

HB665 INTRODUCED



1 HB665
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SYNOPSIS:

Under existing law, amounts paid as overtime compensation in accordance with the U.S. Fair Labor Standards Act were excluded from calculation of gross income through June 30, 2025.

This bill would reinstate this exemption, beginning with the 2027 tax year.

This bill would require the Department of Revenue and the Alabama Commission on the Evaluation of Services to conduct an economic impact study of this exemption.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to income taxes; to amend Section 40-18-14, Code of Alabama 1975; to reinstate the exemption of overtime compensation from income tax; to require the Department of Revenue and the Alabama Commission on the Evaluation of Services to conduct an economic impact study on the effects of



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29 the exemption; to require public posting of the study; and to
30 make nonsubstantive, technical revisions to update the
31 existing code language to current style.

32 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

36 "§40-18-14

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

38 (1) Includes gains, profits, and income derived from
39 salaries, wages, or compensation for personal services of
40 whatever kind, or in whatever form paid, including the
41 salaries, income, fees, and other compensation of state,
42 county, and municipal officers and employees, or from
43 professions, vocations, trades, business, commerce or sales,
44 or dealings in property whether real or personal, growing out
45 of ownership or use of or interest in such property; also from
46 interest, royalties, rents, dividends, securities, or
47 transactions of any business carried on for gain or profit and
48 the income derived from any source whatever, including any
49 income not exempted under this chapter and against which
50 income there is no provision for a tax. The term "gross
51 income" as used herein also includes alimony and separate
52 maintenance payments to the extent they are includable in
53 gross income for federal income tax purposes under 26 U.S.C. §
54 71, relating to alimony and separate maintenance payments. The
55 term "gross income" as used herein also includes any amount
56 included in gross income under 26 U.S.C. § 83 at the time it



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57 is so included under 26 U.S.C. § 83.

58 (2) For purposes of this chapter, the reductions in tax
59 attributes required by 26 U.S.C. § 108 shall be applied only
60 to the net operating losses determined under this chapter and
61 the basis of depreciable property. The basis reductions of
62 depreciable property shall not exceed the basis reductions for
63 federal income tax purposes. All other tax attribute
64 reductions required by 26 U.S.C. § 108 shall not be
65 recognized.

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

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

71 b. Amounts received, other than amounts paid by reason
72 of the death of the insured, under life insurance, endowment
73 or annuity contracts, determined in accordance with 26 U.S.C.
74 § 72;

75 c. The value of property acquired by gift, bequest,
76 devise, or descent, but the income from such property shall be
77 included in the gross income, in accordance with 26 U.S.C. §
78 102;

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

82 e. Any amounts received by an individual which are
83 excludable from gross income under 26 U.S.C. § 104, relating
84 to compensation for injuries or sickness, or 26 U.S.C. § 105,



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85 relating to amounts received under accident or health plans;

86 f. Interest on obligations of the State of Alabama and
87 any county, municipality, or other political subdivision
88 thereof;

89 g. The rental value of a parsonage provided to a
90 minister of the gospel to the extent excludable under 26
91 U.S.C. § 107;

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

94 i. For each individual resident taxpayer, or each
95 husband and wife filing a joint income tax return, as the case
96 may be, any gain realized from the sale of a personal
97 residence of the taxpayer shall be excluded to the extent
98 excludable for federal income tax purposes under 26 U.S.C. §
99 121;

100 j. Contributions made by an employer on behalf of an
101 employee to a trust which is part of a qualified cash or
102 deferred arrangement, as defined in 26 U.S.C. § 401(k)(2) or 5
103 U.S.C. § 8437, under which the employee has an election
104 whether the contribution will be made to the trust or received
105 by the employee in cash and contributions made by an employer
106 for an employee for an annuity contract, which contributions
107 would be excludable from the gross income, for federal income
108 tax purposes, of the employee in accordance with the
109 provisions of 26 U.S.C. § 403(b). The limitations imposed by
110 26 U.S.C. § 402(g) shall apply for purposes of this paragraph;

111 k. Amounts that an employee is allowed to exclude from
112 gross income for federal income tax purposes pursuant to 26



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113 U.S.C. § 125, relating to cafeteria plans, and 26 U.S.C. §
114 132, relating to certain fringe benefits; and

115 1. Amounts paid or incurred by an employer on behalf of
116 an employee if the amounts may be excluded from gross income
117 for federal income tax purposes by an employee pursuant to 26
118 U.S.C. § 129, relating to dependent care expenses.

119 ~~m.1.(i) Amounts received by a full-time hourly waged~~
120 ~~paid employee as compensation for work performed in excess of~~
121 ~~40 hours in a week.~~

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

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

127 (ii) The exemption provided pursuant to this
128 subparagraph shall be available beginning on October 1, 2024,
129 through June 30, 2025, and for all tax years beginning on and
130 after January 1, 2027.

131 ~~3.~~2. Notwithstanding subparagraph ~~2.1.~~, for employers
132 governed by the National Railway Labor Act, the exemption
133 provided in this paragraph applies to hourly component
134 overtime compensation as defined in applicable collective
135 bargaining agreements.

136 ~~4.~~3. Each employer shall submit to the Department of
137 Revenue, on forms prescribed by the department, all of the
138 following:

139 ~~(i) For the tax year beginning January 1, 2023, the~~
140 ~~total amount received by full-time hourly wage-paid employees~~



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141 ~~as compensation for work performed in excess of 40 hours in a~~
142 ~~week and the total number of employees for which it was paid.~~
143 ~~The data shall be due no later than January 31, 2024.~~

144 ~~(ii) For the tax year beginning on or after January 1,~~
145 ~~2024, through September 30, 2024, the total amount received by~~
146 ~~full-time hourly wage-paid employees as compensation for work~~
147 ~~performed in excess of 40 hours in a week.~~ (i) Beginning on
148 October 1, 2024, and each year thereafter, the total amount
149 paid pursuant to this paragraph and the total number of
150 employees for which it was paid. The data shall be provided
151 monthly or quarterly and shall be due no later than the due
152 date for the corresponding monthly or quarterly withholding
153 tax returns.

154 ~~(iii)~~ (ii) Additional information as may be required by
155 the department.

156 ~~5.4.~~ 5.4. The department shall report to the Legislative
157 Services Agency - Fiscal Division and the Department of
158 Finance the data collected and compiled pursuant to
159 subparagraph ~~4.3.~~ and an estimate of the amount of income tax
160 revenue lost pursuant to this subparagraph, no later than 30
161 days after the due date of the data.

162 5. No later than January 1, 2028, the department, in
163 collaboration with the Alabama Commission on the Evaluation of
164 Services, shall conduct a study on the economic impact of this
165 exemption. The study shall include quantitative estimates of
166 the economic effects of the exemption. The term "economic
167 effects" shall be construed broadly and include, but is not
168 limited to, the estimated effects of the exemption on consumer



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169 spending trends. The department shall post a copy of the
170 economic impact study on the department's public website.

171 6. The provisions of Article 6, Chapter 29 of Title 40
172 shall apply to this paragraph.

173 n. Any net capital gain derived from the exchange of
174 precious metal bullion. For purposes of this paragraph,
175 "precious metal bullion" means coins, bars, or rounds
176 containing primarily refined gold, silver, platinum, or
177 palladium that is marked and valued primarily by its weight,
178 purity, and content.

179 (4) The term "gross income," in the case of a resident
180 individual, includes income from sources within and outside
181 Alabama, including, without limitation, the resident's
182 proportionate share of any income arising from a Subchapter K
183 entity, Alabama S corporation, or estate or trust, regardless
184 of the geographic source of the income. The term "gross
185 income," in the case of a nonresident individual, includes
186 only income from property owned or business transacted in
187 Alabama. For purposes of this article, "proportionate share"
188 shall be defined by reference to: (i) the status of the
189 individual owner as a partner or member of a Subchapter K
190 entity, shareholder of an Alabama S corporation, or
191 beneficiary of an estate or trust; and (ii) the allocable
192 interest in that entity owned by the individual.

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

195 Section 2. This act shall become effective on June 1,
196 2026.