

1 HB391
2 217897-3
3 By Representatives Clouse and Garrett
4 RFD: Ways and Means General Fund
5 First Read: 22-FEB-22

1
2 ENROLLED, An Act,

3 Relating to the levy and amount of business
4 privilege tax; to amend Section 40-14A-22, Code of Alabama
5 1975, to provide for a reduced minimum business privilege tax
6 of \$50 for taxable years beginning after December 31, 2022; to
7 provide a full exemption from the business privilege tax on
8 amounts due of \$100 or less for taxable years beginning after
9 December 31, 2023.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 40-14A-22, Code of Alabama 1975,
12 is amended to read as follows:

13 "§40-14A-22.

14 "(a) Levy of tax. There is hereby levied an annual
15 privilege tax on every corporation, limited liability entity,
16 and disregarded entity doing business in Alabama, or
17 organized, incorporated, qualified, or registered under the
18 laws of Alabama. The tax shall accrue as of January 1 of every
19 taxable year, or in the case of a taxpayer organized,
20 incorporated, qualified, or registered during the year, or
21 doing business in Alabama for the first time, as of the date
22 the taxpayer is organized, incorporated, registered, or
23 qualifies to do business, or begins to do business in Alabama,
24 as the case may be. The taxpayer shall be liable for the tax
25 levied by this article for each year beginning before the

1 taxpayer has been dissolved or otherwise ceased to exist or
2 has withdrawn or forfeited its qualification to do business in
3 Alabama. The amount of the tax due shall be determined by
4 multiplying the taxpayer's net worth in Alabama by the rate
5 determined in subsection (b).

6 "(b) Rate of tax. For all taxable years of taxpayers
7 that begin after December 31, 1999, the rate of tax shall be
8 as set forth below.

9 If taxable
10 income of the
11 taxpayer is:

12	at least	but less	The tax rate
		than	shall be
13		\$1	\$0.25 per \$1,000
14	\$1	\$200,000	\$1.00 per \$1,000
15	\$200,000	\$500,000	\$1.25 per \$1,000
16	\$500,000	\$2,500,000	\$1.50 per \$1,000
17	\$2,500,000		\$1.75 per \$1,000

1 "(c) Minimum tax. (1) Except as provided in
2 subsection (f), and subdivisions (c) (2) and (c) (3), the
3 privilege tax levied by this article on certain corporations,
4 business trusts, limited liability entities, and disregarded
5 entities shall not be less than \$100.

6 "(2) For the taxable year beginning after December
7 31, 2022, taxpayers who would otherwise be subject to the
8 minimum tax due of \$100 provided for in subdivision (c) (1)
9 shall pay \$50 in lieu thereof. This subdivision shall not
10 apply to those subject to the tax levy provided under Section
11 2 of Act 2021-450 of the 2021 Regular Session now appearing as
12 Section 20-2A-80.

13 "(3) For taxable years beginning after December 31,
14 2023, taxpayers who would otherwise be subject to the minimum
15 tax due provided for in subdivisions (c) (1) or (c) (2) shall be
16 exempt from the privilege tax levied by this article and the
17 associated filing requirement. This subdivision shall not
18 apply to those subject to the tax levy provided under Section
19 2 of Act 2021-450 of the 2021 Regular Session now appearing as
20 Section 20-2A-80.

21 "(d) Maximum tax.

22 "(1) Except as provided in subdivision (2), the
23 privilege tax levied by this article shall not exceed \$15,250
24 for any taxpayer for the taxable year beginning January 1,

1 2000. For each taxable year thereafter, the maximum tax shall
2 not exceed \$15,000 for any taxpayer, except as provided in
3 subdivision (2).

4 "(2) With respect to any (i) financial institution
5 groups as defined in subsection (f)(1); (ii) insurance company
6 that is subject to the premium taxes levied by Chapter 4A of
7 Title 27; and (iii) corporation, company, limited liability
8 entity, or association whose property is assessed for taxation
9 pursuant to the provisions of Chapter 21 and is obligated to
10 serve the general public, but is not subject to the Alabama
11 Corporate Income tax, the privilege tax levied by this article
12 shall not exceed \$3,000,000, for any taxpayer or, for a
13 financial institution group, for the financial institution
14 group as a whole each year except as provided in subsection
15 (e). The privilege tax levied by this article on any electing
16 family limited liability entity shall not exceed \$500.

17 "The privilege tax levied by this article on any
18 corporation organized as a not-for-profit corporation that
19 does not engage in any business other than holding title to
20 property and paying the expenses thereof, including, without
21 limitation, a property owners' association or a corporation
22 organized solely to hold title to property on a temporary
23 basis, shall not exceed \$100.

24 "(e) Short taxable years. If any taxpayer's taxable
25 year is less than 12 months because the taxpayer is

1 incorporated or organized within the taxable year, or if any
2 foreign corporation or foreign limited liability entity
3 qualifies, registers, or begins to do business in this state
4 within the taxable year or converts to a taxable year other
5 than the calendar year, the amount of the tax levied by this
6 article shall be determined in the manner specified in this
7 article but apportioned to the short taxable year in same
8 proportion as the number of days in the short taxable year
9 bears to 365, but in no event less than ~~\$100~~ the amounts as
10 specified in subsection (c) as applicable nor more than the
11 applicable amount specified in subsection (d).

12 "(f) Minimum taxes for financial institution groups.

13 "(1) For purposes of this subsection, the following
14 terms shall mean:

15 "a. Affiliated Group. (i) One or more chains of
16 corporations or limited liability entities connected through
17 the ownership of stock or ownership interests with a common
18 parent which is a corporation or limited liability entity, but
19 only if the common parent owns directly stock or ownership
20 interests meeting the requirements of item (ii) in at least
21 one of the other corporations or limited liability entities,
22 and only if stock or ownership interests meeting the
23 requirements of item (ii) in each of the corporations or
24 limited liability entities (except the common parent) is owned
25 directly by one or more of the other corporations or limited

1 liability entities. (ii) The ownership of stock or ownership
2 interests of any corporation or limited liability entity meets
3 the requirements of this paragraph if it possesses at least 80
4 percent of the total voting power or capital and profits
5 interest of the corporation or limited liability entity.

6 "b. Financial Institution. The meaning given in
7 Section 40-16-1.

8 "c. Financial Institution Group. All taxpayers in an
9 affiliated group where at least one member of the group is a
10 financial institution that is subject to the provisions of
11 Chapter 16. In the event a financial institution taxpayer is
12 not a member of an affiliated group, that financial
13 institution shall be treated as a financial institution group.

14 "(2) To the extent that the members of a financial
15 institution group have different taxable years, the group
16 shall be deemed, for purposes of the business privilege tax
17 levied by Article 2, to have a calendar taxable year.

18 "(3) Taxpayers who are members of a financial
19 institution group shall complete their business privilege tax
20 returns without regard to this subsection. Those taxpayers
21 shall submit their returns together, and the minimum tax
22 amount provided in subdivision (5) shall apply to the
23 aggregate business privilege tax liability of the group. To
24 the extent that the minimum amount provided in subdivision (5)
25 applies to determine the liability of the group, each taxpayer

1 which is a member of the group shall be liable for that
2 portion of the group liability which is equal to the amount
3 multiplied by the ratio of the taxpayer's liability without
4 regard to this subsection over the liability of the group
5 without regard to this subsection. Upon the annual election of
6 the common parent, a financial institution group may file a
7 single return, executed by the common parent of that financial
8 institution group. The return shall be completed as if the
9 financial institution group were a single taxpayer. Each
10 member of the financial institution group shall be jointly and
11 severally liable for the group's business privilege tax and
12 corporate shares tax liabilities.

13 "(4) The tax returns for all members of a financial
14 institution group shall be due no later than the corresponding
15 Alabama financial institution excise tax return due date.
16 Extensions for filing these returns shall not be granted for
17 more than six months.

18 "(5) For taxable years beginning on or after January
19 1, 2000, the minimum aggregate business privilege tax levied
20 by Article 2 on all members of a financial institution group
21 shall be:

22 "a. For financial institutions with total deposits
23 inside Alabama of less than one billion dollars
24 (\$1,000,000,000) within that financial institution group, as
25 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the

1 immediately preceding taxable year, the tax rate shall be
2 \$.125 per one thousand dollars (\$1,000) of such deposits. For
3 deposit rate purposes for all future periods, the deposits
4 shall in no event be less than the deposits listed as of June
5 30, 1999.

6 "b. For financial institutions with total deposits
7 inside Alabama of one billion dollars (\$1,000,000,000) or
8 greater up to and including six billion dollars
9 (\$6,000,000,000) within that financial institution group, as
10 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the
11 immediately preceding taxable year, the tax rate shall be \$.17
12 per one thousand dollars (\$1,000) of such deposits. For
13 deposit rate purposes for all future periods, the deposits
14 shall in no event be less than the deposits listed as of June
15 30, 1999.

16 "c. For financial institutions with total deposits
17 inside Alabama greater than six billion dollars
18 (\$6,000,000,000) within that financial institution group, as
19 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the
20 immediately preceding taxable year, the tax rate shall be
21 \$.225 per one thousand dollars (\$1,000) of such deposits. For
22 deposit rate purposes for all future periods, the deposits
23 shall in no event be less than the deposits listed as of June
24 30, 1999.

1 "d. Provided, however, that in the case of a
2 financial institution group that, as of June 30, 1999, (i) had
3 total deposits of less than one billion dollars
4 (\$1,000,000,000) and (ii) derived at least a majority of its
5 deposits, as reported to FDIC, OTS, or NCUSIF, that were
6 booked to one or more branches or offices located within
7 Alabama from account holders whose addresses of record on the
8 books of the financial institution group were outside the
9 State of Alabama, the phrase "total deposits in Alabama," for
10 purposes of calculating the minimum aggregate business
11 privilege tax levied by Article 2 for all taxable years
12 beginning on and after January 1, 2000, shall only include
13 deposits of account holders whose addresses of record on the
14 books of the financial institution group are inside the State
15 of Alabama.

16 "e. In the event a financial institution group sells
17 Alabama deposits to another financial institution group that
18 reports those deposits in Alabama for purposes of Act
19 2000-705, those deposits shall not be taxed more than once
20 pursuant to the provisions of Act 2000-705 in the same taxable
21 year. The liability for such taxes shall be the responsibility
22 of the purchaser, and the tax base for the selling group shall
23 be adjusted accordingly.

24 "f. In the event an existing financial institution
25 group reports deposits in any year less than 96.5 percent of

1 the deposits reported as of June 30, 1999, the alternative
2 minimum tax shall be based on the deposits reported as of June
3 30, 1999. In the event an existing financial institution group
4 reports deposits in any year more than 96.5 percent of the
5 deposits reported as of June 30, 1999, the alternative minimum
6 tax shall be based on the deposits reported for that taxable
7 year. For financial institutions coming into existence after
8 June 30, 1999, the deposits upon which the alternative minimum
9 tax is based shall not be less than the deposits reported the
10 first full year that financial institution reported deposits
11 to the FDIC, OTS, or NCUSIF."

12 Section 2. The Department of Revenue may adopt rules
13 for the implementation and administration of this act.

14 Section 3. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.

