

HB379 ENROLLED



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



HB379 Enrolled

Enrolled, 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 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.



HB379 Enrolled

(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.

(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



HB379 Enrolled

57 forth in this chapter, paid to a nonresident individual is
58 exempt from the tax levied under Article 2 if all of the
59 following conditions apply:

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

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

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

69 (4) The nonresident individual's state of residence:
70 a. Provides a substantially similar exclusion;
71 b. Does not impose an individual income tax; or
72 c. The individual's income is exempt from taxation by
73 this state under the United States Constitution or federal
74 statute.

75 (c) Except as otherwise provided in this chapter, an
76 employer is not required to withhold taxes from compensation
77 that is paid to an employee described in subsection (b). If,
78 during the calendar year, the number of days an employee
79 spends performing employment duties in this state exceeds the
80 30-day threshold described in subsection (b) of this section,
81 an employer shall withhold and remit tax to this state for
82 every day in that calendar year, including the first 30 days,
83 on which the employee performs employment duties in this
84 state.



HB379 Enrolled

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

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

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

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



HB379 Enrolled

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 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



HB379 Enrolled

141 resident state for such day.

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

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

146 Section 3. This act shall become effective on October
147 1, 2025.



HB379 Enrolled

148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and
was passed by the House 24-Apr-25.

John Treadwell
Clerk

Senate

06-May-25

Passed