

1 HB391
2 217897-2
3 By Representatives Clouse and Garrett
4 RFD: Ways and Means General Fund
5 First Read: 22-FEB-22

SYNOPSIS: Under existing law, the minimum business privilege tax due for certain corporations, business trusts, limited liability entities, and disregarded entities is not less than \$100.

This bill reduces the minimum business privilege tax of \$100 to \$50 for the taxable year beginning after December 31, 2022.

This bill also provides for a full exemption from the minimum business privilege tax due for taxable years beginning after December 31, 2023.

A BILL
TO BE ENTITLED
AN ACT

Relating to the levy and amount of business privilege tax; to amend Section 40-14A-22, Code of Alabama 1975, to provide for a reduced minimum business privilege tax of \$50 for taxable years beginning after December 31, 2022; to provide a full exemption from the business privilege tax on

1 amounts due of \$100 or less for taxable years beginning after
2 December 31, 2023.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 40-14A-22, Code of Alabama 1975,
5 is amended to read as follows:

6 "§40-14A-22.

7 "(a) Levy of tax. There is hereby levied an annual
8 privilege tax on every corporation, limited liability entity,
9 and disregarded entity doing business in Alabama, or
10 organized, incorporated, qualified, or registered under the
11 laws of Alabama. The tax shall accrue as of January 1 of every
12 taxable year, or in the case of a taxpayer organized,
13 incorporated, qualified, or registered during the year, or
14 doing business in Alabama for the first time, as of the date
15 the taxpayer is organized, incorporated, registered, or
16 qualifies to do business, or begins to do business in Alabama,
17 as the case may be. The taxpayer shall be liable for the tax
18 levied by this article for each year beginning before the
19 taxpayer has been dissolved or otherwise ceased to exist or
20 has withdrawn or forfeited its qualification to do business in
21 Alabama. The amount of the tax due shall be determined by
22 multiplying the taxpayer's net worth in Alabama by the rate
23 determined in subsection (b).

24 "(b) Rate of tax. For all taxable years of taxpayers
25 that begin after December 31, 1999, the rate of tax shall be
26 as set forth below.

1 If taxable
2 income of the
3 taxpayer is:

4	at least	but less	The tax rate
		than	shall be
5		\$1	\$0.25 per \$1,000
6	\$1	\$200,000	\$1.00 per \$1,000
7	\$200,000	\$500,000	\$1.25 per \$1,000
8	\$500,000	\$2,500,000	\$1.50 per \$1,000
9	\$2,500,000		\$1.75 per \$1,000

10 "(c) Minimum tax. (1) Except as provided in
11 subsection (f), and subdivisions (c) (2) and (c) (3), the
12 privilege tax levied by this article on certain corporations,
13 business trusts, limited liability entities, and disregarded
14 entities shall not be less than \$100.

15 "(2) For the taxable year beginning after December
16 31, 2022, taxpayers who would otherwise be subject to the
17 minimum tax due of \$100 provided for in subdivision (c) (1)
18 shall pay \$50 in lieu thereof. This subdivision shall not

1 apply to those subject to the tax levy provided under Section
2 2 of Act 2021-450 of the 2021 Regular Session now appearing as
3 Section 20-2A-80.

4 "(3) For taxable years beginning after December 31,
5 2023, taxpayers who would otherwise be subject to the minimum
6 tax due provided for in subdivisions (c)(1) or (c)(2) shall be
7 exempt from the privilege tax levied by this article and the
8 associated filing requirement. This subdivision shall not
9 apply to those subject to the tax levy provided under Section
10 2 of Act 2021-450 of the 2021 Regular Session now appearing as
11 Section 20-2A-80.

12 "(d) Maximum tax.

13 "(1) Except as provided in subdivision (2), the
14 privilege tax levied by this article shall not exceed \$15,250
15 for any taxpayer for the taxable year beginning January 1,
16 2000. For each taxable year thereafter, the maximum tax shall
17 not exceed \$15,000 for any taxpayer, except as provided in
18 subdivision (2).

19 "(2) With respect to any (i) financial institution
20 groups as defined in subsection (f)(1); (ii) insurance company
21 that is subject to the premium taxes levied by Chapter 4A of
22 Title 27; and (iii) corporation, company, limited liability
23 entity, or association whose property is assessed for taxation
24 pursuant to the provisions of Chapter 21 and is obligated to
25 serve the general public, but is not subject to the Alabama
26 Corporate Income tax, the privilege tax levied by this article
27 shall not exceed \$3,000,000, for any taxpayer or, for a

1 financial institution group, for the financial institution
2 group as a whole each year except as provided in subsection
3 (e). The privilege tax levied by this article on any electing
4 family limited liability entity shall not exceed \$500.

5 "The privilege tax levied by this article on any
6 corporation organized as a not-for-profit corporation that
7 does not engage in any business other than holding title to
8 property and paying the expenses thereof, including, without
9 limitation, a property owners' association or a corporation
10 organized solely to hold title to property on a temporary
11 basis, shall not exceed \$100.

12 "(e) Short taxable years. If any taxpayer's taxable
13 year is less than 12 months because the taxpayer is
14 incorporated or organized within the taxable year, or if any
15 foreign corporation or foreign limited liability entity
16 qualifies, registers, or begins to do business in this state
17 within the taxable year or converts to a taxable year other
18 than the calendar year, the amount of the tax levied by this
19 article shall be determined in the manner specified in this
20 article but apportioned to the short taxable year in same
21 proportion as the number of days in the short taxable year
22 bears to 365, but in no event less than ~~\$100~~ the amounts as
23 specified in subsection (c) as applicable nor more than the
24 applicable amount specified in subsection (d).

25 "(f) Minimum taxes for financial institution groups.

26 "(1) For purposes of this subsection, the following
27 terms shall mean:

1 "a. Affiliated Group. (i) One or more chains of
2 corporations or limited liability entities connected through
3 the ownership of stock or ownership interests with a common
4 parent which is a corporation or limited liability entity, but
5 only if the common parent owns directly stock or ownership
6 interests meeting the requirements of item (ii) in at least
7 one of the other corporations or limited liability entities,
8 and only if stock or ownership interests meeting the
9 requirements of item (ii) in each of the corporations or
10 limited liability entities (except the common parent) is owned
11 directly by one or more of the other corporations or limited
12 liability entities. (ii) The ownership of stock or ownership
13 interests of any corporation or limited liability entity meets
14 the requirements of this paragraph if it possesses at least 80
15 percent of the total voting power or capital and profits
16 interest of the corporation or limited liability entity.

17 "b. Financial Institution. The meaning given in
18 Section 40-16-1.

19 "c. Financial Institution Group. All taxpayers in an
20 affiliated group where at least one member of the group is a
21 financial institution that is subject to the provisions of
22 Chapter 16. In the event a financial institution taxpayer is
23 not a member of an affiliated group, that financial
24 institution shall be treated as a financial institution group.

25 "(2) To the extent that the members of a financial
26 institution group have different taxable years, the group

1 shall be deemed, for purposes of the business privilege tax
2 levied by Article 2, to have a calendar taxable year.

3 "(3) Taxpayers who are members of a financial
4 institution group shall complete their business privilege tax
5 returns without regard to this subsection. Those taxpayers
6 shall submit their returns together, and the minimum tax
7 amount provided in subdivision (5) shall apply to the
8 aggregate business privilege tax liability of the group. To
9 the extent that the minimum amount provided in subdivision (5)
10 applies to determine the liability of the group, each taxpayer
11 which is a member of the group shall be liable for that
12 portion of the group liability which is equal to the amount
13 multiplied by the ratio of the taxpayer's liability without
14 regard to this subsection over the liability of the group
15 without regard to this subsection. Upon the annual election of
16 the common parent, a financial institution group may file a
17 single return, executed by the common parent of that financial
18 institution group. The return shall be completed as if the
19 financial institution group were a single taxpayer. Each
20 member of the financial institution group shall be jointly and
21 severally liable for the group's business privilege tax and
22 corporate shares tax liabilities.

23 "(4) The tax returns for all members of a financial
24 institution group shall be due no later than the corresponding
25 Alabama financial institution excise tax return due date.
26 Extensions for filing these returns shall not be granted for
27 more than six months.

1 "(5) For taxable years beginning on or after January
2 1, 2000, the minimum aggregate business privilege tax levied
3 by Article 2 on all members of a financial institution group
4 shall be:

5 "a. For financial institutions with total deposits
6 inside Alabama of less than one billion dollars
7 (\$1,000,000,000) within that financial institution group, as
8 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the
9 immediately preceding taxable year, the tax rate shall be
10 \$.125 per one thousand dollars (\$1,000) of such deposits. For
11 deposit rate purposes for all future periods, the deposits
12 shall in no event be less than the deposits listed as of June
13 30, 1999.

14 "b. For financial institutions with total deposits
15 inside Alabama of one billion dollars (\$1,000,000,000) or
16 greater up to and including six billion dollars
17 (\$6,000,000,000) within that financial institution group, as
18 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the
19 immediately preceding taxable year, the tax rate shall be \$.17
20 per one thousand dollars (\$1,000) of such deposits. For
21 deposit rate purposes for all future periods, the deposits
22 shall in no event be less than the deposits listed as of June
23 30, 1999.

24 "c. For financial institutions with total deposits
25 inside Alabama greater than six billion dollars
26 (\$6,000,000,000) within that financial institution group, as
27 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the

1 immediately preceding taxable year, the tax rate shall be
2 \$.225 per one thousand dollars (\$1,000) of such deposits. For
3 deposit rate purposes for all future periods, the deposits
4 shall in no event be less than the deposits listed as of June
5 30, 1999.

6 "d. Provided, however, that in the case of a
7 financial institution group that, as of June 30, 1999, (i) had
8 total deposits of less than one billion dollars
9 (\$1,000,000,000) and (ii) derived at least a majority of its
10 deposits, as reported to FDIC, OTS, or NCUSIF, that were
11 booked to one or more branches or offices located within
12 Alabama from account holders whose addresses of record on the
13 books of the financial institution group were outside the
14 State of Alabama, the phrase "total deposits in Alabama," for
15 purposes of calculating the minimum aggregate business
16 privilege tax levied by Article 2 for all taxable years
17 beginning on and after January 1, 2000, shall only include
18 deposits of account holders whose addresses of record on the
19 books of the financial institution group are inside the State
20 of Alabama.

21 "e. In the event a financial institution group sells
22 Alabama deposits to another financial institution group that
23 reports those deposits in Alabama for purposes of Act
24 2000-705, those deposits shall not be taxed more than once
25 pursuant to the provisions of Act 2000-705 in the same taxable
26 year. The liability for such taxes shall be the responsibility

1 of the purchaser, and the tax base for the selling group shall
2 be adjusted accordingly.

3 "f. In the event an existing financial institution
4 group reports deposits in any year less than 96.5 percent of
5 the deposits reported as of June 30, 1999, the alternative
6 minimum tax shall be based on the deposits reported as of June
7 30, 1999. In the event an existing financial institution group
8 reports deposits in any year more than 96.5 percent of the
9 deposits reported as of June 30, 1999, the alternative minimum
10 tax shall be based on the deposits reported for that taxable
11 year. For financial institutions coming into existence after
12 June 30, 1999, the deposits upon which the alternative minimum
13 tax is based shall not be less than the deposits reported the
14 first full year that financial institution reported deposits
15 to the FDIC, OTS, or NCUSIF."

16 Section 2. The Department of Revenue may adopt rules
17 for the implementation and administration of this act.

18 Section 3. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.