

# HB445 INTRODUCED



1 HB445  
2 2JZ2WKS-1  
3 By Representative Shaw  
4 RFD: Ways and Means Education  
5 First Read: 12-Feb-26



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SYNOPSIS:

Under existing law, "gross income" is defined for the purpose of state income tax. Also, existing law exempts certain amounts from the calculation of gross income.

This bill would exclude payments made under certain Medicaid Home and Community-Based Services Waiver programs to an individual care provider from being included in the calculation of gross income.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to gross income; to amend Section 40-18-14, Code of Alabama 1975; to exclude payments to individual care providers under certain Medicaid Home and Community-Based Services Waiver programs from gross income.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-18-14, Code of Alabama 1975, is amended to read as follows:

"§40-18-14

(a) The term "gross income" as used herein:

(1) Includes gains, profits, and income derived from



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29 salaries, wages, or compensation for personal services of  
30 whatever kind, or in whatever form paid, including the  
31 salaries, income, fees, and other compensation of state,  
32 county, and municipal officers and employees, or from  
33 professions, vocations, trades, business, commerce or sales,  
34 or dealings in property whether real or personal, growing out  
35 of ownership or use of or interest in such property; also from  
36 interest, royalties, rents, dividends, securities, or  
37 transactions of any business carried on for gain or profit and  
38 the income derived from any source whatever, including any  
39 income not exempted under this chapter and against which  
40 income there is no provision for a tax. The term "gross  
41 income" as used herein also includes alimony and separate  
42 maintenance payments to the extent they are includable in  
43 gross income for federal income tax purposes under 26 U.S.C. §  
44 71, relating to alimony and separate maintenance payments. The  
45 term "gross income" as used herein also includes any amount  
46 included in gross income under 26 U.S.C. § 83 at the time it  
47 is so included under 26 U.S.C. § 83.

48 (2) For purposes of this chapter, the reductions in tax  
49 attributes required by 26 U.S.C. § 108 shall be applied only  
50 to the net operating losses determined under this chapter and  
51 the basis of depreciable property. The basis reductions of  
52 depreciable property shall not exceed the basis reductions for  
53 federal income tax purposes. All other tax attribute  
54 reductions required by 26 U.S.C. § 108 shall not be  
55 recognized.

56 (3) Gross income does not include the following items



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57 which shall be exempt from income tax under this chapter:

58 a. Amounts received under life insurance policies and  
59 contracts paid by reason of the death of the insured in  
60 accordance with 26 U.S.C. § 101;

61 b. Amounts received, other than amounts paid by reason  
62 of the death of the insured, under life insurance, endowment  
63 or annuity contracts, determined in accordance with 26 U.S.C.  
64 § 72;

65 c. The value of property acquired by gift, bequest,  
66 devise, or descent, but the income from such property shall be  
67 included in the gross income, in accordance with 26 U.S.C. §  
68 102;

69 d. Interest upon obligations of the United States or  
70 its possessions; or securities issued under provisions of the  
71 Federal Farm Loan Act of July 18, 1916;

72 e. Any amounts received by an individual which are  
73 excludable from gross income under 26 U.S.C. § 104, relating  
74 to compensation for injuries or sickness, or 26 U.S.C. § 105,  
75 relating to amounts received under accident or health plans;

76 f. Interest on obligations of the State of Alabama and  
77 any county, municipality, or other political subdivision  
78 thereof;

79 g. The rental value of a parsonage provided to a  
80 minister of the gospel to the extent excludable under 26  
81 U.S.C. § 107;

82 h. Income from discharge of indebtedness to the extent  
83 allowed by 26 U.S.C. § 108;

84 i. For each individual resident taxpayer, or each



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85 husband and wife filing a joint income tax return, as the case  
86 may be, any gain realized from the sale of a personal  
87 residence of the taxpayer shall be excluded to the extent  
88 excludable for federal income tax purposes under 26 U.S.C. §  
89 121;

90 j. Contributions made by an employer on behalf of an  
91 employee to a trust which is part of a qualified cash or  
92 deferred arrangement, as defined in 26 U.S.C. § 401(k)(2) or 5  
93 U.S.C. § 8437, under which the employee has an election  
94 whether the contribution will be made to the trust or received  
95 by the employee in cash and contributions made by an employer  
96 for an employee for an annuity contract, which contributions  
97 would be excludable from the gross income, for federal income  
98 tax purposes, of the employee in accordance with the  
99 provisions of 26 U.S.C. § 403(b). The limitations imposed by  
100 26 U.S.C. § 402(g) shall apply for purposes of this paragraph;

101 k. Amounts that an employee is allowed to exclude from  
102 gross income for federal income tax purposes pursuant to 26  
103 U.S.C. § 125, relating to cafeteria plans, and 26 U.S.C. §  
104 132, relating to certain fringe benefits; and

105 l. Amounts paid or incurred by an employer on behalf of  
106 an employee if the amounts may be excluded from gross income  
107 for federal income tax purposes by an employee pursuant to 26  
108 U.S.C. § 129, relating to dependent care expenses.

109 m.1.(i) Amounts received by a full-time hourly waged  
110 paid employee as compensation for work performed in excess of  
111 40 hours in a week.

112 (ii) The exemption provided pursuant to this



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113 subparagraph shall be available for tax years that begin after  
114 December 31, 2023, and end on October 1, 2024.

115 2.(i) Amounts paid as overtime compensation in  
116 accordance with the U.S. Fair Labor Standards Act.

117 (ii) The exemption provided pursuant to this  
118 subparagraph shall be available beginning on October 1, 2024,  
119 through June 30, 2025.

120 3. Notwithstanding subparagraph 2., for employers  
121 governed by the National Railway Labor Act, the exemption  
122 provided in this paragraph applies to hourly component  
123 overtime compensation as defined in applicable collective  
124 bargaining agreements.

125 4. Each employer shall submit to the Department of  
126 Revenue, on forms prescribed by the department, all of the  
127 following:

128 (i) For the tax year beginning January 1, 2023, the  
129 total amount received by full-time hourly wage-paid employees  
130 as compensation for work performed in excess of 40 hours in a  
131 week and the total number of employees for which it was paid.  
132 The data shall be due no later than January 31, 2024.

133 (ii) For the tax year beginning on or after January 1,  
134 2024, through September 30, 2024, the total amount received by  
135 full-time hourly wage-paid employees as compensation for work  
136 performed in excess of 40 hours in a week. Beginning on  
137 October 1, 2024, and each year thereafter, the total amount  
138 paid pursuant to this paragraph and the total number of  
139 employees for which it was paid. The data shall be provided  
140 monthly or quarterly and shall be due no later than the due



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141 date for the corresponding monthly or quarterly withholding  
142 tax returns.

143 (iii) Additional information as may be required by the  
144 department.

145 5. The department shall report to the Legislative  
146 Services Agency - Fiscal Division and the Department of  
147 Finance the data collected and compiled pursuant to  
148 subparagraph 4. no later than 30 days after the due date of  
149 the data.

150 n. Any net capital gain derived from the exchange of  
151 precious metal bullion. For purposes of this paragraph,  
152 "precious metal bullion" means coins, bars, or rounds  
153 containing primarily refined gold, silver, platinum, or  
154 palladium that is marked and valued primarily by its weight,  
155 purity, and content.

156 o. Any amounts received by an individual which are  
157 excludable from gross income under 26 U.S.C. § 131, relating  
158 to difficulty of care payments.

159 (4) The term "gross income," in the case of a resident  
160 individual, includes income from sources within and outside  
161 Alabama, including without limitation, the resident's  
162 proportionate share of any income arising from a Subchapter K  
163 entity, Alabama S corporation, or estate or trust, regardless  
164 of the geographic source of the income. The term "gross  
165 income," in the case of a nonresident individual, includes  
166 only income from property owned or business transacted in  
167 Alabama. For purposes of this article, "proportionate share"  
168 shall be defined by reference to: (i) the status of the



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169 individual owner as a partner or member of a Subchapter K  
170 entity, shareholder of an Alabama S corporation, or  
171 beneficiary of an estate or trust, and (ii) the allocable  
172 interest in that entity owned by the individual.

173 (b) The Department of Revenue may adopt rules to  
174 provide for the administration of this section."

175 Section 2. The provisions of this act shall apply for  
176 all tax years beginning on or after January 1, 2027.

177 Section 3. This act shall become effective on October  
178 1, 2026.