



**House Ways and Means Education Reported Substitute
for HB407**

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A BILL
TO BE ENTITLED
AN ACT

Relating to income taxes; to amend Section 40-18-14, Code of Alabama 1975, as last amended by Act 2023-421; to amend the definition of gross income; to exempt from state income tax amounts paid as overtime compensation in accordance with the U.S. Fair Labor Standards Act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-18-14, Code of Alabama 1975, as last amended by Act 2023-421, 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 salaries, income, fees, and other compensation of state, county, and municipal officers and employees, or from professions, vocations, trades, business, commerce or sales, or dealings in property whether real or personal, growing out of ownership or use of or interest in such property; also from interest, royalties, rents, dividends, securities, or transactions of any business carried on for gain or profit and



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29 the income derived from any source whatever, including any
30 income not exempted under this chapter and against which
31 income there is no provision for a tax. The term "gross
32 income" as used herein also includes alimony and separate
33 maintenance payments to the extent they are includable in
34 gross income for federal income tax purposes under 26 U.S.C. §
35 71, relating to alimony and separate maintenance payments. The
36 term "gross income" as used herein also includes any amount
37 included in gross income under 26 U.S.C. § 83 at the time it
38 is so included under 26 U.S.C. § 83.

39 (2) For purposes of this chapter, the reductions in tax
40 attributes required by 26 U.S.C. § 108 shall be applied only
41 to the net operating losses determined under this chapter and
42 the basis of depreciable property. The basis reductions of
43 depreciable property shall not exceed the basis reductions for
44 federal income tax purposes. All other tax attribute
45 reductions required by 26 U.S.C. § 108 shall not be
46 recognized.

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

49 a. Amounts received under life insurance policies and
50 contracts paid by reason of the death of the insured in
51 accordance with 26 U.S.C. § 101;

52 b. Amounts received, other than amounts paid by reason
53 of the death of the insured, under life insurance, endowment
54 or annuity contracts, determined in accordance with 26 U.S.C.
55 § 72;

56 c. The value of property acquired by gift, bequest,



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57 devise, or descent, but the income from such property shall be
58 included in the gross income, in accordance with 26 U.S.C. §
59 102;

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

63 e. Any amounts received by an individual which are
64 excludable from gross income under 26 U.S.C. § 104, relating
65 to compensation for injuries or sickness, or 26 U.S.C. § 105,
66 relating to amounts received under accident or health plans;

67 f. Interest on obligations of the State of Alabama and
68 any county, municipality, or other political subdivision
69 thereof;

70 g. The rental value of a parsonage provided to a
71 minister of the gospel to the extent excludable under 26
72 U.S.C. § 107;

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

75 i. For each individual resident taxpayer, or each
76 husband and wife filing a joint income tax return, as the case
77 may be, any gain realized from the sale of a personal
78 residence of the taxpayer shall be excluded to the extent
79 excludable for federal income tax purposes under 26 U.S.C. §
80 121;

81 j. Contributions made by an employer on behalf of an
82 employee to a trust which is part of a qualified cash or
83 deferred arrangement, as defined in 26 U.S.C. § 401(k)(2) or 5
84 U.S.C. § 8437, under which the employee has an election



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85 whether the contribution will be made to the trust or received
86 by the employee in cash and contributions made by an employer
87 for an employee for an annuity contract, which contributions
88 would be excludable from the gross income, for federal income
89 tax purposes, of the employee in accordance with the
90 provisions of 26 U.S.C. § 403(b). The limitations imposed by
91 26 U.S.C. § 402(g) shall apply for purposes of this paragraph;

92 k. Amounts that an employee is allowed to exclude from
93 gross income for federal income tax purposes pursuant to 26
94 U.S.C. § 125, relating to cafeteria plans, and 26 U.S.C. §
95 132, relating to certain fringe benefits; and

96 l. Amounts paid or incurred by an employer on behalf of
97 an employee if the amounts may be excluded from gross income
98 for federal income tax purposes by an employee pursuant to 26
99 U.S.C. § 129, relating to dependent care expenses.

100 m.1. Amounts ~~received by a full-time hourly waged paid~~
101 ~~employee~~ paid as overtime compensation in accordance with the
102 U.S. Fair Labor Standards Act ~~compensation for work performed~~
103 ~~in excess of 40 hours in a week.~~

104 2. The exemption provided pursuant to this paragraph
105 shall be available for tax years that begin after December 31,
106 **20232024**, and end prior to June 30, 2025.

107 3. Each employer shall submit to the Department of
108 Revenue, on forms prescribed by the department, all of the
109 following:

110 (i) For the tax year beginning January 1, 2023, the
111 total amount received by full-time hourly wage-paid employees
112 as compensation for work performed in excess of 40 hours in a



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113 week and the total number of employees for which it was paid.
114 The data shall be due no later than January 31, 2024.

115 (ii) For the tax year beginning on or after January 1,
116 2024, and each tax year thereafter, the total amount ~~received~~
117 ~~by full-time hourly wage-paid employees~~paid as ~~compensation~~
118 ~~for work performed in excess of 40 hours in a week~~ overtime
119 compensation in accordance with the U.S. Fair Labor Standards
120 Act and the total number of employees for which it was paid.
121 The data shall be provided monthly or quarterly and shall be
122 due no later than the due date for the corresponding monthly
123 or quarterly withholding tax returns.

124 (iii) Additional information as may be required by the
125 department.

126 4. The department shall report to the Legislative
127 Services Agency - Fiscal Division and the Department of
128 Finance the data collected and compiled pursuant to
129 subparagraph 3. no later than 30 days after the due date of
130 such data.

131 (4) The term "gross income," in the case of a resident
132 individual, includes income from sources within and outside
133 Alabama, including without limitation, the resident's
134 proportionate share of any income arising from a Subchapter K
135 entity, Alabama S corporation, or estate or trust, regardless
136 of the geographic source of the income. The term gross income,
137 in the case of a nonresident individual, includes only income
138 from property owned or business transacted in Alabama. For
139 purposes of this article, "proportionate share" shall be
140 defined by reference to (i) the status of the individual owner



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141 as a partner or member of a Subchapter K entity, shareholder
142 of an Alabama S corporation, or beneficiary of an estate or
143 trust, and (ii) the allocable interest in that entity owned by
144 the individual.

145 (b) The Department of Revenue may adopt rules to
146 provide for the administration of this section."

147 Section 2. This act shall become effective on June 1, 2024.