

1 HB420
2 198732-4
3 By Representative South
4 RFD: Financial Services
5 First Read: 11-APR-19

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ENROLLED, An Act,

Relating to taxation; to add Section 40-29-23.1 to the Code of Alabama 1975, to allow the Department of Revenue to enter into agreements with financial institutions doing business or authorized to do business in Alabama to develop and operate a financial institution data match (FIDM) program.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-29-23.1 is added to the Code of Alabama 1975, to read as follows:

§40-29-23.1.

(a) For purposes of this section the following terms shall have the following meanings:

(1) ACCOUNT. A demand deposit account, checking account, negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(2) ACCOUNT HOLDER. A person or persons authorized to perform transactions on behalf of an account.

(3) DELINQUENT TAXPAYER. A taxpayer with an outstanding tax liability for which a final assessment has been entered that is no longer subject to appeal under the Alabama Taxpayer's Bill of Rights, so that the assessment is final, due, and owing, and for whom both of the following conditions are true:

1 a. The tax liability remains unpaid after 10 days
2 from the issuance of a final notice before seizure by the
3 department.

4 b. The person is not making current timely
5 installment payments on the tax liability under agreement with
6 the department.

7 (4) DEPARTMENT. The Alabama Department of Revenue.

8 (5) DESIGNATED DATA PROCESSING AGENT. A person
9 authorized by a financial institution and approved by the
10 department to receive information necessary to implement the
11 financial data match program established under this section.

12 (6) FINAL ASSESSMENT. Has the same meaning as in
13 Section 40-2A-3.

14 (7) FINANCIAL INSTITUTION. Includes depository
15 institutions, as defined in Section 3(c) of the Federal
16 Deposit Insurance Act, 12 U.S.C. §1813(c) and as amended from
17 time to time; institution-affiliated parties, as defined in
18 Section 3(u) of 12 U.S.C. §1813(u) and as amended from time to
19 time; and any federal credit union or state credit union, as
20 defined in Section 101 of the Federal Credit Union Act, 12
21 U.S.C. §1752 and as amended from time to time, including an
22 institution-affiliated party of a credit union, as defined in
23 Section 206(r) of the Federal Credit Union Act, 12 U.S.C. §
24 1786(r) and as amended from time to time; and any benefit
25 association, insurance company, safe deposit company, money

1 market mutual fund, or similar entity doing business or
2 authorized to do business in the state.

3 (8) PERSON. As defined in Section 40-1-1.

4 (9) TAXPAYER. As defined in Section 40-2A-3.

5 (b) The department and a financial institution doing
6 business or authorized to do business in Alabama, or its
7 designated data processing agent, may enter into an agreement
8 to develop and operate a financial institution data match
9 (FIDM) program utilizing automated data exchanges to the
10 maximum extent feasible, to provide the following identifying
11 information, to the extent available for each delinquent
12 taxpayer who maintains an account with the financial
13 institution, to the department on a calendar quarter basis:

14 (1) Name.

15 (2) Record address.

16 (3) Social Security number.

17 (4) Federal employer identification number.

18 (5) Other tax identification number.

19 (6) Other identifying information that may be a part
20 of the records of the financial institution.

21 (c) No penalty shall be assessed or enforced, nor
22 shall the department take any adverse action, against a
23 financial institution based on its decision not to enter into
24 an FIDM agreement with the department.

1 (d) The department may pay a reasonable fee to a
2 financial institution for conducting a data match, in
3 accordance with the terms of the parties' voluntary agreement,
4 not to exceed the actual costs incurred by the financial
5 institution.

6 (e) (1) Unless otherwise required by law, a financial
7 institution furnishing a report or providing information to
8 the department pursuant to this section shall not disclose to
9 an account holder that any identifying information of that
10 delinquent taxpayer has been received from or furnished to the
11 department.

12 (2) A financial institution may disclose to its
13 depositors or account holders that the department has the
14 authority to request certain identifying information on
15 certain depositors or account holders under the financial
16 institution data match system for state tax collection
17 purposes.

18 (f) A financial institution shall not incur any
19 obligation or liability to an account holder or any person
20 arising from any of the following activities:

21 (1) Furnishing information as required by this
22 section and applicable rules.

23 (2) Failing to disclose to a delinquent taxpayer who
24 is an account holder that any identifying information of the

1 delinquent taxpayer was included in the data exchange with the
2 department required by this section.

3 (3) Any other action taken in good faith to comply
4 with the requirements of this section.

5 (g) All information provided by a financial
6 institution under this section is confidential and is
7 available to the department or its agents for use only to the
8 extent necessary for the proper administration of matters
9 administered by the department.

10 (h) The first data exchange for purposes of matching
11 delinquent taxpayer records to financial institution account
12 holder records shall occur no earlier than January 1, 2020.

13 (i) The provisions of this section are not intended
14 to and shall not alter or abrogate statutory procedures and
15 due process protections pursuant to which the department
16 executes a garnishment against the property of a delinquent
17 taxpayer in the possession or control of a financial
18 institution, including the requirement of notice of
19 garnishment to the taxpayer and the institution, and related
20 due process requirements and protections.

21 (j) The department shall adopt rules for the
22 implementation and administration of this act.

23 Section 2. This act shall become effective
24 immediately upon its passage and approval by the Governor, or
25 its otherwise becoming law.

