

1 HB140  
2 208428-2  
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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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§40-16-1.3.

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

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

1           "(1) Dividends received from other credit unions and  
2 credit union service organizations as defined by federal law  
3 and the regulations of the National Credit Union  
4 Administration.

5           "~~(2) In lieu of deductions for losses or bad debts,~~  
6 ~~reasonable additions to reserves for losses, bad debts, and~~  
7 ~~extraordinary expenses.~~ Reasonable additions to regular  
8 reserves as defined by the Capital Preservation Plan approved  
9 by each credit union's Board of Directors annually and  
10 accepted by the ACUA pursuant to ACUA regulations pertaining  
11 to Capital Preservation Plans. Upon withdrawal or reduction of  
12 such reserves the amount withdrawn or reduced shall be  
13 included in the calculation of taxable income for the tax year  
14 in which the withdrawal occurs. Provided that, direct  
15 transfers between reserve accounts, including the allowance  
16 for loan losses, that are not included in the calculation of  
17 net income shall not be includible in the calculation of  
18 taxable income.

19           "(c) Nothing in this section shall be construed to  
20 allow:

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

22           "(2) A deduction for any item that is excluded from  
23 income.

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

1           "(d) No assessments of Financial Institution Excise  
2 Tax shall be entered or issued and no refunds shall be granted  
3 or paid for tax years ending on or before January 1, 2021 to  
4 adjust the amounts subtracted from net income of credit unions  
5 for additions to reserves, as previously provided in this  
6 section. Further, such amount included in any assessment  
7 entered prior to the effective date of this act shall be void  
8 and unenforceable and shall be withdrawn or dismissed with  
9 prejudice by the department, and any such refund petitions  
10 filed prior to the effective date of this act shall be denied  
11 by the department."

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

14           Section 3. This act shall become effective January  
15 1, 2021, following its passage and approval by the Governor,  
16 or upon its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 09-FEB-21.

Jeff Woodard  
Clerk

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Senate

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16-MAR-21

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Passed