

HB379 ENGROSSED



1 HB379
2 EJZT492-2
3 By Representative Garrett
4 RFD: Ways and Means Education
5 First Read: 04-Mar-25



HB379 Engrossed

A BILL
TO BE ENTITLED
AN ACT

Relating to income taxes; to amend Section 40-18-2, Code of Alabama 1975, regarding persons subject to income tax, to exclude certain nonresidents; to add Section 40-18-2.2 to the Code of Alabama 1975; to exempt certain nonresident income from income tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-18-2, Code of Alabama 1975, is amended as follows:

"§40-18-2

(a) In addition to all other taxes now imposed by law, there is hereby levied and imposed a tax on the taxable income, as defined in this chapter, which tax shall be assessed, collected, and paid annually at the rate specified herein and for each taxable year as hereinafter provided.

Persons and subjects taxable under this chapter are:

(1) Every individual residing in the State of Alabama.

(2) Every corporation domiciled in the State of Alabama or licensed or qualified to transact business in the State of Alabama.

(3) Every corporation doing business in the State of



HB379 Engrossed

Alabama or deriving income from sources within the State of
Alabama, including income from property located in the State
of Alabama.

(4) Every nonresident estate or nonresident trust
receiving income from property owned or business transacted in
the State of Alabama.

(5) Every resident estate and resident trust.

(6) Every nonresident individual receiving income from
property owned or business transacted in the State of Alabama,
except as provided in Section 40-18-2.2.

(b) Every natural person domiciled in the State of
Alabama, and every other natural person who maintains a
permanent place of abode within the state or spends in the
aggregate more than seven months of the income year within the
state, shall be presumed to be residing within the state for
the purposes of determining liability for income taxes under
this chapter."

Section 2. Section 40-18-2.2 is added to the Code of
Alabama 1975, as follows:

§40-18-2.2

(a) As used in this section, the following words have
the following meanings:

(1) "Professional athlete" means an athlete who
performs services in a professional athletic event for
compensation.

(2) "Professional entertainer" means a person who
performs services in the professional performing arts for
compensation on a per-event basis.



HB379 Engrossed

(3) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for compensation on a per-event basis.

(b) Compensation subject to withholding pursuant to Article 2, without regard to any withholding tax exception set forth in this chapter, paid to a nonresident individual is exempt from the tax levied under Article 2 if all of the following conditions apply:

(1) The compensation is paid for employment duties performed by the individual in this state on 30 or fewer days in the calendar year.

(2) The individual performed employment duties in more than one state during the calendar year.

(3) The compensation is not paid for employment duties performed by the individual in the individual's capacity as a professional athlete, professional entertainer, or public figure.

(4) The nonresident individual's state of residence:

- a. Provides a substantially similar exclusion;
- b. Does not impose an individual income tax; or
- c. The individual's income is exempt from taxation by this state under the United States Constitution or federal statute.

(c) Except as otherwise provided in this chapter, an employer is not required to withhold taxes from compensation that is paid to an employee described in subsection (b). If, during the calendar year, the number of days an employee



HB379 Engrossed

85 spends performing employment duties in this state exceeds the
86 30-day threshold described in subsection (b) of this section,
87 an employer shall withhold and remit tax to this state for
88 every day in that calendar year, including the first 30 days,
89 on which the employee performs employment duties in this
90 state.

91 (d) Notwithstanding any provision of this section to
92 the contrary, there shall be no withholding or remittance
93 obligation, and the compensation shall be exempt from state
94 and local taxes, with respect to wages or salary paid to a
95 nonresident who is in this state on a temporary basis for the
96 purpose of performing disaster or emergency-related work in
97 response to a declaration by the President of the United
98 States or the Governor of this State to be an emergency. The
99 provisions of this subsection are supplemental to the
100 exemptions and related provisions of section 40-31-3 and
101 should not be construed to narrow the provisions of that
102 section.

103 (e) If an employer maintains a time and attendance
104 system that tracks where employees perform services on a daily
105 basis, then data from the time and attendance system shall be
106 used. For purposes of this section, time and attendance system
107 means a system:

108 (1) In which the employee is required, on a
109 contemporaneous basis, to record the work location for every
110 day worked outside of the state where the employment duties
111 are primarily performed; and

112 (2) That is designed to allow the employer to allocate



HB379 Engrossed

the employee's wages for income tax purposes among all states in which the employee performs services.

(f) The department shall not require the payment of any penalties or interest otherwise applicable for failing to deduct and withhold income taxes as required under Article 2 if, when determining whether withholding was required, the employer met either of the following conditions:

(1) The employer at its sole discretion maintains a time and attendance system specifically designed to allocate employee wages for income tax purposes among all taxing jurisdictions in which the employee performs employment duties for such employer, and relied on data from that system.

(2) An employer maintaining records under subdivision (1) shall not preclude an employer's ability to rely on an employee's determination under subdivision (3).

(3) The employer does not maintain a time and attendance system, and the employer relied on the employee's annual determination of the time the employee expected to spend performing employment duties in this state, provided, however, that the employer did not have actual knowledge of fraud on the part of the employee in making the determination and provided that the employer and the employee did not collude to evade taxation in making the determination.

(g) For purposes of this section, an employee shall be considered present and performing employment duties within this state for a day if the employee performs more of the employee's employment duties in this state than in any other state during that day. Any portion of the day during which the



HB379 Engrossed

employee is in transit shall not be considered in determining the location of an employee's performance of employment duties. However, if an employee performs employment duties in a resident state and in only one nonresident state during one day, such employee shall be considered to have performed more of the employee's duties in the nonresident state than in the resident state for such day.

(h) The Alabama Department of Revenue shall adopt rules necessary for the administration of this section.

(i) The provisions of this section shall be effective for tax years beginning on or after January 1, 2026.

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



HB379 Engrossed

154
155
156

House of Representatives

157 Read for the first time and referred04-Mar-25
158 to the House of Representatives
159 committee on Ways and Means
160 Education

161
162 Read for the second time and placed17-Apr-25
163 on the calendar:
164 2 amendments

165
166 Read for the third time and passed24-Apr-25
167 as amended
168 Yeas 103
169 Nays 0
170 Abstains 0

171
172
173
174
175

John Treadwell
Clerk