

810-3-14-.02 Exclusions from Gross Income.

(1) Items which are excluded from gross income are listed in § 40-18-14(3), Code of Alabama 1975, as follows:

(a) Amounts received under life insurance policies and contracts paid by reason of the death of the insured, in accordance with 26 U.S.C. § 101.

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

(c) The value of property acquired by gift, bequest, devise, or descent, in accordance with 26 U.S.C. § 102 - the income from such property shall be included in gross income.

1. Gross income does not include a fellowship or grant that is an outright gift with no obligation on the part of the recipient. Payments to an individual as a scholarship at an educational institution or as a fellowship grant are excluded from the gross income of the student to the extent that services are not required of the student in order to receive the payments. The value of contributed services and accommodations are also excluded from gross income. If there is a condition that a person must teach or enter into employment, payments are not gifts.

2. Payments for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or fellowship grant are not exempt and should be included in gross income.

3. Prizes, awards, and scholarships are not specifically addressed by Alabama income tax law. The Department will look to 26 U.S.C. § 74, Prizes and Awards, and 26 U.S.C. § 117, Qualified Scholarships, as guidance to determine whether specific prizes, awards, and scholarships are excluded from gross income.

(d) Interest upon obligations of the United States or its possessions; or securities issued under provisions of the Federal Farm Loan Act of July 18, 1916. Examples of exempt obligations include U.S. Savings Bonds, U.S. Treasury Notes or Bills, obligations of the Bank for Cooperatives, Federal Land Banks, Federal Intermediate Credit Banks, Federal Home Loan Banks, Productions Credit Associations, Federal Financing Bank, and the Tennessee Valley Authority. Interest received from the United States government earned on other than investment obligations, such as interest on tax refunds, is subject to Alabama income tax and should be included in gross income.

(e) Amounts received which are excludable from gross income under 26 U.S.C. § 104, relating to compensation for injuries or sickness.

(f) Amounts received which are excludable from gross income under 26 U.S.C. § 105, relating to amounts received from accident or health plans.

(g) Interest on obligations of the State of Alabama and any county, municipality, or other political subdivision thereof. It should be noted that interest on obligations of other states and political subdivisions thereof is taxable.

(h) The rental value of a parsonage provided to a minister of the gospel, to the extent excludable under 26 U.S.C. § 107.

(i) Income from discharge of indebtedness to the extent allowed by 26 U.S.C. § 108, with the exception that the reductions in tax attributes required by 26 U.S.C. § 108 shall be applied only to the net operating losses determined under Alabama income tax law and to the basis of depreciable property. The basis reductions of depreciable property shall not exceed the basis reductions for federal income tax purposes. All other tax attribute reductions required by 26 U.S.C. § 108 shall not be recognized.

(j) Gain from the sale of a personal residence to the extent excludable for federal income tax purposes under 26 U.S.C. § 121.

(k) Contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement, as defined in 26 U.S.C. § 401(k)(2) or 5 U.S.C. § 8437, subject to the limitations of 26 U.S.C. § 402(g).

(l) Contributions, made by an employer for an employee for an annuity contract, which would be excludable from the gross income of the employee, in accordance with 26 U.S.C. § 403(b), subject to the limitations of 26 U.S.C. § 402(g).

(m) Amounts excludable in accordance with 26 U.S.C. § 125, relating to cafeteria plans.

(n) Amounts excludable in accordance with 26 U.S.C. § 132, relating to certain fringe benefits.

(o) Amounts excludable in accordance with 26 U.S.C. § 129, relating to dependent care expenses.

(2) In addition, items of income which federal law prohibits the states from taxing, or which are otherwise exempt from taxation by the Code of Alabama 1975, are excluded from gross income. For example, the daily subsistence allowance paid to state law enforcement officers pursuant to § 36-21-2, Code of Alabama 1975, is excluded from gross income. Also, federal law exempts from taxation allowances for quarters, subsistence, uniforms and travel furnished military personnel by the United States Government.

(3) Other items of income are exempt:

(a) Income of foreign missionaries - see § 40-18-2.1, Code of Alabama 1975.

(b) Certain retirement allowances, net income realized from a financial business, personal exemptions and dependent exemptions - see § 40-18-19.

(c) Certain severance payments - see § 40-18-19.1.

(d) Military retirement benefits - see § 40-18-20.

(4) For interpretation of federal statutes adopted by the Alabama legislature, see Rule 810-3-1.1-.01, Operating Rules.

(5) The provisions of the federal "Taxpayer Relief Act of 1997" which were adopted by Alabama Act 98-502 have the same effective date for Alabama income tax purposes as they do for federal income tax purposes.

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