

1 HB108
2 155819-3
3 By Representatives Wren and Hubbard (M)
4 RFD: Commerce and Small Business
5 First Read: 14-JAN-14
6 PFD: 01/10/2014

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

Relating to business personal property tax; to provide an optional non-itemized short form for the filing of a business personal property tax return for those taxpayers whose total original acquisition cost of all taxable tangible business personal property assets is equal to or less than \$10,000 each year; to provide that the Department of Revenue shall design the short form and filing instructions to be used when filing the short form; to require the Department of Revenue to develop and make available an online electronic filing system which allows any taxpaying entity to electronically file any annual business personal property tax return that is required of the taxpaying entity by any local county assessing official or applicable agency; to provide that there shall be no charge to either a taxpayer or a local taxing jurisdiction to access or utilize the electronic filing system created hereunder; to establish an advisory committee to oversee the development and implementation of the online filing system created under this act; and to allow the Department of Revenue to promulgate rules to implement the provisions of this bill.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. (a) Prior to October 1, 2014, the
3 Department of Revenue shall design a non-itemized business
4 personal property tax return short form "short form tax
5 return" which, at the taxpayer's option, may be utilized for
6 reporting total taxable tangible business personal property
7 assets with original acquisition costs equal to or less than
8 ten thousand dollars (\$10,000) under the provisions of this
9 act and any rules promulgated by the department related
10 thereto. Any taxpaying entity utilizing the short form return
11 agrees to a business personal property tax liability for that
12 applicable tax year that is based upon taxable tangible
13 business personal property assets valued at ten thousand
14 dollars (\$10,000), and that the submission of such short form
15 return by the taxpayer is a declaration to the county
16 assessing official or other applicable agency that the
17 property is to be valued at ten thousand dollars (\$10,000) for
18 all taxable tangible business personal property assets.

19 (b) Effective October 1, 2014, and subject to the
20 provisions of this act, any taxpaying entity required to file
21 a business personal property tax return with a county
22 assessing official or other applicable agency may file the
23 short form tax return if: (1) the taxpayer has previously
24 filed with the county assessing official or other applicable
25 agency an itemized business personal property tax return in
26 which the total original acquisition cost of all the taxpaying
27 entity's taxable tangible business personal property assets

1 resulted in a total amount equal to or less than ten thousand
2 dollars (\$10,000); and (2) the taxpayer's total original
3 acquisition cost of all taxable tangible business personal
4 property assets for the current tax year results in the
5 taxpaying entity's total amount of taxable tangible business
6 personal property assets being equal to or less than ten
7 thousand dollars (\$10,000). The tax liability for any taxpayer
8 filing the short form tax return shall be calculated by the
9 county assessing official or other applicable agency based
10 upon a value of ten thousand dollars (\$10,000), and otherwise
11 in accordance with subsection (a).

12 (c) Once a taxpaying entity has filed a business
13 personal property tax return which includes a detailed
14 itemized listing of all taxable tangible business personal
15 property assets with the county assessing official or other
16 applicable agency as required in subsection (b)(1), the
17 taxpayer may file the short form tax return in each
18 consecutive year that the total original acquisition cost of
19 all taxable tangible business personal property assets remains
20 equal to or less than ten thousand dollars (\$10,000).

21 (d) In the event the total original acquisition cost
22 of all the taxpayer's taxable tangible business personal
23 property assets exceeds ten thousand dollars (\$10,000), the
24 taxpayer shall be required to file a business personal
25 property tax return which includes an itemized listing of all
26 taxable tangible business personal property assets with the
27 county assessing official or other applicable agency as

1 otherwise required by law and shall pay taxes calculated based
2 upon the assets itemized in the tax return.

3 (e) All short form tax returns shall be subject to
4 audit by the appropriate county assessing official or other
5 applicable agency, in the discretion of such official or
6 agency. Such an audit may include the requirement that the
7 taxpaying entity provide an itemized listing of all taxable
8 tangible business personal property. Additionally, any
9 taxpayer who knowingly submits a false or incorrect short form
10 tax return shall be subject to penalties equaling 50 percent
11 of any additional taxes owed. Further, any relevant and
12 otherwise applicable state or local laws providing for
13 penalties, fines, or fees for violations of tax return filings
14 shall have full effect under the tax returns applicable to
15 this act and shall not be limited or abrogated by any
16 provision hereunder.

17 Section 2. (a) No later than September 30, 2016, the
18 Department of Revenue shall develop, maintain, and administer
19 an online business personal property tax filing system that
20 allows any taxpayer required to file a business personal
21 property tax return with any county assessing official or
22 applicable agency the ability and option to electronically
23 file the return through the electronic filing system which
24 will be submitted to the county assessing official or
25 applicable agency where the tax return is required to be
26 filed. The system shall be optional for any taxpayer and shall
27 be known as the Optional Personal Property Assessment Link or

1 OPPAL. All Alabama taxing jurisdictions shall allow taxpayers
2 to utilize and access the OPPAL system for filing any business
3 personal property return. The online system shall be available
4 for use in tax periods beginning on and after October 1, 2016,
5 provided the taxpayer complies with this act and any rules
6 promulgated by the Department of Revenue for the
7 administration and use of the system. The OPPAL system shall
8 be utilized only for the filing of business personal property
9 tax returns and shall not provide for the administration or
10 enforcement of business personal property taxes.

11 (b) There shall be no charge to either the taxpayer
12 or a local taxing jurisdiction for the utilization or access
13 of the OPPAL system.

14 (c) The system developed and implemented pursuant to
15 subsection (a) shall have the capability to allow a taxpayer
16 to electronically file a business personal property tax return
17 with the county assessing official or other applicable agency
18 in each taxing jurisdiction in which the taxpayer is required
19 to file a business personal property tax return. The
20 electronically filed return shall contain all information
21 included in the standard paper tax return and all information
22 included in the electronically filed return shall be
23 electronically available to each appropriate local taxing
24 jurisdiction at the time filed by the taxpayer.

25 Section 3. (a) No taxpayer shall be required to use
26 the OPPAL system for filing business personal property tax
27 returns; provided, however, that any taxpayer utilizing the

1 system shall comply with this act and any rules promulgated by
2 the Department of Revenue for the administration of this act.
3 Additionally, any taxpayer utilizing the system shall comply
4 with any rules of the local taxing jurisdiction regarding
5 payment, administration, and enforcement of the business
6 personal property tax law.

7 (b) All penalties and interest assessed according to
8 state law for failure to properly and timely file a business
9 personal property tax return or for payment of such taxes
10 shall apply to filings made through the OPPAL system.

11 Section 4. (a) (1) To ensure that local taxing
12 jurisdictions have meaningful input into the development and
13 operation of OPPAL, a state and local advisory committee is
14 hereby established to review the design and operation of the
15 system and to make recommendations regarding the system
16 requirements and functionality to the Commissioner of Revenue.

17 (2) The advisory committee shall consist of the
18 following individuals:

19 a. Two local tax officials appointed by the
20 Association of Alabama Tax Administrators.

21 b. Two local tax officials appointed by the Alabama
22 Association of Assessing Officials.

23 c. One county commissioner appointed by the
24 Association of County Commissioners of Alabama.

25 d. One probate judge who serves as chair of the
26 county commission appointed by the Alabama Probate Judges
27 Association.

1 e. One representative of the business community,
2 appointed by the Business Council of Alabama.

3 f. One representative of the retail community
4 appointed by the Alabama Retailers Association.

5 g. One representative of the business community,
6 appointed by the Alabama Chapter of the National Federation of
7 Independent Businesses.

8 h. One representative of the Alabama Department of
9 Revenue, appointed by the Revenue Commissioner, who shall
10 serve as chair of the advisory committee.

11 (3) The advisory committee members shall receive no
12 compensation or reimbursement of expenses from the state for
13 serving on the advisory committee.

14 (b) The advisory committee shall meet with the
15 Commissioner of Revenue and other employees of the Department
16 of Revenue as the commissioner deems appropriate. The initial
17 meeting of the advisory committee shall be at a time and place
18 to be determined by the chair of the advisory committee and
19 shall be held no later than September 30, 2014. At the initial
20 meeting, the advisory committee shall organize itself and
21 shall determine the timing and frequency of subsequent
22 meetings.

23 (c) The role of the advisory committee shall be
24 limited to providing input and recommendations on the
25 development and functionality of the OPPAL system with
26 relation to the filing of business personal property tax
27 returns utilizing the OPPAL system. The advisory committee

1 shall make no review of the Department of Revenue's
2 administration of property taxes or any other department
3 matter beyond the OPPAL system.

4 (d) If the Revenue Commissioner fails to act on
5 recommendations made by the advisory committee regarding
6 OPPAL, the advisory committee, by majority vote, may appeal to
7 the Legislative Council for a determination on whether the
8 committee's recommendations shall be implemented. The
9 determination of the Legislative Council shall be final.

10 Section 5. This act shall not apply to any county in
11 which the Legislature has prior to the effective date of this
12 act provided by local law for the electronic filing of
13 business personal property tax returns under certain
14 conditions in the office of the county revenue commissioner,
15 county property tax commissioner, or other similar county
16 officer.

17 Section 6. The provisions of this act are severable.
18 If any part of this act is declared invalid or
19 unconstitutional, that declaration shall not affect the part
20 which remains.

21 Section 7. All laws or parts of laws which conflict
22 with this act are repealed.

23 Section 8. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Commerce and
Small Business..... 14-JAN-14

Read for the second time and placed
on the calendar..... 15-JAN-14

Read for the third time and passed
as amended..... 16-JAN-14

Yeas 99, Nays 0, Abstains 0

Jeff Woodard
Clerk