

1 HB140
2 208428-1
3 By Representative Lipscomb
4 RFD: Ways and Means General Fund
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

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8 SYNOPSIS: Under current law, a financial institution
9 doing business in Alabama is subject to the Alabama
10 financial institution excise tax. Financial
11 institutions operating in Alabama and other states
12 are required to allocate and apportion their income
13 to Alabama.

14 This bill will clarify the calculation of
15 taxable income for credit unions under the Alabama
16 financial institution excise tax law and would
17 further provide for assessments and refunds.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT

22
23 Relating to financial institution excise tax; to
24 update existing law to provide clarification on the
25 calculation of taxable income for credit unions; and to
26 further provide for assessments and refunds.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 40-16-1.3, Code of Alabama 1975
2 as enacted by Act 2019-284 of the 2019 Regular Session is
3 amended to read as follows:

4 "§40-16-1.3.

5 "(a) With respect to credit unions only, net income
6 means financial statement income which is the final net income
7 amount, total revenue less total expenses, calculated for
8 financial statement purposes and reported to the Internal
9 Revenue Service as a tax exempt organization and to the
10 Alabama Credit Union Administration (ACUA) or other government
11 regulatory authority as appropriate, less the subtractions
12 specified in subsection (b) and as allocated and apportioned
13 to Alabama according to rules adopted by the Department of
14 Revenue pursuant to Section 40-16-4.

15 "(b) Subtractions. The following items shall be
16 subtracted from financial statement income for purposes of
17 computing the net income of a credit union under this chapter:

18 "(1) Dividends received from other credit unions and
19 credit union service organizations as defined by federal law
20 and the regulations of the National Credit Union
21 Administration.

22 "~~(2) In lieu of deductions for losses or bad debts,~~
23 ~~reasonable additions to reserves for losses, bad debts, and~~
24 ~~extraordinary expenses.~~ Reasonable additions to regular
25 reserves as defined by the Capital Preservation Plan approved
26 by each credit union's Board of Directors annually and
27 accepted by the ACUA pursuant to ACUA regulations pertaining

1 to Capital Preservation Plans. Upon withdrawal or reduction of
2 such reserves the amount withdrawn or reduced shall be
3 included in the calculation of taxable income for the tax year
4 in which the withdrawal occurs. Provided that, direct
5 transfers between reserve accounts, including the allowance
6 for loan losses, that are not included in the calculation of
7 net income shall not be includible in the calculation of
8 taxable income.

9 "(c) Nothing in this section shall be construed to
10 allow:

11 "(1) Any item to be deducted more than once.

12 "(2) A deduction for any item that is excluded from
13 income.

14 "(3) Any item to be included in the Alabama net
15 income of more than one taxpayer.

16 "(d) No assessments of Financial Institution Excise
17 Tax shall be entered or issued and no refunds shall be granted
18 or paid for tax years ending on or before January 1, 2021 to
19 adjust the amounts subtracted from net income of credit unions
20 for additions to reserves, as previously provided in this
21 section. Further, such amount included in any assessment
22 entered prior to the effective date of this act shall be void
23 and unenforceable and shall be withdrawn or dismissed with
24 prejudice by the department, and any such refund petitions
25 filed prior to the effective date of this act shall be denied
26 by the department."

1 Section 2. This act shall become operative for tax
2 years beginning after December 31, 2020.

3 Section 3. This act shall become effective January
4 1, 2021, following its passage and approval by the Governor,
5 or upon its otherwise becoming law.