

1 SB189
2 216172-4
3 By Senators Gudger, Melson, Stutts, Holley, Allen, Elliott,
4 Reed, Roberts, Givhan, Sessions, Jones, Waggoner, Williams,
5 Barfoot, Butler, McClendon, Chesteen, Livingston, Beasley,
6 Coleman-Madison, Weaver, Figures, Hatcher, Whatley, Price,
7 Marsh, Scofield, Sanders-Fortier and Smitherman
8 RFD: Finance and Taxation Education
9 First Read: 03-FEB-22

1 SB189

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3
4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Small Business Relief and
12 Revitalization Act of 2022; to provide that for tax years
13 ending after the enactment of the federal American Rescue Plan
14 Act of 2021, any amount of cancellation of indebtedness income
15 resulting from a loan forgiven under Section 1005 of the
16 American Rescue Plan Act shall be exempt from income taxes
17 imposed by Chapter 18 of Title 40, Code of Alabama 1975; to
18 provide for an extension of the due date for financial
19 institution excise tax and corporate income tax taxpayers; to
20 provide an exemption of up to \$40,000 of the market value of
21 business tangible personal property from state ad valorem tax;
22 to provide a county and municipal election of the exemption;
23 to provide for a deposit of certified funds in lieu of a
24 one-time surety bond; to provide for an increase in the amount
25 of the average monthly sales tax liability for required
26 estimated payments.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall be known and cited as the
2 Small Business Relief and Revitalization Act of 2022.

3 Section 2. For tax years ending after the enactment
4 of the federal American Rescue Plan Act of 2021, any amount of
5 cancellation of indebtedness income resulting from a loan
6 forgiven under Section 1005 of the federal American Rescue
7 Plan Act shall be all of the following:

8 (1) Exempt from income taxes imposed by Chapter 18
9 of Title 40, Code of Alabama 1975, to the same extent as the
10 amount is exempt from federal income tax under Section 1005 of
11 the federal American Rescue Plan Act of 2021.

12 (2) Not considered in determining the deductibility
13 of otherwise deductible expenses allowed to be paid with the
14 exempt funds, including, but not limited to, payroll,
15 utilities, mortgage interest, or rent, to the same extent as
16 the expenses remain deductible in calculating federal income
17 tax under Section 1005 of the federal American Rescue Plan Act
18 of 2021.

19 (3) Excluded from any and all calculations in
20 determining a taxpayer's federal income tax deduction pursuant
21 to Chapter 18 of Title 40, Code of Alabama 1975.

22 Section 3. Sections 40-16-3.1 and 40-18-39.2 are
23 added to the Code of Alabama 1975, to read as follows:

24 §40-16-3.1.

25 (a) (1) For tax years beginning on or after January
26 1, 2021, a financial institution excise taxpayer shall be
27 allowed one month following the due date of the corresponding

1 federal income tax return, including applicable extensions, to
2 file the Alabama financial institution excise tax return as
3 required by Section 40-16-3, Code of Alabama 1975.

4 (2) For tax years beginning on or after January 1,
5 2020, but prior to January 1, 2021, the department may allow a
6 financial institution excise taxpayer one additional month
7 following the due date of the corresponding federal income tax
8 return, including applicable extensions, to file the Alabama
9 financial institution excise tax return, upon request by the
10 taxpayer and approval by the department.

11 (b) The extension provided in this section shall not
12 allow a taxpayer to defer payment of a financial institution
13 excise tax liability beyond the original due date provided in
14 Section 40-16-3, Code of Alabama 1975.

15 §40-18-39.2.

16 (a) (1) For tax years beginning on or after January
17 1, 2021, a corporate income taxpayer shall be allowed one
18 month following the due date of the corresponding federal
19 income tax return, including applicable extensions, to file
20 the Alabama corporate income tax return as required by Section
21 40-18-39, Code of Alabama 1975.

22 (2) For tax years beginning on or after January 1,
23 2020, but prior to January 1, 2021, the department may allow a
24 corporate income taxpayer one additional month following the
25 due date of the corresponding federal income tax return,
26 including applicable extensions, to file the Alabama corporate

1 income tax return, upon request by the taxpayer and approval
2 by the department.

3 (b) The extension provided in subsection (a) shall
4 not allow a taxpayer to defer payment of a corporate income
5 tax liability beyond the original due date provided in Section
6 40-18-39, Code of Alabama 1975.

7 Section 4. Section 40-9-1, Code of Alabama 1975, is
8 amended to read as follows:

9 "§40-9-1.

10 "The following property and persons shall be exempt
11 from ad valorem taxation and none other:

12 "(1) All bonds of the United States and this state
13 and all county and municipal bonds issued by counties and
14 municipalities in this state, all property, real and personal,
15 of the United States and this state and of county and
16 municipal corporations in this state; all cemeteries, all
17 property, real and personal, used exclusively for religious
18 worship, for schools or for purposes purely charitable;
19 provided, that property, real or personal, owned by any
20 educational, religious or charitable institution, society or
21 corporation let for rent or hire or for use for business
22 purposes shall not be exempt from taxation, notwithstanding
23 that the income from such property shall be used exclusively
24 for education, religious or charitable purposes; all
25 mortgages, together with the notes, debts and credits secured
26 thereby on real and personal property situated in this state,
27 which mortgages have been filed for record and the privilege

1 tax paid thereon; all security agreements and security
2 interests under the Uniform Commercial Code, together with the
3 notes, debts and credits secured thereby; all money on deposit
4 in any bank or banking institution and all other solvent
5 credits; all warrants issued by county boards of education and
6 city boards of education for the purpose of erecting,
7 repairing, furnishing school buildings or for other school
8 purposes;

9 "(2) All property, real or personal, used
10 exclusively for hospital purposes, to the amount of \$75,000,
11 where such hospitals maintain wards for charity patients or
12 give treatment to such patients; provided, that the treatment
13 of charity patients constitutes at least 15 percent of the
14 business of such hospitals; provided further, that such
15 hospital need not be assessed for taxation if the owner or
16 manager shall file with the county tax assessor wherein such
17 hospital is located within the time allowed for assessing such
18 property for taxation a certificate that such hospital has
19 done 15 percent charity work in the preceding tax year; and
20 further provided, that such hospital through its owner or
21 manager shall have until the expiration of the preceding tax
22 year to class its work and ascertain whether or not such
23 hospital has done 15 percent of its treatment of patients as
24 charity work;

25 "(3) The shares of the capital stock of any
26 corporation owning and operating a hospital, to the extent of
27 \$75,000 in value; provided, that said corporation maintains

1 wards for charity patients and gives treatment to such
2 patients, which treatment constitutes at least 15 percent of
3 the business of the hospital of said corporation; provided,
4 that the total exemption granted to any such corporation shall
5 not exceed \$75,000, taking into consideration its real and
6 personal property and the value of its shares of capital
7 stock;

8 "(4) All property owned by the American Legion or by
9 Veterans of Foreign Wars or by the Disabled American Veterans,
10 or any post thereof; provided, that such property is used and
11 occupied exclusively by said organization;

12 "(5) All the property of literary and scientific
13 institutions and literary societies, when employed or used in
14 the regular business of such institutions;

15 "(6) The libraries of ministers of the gospel, all
16 libraries other than those of a professional character and all
17 religious books kept for sale by ministers of the gospel and
18 colporteurs;

19 "(7) The property of deaf mutes and insane persons
20 to the extent of \$3,000 and the property of blind persons to
21 the extent of \$12,000;

22 "(8) All family portraits;

23 "(9) All cotton, livestock or agricultural products
24 which have been raised or grown in the State of Alabama and
25 which shall remain in the hands of the producer thereof, or
26 his landlord, or in the hands of a cooperative association for

1 all time, and for a period of one year in the hands of the
2 purchaser or the manufacturer;

3 "(10) All cotton, wherever grown, stored in licensed
4 warehouses in the State of Alabama for a period not exceeding
5 12 months;

6 "(11) Provisions and supplies on hand for the
7 current year for the use of the family and the making of
8 crops; all wearing apparel; farming tools; tools and
9 implements of mechanics to the value of \$200; all livestock,
10 including mules, studs, jacks and jennets, cattle, horses,
11 cows, calves, hogs, sheep and goats; household and kitchen
12 furniture and one sewing machine;

13 "(12) No license or taxation of any character,
14 except franchise taxes provided by Section 229 of the
15 Constitution of the State of Alabama, shall be collected or
16 required to be paid to the state or any county or municipality
17 therein by any state or county fair, agricultural association,
18 stock, kennel or poultry show. Athletic stadiums owned and
19 controlled by universities, schools or colleges and which are
20 used exclusively for the purpose of promoting intercollegiate
21 or interschool athletics; provided, that the revenue received
22 from athletic stadiums, when admission is charged, shall be
23 used for the benefit of athletic associations of such
24 universities, colleges or schools. Nothing contained in this
25 subdivision shall be construed to prohibit any municipality,
26 county or state from imposing any license tax upon or for the
27 privilege of engaging in the business of supplying services

1 for hire or reward or selling commodities other than
2 livestock, farm products or farm implements or conducting or
3 operating devices or games of skill or amusements or other
4 games or devices, or conducting or operating shows, displays
5 or exhibits other than shows, displays or exhibits of
6 agricultural implements, farm products, livestock and athletic
7 prowess;

8 "(13) All material, including without limitation
9 coke, to be compounded or further manufactured, when stocked
10 at any plant or furnace for manufacturing purposes in Alabama;

11 "(14) All articles manufactured in Alabama,
12 including pig iron, in the hands of the producer or
13 manufacturer thereof, for 12 months after its production or
14 manufacture;

15 "(15) All property, both real and personal, owned by
16 any unit or organization of the Alabama National Guard
17 officially recognized as such by the federal government and
18 organized and maintained by the state, and all property owned
19 by shares and used exclusively by and kept exclusively in the
20 possession of any such unit or organization of the Alabama
21 National Guard, the annual rent or hire of which is not in
22 excess of the annual state, county and municipal taxes on said
23 property shall be exempt from taxation by the state, and the
24 county and municipality in which the same may be situated;

25 "(16) All poultry;

26 "(17) The property of all incompetent veterans to
27 the value of \$3,000;

1 "(18) The following items of personal property when
2 owned by individuals for personal use in the home or usually
3 kept at the home of the owner and not carried as stocks of
4 merchandise, namely: Libraries; phonographs; pianos and other
5 musical instruments; paintings; precious stones, jewelry,
6 plate silverware, ornaments and articles of taste; watches and
7 clocks; wagons, buggies, bicycles, guns, pistols, canes, golf
8 sticks, golf bags and sporting goods; money hoarded; radios;
9 mechanical and electrical refrigerators; electrical
10 appliances;

11 "(19) All property owned by the Benevolent and
12 Protective Order of Elks, Fraternal Order of Police, Fraternal
13 Order of Eagles or Loyal Order of Moose, or lodge thereof;
14 provided, that such property is used and occupied exclusively
15 by such organization;

16 "(20) All devices, facilities or structures, and all
17 identifiable components thereof or materials for use therein,
18 acquired or constructed primarily for the control, reduction
19 or elimination of air or water pollution;

20 "(21) Tobacco leaf stored in hogsheads;

21 "(22) All farm tractors, as that term is defined in
22 subdivision (19) of Section 32-1-1.1; and all farming
23 implements, as that term is used in subdivision (b) (5) of
24 Section 40-11-1, as amended, when used exclusively in
25 connection with agricultural property as defined in
26 subdivision (b) (3) of Section 40-8-1, as amended;

1 "(23) All stocks of goods, wares and merchandise
2 described in subdivision (b)(4) of Section 40-11-1, as
3 amended; and

4 "(24) All aircraft, replacement parts, components,
5 systems, supplies and sundries affixed or used on said
6 aircraft, and ground support equipment and vehicles used by or
7 for the aircraft, when used by a certificated or licensed air
8 carrier with a hub operation within this state, for use in
9 conducting intrastate, interstate or foreign commerce for
10 transporting people or property by air. For the purpose of
11 this subdivision, the words "hub operation within this state"
12 shall be construed to have all of the following criteria:

13 "a. There originates from the location 15 or more
14 flight departures and five or more different first-stop
15 destinations five days per week for six or more months during
16 the calendar year; and

17 "b. Passengers and/or property are regularly
18 exchanged at the location between flights of the same or a
19 different certificated or licensed air carrier.

20 "(25) All property described in Title 12 U.S.C.
21 §1701(Q), commonly known as HUD 202 property, is hereby exempt
22 from any and all ad valorem taxes.

23 "(26) All vessels and equipment thereon, used
24 predominantly in the business of commercial shrimping by the
25 owners thereof.

26 "(27)a. The tangible personal property owned by a
27 business and reported in accordance with the provisions of

1 Article 1 of Chapter 7, Title 40, to the extent of forty
2 thousand dollars (\$40,000) in market value is hereby exempt
3 from the state levied ad valorem tax.

4 "b. Any county or municipality may, by resolution or
5 ordinance, adopt the exemption provided in subdivision (27)a.
6 for county or municipal ad valorem taxes levied on tangible
7 personal property. Such ordinance or resolution must be
8 adopted at least 90 days prior to October 1 of the effective
9 date of this act or 90 days prior to October 1 of the electing
10 year."

11 Section 5. Sections 40-23-6, 40-23-6.1, and 40-23-7,
12 Code of Alabama 1975, are amended to read as follows:

13 "§40-23-6.

14 "(a) If any person shall engage in or continue in
15 any business for which a privilege tax is imposed by Section
16 40-23-2 as a condition precedent to engaging or continuing in
17 such business, the person shall apply for and obtain from the
18 Department of Revenue a license to engage in and to conduct
19 such business for the current tax year upon the condition that
20 the person shall pay the taxes accruing to the State of
21 Alabama under the provisions of this division; provided, that
22 no license shall be issued under the provisions of this
23 division to any person who has not complied with the
24 provisions of this division, and no provision of this division
25 shall be construed as relieving any person from the payment of
26 any license or privilege tax now or hereafter imposed by law.

1 "(b) (1) Any person applying for an initial license
2 or the renewal of an expired or cancelled license on or after
3 January 1, 2020, who is in the business of selling at retail
4 products that may be purchased from a seller, as defined in
5 Section 40-23-260, shall be required to purchase and maintain
6 a one-time surety bond for a two-year period, executed by the
7 applicant as principal and by a corporate surety company
8 qualified to do business in this state as surety, in the
9 amount of twenty-five thousand dollars (\$25,000). The bond
10 shall be in a form to be approved by the commissioner and
11 shall be conditioned upon the licensee collecting and
12 remitting sales tax pursuant to this chapter and any rules
13 promulgated thereunder. The bond shall be payable to the
14 commissioner and to his or her successors in office.

15 "(2) Any person required to purchase and maintain a
16 one-time surety bond as provided for in subdivision (1) may,
17 in lieu of purchasing the surety bond, deposit with the
18 department certified funds equivalent to the amount of the
19 surety bond.

20 "~~(2)~~ (3) The department shall provide a waiver for
21 the surety bond as required pursuant to subdivision (1) where
22 the person applying for an initial license or the renewal of
23 an expired or cancelled license and a current licensee are
24 related parties as defined in Section 40-23-190(b), or members
25 of a controlled group of corporations as defined in 26 U.S.C.
26 § 1563, or with respect to any other business, whether or not
27 incorporated, which would be members of a controlled group if

1 similar rules applied to the business, and the related party's
2 current licensee has been compliant over the previous two-year
3 period.

4 "(c) (1) Any licensee who becomes non-compliant in
5 the collection and remittance of sales tax during any period
6 occurring on or after January 1, 2020, shall be required to
7 purchase and maintain a one-time surety bond for a two-year
8 period in the amount of the actual sales tax liability for the
9 three months immediately preceding the non-compliant period,
10 however not less than the amount as prescribed in subsection
11 (b) (1). For the purpose of this section, a licensee shall be
12 deemed non-compliant when a final assessment that has been
13 entered against the licensee is no longer subject to appeal
14 and the licensee has not paid or otherwise satisfied the
15 liability associated with the final assessment within 30 days
16 from the date on which the final assessment was no longer
17 subject to appeal. The surety bond shall be in a form to be
18 approved by the commissioner and shall be conditioned upon the
19 licensee collecting and remitting sales tax pursuant to this
20 chapter and any rules promulgated thereunder. The bond shall
21 be payable to the commissioner and to his or her successors in
22 office.

23 "(2) Any licensee required to purchase and maintain
24 a one-time surety bond as provided for in subdivision (1) may,
25 in lieu of purchasing the surety bond, deposit with the
26 department certified funds equivalent to the amount of the
27 surety bond.

1 "~~(2)~~ (3) The department shall notify a licensee at
2 his or her last known address by first class U.S. mail or by
3 certified mail, return receipt requested, when a bond is being
4 required pursuant to subdivision (1). The licensee, within 30
5 days from the date the notice is mailed by the department,
6 shall file the bond or make a deposit of certified funds as
7 requested by the department or file a notice of appeal with
8 the Alabama Tax Tribunal as allowed under Section 40-2A-8(a).
9 The department may immediately cancel a license upon the
10 expiration of the 30-day period set out above if the licensee
11 fails to either provide the required surety bond, make a
12 deposit of certified funds, or timely appeal to the Alabama
13 Tax Tribunal. Furthermore, a cancelled license shall not be
14 renewed until the licensee provides the required surety bond
15 or deposit of certified funds.

16 "(d) After two years of continuous compliance, a
17 licensee shall be exempt from the surety bond requirement so
18 long as the licensee collects and timely remits sales tax
19 pursuant to this chapter and any rules promulgated thereunder.

20 "§40-23-6.1.

21 "(a) The commissioner, subject to the appeal
22 provisions allowed in Chapter 2A, may suspend or revoke a
23 license, or deny a license application or renewal, issued
24 under Section 40-12-221, 40-23-6, or 40-23-66 for reasonable
25 cause including the following:

26 "(1) Fraud practiced or any material misstatement in
27 the license application.

1 "(2) Changes of conditions in ownership or business
2 structure after a license is granted or the failure to engage
3 in or continue to engage in business for which the license is
4 issued.

5 "(3) Failure to comply with Chapter 12 and this
6 chapter, or any rule adopted thereunder.

7 "(4) Failure to provide or maintain a surety bond or
8 in lieu of purchasing the surety bond, deposit with the
9 department certified funds equivalent to the amount of the
10 surety bond, as required in Section 40-23-6.

11 "(b) The Department of Revenue may adopt rules to
12 administer this section.

13 "§40-23-7.

14 "(a) The taxes levied under this division, except as
15 otherwise provided in subsection (d), shall be due and payable
16 in monthly installments on or before the 20th day of the month
17 next succeeding the month in which the tax accrues.

18 "(b) Except as otherwise provided in subsection (d),
19 on or before the 20th day of each month, every person on whom
20 the taxes levied by this division are imposed shall report to
21 the department, on a form prescribed by the department, a true
22 and correct statement showing such information as the
23 department may require, and shall pay to the department the
24 amount of taxes shown to be due.

25 "(c) Any taxpayer liable for taxes under this
26 division whose average monthly state sales tax liability was
27 ~~two thousand five hundred dollars (\$2,500)~~ five thousand

1 dollars (\$5,000) or greater during the preceding calendar year
2 shall make estimated payments to the department on or before
3 the 20th day of the month in which the liability occurs as
4 follows:

5 "(1) The amount of the first estimated payment shall
6 be 66 2/3 percent of the taxpayer's actual tax liability for
7 the month of October 1983; thereafter the amounts of the
8 payment shall be the lesser of 66 2/3 percent of the
9 taxpayer's actual tax liability for the same calendar month of
10 the preceding year or 66 2/3 percent of the current month's
11 estimated liability.

12 "(2) Any outstanding credit or deficit arising from
13 the taxpayer's overpayment or underpayment of his or her final
14 liability shall be applied to either increase or reduce that
15 month's final tax liability which shall be reported and paid
16 not later than the 20th day of the month next succeeding the
17 month in which the tax accrues.

18 "(3) This subsection shall not apply to Sections
19 11-51-180, 11-51-200, 40-12-4, nor to any municipal or county
20 taxes levied by past or future special or local acts of the
21 Legislature.

22 "(d) Taxpayers meeting the criteria set forth in
23 this subsection may elect to file quarterly, semi-annually, or
24 annually. Any election to file quarterly, semi-annually, or
25 annually shall be made in writing no later than February 20 of
26 each year and shall be filed with the department in the manner
27 prescribed by the department. Qualifying taxpayers electing to

1 file quarterly, semi-annually, or annually, shall report to
2 the department, on a form prescribed by the department, a true
3 and correct statement showing such information as the
4 department may require. Qualifying taxpayers shall pay to the
5 department the amount of tax shown to be due on or before the
6 applicable deadlines, under any rules as may be prescribed, as
7 follows:

8 "(1) When the total state sales tax for which any
9 person is liable under this division is less than \$2,400
10 during the preceding calendar year, the person may elect to
11 file quarterly returns. Quarterly returns and payments of the
12 amount of tax shown to be due shall be due on or before the
13 20th day of the month next succeeding the end of the quarter
14 for which the tax is due.

15 "(2) When the total state sales tax for which any
16 person is liable under this division is less than \$1,200
17 during the preceding calendar year, or the person liable for
18 the tax has made retail sales in this state during no more
19 than two, 30 consecutive day periods during the preceding
20 calendar year, the person may file semi-annual returns. The
21 semi-annual returns and payment of the amount of the tax shown
22 to be due shall be due on or before July 20 and January 20
23 following the end of the six-month period for which the tax is
24 due.

25 "(3) When the total state sales tax for which any
26 person is liable under this division during the preceding
27 calendar year is less than six hundred dollars (\$600), or the

1 person liable for the tax has made retail sales in this state
2 during no more than one, 30 consecutive day period during the
3 preceding calendar year, the person may elect to file an
4 annual return. The annual return and payment of the tax shown
5 to be due shall be due on or before January 20 following the
6 end of the annual period for which the tax is due.

7 "(e) The department, for good cause, may extend the
8 time for making any state or state-administered return
9 required under this division, but the time for filing any such
10 return shall not be extended for a period greater than 30 days
11 from the date such return is due to be made."

12 Section 6. The Department of Revenue may adopt rules
13 for the implementation and administration of this act.

14 Section 7. Section 4 of this act shall become
15 effective October 1, 2023. Section 5 of this act shall be
16 effective on the first day of the third month, following its
17 passage and approval by the Governor, or its otherwise
18 becoming law. All other sections of this act shall be
19 effective immediately, following its passage and approval by
20 the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Finance and Taxation Education 03-FEB-22

Read for the second time and placed on the calen-
dar 1 amendment..... 16-FEB-22

Read for the third time and passed as amended 17-FEB-22

Yeas 28
Nays 0

Patrick Harris,
Secretary.