

HB217 INTRODUCED



1 GYIF66-1

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6 RFD: Ways and Means Education

7 First Read: 23-Mar-23

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SYNOPSIS:

Under existing law, gross income is defined for the purpose of state income tax. Also existing law exempts certain amounts from the calculation of gross income.

This bill would exclude work performed in excess of 40 hours in any week from being included in the calculation of gross income.

A BILL
TO BE ENTITLED
AN ACT

Relating to gross income; to amend Section 40-18-14, Code of Alabama 1975; to exclude hours worked above 40 in any given week from gross income.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-18-14, Code of Alabama 1975, is amended to read as follows:

"§40-18-14

(a) The term "gross income" as used herein:

(1) Includes gains, profits and income derived from salaries, wages, or compensation for personal services of whatever kind, or in whatever form paid, including the



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29 salaries, income, fees, and other compensation of state,
30 county, and municipal officers and employees, or from
31 professions, vocations, trades, business, commerce or sales,
32 or dealings in property whether real or personal, growing out
33 of ownership or use of or interest in such property; also from
34 interest, royalties, rents, dividends, securities, or
35 transactions of any business carried on for gain or profit and
36 the income derived from any source whatever, including any
37 income not exempted under this chapter and against which
38 income there is no provision for a tax. The term "gross
39 income" as used herein also includes alimony and separate
40 maintenance payments to the extent they are includable in
41 gross income for federal income tax purposes under 26 U.S.C. §
42 71 (relating to alimony and separate maintenance payments).
43 The term "gross income" as used herein also includes any
44 amount included in gross income under 26 U.S.C. § 83 at the
45 time it is so included under 26 U.S.C. § 83.

46 (2) For purposes of this chapter, the reductions in tax
47 attributes required by 26 U.S.C. § 108 shall be applied only
48 to the net operating losses determined under this chapter and
49 the basis of depreciable property. The basis reductions of
50 depreciable property shall not exceed the basis reductions for
51 federal income tax purposes. All other tax attribute
52 reductions required by 26 U.S.C. § 108 shall not be
53 recognized.

54 (3) Gross income does not include the following items
55 which shall be exempt from income tax under this chapter:

56 a. Amounts received under life insurance policies and



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57 contracts paid by reason of the death of the insured in
58 accordance with 26 U.S.C. § 101;

59 b. Amounts received, other than amounts paid by reason
60 of the death of the insured, under life insurance, endowment
61 or annuity contracts, determined in accordance with 26 U.S.C.
62 § 72;

63 c. The value of property acquired by gift, bequest,
64 devise, or descent, but the income from such property shall be
65 included in the gross income, in accordance with 26 U.S.C. §
66 102;

67 d. Interest upon obligations of the United States or
68 its possessions; or securities issued under provisions of the
69 Federal Farm Loan Act of July 18, 1916;

70 e. Any amounts received by an individual which are
71 excludable from gross income under 26 U.S.C. § 104 (relating
72 to compensation for injuries or sickness) or 26 U.S.C. § 105
73 (relating to amounts received under accident or health plans);

74 f. Interest on obligations of the State of Alabama and
75 any county, municipality, or other political subdivision
76 thereof;

77 g. The rental value of a parsonage provided to a
78 minister of the gospel to the extent excludable under 26
79 U.S.C. § 107;

80 h. Income from discharge of indebtedness to the extent
81 allowed by 26 U.S.C. § 108;

82 i. For each individual resident taxpayer, or each
83 husband and wife filing a joint income tax return, as the case
84 may be, any gain realized from the sale of a personal



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85 residence of the taxpayer shall be excluded to the extent
86 excludable for federal income tax purposes under 26 U.S.C. §
87 121;

88 j. Contributions made by an employer on behalf of an
89 employee to a trust which is part of a qualified cash or
90 deferred arrangement (as defined in 26 U.S.C. § 401(k)(2), or
91 5 U.S.C. § 8437) under which the employee has an election
92 whether the contribution will be made to the trust or received
93 by the employee in cash and contributions made by an employer
94 for an employee for an annuity contract, which contributions
95 would be excludable from the gross income (for federal income
96 tax purposes) of the employee in accordance with the
97 provisions of 26 U.S.C. § 403(b). The limitations imposed by
98 26 U.S.C. § 402(g) shall apply for purposes of this paragraph;

99 k. Amounts that an employee is allowed to exclude from
100 gross income for federal income tax purposes pursuant to 26
101 U.S.C. § 125 (relating to cafeteria plans) and 26 U.S.C. § 132
102 (relating to certain fringe benefits); and

103 l. Amounts paid or incurred by an employer on behalf of
104 an employee if the amounts may be excluded from gross income
105 for federal income tax purposes by an employee pursuant to 26
106 U.S.C. § 129 (relating to dependent care expenses).

107 m. Amounts received by a full-time hourly waged paid
108 employee as compensation for work performed in excess of 40
109 hours in a week.

110 (4) The term "gross income," in the case of a resident
111 individual, includes income from sources within and outside
112 Alabama, including without limitation, the resident's



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113 proportionate share of any income arising from a Subchapter K
114 entity, Alabama S corporation, or estate or trust, regardless
115 of the geographic source of the income. The term gross income,
116 in the case of a nonresident individual, includes only income
117 from property owned or business transacted in Alabama. For
118 purposes of this article, proportionate share shall be defined
119 by reference to (i) the status of the individual owner as a
120 partner or member of a Subchapter K entity, shareholder of an
121 Alabama S corporation, or beneficiary of an estate or trust,
122 and (ii) the allocable interest in that entity owned by the
123 individual.

124 (b) The Department of Revenue may adopt rules to
125 provide for the administration of the provisions of this
126 section."

127 Section 2. The provisions of this act are applicable to
128 all tax years beginning after December 31, 2023.

129 Section 3. This act shall become effective on January
130 1, 2024, following its passage and approval by the Governor,
131 or its otherwise becoming law.