

1 HB82
2 216172-1
3 By Representative Garrett
4 RFD: Ways and Means Education
5 First Read: 11-JAN-22

SYNOPSIS: Under existing law, amounts received as loan forgiveness or payment under Section 1005 of the federal American Rescue Plan Act of 2021 for qualifying disadvantaged farmers and ranchers may be considered taxable.

This bill would provide that for tax years ending after the enactment of the federal American Rescue Plan Act of 2021, any amount of cancellation of indebtedness income resulting from a loan forgiven under Section 1005 of the American Rescue Plan Act shall be exempt from income taxes imposed by Chapter 18 of Title 40, Code of Alabama 1975, not considered in determining the deductibility of otherwise deductible expenses, and excluded from any and all calculations in determining a taxpayer's federal income tax deduction pursuant to Chapter 18 of Title 40, Code of Alabama 1975.

Under existing law, the due date for a corporate income tax return and financial

1 institution excise tax return is the same as the
2 corresponding federal income tax return.

3 This bill would provide for a one-month
4 extension of the due date of tax returns for
5 Alabama financial institution excise taxpayers and
6 corporate income taxpayers in the tax years
7 beginning on or after January 1, 2021, without
8 incurring a late filing penalty. The filing
9 extension would not extend the due date of the tax
10 liability by these taxpayers.

11 This bill would also authorize the
12 Department of Revenue, at its discretion, to extend
13 the due date of the tax returns for Alabama
14 financial institution excise taxpayers and
15 corporate income taxpayers by one month in tax
16 years beginning on or after January 1, 2020, but
17 not after January 1, 2021.

18 Under existing law, ad valorem tax is levied
19 on tangible personal property owned by businesses
20 in Alabama. Additionally, certain property and
21 persons are exempt from ad valorem taxation.

22 This bill would provide an exemption of up
23 to \$40,000 of the market value of business tangible
24 personal property from ad valorem tax levied by the
25 state. The bill also provides that any county or
26 municipality may adopt, by ordinance or resolution,

1 the same exemption for local ad valorem taxes
2 levied on business tangible personal property.

3 Under existing law, a one-time surety bond
4 is required for certain sales tax licensees.

5 Under existing law, any sales tax licensee
6 whose average monthly state sales tax liability was
7 \$2,500 or greater during the preceding calendar
8 year is required to make estimated payments.

9 This bill would allow for a deposit of
10 certified funds in lieu of the purchase of a surety
11 bond. This bill would also increase the average
12 monthly state sales tax liability threshold
13 calculation to \$5,000 or greater during the
14 preceding calendar year for required estimated
15 payments.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 Relating to the Small Business Relief and
22 Revitalization Act of 2022; to provide that for tax years
23 ending after the enactment of the federal American Rescue Plan
24 Act of 2021, any amount of cancellation of indebtedness income
25 resulting from a loan forgiven under Section 1005 of the
26 American Rescue Plan Act shall be exempt from income taxes
27 imposed by Chapter 18 of Title 40, Code of Alabama 1975; to

1 provide for an extension of the due date for financial
2 institution excise tax and corporate income tax taxpayers; to
3 provide an exemption of up to \$40,000 of the market value of
4 business tangible personal property from state ad valorem tax;
5 to provide a county and municipal election of the exemption;
6 to provide for a deposit of certified funds in lieu of a
7 one-time surety bond; to provide for an increase in the amount
8 of the average monthly sales tax liability for required
9 estimated payments.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 Section 2. For tax years ending after the enactment
14 of the federal American Rescue Plan Act of 2021, any amount of
15 cancellation of indebtedness income resulting from a loan
16 forgiven under Section 1005 of the federal American Rescue
17 Plan Act shall be all of the following:

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

22 (2) Not considered in determining the deductibility
23 of otherwise deductible expenses allowed to be paid with the
24 exempt funds, including, but not limited to, payroll,
25 utilities, mortgage interest, or rent, to the same extent as
26 the expenses remain deductible in calculating federal income

1 tax under Section 1005 of the federal American Rescue Plan Act
2 of 2021.

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

6 Section 3. Sections 40-16-3.1 and 40-18-39.1 are
7 added to the Code of Alabama 1975, to read as follows:

8 §40-16-3.1.

9 (a) (1) For tax years beginning on or after January
10 1, 2021, a financial institution excise taxpayer shall be
11 allowed one month following the due date of the corresponding
12 federal income tax return, including applicable extensions, to
13 file the Alabama financial institution excise tax return as
14 required by Section 40-16-3, Code of Alabama 1975.

15 (2) For tax years beginning on or after January 1,
16 2020, but prior to January 1, 2021, the department may allow a
17 financial institution excise taxpayer one additional month
18 following the due date of the corresponding federal income tax
19 return, including applicable extensions, to file the Alabama
20 financial institution excise tax return, upon request by the
21 taxpayer and approval by the department.

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

26 §40-18-39.1.

1 (a) (1) For tax years beginning on or after January
2 1, 2021, a corporate income taxpayer shall be allowed one
3 month following the due date of the corresponding federal
4 income tax return, including applicable extensions, to file
5 the Alabama corporate income tax return as required by Section
6 40-18-39, Code of Alabama 1975.

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

14 (b) The extension provided in subsection (a) shall
15 not allow a taxpayer to defer payment of a corporate income
16 tax liability beyond the original due date provided in Section
17 40-18-39, Code of Alabama 1975.

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

20 "§40-9-1.

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

23 "(1) All bonds of the United States and this state
24 and all county and municipal bonds issued by counties and
25 municipalities in this state, all property, real and personal,
26 of the United States and this state and of county and
27 municipal corporations in this state; all cemeteries, all

1 property, real and personal, used exclusively for religious
2 worship, for schools or for purposes purely charitable;
3 provided, that property, real or personal, owned by any
4 educational, religious or charitable institution, society or
5 corporation let for rent or hire or for use for business
6 purposes shall not be exempt from taxation, notwithstanding
7 that the income from such property shall be used exclusively
8 for education, religious or charitable purposes; all
9 mortgages, together with the notes, debts and credits secured
10 thereby on real and personal property situated in this state,
11 which mortgages have been filed for record and the privilege
12 tax paid thereon; all security agreements and security
13 interests under the Uniform Commercial Code, together with the
14 notes, debts and credits secured thereby; all money on deposit
15 in any bank or banking institution and all other solvent
16 credits; all warrants issued by county boards of education and
17 city boards of education for the purpose of erecting,
18 repairing, furnishing school buildings or for other school
19 purposes;

20 "(2) All property, real or personal, used
21 exclusively for hospital purposes, to the amount of \$75,000,
22 where such hospitals maintain wards for charity patients or
23 give treatment to such patients; provided, that the treatment
24 of charity patients constitutes at least 15 percent of the
25 business of such hospitals; provided further, that such
26 hospital need not be assessed for taxation if the owner or
27 manager shall file with the county tax assessor wherein such

1 hospital is located within the time allowed for assessing such
2 property for taxation a certificate that such hospital has
3 done 15 percent charity work in the preceding tax year; and
4 further provided, that such hospital through its owner or
5 manager shall have until the expiration of the preceding tax
6 year to class its work and ascertain whether or not such
7 hospital has done 15 percent of its treatment of patients as
8 charity work;

9 "(3) The shares of the capital stock of any
10 corporation owning and operating a hospital, to the extent of
11 \$75,000 in value; provided, that said corporation maintains
12 wards for charity patients and gives treatment to such
13 patients, which treatment constitutes at least 15 percent of
14 the business of the hospital of said corporation; provided,
15 that the total exemption granted to any such corporation shall
16 not exceed \$75,000, taking into consideration its real and
17 personal property and the value of its shares of capital
18 stock;

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

23 "(5) All the property of literary and scientific
24 institutions and literary societies, when employed or used in
25 the regular business of such institutions;

26 "(6) The libraries of ministers of the gospel, all
27 libraries other than those of a professional character and all

1 religious books kept for sale by ministers of the gospel and
2 colporteurs;

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

6 "(8) All family portraits;

7 "(9) All cotton, livestock or agricultural products
8 which have been raised or grown in the State of Alabama and
9 which shall remain in the hands of the producer thereof, or
10 his landlord, or in the hands of a cooperative association for
11 all time, and for a period of one year in the hands of the
12 purchaser or the manufacturer;

13 "(10) All cotton, wherever grown, stored in licensed
14 warehouses in the State of Alabama for a period not exceeding
15 12 months;

16 "(11) Provisions and supplies on hand for the
17 current year for the use of the family and the making of
18 crops; all wearing apparel; farming tools; tools and
19 implements of mechanics to the value of \$200; all livestock,
20 including mules, studs, jacks and jennets, cattle, horses,
21 cows, calves, hogs, sheep and goats; household and kitchen
22 furniture and one sewing machine;

23 "(12) No license or taxation of any character,
24 except franchise taxes provided by Section 229 of the
25 Constitution of the State of Alabama, shall be collected or
26 required to be paid to the state or any county or municipality
27 therein by any state or county fair, agricultural association,

1 stock, kennel or poultry show. Athletic stadiums owned and
2 controlled by universities, schools or colleges and which are
3 used exclusively for the purpose of promoting intercollegiate
4 or interschool athletics; provided, that the revenue received
5 from athletic stadiums, when admission is charged, shall be
6 used for the benefit of athletic associations of such
7 universities, colleges or schools. Nothing contained in this
8 subdivision shall be construed to prohibit any municipality,
9 county or state from imposing any license tax upon or for the
10 privilege of engaging in the business of supplying services
11 for hire or reward or selling commodities other than
12 livestock, farm products or farm implements or conducting or
13 operating devices or games of skill or amusements or other
14 games or devices, or conducting or operating shows, displays
15 or exhibits other than shows, displays or exhibits of
16 agricultural implements, farm products, livestock and athletic
17 prowess;

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

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

25 "(15) All property, both real and personal, owned by
26 any unit or organization of the Alabama National Guard
27 officially recognized as such by the federal government and

1 organized and maintained by the state, and all property owned
2 by shares and used exclusively by and kept exclusively in the
3 possession of any such unit or organization of the Alabama
4 National Guard, the annual rent or hire of which is not in
5 excess of the annual state, county and municipal taxes on said
6 property shall be exempt from taxation by the state, and the
7 county and municipality in which the same may be situated;

8 "(16) All poultry;

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

11 "(18) The following items of personal property when
12 owned by individuals for personal use in the home or usually
13 kept at the home of the owner and not carried as stocks of
14 merchandise, namely: Libraries; phonographs; pianos and other
15 musical instruments; paintings; precious stones, jewelry,
16 plate silverware, ornaments and articles of taste; watches and
17 clocks; wagons, buggies, bicycles, guns, pistols, canes, golf
18 sticks, golf bags and sporting goods; money hoarded; radios;
19 mechanical and electrical refrigerators; electrical
20 appliances;

21 "(19) All property owned by the Benevolent and
22 Protective Order of Elks, Fraternal Order of Police, Fraternal
23 Order of Eagles or Loyal Order of Moose, or lodge thereof;
24 provided, that such property is used and occupied exclusively
25 by such organization;

26 "(20) All devices, facilities or structures, and all
27 identifiable components thereof or materials for use therein,

1 acquired or constructed primarily for the control, reduction
2 or elimination of air or water pollution;

3 "(21) Tobacco leaf stored in hogsheads;

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

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

13 "(24) All aircraft, replacement parts, components,
14 systems, supplies and sundries affixed or used on said
15 aircraft, and ground support equipment and vehicles used by or
16 for the aircraft, when used by a certificated or licensed air
17 carrier with a hub operation within this state, for use in
18 conducting intrastate, interstate or foreign commerce for
19 transporting people or property by air. For the purpose of
20 this subdivision, the words "hub operation within this state"
21 shall be construed to have all of the following criteria:

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

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

4 "(25) All property described in Title 12 U.S.C.
5 §1701(Q), commonly known as HUD 202 property, is hereby exempt
6 from any and all ad valorem taxes.

7 "(26) All vessels and equipment thereon, used
8 predominantly in the business of commercial shrimping by the
9 owners thereof.

10 "(27)a. The tangible personal property owned by a
11 business and reported in accordance with the provisions of
12 Article 1 of Chapter 7, Title 40, to the extent of forty
13 thousand dollars (\$40,000) in market value is hereby exempt
14 from the state levied ad valorem tax.

15 "b. Any county or municipality may, by resolution or
16 ordinance, adopt the exemption provided in subdivision (27)a.
17 for county or municipal ad valorem taxes levied on tangible
18 personal property. Such ordinance or resolution must be
19 adopted at least 90 days prior to October 1 of the effective
20 date of this act or 90 days prior to October 1 of the electing
21 year."

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

24 "§40-23-6.

25 "(a) If any person shall engage in or continue in
26 any business for which a privilege tax is imposed by Section
27 40-23-2 as a condition precedent to engaging or continuing in

1 such business, the person shall apply for and obtain from the
2 Department of Revenue a license to engage in and to conduct
3 such business for the current tax year upon the condition that
4 the person shall pay the taxes accruing to the State of
5 Alabama under the provisions of this division; provided, that
6 no license shall be issued under the provisions of this
7 division to any person who has not complied with the
8 provisions of this division, and no provision of this division
9 shall be construed as relieving any person from the payment of
10 any license or privilege tax now or hereafter imposed by law.

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

25 "(2) Any person required to purchase and maintain a
26 one-time surety bond as provided for in subdivision (1) may,
27 in lieu of purchasing the surety bond, deposit with the

1 department certified funds equivalent to the amount of the
2 surety bond.

3 ~~"(2)~~ (3) The department shall provide a waiver for
4 the surety bond as required pursuant to subdivision (1) where
5 the person applying for an initial license or the renewal of
6 an expired or cancelled license and a current licensee are
7 related parties as defined in Section 40-23-190(b), or members
8 of a controlled group of corporations as defined in 26 U.S.C.
9 § 1563, or with respect to any other business, whether or not
10 incorporated, which would be members of a controlled group if
11 similar rules applied to the business, and the related party's
12 current licensee has been compliant over the previous two-year
13 period.

14 "(c) (1) Any licensee who becomes non-compliant in
15 the collection and remittance of sales tax during any period
16 occurring on or after January 1, 2020, shall be required to
17 purchase and maintain a one-time surety bond for a two-year
18 period in the amount of the actual sales tax liability for the
19 three months immediately preceding the non-compliant period,
20 however not less than the amount as prescribed in subsection
21 (b) (1). For the purpose of this section, a licensee shall be
22 deemed non-compliant when a final assessment that has been
23 entered against the licensee is no longer subject to appeal
24 and the licensee has not paid or otherwise satisfied the
25 liability associated with the final assessment within 30 days
26 from the date on which the final assessment was no longer
27 subject to appeal. The surety bond shall be in a form to be

1 approved by the commissioner and shall be conditioned upon the
2 licensee collecting and remitting sales tax pursuant to this
3 chapter and any rules promulgated thereunder. The bond shall
4 be payable to the commissioner and to his or her successors in
5 office.

6 "(2) Any licensee required to purchase and maintain
7 a one-time surety bond as provided for in subdivision (1) may,
8 in lieu of purchasing the surety bond, deposit with the
9 department certified funds equivalent to the amount of the
10 surety bond.

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

26 "(d) After two years of continuous compliance, a
27 licensee shall be exempt from the surety bond requirement so

1 long as the licensee collects and timely remits sales tax
2 pursuant to this chapter and any rules promulgated thereunder.

3 "§40-23-6.1.

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

9 "(1) Fraud practiced or any material misstatement in
10 the license application.

11 "(2) Changes of conditions in ownership or business
12 structure after a license is granted or the failure to engage
13 in or continue to engage in business for which the license is
14 issued.

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

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

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

23 "§40-23-7.

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

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

8 "(c) Any taxpayer liable for taxes under this
9 division whose average monthly state sales tax liability was
10 ~~two thousand five hundred dollars (\$2,500)~~ five thousand
11 dollars (\$5,000) or greater during the preceding calendar year
12 shall make estimated payments to the department on or before
13 the 20th day of the month in which the liability occurs as
14 follows:

15 "(1) The amount of the first estimated payment shall
16 be $66 \frac{2}{3}$ percent of the taxpayer's actual tax liability for
17 the month of October 1983; thereafter the amounts of the
18 payment shall be the lesser of $66 \frac{2}{3}$ percent of the
19 taxpayer's actual tax liability for the same calendar month of
20 the preceding year or $66 \frac{2}{3}$ percent of the current month's
21 estimated liability.

22 "(2) Any outstanding credit or deficit arising from
23 the taxpayer's overpayment or underpayment of his or her final
24 liability shall be applied to either increase or reduce that
25 month's final tax liability which shall be reported and paid
26 not later than the 20th day of the month next succeeding the
27 month in which the tax accrues.

1 "(3) This subsection shall not apply to Sections
2 11-51-180, 11-51-200, 40-12-4, nor to any municipal or county
3 taxes levied by past or future special or local acts of the
4 Legislature.

5 "(d) Taxpayers meeting the criteria set forth in
6 this subsection may elect to file quarterly, semi-annually, or
7 annually. Any election to file quarterly, semi-annually, or
8 annually shall be made in writing no later than February 20 of
9 each year and shall be filed with the department in the manner
10 prescribed by the department. Qualifying taxpayers electing to
11 file quarterly, semi-annually, or annually, shall report to
12 the department, on a form prescribed by the department, a true
13 and correct statement showing such information as the
14 department may require. Qualifying taxpayers shall pay to the
15 department the amount of tax shown to be due on or before the
16 applicable deadlines, under any rules as may be prescribed, as
17 follows:

18 "(1) When the total state sales tax for which any
19 person is liable under this division is less than \$2,400
20 during the preceding calendar year, the person may elect to
21 file quarterly returns. Quarterly returns and payments of the
22 amount of tax shown to be due shall be due on or before the
23 20th day of the month next succeeding the end of the quarter
24 for which the tax is due.

25 "(2) When the total state sales tax for which any
26 person is liable under this division is less than \$1,200
27 during the preceding calendar year, or the person liable for

1 the tax has made retail sales in this state during no more
2 than two, 30 consecutive day periods during the preceding
3 calendar year, the person may file semi-annual returns. The
4 semi-annual returns and payment of the amount of the tax shown
5 to be due shall be due on or before July 20 and January 20
6 following the end of the six-month period for which the tax is
7 due.

8 "(3) When the total state sales tax for which any
9 person is liable under this division during the preceding
10 calendar year is less than six hundred dollars (\$600), or the
11 person liable for the tax has made retail sales in this state
12 during no more than one, 30 consecutive day period during the
13 preceding calendar year, the person may elect to file an
14 annual return. The annual return and payment of the tax shown
15 to be due shall be due on or before January 20 following the
16 end of the annual period for which the tax is due.

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

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

24 Section 7. Section 4 of this act shall become
25 effective October 1, 2023. Section 5 of this act shall be
26 effective on the first day of the third month, following its
27 passage and approval by the Governor, or its otherwise

1 becoming law. All other sections of this act shall be
2 effective immediately, following its passage and approval by
3 the Governor, or its otherwise becoming law.