

1 SB43
2 170976-1
3 By Senator Hightower (Constitutional Amendment)
4 RFD: Finance and Taxation Education
5 First Read: 03-AUG-15

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8 SYNOPSIS: This bill would propose an amendment to the
9 Constitution of Alabama of 1901, entitled the
10 Simplified Flat Tax Act of 2015, to repeal
11 Amendment 25 of the Constitution of Alabama of
12 1901, now appearing as Section 211.01 of the
13 Official Recompilation of the Constitution of
14 Alabama of 1901, as amended, Amendment 212, as
15 amended by Amendment 662, of the Constitution of
16 Alabama of 1901, now appearing as Section 211.03 of
17 the Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, and Amendment 225 of
19 the Constitution of Alabama of 1901, now appearing
20 as Section 211.04 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended; to
22 revise the personal and corporate income tax
23 structure by providing a specific tax rate; to
24 provide an exemption for certain income earned in
25 other jurisdictions; to provide for certain tax
26 credits and deductions under certain conditions;

1 and to authorize the Legislature to enact general
2 laws to implement the amendment.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To propose an amendment to the Constitution of
9 Alabama of 1901, to repeal Amendment 25 of the Constitution of
10 Alabama of 1901, now appearing as Section 211.01 of the
11 Official Recompilation of the Constitution of Alabama of 1901,
12 as amended, Amendment 212, as amended by Amendment 662, of the
13 Constitution of Alabama of 1901, now appearing as Section
14 211.03 of the Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, and Amendment 225 of the
16 Constitution of Alabama of 1901, now appearing as Section
17 211.04 of the Official Recompilation of the Constitution of
18 Alabama of 1901, as amended; to revise the personal and
19 corporate income tax structure by providing a specific tax
20 rate; to provide for certain tax credits and deductions under
21 certain conditions; and to authorize the Legislature to enact
22 general laws to implement the amendment.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. The following amendment to the
25 Constitution of Alabama of 1901, as amended, is proposed and
26 shall become valid as a part thereof when approved by a
27 majority of the qualified electors voting thereon and in

1 accordance with Sections 284, 285, and 287 of the Constitution
2 of Alabama of 1901, as amended:

3 PROPOSED AMENDMENT

4 I. This amendment shall be known and may be cited as
5 the Simplified Flat Tax Act of 2015.

6 II. Effective January 1, 2017, the following
7 provisions of the Constitution of Alabama of 1901 are
8 repealed:

9 (a) Amendment 25 of the Constitution of Alabama of
10 1901, now appearing as Section 211.01 of the Official
11 Recompilation of the Constitution of Alabama of 1901, as
12 amended, relating to income taxes.

13 (b) Amendment 212, as amended by Amendment 662, of
14 the Constitution of Alabama of 1901, now appearing as Section
15 211.03 of the Official Recompilation of the Constitution of
16 Alabama of 1901, as amended, relating to state tax on net
17 income of corporations.

18 (c) Amendment 225 of the Constitution of Alabama of
19 1901, now appearing as Section 211.04 of the Official
20 Recompilation of the Constitution of Alabama of 1901, as
21 amended, relating to deductions of federal income tax from
22 gross income.

23 III. For the purposes of this amendment, the
24 following terms shall have the following meanings:

25 (a) Adjusted Gross Income. The adjusted gross income
26 of an individual for a taxable year as computed pursuant to

1 the federal Internal Revenue Code, 26 U.S.C. Title 26, as
2 amended from time to time.

3 (b) Net Income. The adjusted gross income of the
4 taxpayer for the taxable year increased by any interest on the
5 obligations of states other than Alabama and the agencies
6 instrumentalities, and political subdivisions of states other
7 than Alabama that is exempt from federal income taxation and
8 reduced by any income that the State of Alabama may not tax
9 because of federal law and further reduced by any exclusion or
10 deduction allowed by Part VI.

11 IV. (a) Subject to Part VI, effective January 1,
12 2017, a tax is imposed on every individual who is a resident
13 of Alabama and on every individual who is not a resident of
14 Alabama and who performs personal services, transacts
15 business, or owns property in Alabama. The rate of the tax
16 shall be 3.20 percent.

17 (b) The tax imposed under paragraph (a) shall be
18 imposed on the resident's net income and on the non resident's
19 net income from performing personal services, transacting
20 business, or owning property in Alabama.

21 V. Subject to Part VI, effective January 1, 2017, a
22 tax is imposed at the rate of 4.59 percent of Alabama taxable
23 income. Alabama taxable income means the taxpayer's federal
24 taxable income for the taxable year increased or decreased by
25 any addition, exclusion, or deduction allowed by Part VI. If
26 the corporation is subject to tax in Alabama and one or more
27 other states, then the income of the corporation shall be

1 allocated and apportioned in accordance with Chapter 27 of
2 Title 40, Code of Alabama 1975, as amended from time to time.
3 This part shall not apply to a corporation that has elected
4 not to be subject to the federal income tax, to insurance
5 companies, and to financial institutions.

6 VI. (a) (1) An individual may exclude from adjusted
7 gross income any income that is derived from sources within
8 another jurisdiction which is taxed under the law of that
9 jurisdiction regardless of the residence or domicile of the
10 individual.

11 (2) An individual may not claim any deduction,
12 credit, or exemption unless it is an adjustment to reflect the
13 taxability for Alabama purposes of certain contributions to
14 defined benefit plans; a deduction for the first five thousand
15 dollars (\$5,000) of income (ten thousand (\$10,000) on a joint
16 return filed by a married couple); or is pursuant to a
17 deduction, credit, or exemption adopted pursuant to Part VII.

18 (b) (1) Except as provided in subdivision (2),
19 Alabama taxable income for a taxable year does not include a
20 deduction for net operating losses carried back to or forward
21 to the taxable year or any depletion deduction in excess of
22 depletion allowed for federal income tax purposes.

23 (2) A corporation may carry forward any current net
24 operating loss or capital loss earned prior to the date this
25 amendment is ratified until it is utilized or otherwise
26 expires.

1 (3) All other additions to income, deductions,
2 credits, or exemptions for corporations in effect on the date
3 this amendment is ratified may be claimed except for the
4 federal income tax deduction provided for in Section
5 40-18-35(a)(2), Code of Alabama 1975, as amended from time to
6 time.

7 (c) The Legislature, by general law, may provide a
8 basis for apportionment of income under Part V different than
9 the basis that existed on March 1, 2015.

10 VII. The Legislature may provide for credits,
11 deductions, or exemptions from adjusted gross income of
12 individuals or taxable income of corporations only by enacting
13 a general law by an 80 percent vote in each house. Any general
14 law providing for a credit, exemption, or deduction may only
15 contain a single credit, exemption, or deduction.

16 VIII. The Legislature shall enact general laws for
17 the implementation of this amendment.

18 Section 2. An election upon the proposed amendment
19 shall be held at the next statewide primary or general
20 election in accordance with Sections 284 and 285 of the
21 Constitution of Alabama of 1901, now appearing as Sections 284
22 and 285 of the Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, and the election laws of this
24 state.

25 Section 3. The appropriate election official shall
26 assign a ballot number for the proposed constitutional
27 amendment on the election ballot and shall set forth the

1 following description of the substance or subject matter of
2 the proposed constitutional amendment:

3 "Proposing an amendment to the Constitution of
4 Alabama of 1901, to revise the personal and corporate income
5 tax structure by providing a single specific tax rate for
6 individuals and a single specific tax rate for corporations;
7 to provide an exemption for certain income earned in other
8 jurisdictions; to provide for certain tax credits and
9 deductions under certain conditions; and to authorize the
10 Legislature to enact general laws to implement the amendment.

11 "Proposed by Act _____."

12 This description shall be followed by the following
13 language:

14 "Yes () No ()."