

HB217 INTRODUCED



1 HB217
2 XGM1Z77-1
3 By Representatives Shaw, Hulsey, Rehm, Wilcox, Tillman
4 RFD: Ways and Means Education
5 First Read: 06-Feb-25



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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 payments made under certain Medicaid Home and Community-Based Services Waiver programs to an individual care provider 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, as last amended by Acts 2024-437 and 2024-447, 2024 Regular Session; to exclude payments to individual care providers under certain Medicaid Home and Community-Based Services Waiver programs from gross income.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-18-14, Code of Alabama 1975, as last amended by Acts 2024-437 and 2024-447, 2024 Regular Session, is amended to read as follows:

"§40-18-14



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

30 (1) Includes gains, profits, and income derived from
31 salaries, wages, or compensation for personal services of
32 whatever kind, or in whatever form paid, including the
33 salaries, income, fees, and other compensation of state,
34 county, and municipal officers and employees, or from
35 professions, vocations, trades, business, commerce or sales,
36 or dealings in property whether real or personal, growing out
37 of ownership or use of or interest in such property; also from
38 interest, royalties, rents, dividends, securities, or
39 transactions of any business carried on for gain or profit and
40 the income derived from any source whatever, including any
41 income not exempted under this chapter and against which
42 income there is no provision for a tax. The term "gross
43 income" as used herein also includes alimony and separate
44 maintenance payments to the extent they are includable in
45 gross income for federal income tax purposes under 26 U.S.C. §
46 71, relating to alimony and separate maintenance payments. The
47 term "gross income" as used herein also includes any amount
48 included in gross income under 26 U.S.C. § 83 at the time it
49 is so included under 26 U.S.C. § 83.

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



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57 recognized.

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

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

63 b. Amounts received, other than amounts paid by reason
64 of the death of the insured, under life insurance, endowment
65 or annuity contracts, determined in accordance with 26 U.S.C.
66 § 72;

67 c. The value of property acquired by gift, bequest,
68 devise, or descent, but the income from such property shall be
69 included in the gross income, in accordance with 26 U.S.C. §
70 102;

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

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

78 f. Interest on obligations of the State of Alabama and
79 any county, municipality, or other political subdivision
80 thereof;

81 g. The rental value of a parsonage provided to a
82 minister of the gospel to the extent excludable under 26
83 U.S.C. § 107;

84 h. Income from discharge of indebtedness to the extent



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85 allowed by 26 U.S.C. § 108;

86 i. For each individual resident taxpayer, or each
87 husband and wife filing a joint income tax return, as the case
88 may be, any gain realized from the sale of a personal
89 residence of the taxpayer shall be excluded to the extent
90 excludable for federal income tax purposes under 26 U.S.C. §
91 121;

92 j. Contributions made by an employer on behalf of an
93 employee to a trust which is part of a qualified cash or
94 deferred arrangement, as defined in 26 U.S.C. § 401(k)(2) or 5
95 U.S.C. § 8437, under which the employee has an election
96 whether the contribution will be made to the trust or received
97 by the employee in cash and contributions made by an employer
98 for an employee for an annuity contract, which contributions
99 would be excludable from the gross income, for federal income
100 tax purposes, of the employee in accordance with the
101 provisions of 26 U.S.C. § 403(b). The limitations imposed by
102 26 U.S.C. § 402(g) shall apply for purposes of this paragraph;

103 k. Amounts that an employee is allowed to exclude from
104 gross income for federal income tax purposes pursuant to 26
105 U.S.C. § 125, relating to cafeteria plans, and 26 U.S.C. §
106 132, relating to certain fringe benefits; and

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

111 m.1.(i) Amounts received by a full-time hourly waged
112 paid employee as compensation for work performed in excess of



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113 40 hours in a week.

114 (ii) The exemption provided pursuant to this
115 subparagraph shall be available for tax years that begin after
116 December 31, 2023, and end on October 1, 2024.

117 2.(i) Amounts paid as overtime compensation in
118 accordance with the U.S. Fair Labor Standards Act.

119 (ii) The exemption provided pursuant to this
120 subparagraph shall be available beginning on October 1, 2024,
121 through June 30, 2025.

122 3. Notwithstanding subparagraph 2., for employers
123 governed by the National Railway Labor Act, the exemption
124 provided in this paragraph applies to hourly component
125 overtime compensation as defined in applicable collective
126 bargaining agreements.

127 4. Each employer shall submit to the Department of
128 Revenue, on forms prescribed by the department, all of the
129 following:

130 (i) For the tax year beginning January 1, 2023, the
131 total amount received by full-time hourly wage-paid employees
132 as compensation for work performed in excess of 40 hours in a
133 week and the total number of employees for which it was paid.
134 The data shall be due no later than January 31, 2024.

135 (ii) For the tax year beginning on or after January 1,
136 2024, through September 30, 2024, the total amount received by
137 full-time hourly wage-paid employees as compensation for work
138 performed in excess of 40 hours in a week. Beginning on
139 October 1, 2024, and each year thereafter, the total amount
140 paid pursuant to this paragraph and the total number of



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141 employees for which it was paid. The data shall be provided
142 monthly or quarterly and shall be due no later than the due
143 date for the corresponding monthly or quarterly withholding
144 tax returns.

145 (iii) Additional information as may be required by the
146 department.

147 5. The department shall report to the Legislative
148 Services Agency - Fiscal Division and the Department of
149 Finance the data collected and compiled pursuant to
150 subparagraph 4. no later than 30 days after the due date of
151 the data.

152 n. Any net capital gain derived from the exchange of
153 precious metal bullion. For purposes of this paragraph,
154 "precious metal bullion" means coins, bars, or rounds
155 containing primarily refined gold, silver, platinum, or
156 palladium that is marked and valued primarily by its weight,
157 purity, and content.

158 o. Any amounts received by an individual which are
159 excludable from gross income under 26 U.S.C. § 131, relating
160 to difficulty of care payments.

161 (4) The term "gross income," in the case of a resident
162 individual, includes income from sources within and outside
163 Alabama, including without limitation, the resident's
164 proportionate share of any income arising from a Subchapter K
165 entity, Alabama S corporation, or estate or trust, regardless
166 of the geographic source of the income. The term "gross
167 income," in the case of a nonresident individual, includes
168 only income from property owned or business transacted in



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169 Alabama. For purposes of this article, "proportionate share"
170 shall be defined by reference to (i) the status of the
171 individual owner as a partner or member of a Subchapter K
172 entity, shareholder of an Alabama S corporation, or
173 beneficiary of an estate or trust, and (ii) the allocable
174 interest in that entity owned by the individual.

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

177 Section 2. The provisions of this act shall apply for
178 all tax years beginning on or after January 1, 2026.

179 Section 3. This act shall become effective on October
180 1, 2025.