

SB38 INTRODUCED



1 SB38
2 1JF8LZ3-1
3 By Senator Allen
4 RFD: County and Municipal Government
5 First Read: 06-Feb-24



SYNOPSIS:

Under existing law, a municipality may require a business to obtain a local business license that is based on gross receipts.

This bill would allow any business paying a municipal business license based on gross receipts to deduct from gross receipts any excise tax imposed by the federal, state, and local governments.

A BILL
TO BE ENACTED
AN ACT

Relating to municipalities; to amend Section 11-51-90.1, Code of Alabama 1975, relating to the municipal business license tax; to specify that the definition of "gross receipts" does not include any excise tax imposed by the federal, state, and local governments.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 11-51-90.1, Code of Alabama 1975, is amended to read as follows:

"§11-51-90.1

As used in this article, the following terms ~~shall~~ have the following meanings:

(1) BUSINESS. Any commercial or industrial activity or



SB38 INTRODUCED

any enterprise, trade, profession, occupation, or livelihood, including the lease or rental of residential or nonresidential real estate, whether or not carried on for gain or profit, and whether or not engaged in as a principal or as an independent contractor, which is engaged in, or caused to be engaged in, within a municipality.

(2) BUSINESS LICENSE. An annual license issued by a taxing jurisdiction for the privilege of doing any kind of business, trade, profession, or any other activity in that jurisdiction, by whatever name called, which document is required to be conspicuously posted or displayed except to the extent the taxpayer's business license tax or other financial information is listed thereon or unless the municipality affirmatively elects not to so require. However, municipal occupational licenses, municipal gasoline taxes, municipal tobacco taxes, or gross receipts taxes in the nature of a sales tax, or any other municipal tax now in existence or that may hereafter be adopted by a municipality pursuant to Section 11-51-90, or any other provision of state law other than an annual license, shall not be considered "business licenses."

(3) BUSINESS LICENSE REMITTANCE FORM. Any business license return, renewal reminder notice, or other writing on which a taxpayer calculates its business license tax liability for all or part of the license year and remits the amount so calculated with the form.

(4) DEPARTMENT or DEPARTMENT OF REVENUE. The Alabama Department of Revenue, as created under Section 40-2-1, et seq.



SB38 INTRODUCED

(5) DESIGNEE. An agent of a taxing jurisdiction authorized to administer or collect, or both, the jurisdiction's business license taxes, which may include another taxing jurisdiction, the Department of Revenue, or a "private auditing or collecting firm" as defined in Section 40-2A-3.

(6) GROSS RECEIPTS. A measure of any and all receipts of a business from whatever source derived, to the maximum extent permitted by applicable laws and constitutional provisions, to be used in calculating the amount due for a business license. Provided, however, that:

a. Gross receipts shall not include any of the following taxes collected by the business on behalf of any taxing jurisdiction or the federal government: All taxes which are imposed on the ultimate consumer, collected by the taxpayer, and remitted by or on behalf of the taxpayer to the taxing authority, whether state, local, or federal, including utility gross receipts taxes levied pursuant to Article 3, Chapter 21, Title 40; license taxes levied pursuant to Article 2, Chapter 21, Title 40; or any excise tax imposed by the federal or state government or any local government whether called an excise tax or license fee; or reimbursements to professional employer organizations of federal, state, or local payroll taxes or unemployment insurance contributions; but no other deductions or exclusions from gross receipts shall be allowed except as provided in this article.

b. A different basis for calculating the business license may be used by a municipality with respect to certain



SB38 INTRODUCED

categories of taxpayers as prescribed in Section 11-51-90.2.

c. For a utility or other entity described in Section 11-51-129, gross receipts shall be limited to the gross receipts derived from the retail furnishing of utility services within a municipality during the preceding year that are taxed under Article 3 of Chapter 21 of Title 40, except that nothing herein shall affect any existing contract or agreement between a municipality and a utility or other entity. The gross receipts derived from the furnishing of utility services shall not be subject to further business license taxation by a municipality.

d. Gross receipts shall not include dividends or other distributions received by a corporation, or proceeds from borrowings, the sale of a capital asset, the repayment of the principal portion of a loan, the issuance of stock or other equity investments, or capital contributions, or the undistributed earnings of subsidiary entities.

(7) LICENSE FORM. Any business license application form, renewal reminder notice, business license remittance form, or business license return by whatever name called.

(8) LICENSE OFFICER or MUNICIPAL LICENSE OFFICER. The municipal employee charged by the governing body of the municipality with the primary responsibility of administering the municipality's license tax and related matters.

(9) LICENSE YEAR. The calendar year.

(10) MUNICIPALITY. Any town or city in this state that levies a business license tax from time to time. The term shall also include the town's or city's police jurisdiction,



SB38 INTRODUCED

where the business license tax is levied in the police jurisdiction.

(11) PERSON. Any individual, association, estate, trust, partnership, limited liability company, corporation, or other entity of any kind, except for any nonprofit corporation formed under the laws of Alabama which is operated to enable municipalities that become members of such nonprofit corporation to finance or refinance capital projects and related undertakings, on a cooperative basis, and whose board of directors or other governing body consists primarily of elected officials of municipalities.

(12) TAXING JURISDICTION. Any municipality that levies a business license tax, whether or not a business license tax is levied within its police jurisdiction, or the Department of Revenue acting as agent on behalf of a municipality pursuant to Section 11-51-180, et seq., as the context requires.

(13) TAXPAYER. Any person subject to or liable under this chapter for any business license tax; any person required to file a return with respect to, or pay or remit the business license tax levied under this chapter or to report any information or value to the taxing jurisdiction; or any person required to obtain, or who holds any interest in, any business license issued by the taxing jurisdiction; or any person that may be affected by any act or refusal to act by the taxing jurisdiction under this chapter, or to keep any records required by this chapter.

(14) U.S.C. The applicable title and section of the United States Code, as amended from time to time.



SB38 INTRODUCED

141 (15) OTHER TERMS. Other capitalized or specialized
142 terms used in Act 2006-586, and not defined above, shall have
143 the same meanings ascribed to them in Section 40-2A-3 unless
144 the context otherwise requires."

145 Section 2. This act shall become effective October 1,
146 2024.