

1 SB76
2 181342-1
3 By Senator Smitherman
4 RFD: Finance and Taxation Education
5 First Read: 07-FEB-17

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8 SYNOPSIS: Under existing law, taxpayers are allowed a
9 deduction for certain medical and dental expenses.

10 This bill would allow a taxpayer to claim a
11 deduction on his or her Alabama Individual Income
12 Tax return for prenatal medical expenses separate
13 from the deduction allowed for medical and dental
14 expenses.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To amend Section 40-18-15, Code of Alabama 1975,
21 relating to individual income tax; to allow a taxpayer to
22 claim a deduction for all prenatal medical expenses separate
23 from the deduction allowed for medical and dental expenses;
24 and to prohibit any deduction allowed for prenatal medical
25 expenses from being used in calculating the deduction for
26 medical and dental expenses.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 40-18-15 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§40-18-15.

4 "(a) No deduction shall be allowed for any losses,
5 expenses, or interest deferred or disallowed pursuant to 26
6 U.S.C. § 267 or for any cost required to be capitalized in
7 accordance with 26 U.S.C. § 263A; otherwise, there shall be
8 allowed as deductions:

9 "(1) All ordinary and necessary expenses paid or
10 incurred during the taxable year in carrying on any trade or
11 business, as determined in accordance with 26 U.S.C. § 162.

12 "(2) Interest paid or accrued within the taxable
13 year on indebtedness, limited to the amount allowable as an
14 interest deduction for federal income tax purposes in the
15 corresponding tax year or period pursuant to ~~the provisions of~~
16 26 U.S.C. §§ 163, 264, and 265.

17 "(3) The following taxes paid or accrued within the
18 taxable year:

19 "a. Income taxes, Federal Insurance Contribution Act
20 taxes, taxes on self-employment income, and estate and gift
21 taxes imposed by authority of the United States or any
22 possession of the United States.

23 "b. State and local, and foreign, occupational
24 license taxes, and contributions to state unemployment funds.

25 "c. State and local, and foreign, real property
26 taxes.

27 "d. State and local personal property taxes.

1 "e. The generation-skipping transfer (GST) tax
2 imposed on income distributions by 26 U.S.C. § 2601.

3 "f. The taxes described in paragraphs c., d., and e.
4 shall be deductible only to the extent that the taxes are
5 deductible for federal income tax purposes under 26 U.S.C. §
6 164 (relating to taxes).

7 "g. In addition, there shall be allowed as a
8 deduction, state and local, and foreign taxes, except income
9 taxes, and taxes imposed by authority of the United States or
10 any possession of the United States, which are paid or accrued
11 within the taxable year in carrying on a trade or business or
12 an activity described in 26 U.S.C. § 212 (relating to expenses
13 for the production of income).

14 "h. Notwithstanding paragraph g., any tax described
15 in any paragraph preceding paragraph g. that is paid or
16 accrued in connection with an acquisition or disposition of
17 property shall be treated as part of the cost of the acquired
18 property or, in the case of a disposition, as a reduction in
19 the amount realized on the disposition of that property.

20 "(4) Losses sustained during the taxable year and
21 not compensated for by insurance or otherwise if incurred in a
22 trade or business, in accordance with 26 U.S.C. § 165(c)(1).

23 "(5) Losses sustained during the taxable year and
24 not compensated for by insurance or otherwise, if incurred in
25 any transaction entered into for profit, though not connected
26 with the trade or business in accordance with 26 U.S.C. §
27 165(c)(2); but, in the case of a taxpayer other than a

1 resident of the state, only as to those transactions within
2 the state.

3 "(6) Casualty and theft losses sustained during the
4 taxable year of property not connected with the conduct of a
5 trade or business or a transaction entered into for profit as
6 determined in accordance with subsections (c)(3) and (h) of 26
7 U.S.C. § 165. In the case of a nonresident, the deduction
8 shall be allowed only for the losses arising from property
9 located within the State of Alabama and the limitations in 26
10 U.S.C. § 165 shall be applied with regard only to the
11 taxpayer's Alabama adjusted gross income. No loss shall be
12 allowed if at the time of filing the return, the loss has been
13 claimed on a federal estate tax return.

14 "(7) Losses from debts ascertained to be worthless
15 and charged off during the taxable year of ascertainment, if
16 sustained in the conduct of the regular trade or business of
17 the taxpayer.

18 "(8) A reasonable allowance for the exhaustion, wear
19 and tear of property from which any income is derived,
20 including a reasonable allowance for obsolescence, in
21 accordance with 26 U.S.C. §§ 167 and 168, and an allowance for
22 the amortization of intangibles determined in accordance with
23 26 U.S.C. § 197.

24 "(9) In the case of mines, oil, and gas wells, other
25 natural deposits and timber, a reasonable allowance for
26 depletion and for depreciation of improvements, according to
27 the peculiar condition in each case based upon the cost,

1 including the cost of development not otherwise deducted, such
2 reasonable allowance in all cases to be made under rules and
3 regulations to be prescribed by the Department of Revenue;
4 and, in the case of leasehold interests, the deduction allowed
5 by this section shall be equitably apportioned between the
6 lessor and the lessee.

7 "(10) Charitable contributions to the extent allowed
8 for federal income tax purposes under 26 U.S.C. § 170
9 (relating to charitable contributions and gifts).

10 "(11) The deduction allowed to the individual for
11 federal income tax purposes by 26 U.S.C. § 219 (relating to
12 retirement savings).

13 "(12) The deduction allowed for federal income tax
14 purposes by 26 U.S.C. § 404 (relating to qualified pension,
15 profit sharing, stock bonus, and annuity plans).

16 "(13) For each individual income taxpayer, medical
17 and dental expenses, including amounts paid for medicine and
18 drugs and amounts paid for accident and health insurance, as
19 determined in accordance with 26 U.S.C. § 213; provided,
20 however, that the limitation of the deduction to the excess of
21 those expenses over 7.5 percent of adjusted gross income as
22 provided in 26 U.S.C. § 213 shall instead be limited to the
23 excess of those expenses over 4.0 percent of adjusted gross
24 income. No amounts used for the deduction provided in
25 subdivision (29), if both are claimed, may be included in
26 medical and dental expenses.

1 "(14) For each individual income taxpayer, the
2 deduction determined in accordance with 26 U.S.C. § 212 for
3 all the ordinary and necessary expenses paid or incurred
4 during the taxable year for the production or collection of
5 income, or for the management, conservation, or maintenance of
6 property held for the production of income, or in connection
7 with the determination, collection, or refund of any tax.

8 "(15) Any expense not exceeding ~~\$1,000~~ one thousand
9 dollars (\$1,000) actually incurred during the taxable year in
10 constructing on his or her property a family radioactive
11 fallout shelter, as approved and certified by the State
12 Department of Emergency Management, and any amount not
13 exceeding ~~\$1,000~~ one thousand dollars (\$1,000) which he or she
14 contributed during the taxable year toward the construction of
15 a community radioactive fallout shelter.

16 "(16) A deduction from the taxpayer's adjusted gross
17 income for state income tax purposes of the total cost of
18 installation for conversion from gas or electricity to wood as
19 the primary energy source for heating their individual
20 domestic homes for the taxable year during which a conversion
21 was completed.

22 "(17) Alimony and separate maintenance payments, the
23 amount deductible to be the same as the amount deductible for
24 federal income tax purposes under 26 U.S.C. § 215 (relating to
25 alimony payments).

26 "(18) Moving expenses paid or incurred during the
27 taxable year as allowed under 26 U.S.C. § 217 (relating to

1 moving expenses). However, in applying 26 U.S.C. § 217, the
2 term "new principal place of work" means only places of work
3 located within the State of Alabama.

4 "(19) Any expense not exceeding ~~\$35,000~~ thirty-five
5 thousand dollars (\$35,000) actually incurred during the
6 taxable year in removing from his or her property any
7 architectural or transportation barriers to handicapped
8 persons with nonambulatory and semiambulatory disabilities;
9 provided, however, that any improvements resulting from that
10 expense shall not be eligible to be capitalized for
11 depreciation.

12 "(20) Notwithstanding subdivision (1), the deduction
13 for expenses of travel, entertainment, and meals shall be
14 determined in accordance with 26 U.S.C. § 274.

15 "(21) The deduction allowed by 26 U.S.C. § 179
16 (relating to expensing certain depreciable property), provided
17 that no deduction shall be allowed under subdivision (8) for
18 any amount allowed as a deduction under this subdivision.

19 "(22) The deduction allowed by 26 U.S.C. § 195
20 (relating to amortization of start-up expenditures), but in
21 the case of a nonresident, only if the principal place of
22 business of the business investigated, created, or acquired is
23 located in the State of Alabama.

24 "(23) The deduction allowed by subdivision (1), to
25 the extent that it consists of unreimbursed employee business
26 expenses, and the deduction allowed by subdivision (14) shall

1 be allowed only to the extent that the aggregate of the
2 deductions exceeds ~~2~~ two percent of adjusted gross income.

3 "(24) The reasonable medical and legal expenses paid
4 or incurred by the taxpayer in connection with the adoption of
5 a minor. For purposes of this subdivision, medical expenses
6 shall include any medical and hospital expenses of the adoptee
7 and the adoptee's biological mother which are incident to the
8 adoptee's birth and subsequent medical care and which, in the
9 case of the adoptee, are paid or incurred before the petition
10 is granted.

11 "(25) The amount of any aid or assistance, whether
12 in the form of property, services, or monies, provided to the
13 State Industrial Development Authority pursuant to Section
14 41-10-44.8(d) in order to induce an approved company to
15 undertake a major project within the state.

16 "(26) The amount of premiums paid pursuant to a
17 qualifying insurance contract for qualified long-term care
18 coverage.

19 "(27) The amount deductible by the taxpayer in
20 accordance with 26 U.S.C. § 162(h).

21 "(28) The amount, up to five thousand dollars
22 (\$5,000) per annum, contributed subsequent to December 31,
23 2007, to the Alabama Prepaid Affordable College Tuition
24 Program or the Alabama College Education Savings Program as
25 defined in Chapter 33C of Title 16. If the taxpayer makes a
26 nonqualified withdrawal as defined by Section 529 of the
27 Internal Revenue Code (26 U.S.C. 529), the amount of the

1 nonqualified withdrawal, plus 10 percent of the amount
2 withdrawn, shall be added back to the income of the
3 contributing taxpayer in the year the nonqualified withdrawal
4 was distributed.

5 "(29) The amount of expenses incurred during the
6 taxable year for prenatal medical care. This amount may not be
7 used in calculating medical and dental expenses pursuant to
8 subdivision (13) if both are claimed.

9 "(b) (1) In lieu of the deductions allowable to
10 individual taxpayers, as provided in subdivision (1) of
11 subsection (a) to the extent of unreimbursed employee business
12 expenses, and as provided in subdivisions (2), (3), (5), (6),
13 (10), (13), (14), (15), (16), (19), (22), and (26) of
14 subsection (a), the taxpayer may elect to take the optional
15 standard deduction of 20 percent of the adjusted gross income
16 or ~~\$2,000~~ two thousand dollars (\$2,000), whichever is the
17 lesser. Taxpayers filing jointly as defined in Section
18 40-18-27 may elect to take the optional standard deduction of
19 20 percent of the adjusted gross income or ~~\$4,000~~ four
20 thousand dollars (\$4,000), whichever is the lesser.

21 "(2) For tax years beginning after December 31,
22 2006, the optional standard deduction shall be determined as
23 follows:

24 "a. The standard deduction for married taxpayers
25 filing jointly with adjusted gross income of ~~\$20,000~~ twenty
26 thousand dollars (\$20,000) or less shall be ~~\$7,500~~ seven
27 thousand five hundred dollars (\$7,500). For married taxpayers

1 filing jointly with adjusted gross income of greater than
2 ~~\$20,000~~ twenty thousand dollars (\$20,000), the standard
3 deduction shall be reduced by ~~\$175~~ one hundred seventy-five
4 dollars (\$175) for each ~~\$500~~ five hundred dollars (\$500) of
5 adjusted gross income in excess of ~~\$20,000~~ twenty thousand
6 dollars (\$20,000). Notwithstanding the preceding sentence, the
7 standard deduction shall not be less than ~~\$4,000~~ four thousand
8 dollars (\$4,000) for married taxpayers filing jointly.

9 "b. The standard deduction for married taxpayers
10 filing separate returns with adjusted gross income of ~~\$10,000~~
11 ten thousand dollars (\$10,000) or less shall be ~~\$3,750~~ three
12 thousand seven hundred fifty dollars (\$3,750). For married
13 taxpayers filing separate returns with adjusted gross income
14 of greater than ~~\$10,000~~ ten thousand dollars (\$10,000), the
15 standard deduction shall be reduced by ~~\$88~~ eighty-eight
16 dollars (\$88) for each ~~\$250~~ two hundred fifty dollars (\$250)
17 of adjusted gross income in excess of ~~\$10,000~~ ten thousand
18 dollars (\$10,000). Notwithstanding the preceding sentence, the
19 standard deduction shall not be less than ~~\$2,000~~ two thousand
20 dollars (\$2,000) for married taxpayers filing separate
21 returns.

22 "c. The standard deduction for head of family
23 taxpayers with adjusted gross income of ~~\$20,000~~ twenty
24 thousand dollars (\$20,000) or less shall be ~~\$4,700~~ four
25 thousand seven hundred dollars (\$4,700). For head of family
26 taxpayers with adjusted gross income of greater than ~~\$20,000~~
27 twenty thousand dollars (\$20,000), the standard deduction

1 shall be reduced by ~~\$135~~ one hundred thirty-five dollars
2 (\$135) for each ~~\$500~~ five hundred dollars (\$500) of adjusted
3 gross income in excess of ~~\$20,000~~ twenty thousand dollars
4 (\$20,000). Notwithstanding the preceding sentence, the
5 standard deduction shall not be less than ~~\$2,000~~ two thousand
6 dollars (\$2,000) for head of family taxpayers.

7 "d. The standard deduction for single taxpayers with
8 adjusted gross income of ~~\$20,000~~ twenty thousand dollars
9 (\$20,000) or less shall be ~~\$2,500~~ two thousand five hundred
10 dollars (\$2,500). For single taxpayers with adjusted gross
11 income of greater than ~~\$20,000~~ twenty thousand dollars
12 (\$20,000), the standard deduction shall be reduced by ~~\$25~~
13 twenty-five dollars (\$25) for each ~~\$500~~ five hundred dollars
14 (\$500) of adjusted gross income in excess of ~~\$20,000~~ twenty
15 thousand dollars (\$20,000). Notwithstanding the preceding
16 sentence, the standard deduction shall not be less than ~~\$2,000~~
17 two thousand dollars (\$2,000) for single taxpayers.

18 "(c) A deduction is allowable for the amount of
19 federal income tax paid or accrued within the taxable year. In
20 the case of a nonresident taxpayer, the amount of federal
21 income tax deductible to Alabama shall be determined by the
22 ratio that the amount of adjusted gross income received from
23 sources within the State of Alabama bears to the amount of
24 adjusted gross income received from sources within and outside
25 the State of Alabama.

26 "(d) If separate returns are filed by husband and
27 wife and one spouse elects to claim the optional standard

1 deduction, the other spouse must also claim the optional
2 standard deduction, unless, for the tax returns filed for the
3 2014 and subsequent tax years, the spouses have lived apart
4 for the entire year. In this case, each spouse may claim
5 either the optional standard deduction or itemized deductions.
6 Neither spouse may claim a deduction for expenses paid by the
7 other spouse.

8 "(e) In the case of a nonresident individual:

9 "(1) The deductions allowed in subdivisions (1),
10 (2), (3), (4), (5), (7), (8), (9), (11), (12), (19), (21),
11 (23), and (25) of subsection (a) shall be allowed only to the
12 extent that they are paid or incurred in carrying on a trade
13 or business within the State of Alabama and the deduction
14 allowed by Section 40-18-15.2 shall be allowed only to the
15 extent it arose from a trade or business carried on in
16 Alabama.

17 "(2) The deductions allowed by subdivisions (2),
18 (3), (5), (8), (9), (14), and (19) of subsection (a) shall be
19 allowed only to the extent arising from property located in
20 Alabama or transactions producing income that is subject to
21 tax in the State of Alabama.

22 "(3) The amount of the deductions allowed by
23 subdivisions (2), (3), (6), (10), (13), (15), (16), (17),
24 (19), (24), and (26) of subsection (a) (and not allowed by
25 subdivisions (1) or (2) of this subsection), or by subsection
26 (b) if the taxpayer elects the standard deduction, shall be
27 limited to the amount determined by multiplying the total of

1 such deductions by a fraction, the numerator of which is the
2 taxpayer's adjusted gross income determined using the rules
3 provided in subdivisions (1) and (2) of this subsection and
4 the denominator of which is the taxpayer's adjusted gross
5 income determined under Section 40-18-14.2. The deduction
6 allowed in subdivision (17) of subsection (a) shall not be
7 subtracted in calculating either the numerator or denominator
8 in the previous sentence.

9 "(f) Nothing in this section shall allow any item to
10 be deducted more than once."

11 Section 2. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law, and shall be
14 implemented for all taxable years beginning after December 31,
15 2017.