

1 SB504
2 169986-1
3 By Senator Shelnutt
4 RFD: Finance and Taxation General Fund
5 First Read: 26-MAY-15

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8 SYNOPSIS: Under current law, an employer is not
9 required to withhold income taxes from an
10 employee's wages if the employee has furnished the
11 employer a withholding exemption certificate
12 certifying that the employee: (1) incurred no
13 income tax liability for the preceding tax year and
14 (2) anticipates that he or she will not incur a tax
15 liability for income tax imposed for the current
16 year.

17 This bill would amend current law to repeal
18 the total exemption from withholding.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 To amend Section 40-18-73, Code of Alabama 1975,
25 relating to individual income taxes; to repeal the total
26 withholding exemption; and to provide an effective date.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. The Legislature finds and declares the
2 following:

3 (a) Current law provides individual taxpayers with
4 the option of having no income taxes withheld from their
5 paycheck if there is in effect with respect to the payment a
6 withholding exemption certificate furnished to the employer by
7 the employee certifying that the employee:

8 1. Incurred no income tax liability in the previous
9 tax year and

10 2. Anticipates that he or she will not incur a
11 liability for income taxes for the current year.

12 (b) According to the Department of Revenue, there
13 are many taxpayers that currently avoid income taxes by
14 completing a withholding exemption certificate claiming a
15 total exemption from withholding taxes and discontinue filing
16 an Alabama income tax return, even though they have tax
17 liability.

18 (c) Unless the abuse of withholding exemption
19 certificates is discovered by the Department of Revenue
20 through an audit or other compliance measures, the tax
21 avoidance reduces the amount of income taxes received by the
22 state which are used for educational purposes and increases
23 the costs of collections for the Department.

24 (d) In order to prevent tax avoidance, it is in the
25 best interest of the state to repeal the provisions of law
26 allowing withholding exemption certificates to be used by
27 taxpayers to claim a total exemption from withholding tax. An

1 individual employee should file an income tax return with the
2 Department of Revenue and claim a refund, if the taxpayer is
3 entitled to such refund.

4 Section 2. Section 40-18-73, Code of Alabama 1975,
5 is hereby amended to read as follows:

6 "§40-18-73.

7 (a) Every employee, on or before the date of
8 commencement of employment, shall furnish his or her employer
9 with a signed Alabama withholding exemption certificate
10 relating to the number of withholding exemptions which he or
11 she claims, which in no event shall exceed the number to which
12 the employee is entitled. In the event the employee inflates
13 the number of exemptions allowed by this Chapter on Form A-4,
14 the employee shall pay a penalty of five hundred dollars
15 (\$500) for such action pursuant to Section 40-29-75.

16 (b) Due to the fact that the federal exemptions
17 differ significantly from Alabama law, federal Form W-4 is not
18 an acceptable filing under this section; rather Alabama Form
19 A-4 must be utilized to comply with this section.

20 (c) In the event the employee fails to furnish the
21 employer a signed Alabama Form A-4, the employer must withhold
22 on such employee's wages using no exemptions.

23 (d) Withholding exemption certificates shall take
24 effect upon the beginning of the employee's first payroll
25 period, or the first payment of wages made without regard to a
26 payroll period, after the date on which the certificate is
27 completed and submitted.

1 (e) A withholding exemption certificate which takes
2 effect under this section shall continue in effect with
3 respect to the employer until another certificate takes effect
4 under this section. If a withholding exemption certificate is
5 submitted to take the place of an existing certificate, the
6 employer, at his or her option, may continue the old
7 certificate in force with respect to all wages paid on or
8 before the first status determination date and adjust the
9 withholding on January 1 or July 1, whichever occurs at least
10 30 days after the date on which the new certificate is
11 furnished, or may adjust the withholding immediately.

12 (f) If, on any day during the calendar year, the
13 number of withholding exemptions to which the employee may
14 reasonably be expected to be entitled at the beginning of his
15 or her next taxable year is different from the number to which
16 the employee is currently entitled, the employee shall,
17 according to rules established by the department, provide the
18 employer with a withholding exemption certificate relating to
19 the number of exemptions which he or she claims with respect
20 to the next taxable year, which shall not exceed the number to
21 which he or she may reasonably be expected to be so entitled.
22 Exemption certificates issued pursuant to this subsection
23 shall not take effect with respect to any payment of wages
24 made in the calendar year in which the certificate is
25 submitted.

26 (g) Whenever the number of exemptions of an employee
27 either increases or decreases, the employee shall submit to

1 the employer a new exemption certificate which accurately
2 states the true number of exemptions to which that employee is
3 entitled.

4 ~~(h) Effective for tax years beginning January 1,~~
5 ~~1998, and thereafter, an employer shall not be required to~~
6 ~~deduct and withhold any tax under this chapter upon a payment~~
7 ~~of wages to an employee if there is in effect with respect to~~
8 ~~the payment a withholding exemption certificate furnished to~~
9 ~~the employer by the employee certifying that the employee:~~

10 ~~(1) Incurred no liability for income tax imposed~~
11 ~~under this chapter for the preceding taxable year, and~~

12 ~~(2) Anticipates that he or she will not incur a~~
13 ~~liability for income tax imposed under this chapter for the~~
14 ~~current year.~~

15 ~~(i) Notwithstanding the provisions of subsection~~
16 ~~(h), an (h) An employer must submit to the department a copy~~
17 ~~of any withholding exemption certificates where the employee~~
18 ~~claims eight or more exemptions. Employers failing to provide~~
19 ~~such withholding exemption certificates within 60 days of the~~
20 ~~date employment begins, shall be subject to the "failure to~~
21 ~~timely file" penalty of fifty dollars (\$50) per certificate.~~

22 ~~(j) (i) Withholding exemption certificates shall be~~
23 ~~in the form and contain that information which the department~~
24 ~~may require, and be submitted in accordance with regulations~~
25 ~~which the department shall prescribe.~~

1 Section 3. The commissioner shall be authorized to
2 promulgate any rules and regulations necessary to implement
3 the provisions of this mandatory act.

4 Section 4. This act shall become effective September
5 1, 2015, following its passage and approval by the Governor,
6 or its otherwise becoming law.