SB409

163831-7

By Senators Hightower, Marsh, Pittman, Melson, McClendon, Stutts, Reed, Waggoner, Ward, Livingston, Bussman, Shelnutt, Allen, Albritton, Williams, Dial, Scofield, Chambliss, Brewbaker, and Whatley (Constitutional Amendment)

RFD: Finance and Taxation Education

First Read: 23-APR-15
SYNOPSIS: This bill would propose an amendment to the Constitution of Alabama of 1901, entitled the Simplified Flat Tax Act of 2015, to repeal Amendment 25 of the Constitution of Alabama of 1901, now appearing as Section 211.01 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, Amendment 212, as amended by Amendment 662, of the Constitution of Alabama of 1901, now appearing as Section 211.03 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, and Amendment 225 of the Constitution of Alabama of 1901, now appearing as Section 211.04 of the Official Recompilation of the Constitution of Alabama of 1901, as amended; to revise the personal and corporate income tax structure by providing a specific tax rate; to provide an exemption for certain income earned in other jurisdictions; to provide for certain tax credits and deductions under certain conditions;
and to authorize the Legislature to enact general
laws to implement the amendment.

A BILL

TO BE ENTITLED

AN ACT

To propose an amendment to the Constitution of
Alabama of 1901, to repeal Amendment 25 of the Constitution of
Alabama of 1901, now appearing as Section 211.01 of the
Official Recompilation of the Constitution of Alabama of 1901,
as amended, Amendment 212, as amended by Amendment 662, of the
Constitution of Alabama of 1901, now appearing as Section
211.03 of the Official Recompilation of the Constitution of
Alabama of 1901, as amended, and Amendment 225 of the
Constitution of Alabama of 1901, now appearing as Section
211.04 of the Official Recompilation of the Constitution of
Alabama of 1901, as amended; to revise the personal and
corporate income tax structure by providing a specific tax
rate; to provide for certain tax credits and deductions under
certain conditions; and to authorize the Legislature to enact
general laws to implement the amendment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the
Constitution of Alabama of 1901, as amended, is proposed and
shall become valid as a part thereof when approved by a
majority of the qualified electors voting thereon and in
accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

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

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

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

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

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

III. For the purposes of this amendment, the term "adjusted gross income" means the adjusted gross income of an individual for a taxable year as computed pursuant to the federal Internal Revenue Code.
IV. (a) Subject to Part VI, effective January 1, 2017, a tax is imposed on every individual who is a resident of Alabama and on every individual who is not a resident of Alabama and who derives income from Alabama. The amount of the tax shall be, in the case of a resident, 2.75 percent of the resident's adjusted gross income. The amount of the tax shall be, in the case of a nonresident, 2.75 percent of the nonresident's adjusted gross income derived from Alabama.

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

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

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

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

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

(c)(1) Except as provided in subdivision (2), a
corporation doing business solely in this state or a
corporation doing business in this state and in another state
or jurisdiction may not claim a deduction for net operating
loss or a depletion allowance pursuant to Section

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

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

(d) The Legislature, by general law, may provide a
basis for apportionment of income under Part V different than
the basis that existed on March 1, 2015.
VII. The Legislature may provide for credits, deductions, or exemptions from adjusted gross income of individuals or taxable income of corporations only by enacting a general law by an 80 percent vote in each house. Any general law providing for a credit, exemption, or deduction may only contain a single credit, exemption, or deduction.

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

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

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

"Proposing an amendment to the Constitution of Alabama of 1901, to revise the personal and corporate income tax structure by providing a single specific tax rate for individuals and a single specific tax rate for corporations; to provide an exemption for certain income earned in other jurisdictions; to provide for certain tax credits and
deductions under certain conditions; and to authorize the
Legislature to enact general laws to implement the amendment.

"Proposed by Act _______ ."

This description shall be followed by the following language:

"Yes ( )  No ( )."