 the taxpayer.

5 "(8) A reasonable allowance for the exhaustion, wear
6 and tear of property from which any income is derived,
7 including a reasonable allowance for obsolescence, in
8 accordance with 26 U.S.C. §§ 167 and 168, and an allowance for
9 the amortization of intangibles determined in accordance with
10 26 U.S.C. § 197.

11 "(9) In the case of mines, oil, and gas wells, other
12 natural deposits and timber, a reasonable allowance for
13 depletion and for depreciation of improvements, according to
14 the peculiar condition in each case based upon the cost,
15 including the cost of development not otherwise deducted, such
16 reasonable allowance in all cases to be made under rules and
17 regulations to be prescribed by the Department of Revenue;
18 and, in the case of leasehold interests, the deduction allowed
19 by this section shall be equitably apportioned between the
20 lessor and the lessee.

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

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

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

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

16 "(14) For each individual income taxpayer, the
17 deduction determined in accordance with 26 U.S.C. § 212 for
18 all the ordinary and necessary expenses paid or incurred
19 during the taxable year for the production or collection of
20 income, or for the management, conservation, or maintenance of
21 property held for the production of income, or in connection
22 with the determination, collection, or refund of any tax.

23 "(15) Any expense not exceeding \$1,000 actually
24 incurred during the taxable year in constructing on his or her
25 property a family radioactive fallout shelter, as approved and

1 certified by the State Department of Emergency Management, and
2 any amount not exceeding \$1,000 which he or she contributed
3 during the taxable year toward the construction of a community
4 radioactive fallout shelter.

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

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

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

20 "(19) Any expense not exceeding \$35,000 actually
21 incurred during the taxable year in removing from his or her
22 property any architectural or transportation barriers to
23 handicapped persons with nonambulatory and semiambulatory
24 disabilities; provided, however, that any improvements

1 resulting from that expense shall not be eligible to be
2 capitalized for depreciation.

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

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

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

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

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

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

10 "(2) For tax years beginning after December 31,
11 2006, the optional standard deduction shall be determined as
12 follows:

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

21 "b. The standard deduction for married taxpayers
22 filing separate returns with adjusted gross income of \$10,000
23 or less shall be \$3,750. For married taxpayers filing separate
24 returns with adjusted gross income of greater than \$10,000,
25 the standard deduction shall be reduced by \$88 for each \$250

1 of adjusted gross income in excess of \$10,000. Notwithstanding
2 the preceding sentence, the standard deduction shall not be
3 less than \$2,000 for married taxpayers filing separate
4 returns.

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

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

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

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

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

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

12 "(1) The deductions allowed in subdivisions (1),
13 (2), (3), (4), (5), (7), (8), (9), (11), (12), (19), (21),
14 (23), and (25) of subsection (a) shall be allowed only to the
15 extent that they are paid or incurred in carrying on a trade
16 or business within the State of Alabama and the deduction
17 allowed by Section 40-18-15.2 shall be allowed only to the
18 extent it arose from a trade or business carried on in
19 Alabama.

20 "(2) The deductions allowed by subdivisions (2),
21 (3), (5), (8), (9), (14), and (19) of subsection (a) shall be
22 allowed only to the extent arising from property located in
23 Alabama or transactions producing income that is subject to
24 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. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law, for
20 the tax returns filed for the 2014 and subsequent tax years.

