

1 SB409
2 163831-7
3 By Senators Hightower, Marsh, Pittman, Melson, McClendon,
4 Stutts, Reed, Waggoner, Ward, Livingston, Bussman, Shelnut,tt,
5 Allen, Albritton, Williams, Dial, Scofield, Chambliss,
6 Brewbaker, and Whatley (Constitutional Amendment)
7 RFD: Finance and Taxation Education
8 First Read: 23-APR-15

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8 SYNOPSIS: This bill would propose an amendment to the
9 Constitution of Alabama of 1901, entitled the
10 Simplified Flat Tax Act of 2015, to repeal
11 Amendment 25 of the Constitution of Alabama of
12 1901, now appearing as Section 211.01 of the
13 Official Recompilation of the Constitution of
14 Alabama of 1901, as amended, Amendment 212, as
15 amended by Amendment 662, of the Constitution of
16 Alabama of 1901, now appearing as Section 211.03 of
17 the Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, and Amendment 225 of
19 the Constitution of Alabama of 1901, now appearing
20 as Section 211.04 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended; to
22 revise the personal and corporate income tax
23 structure by providing a specific tax rate; to
24 provide an exemption for certain income earned in
25 other jurisdictions; to provide for certain tax
26 credits and deductions under certain conditions;

1 and to authorize the Legislature to enact general
2 laws to implement the amendment.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To propose an amendment to the Constitution of
9 Alabama of 1901, to repeal Amendment 25 of the Constitution of
10 Alabama of 1901, now appearing as Section 211.01 of the
11 Official Recompilation of the Constitution of Alabama of 1901,
12 as amended, Amendment 212, as amended by Amendment 662, of the
13 Constitution of Alabama of 1901, now appearing as Section
14 211.03 of the Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, and Amendment 225 of the
16 Constitution of Alabama of 1901, now appearing as Section
17 211.04 of the Official Recompilation of the Constitution of
18 Alabama of 1901, as amended; to revise the personal and
19 corporate income tax structure by providing a specific tax
20 rate; to provide for certain tax credits and deductions under
21 certain conditions; and to authorize the Legislature to enact
22 general laws to implement the amendment.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. The following amendment to the
25 Constitution of Alabama of 1901, as amended, is proposed and
26 shall become valid as a part thereof when approved by a
27 majority of the qualified electors voting thereon and in

1 accordance with Sections 284, 285, and 287 of the Constitution
2 of Alabama of 1901, as amended:

3 PROPOSED AMENDMENT

4 I. This amendment shall be known and may be cited as
5 the Simplified Flat Tax Act of 2015.

6 II. Effective January 1, 2017, the following
7 provisions of the Constitution of Alabama of 1901 are
8 repealed:

9 (a) Amendment 25 of the Constitution of Alabama of
10 1901, now appearing as Section 211.01 of the Official
11 Recompilation of the Constitution of Alabama of 1901, as
12 amended, relating to income taxes.

13 (b) Amendment 212, as amended by Amendment 662, of
14 the Constitution of Alabama of 1901, now appearing as Section
15 211.03 of the Official Recompilation of the Constitution of
16 Alabama of 1901, as amended, relating to state tax on net
17 income of corporations.

18 (c) Amendment 225 of the Constitution of Alabama of
19 1901, now appearing as Section 211.04 of the Official
20 Recompilation of the Constitution of Alabama of 1901, as
21 amended, relating to deductions of federal income tax from
22 gross income.

23 III. For the purposes of this amendment, the term
24 "adjusted gross income" means the adjusted gross income of an
25 individual for a taxable year as computed pursuant to the
26 federal Internal Revenue Code.

1 IV. (a) Subject to Part VI, effective January 1,
2 2017, a tax is imposed on every individual who is a resident
3 of Alabama and on every individual who is not a resident of
4 Alabama and who derives income from Alabama. The amount of the
5 tax shall be, in the case of a resident, 2.75 percent of the
6 resident's adjusted gross income. The amount of the tax shall
7 be, in the case of a nonresident, 2.75 percent of the
8 nonresident's adjusted gross income derived from Alabama.

9 (b) In addition to the tax imposed on residents
10 under paragraph (a), there is hereby imposed a tax at the
11 rate of 2.75 percent of the interest received from obligations
12 of states other than Alabama and agencies, instrumentalities,
13 and political subdivisions of states other than Alabama.

14 V. Subject to Part VI, effective January 1, 2017, a
15 tax is imposed at the rate of 4.59 percent on the taxable
16 income, as defined for federal income tax purposes, of every
17 corporation incorporated in Alabama, doing business in
18 Alabama, or deriving income from Alabama. Unless all the
19 income of a corporation arises from doing business in Alabama
20 or is derived from Alabama, the taxable income, as defined for
21 federal income tax purposes, shall be allocated and
22 apportioned in accordance with law. This part shall not apply
23 to a corporation that has elected not to be subject to the
24 federal income tax.

25 VI. (a) (1) An individual may exclude from adjusted
26 gross income any income that is derived from sources within
27 another jurisdiction which is taxed under the law of that

1 jurisdiction regardless of the residence or domicile of the
2 individual.

3 (2) An individual may not claim any deduction,
4 credit, or exemption unless it is a deduction for charitable
5 contributions, is required under federal law, or is pursuant
6 to a deduction, credit, or exemption adopted pursuant to Part
7 VII.

8 (b) Adjusted gross income of individuals and taxable
9 income of corporations do not include income that the state is
10 prohibited from taxing under federal law.

11 (c) (1) Except as provided in subdivision (2), a
12 corporation doing business solely in this state or a
13 corporation doing business in this state and in another state
14 or jurisdiction may not claim a deduction for net operating
15 loss or a depletion allowance pursuant to Section
16 40-18-35(a) (10), Code of Alabama 1975.

17 (2) A corporation may carry forward any current net
18 operating loss or capital loss earned prior to the date this
19 amendment is ratified until it is utilized or otherwise
20 expires.

21 (3) All other deductions, credits, or exemptions for
22 corporations in effect on the date this amendment is ratified
23 may be claimed.

24 (d) The Legislature, by general law, may provide a
25 basis for apportionment of income under Part V different than
26 the basis that existed on March 1, 2015.

1 VII. The Legislature may provide for credits,
2 deductions, or exemptions from adjusted gross income of
3 individuals or taxable income of corporations only by enacting
4 a general law by an 80 percent vote in each house. Any general
5 law providing for a credit, exemption, or deduction may only
6 contain a single credit, exemption, or deduction.

7 VIII. The Legislature shall enact general laws for
8 the implementation of this amendment.

9 Section 2. An election upon the proposed amendment
10 shall be held at the next statewide primary or general
11 election in accordance with Sections 284 and 285 of the
12 Constitution of Alabama of 1901, now appearing as Sections 284
13 and 285 of the Official Recompilation of the Constitution of
14 Alabama of 1901, as amended, and the election laws of this
15 state.

16 Section 3. The appropriate election official shall
17 assign a ballot number for the proposed constitutional
18 amendment on the election ballot and shall set forth the
19 following description of the substance or subject matter of
20 the proposed constitutional amendment:

21 "Proposing an amendment to the Constitution of
22 Alabama of 1901, to revise the personal and corporate income
23 tax structure by providing a single specific tax rate for
24 individuals and a single specific tax rate for corporations;
25 to provide an exemption for certain income earned in other
26 jurisdictions; to provide for certain tax credits and

1 deductions under certain conditions; and to authorize the
2 Legislature to enact general laws to implement the amendment.

3 "Proposed by Act _____."

4 This description shall be followed by the following
5 language:

6 "Yes () No ()."