

HB379 INTRODUCED



1 HB379
2 ARRHKQQ-1
3 By Representative Garrett
4 RFD: Ways and Means Education
5 First Read: 04-Mar-25



SYNOPSIS:

Under existing law, nonresident remote workers are required to remit income tax in the State of Alabama.

This bill would provide that remote workers are exempt from income tax in the State of Alabama in certain circumstances.

A BILL
TO BE ENTITLED
AN ACT

Relating to income taxes; to amend Section 40-18-2, Code of Alabama 1975, regarding persons subject to income tax, to exclude certain nonresidents; to add Section 40-18-2.2 to the Code of Alabama 1975; to exempt certain nonresident income from income tax.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-18-2, Code of Alabama 1975, is amended as follows:

"§40-18-2

(a) In addition to all other taxes now imposed by law, there is hereby levied and imposed a tax on the taxable income, as defined in this chapter, which tax shall be



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assessed, collected, and paid annually at the rate specified herein and for each taxable year as hereinafter provided.

Persons and subjects taxable under this chapter are:

(1) Every individual residing in the State of Alabama.

(2) Every corporation domiciled in the State of Alabama or licensed or qualified to transact business in the State of Alabama.

(3) Every corporation doing business in the State of Alabama or deriving income from sources within the State of Alabama, including income from property located in the State of Alabama.

(4) Every nonresident estate or nonresident trust receiving income from property owned or business transacted in the State of Alabama.

(5) Every resident estate and resident trust.

(6) Every nonresident individual receiving income from property owned or business transacted in the State of Alabama, except as provided in Section 40-18-2.2.

(b) Every natural person domiciled in the State of Alabama, and every other natural person who maintains a permanent place of abode within the state or spends in the aggregate more than seven months of the income year within the state, shall be presumed to be residing within the state for the purposes of determining liability for income taxes under this chapter."

Section 2. Section 40-18-2.2 is added to the Code of Alabama 1975, as follows:

§40-18-2.2



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(a) As used in this section, the following words have the following meanings:

(1) "Professional athlete" means an athlete who performs services in a professional athletic event for compensation.

(2) "Professional entertainer" means a person who performs services in the professional performing arts for compensation on a per-event basis.

(3) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for compensation on a per-event basis.

(b) Compensation subject to withholding pursuant to Article 2, without regard to any withholding tax exception set forth in this chapter, paid to a nonresident individual is exempt from the tax levied under Article 2 if all of the following conditions apply:

(1) The compensation is paid for employment duties performed by the individual in this state on 24 or fewer days in the calendar year.

(2) The individual performed employment duties in more than one state during the calendar year.

(3) The compensation is not paid for employment duties performed by the individual in the individual's capacity as a professional athlete, professional entertainer, or public figure.

(4) The nonresident individual's state of residence:

a. Provides a substantially similar exclusion;



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b. Does not impose an individual income tax; or

c. The individual's income is exempt from taxation by this state under the United States Constitution or federal statute.

(c) Except as otherwise provided in this chapter, an employer is not required to withhold taxes from compensation that is paid to an employee described in subsection (b). If, during the calendar year, the number of days an employee spends performing employment duties in this state exceeds the 24-day threshold described in subsection (b) of this section, an employer shall withhold and remit tax to this state for every day in that calendar year, including the first 24 days, on which the employee performs employment duties in this state.

(d) For purposes of determining compensation paid and subject to withholding under this section:

(1) If an employer maintains a time and attendance system that tracks where employees perform services on a daily basis, then data from the time and attendance system shall be used. For purposes of this section, time and attendance system means a system:

a. In which the employee is required, on a contemporaneous basis, to record the work location for every day worked outside of the state where the employment duties are primarily performed; and

b. That is designed to allow the employer to allocate the employee's wages for income tax purposes among all states in which the employee performs services; and



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(2) In all other cases, the employer shall obtain a written statement from the employee of the number of days reasonably expected to be spent performing services in this state during the taxable year. Absent the employer's actual knowledge of fraud or gross negligence by the employee in making the determination or collusion between the employer and the employee to evade tax, the certification so made by the employee and maintained in the employer's books and records shall be prima facie evidence and constitute a rebuttable presumption of the number of days spent performing services in this state.

(e) For purposes of this section, an employee shall be considered present and performing employment duties within this state for a day if the employee performs more of the employee's employment duties in this state than in any other state during that day. Any portion of the day during which the employee is in transit shall not be considered in determining the location of an employee's performance of employment duties.

(f) The Alabama Department of Revenue shall adopt rules necessary for the administration of this section.

(g) The provisions of this section shall be effective for tax years beginning on or after January 1, 2026.

Section 3. This act shall become effective on October 1, 2025.