

1 SB357
2 198732-3
3 By Senator Smitherman
4 RFD: Governmental Affairs
5 First Read: 30-APR-19

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8 SYNOPSIS: This bill would provide for the exchange of
9 information between the Department of Revenue and
10 financial institutions to facilitate the collection
11 of delinquent taxpayer liabilities by allowing the
12 department to enter into voluntary agreements with
13 financial institutions doing business or authorized
14 to do business in Alabama to develop and operate a
15 financial institution data match program.

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17 A BILL
18 TO BE ENTITLED
19 AN ACT

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21 Relating to taxation; to add Section 40-29-23.1 to
22 the Code of Alabama 1975, to allow the Department of Revenue
23 to enter into agreements with financial institutions doing
24 business or authorized to do business in Alabama to develop
25 and operate a financial institution data match (FIDM) program.
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 §40-29-23.1.

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

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

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

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

17 a. The tax liability remains unpaid after 10 days
18 from the issuance of a final notice before seizure by the
19 department.

20 b. The person is not making current timely
21 installment payments on the tax liability under agreement with
22 the department.

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

24 (5) DESIGNATED DATA PROCESSING AGENT. A person
25 authorized by a financial institution and approved by the
26 department to receive information necessary to implement the
27 financial data match program established under this section.

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

3 (7) FINANCIAL INSTITUTION. Includes depository
4 institutions, as defined in Section 3(c) of the Federal
5 Deposit Insurance Act, 12 U.S.C. §1813(c) and as amended from
6 time to time; institution-affiliated parties, as defined in
7 Section 3(u) of 12 U.S.C. §1813(u) and as amended from time to
8 time; and any federal credit union or state credit union, as
9 defined in Section 101 of the Federal Credit Union Act, 12
10 U.S.C. §1752 and as amended from time to time, including an
11 institution-affiliated party of a credit union, as defined in
12 Section 206(r) of the Federal Credit Union Act, 12 U.S.C. §
13 1786(r) and as amended from time to time; and any benefit
14 association, insurance company, safe deposit company, money
15 market mutual fund, or similar entity doing business or
16 authorized to do business in the state.

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

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

19 (b) The department and a financial institution doing
20 business or authorized to do business in Alabama, or its
21 designated data processing agent, may enter into an agreement
22 to develop and operate a financial institution data match
23 (FIDM) program utilizing automated data exchanges to the
24 maximum extent feasible, to provide the following identifying
25 information, to the extent available for each delinquent
26 taxpayer who maintains an account with the financial
27 institution, to the department on a calendar quarter basis:

- 1 (1) Name.
- 2 (2) Record address.
- 3 (3) Social Security number.
- 4 (4) Federal employer identification number.
- 5 (5) Other tax identification number.
- 6 (6) Other identifying information that may be a part
- 7 of the records of the financial institution.

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

12 (d) The department may pay a reasonable fee to a
13 financial institution for conducting a data match, in
14 accordance with the terms of the parties' voluntary agreement,
15 not to exceed the actual costs incurred by the financial
16 institution.

17 (e) (1) Unless otherwise required by law, a financial
18 institution furnishing a report or providing information to
19 the department pursuant to this section shall not disclose to
20 an account holder that any identifying information of that
21 delinquent taxpayer has been received from or furnished to the
22 department.

23 (2) A financial institution may disclose to its
24 depositors or account holders that the department has the
25 authority to request certain identifying information on
26 certain depositors or account holders under the financial

1 institution data match system for state tax collection
2 purposes.

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

6 (1) Furnishing information as required by this
7 section and applicable rules.

8 (2) Failing to disclose to a delinquent taxpayer who
9 is an account holder that any identifying information of the
10 delinquent taxpayer was included in the data exchange with the
11 department required by this section.

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

14 (g) All information provided by a financial
15 institution under this section is confidential and is
16 available to the department or its agents for use only to the
17 extent necessary for the proper administration of matters
18 administered by the department.

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

22 (i) The provisions of this section are not intended
23 to and shall not alter or abrogate statutory procedures and
24 due process protections pursuant to which the department
25 executes a garnishment against the property of a delinquent
26 taxpayer in the possession or control of a financial
27 institution, including the requirement of notice of

1 garnishment to the taxpayer and the institution, and related
2 due process requirements and protections.

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

5 Section 2. This act shall become effective
6 immediately upon its passage and approval by the Governor, or
7 its otherwise becoming law.