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to benefit you!*

CRR EXTRAS

Thursday, March 20, 2008

TAXES

Rebate Bill Diminishes Benefit for Businesses

Last week, the House Education Appropriations Committee approved [**HB 455**](#) by Rep. Terry Spicer, D-Elba, which waives state income taxes on federal tax rebates that Alabamians will receive beginning in May.

However, **the committee amended the bill to "decouple" Alabama from the bonus depreciation provisions of the federal Economic Stimulus Act of 2008**. Those provisions would let companies write off half the cost of new equipment in the first year rather than depreciating it over several years. The federal legislation also allows small businesses to expense more of their qualified assets purchased in 2008 in lieu of depreciating them, raising the limit from \$125,000 to \$250,000 in 2008, with the phase-out threshold for that perk rising to \$800,000.

State law ties Alabama's depreciation schedule for businesses to the federal schedule, which means Alabama's schedule automatically would go up under the federal legislation. But **Alabama's House Education Appropriations Committee voted to allow businesses to take only the current deduction on their Alabama corporate income taxes**. The bonus depreciation would continue to apply to federal corporate income taxes. Consequently under this legislation, businesses that pay corporate income taxes in Alabama would have to apply different depreciation schedules for their federal and their state returns.

The bill as it now stands gives individuals greater benefit from the federal tax package and diminishes businesses' benefits. The committee members made this decision in an effort to make the legislation revenue neutral. State fiscal experts have estimated the loss from not collecting state income taxes on the federal rebates at \$57 million and the gain from keeping Alabama businesses from using the bonus depreciation at \$59 million.

BILLS

- [**SB 147**](#)
- [**SB 302**](#)
- [**SB 341**](#)
- [**SB 426**](#)
- [**HB 40**](#)
- [**HB 216**](#)
- [**HB 350**](#)
- [**HB 355**](#)
- [**HB 375**](#)
- [**HB 393**](#)
- [**HB 429**](#)
- [**HB 444**](#)
- [**HB 455**](#)
- [**HB 547**](#)
- [**HB 577**](#)
- [**HB 649**](#)
- [**HB 664**](#)
- [**HB 704**](#)
- [**HB 720**](#)
- [**HB 727**](#)
- [**USHR 5546**](#)

IN THE NEWS

- [House panel OKs exemption bill](#)
- [IRS announces rebate schedule](#)
- [500,000 Alabamians to receive IRS rebate info](#)
- [State corporate income tax extension available to e-filers](#)
- [Beer keg ID decals gaining approval](#)
- [Migrant benefits bill gets scrutiny](#)
- [Black's bingo bill may resurface after](#)

What the lawmakers failed to recognize is **that if both businesses and individual taxpayers were given full benefit from the federal stimulus package then Alabama actually could gain revenue** because of increased spending from individual taxpayers and increased investment from businesses.

Until this point, your Alabama Retail Association had championed this legislation as an extremely needed economic stimulus. Before the Alabama Legislature returns from its spring break next week, your ARA board of directors will make a decision about your association's position on this legislation in its amended form.

>> [Read a detailed explanation of what this bill now does](#)

Meanwhile, the Internal Revenue Service this week announced the schedule for issuing the federal rebate checks. Direct deposits or checks for the rebates will be spread out from May 2 through July 11. Those who file their income taxes after the April 15th deadline could receive their rebates later than those dates.

Taxpayers will get their rebates based on the last two digits of their Social Security number and how they receive their tax returns.

The rebates for those who receive their returns by direct deposits will be sent on these dates according to these last two Social Security numbers: May 2, 00-20; May 9, 21-75; and May 16, 76-99.

Paper checks will be sent on these dates by these last two digits: May 16, 00-09; May 23, 10-18; May 30, 19-25; June 6, 26-38; June 13, 39-51; June 20, 52-63; June 27, 64-75; July 4, 76-87; and July 11, 88-99.

>> Other News

MORE ABOUT TAXES

Add-Back Bill Slated for Wednesday Hearing

At 9 a.m. Wednesday, the House Education Appropriations Committee will hold a public hearing on [HB 350](#) by Rep. Richard Lindsey, D-Centre, which rewrites the 2001 "add-back" statute. The 2001 legislation requires companies, for tax purposes, to add back royalty payments and interest expense paid to related parties to income, unless the company can prove doing so is unreasonable. Among other provisions, HB 350 narrows the definition of when denying a company's deduction for interest or royalty payments is

[break](#)

- [Bingo bill on hold](#)
- [House readies for clash over bingo at tracks](#)

For more stories concerning legislative action and news of interest, go to [In the News](#)

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Most representatives can be reached through the House e-mail system by using the following format:

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Those without e-mail addresses can be reached through the general e-mail address:

[house3@alhouse.org](#)

There is no general e-mail address for senators. [Click here](#) for a roster of the state senators with their complete contact

The Business Association's Tax Coalition, of which ARA President Rick Brown is the chairman, has prepared amendments to this legislation, which it will attempt to get the committee to add Wednesday . The original legislation has the support of Gov. Bob Riley and the Alabama Education Association.

Under HB 350, a corporate taxpayer must show the disallowance would violate the U.S. Constitution for it to be considered "*unreasonable*." The bill also requires that the IMCO or finance company be "*subject to tax*" on all its income in one or more of the 21 or so "separate return" states, such as Alabama, before the deduction by the borrower/licensee is allowed. The changes also would be retroactive for "*all open tax years*."

As written, it is estimated the bill would raise \$26 million for this fiscal year and \$41 million when fully implemented in the 2009 fiscal year.

Rep. Lesley Vance, D-Phoenix City, has introduced local legislation that would add a 5-cent tax on soft drinks in Russell County, if the county's voters approve it in a referendum.

The legislation proposes soft drink manufacturers, bottlers, distributors, or importers who sell their product in Russell County pay a 5-cent tax on every 12 ounces of soft drinks and a \$1 tax on each gallon of soft drink syrup.



**2011
Legislative
Roster**

*Senate Officers & Committees
Governor & Cabinet
Legislative Agencies*

*House of Representatives
Officers & Committees
Legislative Agencies*

ARA
A COMMITTEE OF THE ALABAMA ASSOCIATION
OF ALABAMA RETAIL
AND WHOLESALE



ARA constantly strives to increase the Value its members received from membership. Many members have been using our low-cost workers' comp program for years, but were asking for more.

than 10 percent fruit juice, baby formula and dietary supplements from the tax.

Revenue Gives Corporate E-Filers a Six-Month Extension

Corporate income taxpayers in Alabama who plan to file electronically have been given a six-month reprieve from the March 17 deadline. Those filing 2007 Alabama Form 20-C Corporate Income or Alabama Form 20-S Subchapter S tax returns electronically are granted an automatic filing extension through Sept. 15, for the 2007 annual returns that are due March 17, without payment of delinquent filing penalties, the Alabama Revenue Department announced this week.

ARA LEGISLATIVE AGENDA IN ACTION

Public Hearing Set for HB 40

ARA-Supported Bill Would Avoid Higher Unemployment Taxes

The Senate Business and Labor Committee will hold a public hearing at 11:30 a.m. Wednesday on [HB 40](#) by Rep. Frank McDaniel, D-Albertville, which will make a required correction to the 2005 State Unemployment Tax Act, put the state in alignment with federal law and avoid a major increase in federal unemployment taxes.

The Alabama House of Representatives approved this [ARA-supported bill](#) Feb. 7. The Senate Finance and Taxation General Fund Committee approved the Senate companion, [SB 147](#) by Sen. Roger Bedford, D-Russellville, on Feb. 6, but the full Senate has yet to consider it. If Senate Business and Labor approves it Wednesday, the bill will be in line for final consideration by the Senate.

Without this legislation, Alabama businesses could see a **\$378 increase per employee** in federal unemployment taxes.

Tom Surtees, director of the Alabama Department of Industrial Relations, said failure to pass the legislation will give the U.S. Department of Labor the authority to remove a 5.4 percent tax credit currently in place for Alabama employers, which will *"increase the tax exponentially."* Surtees said elimination of the tax credit would raise federal taxes from 0.8 percent of the first \$7,000 of wages to 6.2 percent of the first \$7,000 of wages. **That equates to an increase from \$56 to \$434 per employee!**

The U.S. Labor Department gave Alabama until the end of the 2008 regular session to enact this vital legislation. In addition

In January, we announced more savings. ARA members now have access to:

Cost-Saving Credit Card Processing:

Through a partnership with Huntsville-based **CHECKredi**, ARA members get rates normally reserved for only the largest stores.

Discounted Inbound and Outbound Shipping:

Through our arrangement with **PartnerShip** ARA members can save up to 27% on FedEx services and up to 70% on other shipping needs.

Budget Friendly Email Marketing:

Constant Contact brings ARA members cutting edge e-mail marketing technology for as low as \$15 a month; members save up to 25%

Find Out More Today

IMPORTANT EVENT THIS WEEK

WHAT: **Birmingham Business Leadership Exchange**
WHEN: **6 p.m. Wednesday, April 6**

WHERE: Regions Center
Upper Lobby Auditorium,
1900 5th Avenue North

*Complimentary parking
available at Regions Center
deck via 19th St. North*

The Speaker's Commission on Job Creation is partnering with the Birmingham Business Alliance to invite business owners of companies across the industrial spectrum to attend a "Business Leadership Exchange," and share their ideas about how to improve the business climate in the state. If you have any questions, please **contact the**

to the Alabama Retail Association, this legislation has the support of the governor and key legislative leaders.

>> [Read ARA's full 2008 Legislative Agenda](#)

Retailers should take note that these taxes are due on the first \$7,000 of wages of **EVERY** employee, so consequently businesses with a high turnover rate would be especially hard hit, Surtees said.

ALCOHOL

ABC Checking Wine Case Discounts

The Alabama Alcoholic Beverage Control Board this week began checking in earnest to make sure retailers are following regulations regarding discounts on cases of wine .

Under Alabama law, you can offer a percentage discount on full cases of the same wine from the manufacturer, but wines cannot be put together and offered at a discount. You also can discount single bottles of wine, but you cannot offer a percentage discount on single bottles that create a case.



Bill Calls for Beer Keg Identification

Last Wednesday, the House Tourism and Travel Committee approved [HB 355](#) by Rep. Craig Ford, D-Gadsden, which requires clubs and retailers to affix an identification number on kegs of beer they sell so the kegs are registered to buyers. Under the bill, the tags or decals would cost \$2 each per keg and would have to be purchased from the state Alcoholic Beverage Control Board. The cost would be passed on to the buyer. Under the bill, the ID is to be retained for 30 days after the purchase. The Alabama Wholesale Beer Association successfully got an amendment added to the bill that excludes small, non-returnable beer kegs.

All Municipalities Could Call Wet-Dry Referendums under Martin Bill

Another alcohol-related bill approved by the House Tourism and Travel Committee last Wednesday would eliminate the minimum population requirement of 7,000 mandated for a municipality to call a wet-dry referendum. [HB 393](#) by Rep.

office of House Speaker Mike Hubbard at 334-242-7668. If you are unable to come to the Birmingham exchange but would like to submit ideas and recommendations, you may [email them to Alabama Jobs Commission](#)

or join the conversation on Facebook at

[facebook.com/speakersjobscommission](#)

James Martin, D-Clanton, requires a petition of 25 percent of the voters for a referendum to be called.

IMMIGRATION

House Committee to Take up Immigration Bills after Break

The House Judiciary Committee is expected to consider 10 bills that relate to immigration Wednesday. Three of the bills are of concern to business:

- [**HB 720**](#) by Rep. Allen Treadaway, D-Morris, is the House companion to [**SB 426**](#) by Sen. Scott Beason, R-Gardendale, which places major immigration enforcement responsibilities on businesses. On March 5, the Senate Fiscal Responsibility and Accountability Committee conducted a public hearing but did not vote on the Senate version because of the lack of a quorum. This legislation creates an “Employee Verification Card” as a third form of identification required of any non-Alabama resident seeking in-state employment or working in Alabama for a company located outside of the state.
- [**HB 664**](#) by Rep. Randy Hinshaw, D-Huntsville, would revoke a company’s business license if it were found to have knowingly hired an illegal immigrant. This bill mandates that Alabama employers be responsible for discerning valid forms of identification for legal workers from any type of counterfeit documents that might be used by illegal immigrants applying for work. In addition, the bill would hold an Alabama-based company responsible for an illegal hire made through an out-of-state office or subsidiary.
- [**HB 727**](#) by Rep. Micky Hammon, R-Decatur, would require an employer to verify that it does not employ unauthorized aliens in order to qualify for any economic development incentive awarded by the Alabama Development Office.

HEALTH

Anti-Epileptic Generic Drug Ban to Get Committee Hearing

The House Health Committee will hold a public hearing Wednesday, March 26, on [**HB 429**](#) by Rep. Ron Johnson, R-Sylacauga. The hearing is set for 10 a.m. in Room 807 of the Alabama State House.

This bill prohibits pharmacists from substituting any anti-

epileptic therapeutic product without the consent of the prescribing physician and patient and is the House companion to [SB 302](#) by Sen. Linda Coleman, D-Birmingham, which already has received committee approval.

The House sponsor is expected to introduce a substitute bill before the hearing. **ARA is reviewing the substitute.**

Pharmacist substitution of brand name drugs with FDA-approved, generically equivalent drugs saves money for patients, employers and insurance carriers. Throughout the country, similar legislation has been introduced, creating obstacles to the existing generic substitution practices for prescription drugs used to treat epilepsy. A mandate to prevent pharmacists from substituting drugs prescribed to treat epilepsy with generically equivalent alternatives unless the pharmacist first obtains signed, informed consents from both the prescriber and the patient would adversely affect the delivery of patient care.

House Sends Prosthetics Bill to Senate

Last Tuesday, the House approved [HB 375](#) by Rep. Lesley Vance, D-Phenix City, which requires that insurance companies and health plans offer coverage for prosthetics and orthotics. It now goes to the Senate for consideration.

A Senate committee already has approved the Senate companion – [SB 341](#) by Sen. Parker Griffith, D-Huntsville.

This legislation stops short of mandating coverage. **ARA opposes mandatory health-care benefits as they increase the cost of health care and will continue to monitor this legislation.**

CAMPAIGN FINANCE AND ELECTIONS

Nonpartisan Election of Judges Ready for House Consideration;

House Committee to Consider Judicial District Legislation

The House Constitution and Elections Committee last week favorably reported [HB 444](#) by Rep. Jeff McLaughlin, D-Guntersville, which would require all state judicial candidates to run without a party designation.

The bill creates a separate "Official Nonpartisan Judicial Ballot" specifically for judicial candidates. Candidate names would appear in alphabetical order under the office for which they were running. It calls for nonpartisan judicial elections

from the Alabama Supreme Court all the way down to the circuit and district court level.

On Wednesday of next week, the House Constitution and Elections Committee will consider [HB 547](#) by Rep. Joseph Mitchell, D-Mobile, which would require Alabama Supreme Court justices, appellate judges, circuit judges and district judges, all be elected from districts. The Supreme and other appellate judges currently are elected statewide. Under this bill, one Supreme Court Justice would be elected from each of eight districts. The Chief Justice would continue to be elected on a statewide basis. The bill also would divide the five-member courts of Civil Appeals and Criminal Appeals into districts. The bill is a constitutional amendment, which would require voter approval in addition to legislative approval.

ARA opposes any legislation that changes the current election process for appellate judges. ARA's opposition to such bills is included in its 2008 Legislative Agenda.

Disclosure Bill is Unfinished House Business

When the House returns Tuesday from its legislative spring break, it will take up [HB 216](#) by Rep. Mike Ball, R-Huntsville, as unfinished business. The House adjourned last week during debate on the bill, which requires campaign contribution and expenditure reports to be filed in every election, even if the candidate is unopposed.

Current law requires principal campaign committees or political action committees involved in elections to file contribution and expenditure reports with the Secretary of State or judge of probate, but there is no mandate requiring candidates who run unopposed to make such filings.

MEDICAID

Black Delays Bingo-for-Medicaid Vote; **Bill Could Return Next Week**

The sponsor of [HB 577](#) last week delayed a House vote on the constitutional amendment to allow electronic bingo games at the dog tracks in Mobile County and Birmingham as a way to help finance the state Medicaid program.

Rep. Marcel Black, D-Tuscumbia, said he may try to bring the bill to the House floor next week when lawmakers return from this week's legislative spring break. Apparently, last week he was short of the 63 votes needed to pass a constitutional

amendment in the 105-member House. House Minority Leader Mike Hubbard, R-Auburn, told the *Birmingham News* he thought 36 of the 43 House Republicans were firm in their opposition to the proposal.

Black's bill would tax the games at 20 percent of the gross revenue after paying out winnings. Proponents estimate Medicaid would receive about \$55 million from the taxes on the games and as much as \$170 million if federal matching funds are included. However, to generate those kinds of numbers, the bingo games would have to produce about \$255 million in gross receipts. Black's bill would not tax the existing bingo games run by the dog tracks in Macon and Greene counties or by the Creek Indians.

LEGAL

Mitchell Introduces Uniform Arbitration Act

Rep. Joseph Mitchell, D-Mobile, has introduced the Uniform Arbitration Act, model legislation written by the National Conference of Commissioners on Uniform State Laws.

Among other provisions, [HB 649](#) permits parties to agree that the arbitrator has no authority to award punitive damages or attorneys' fees. The legislation does not appear to interfere with the ability of parties to contract. However, its provisions relating to the ability of an arbitrator to certify a class action could need clarification. The bill is pending in the House Judiciary Committee.

NEXT LEGISLATIVE DAY

2009 Session Begins in February

Another Summer Special Session Possible

Lawmakers will return for the **first legislative meeting day of the 2009 regular session at noon Tuesday, Feb. 3, 2009**. However, the governor could call lawmakers back for another special session later this summer.

FEDERAL

Resolutions Extend AMT Relief but Reject Most Bush Tax Cuts

The U.S. House and Senate have each passed different budget resolutions that would provide another temporary

patch for the Alternative Minimum Tax and extend some tax relief for low-income families, while allowing tax cuts enacted in 2001 and 2003 to expire. Differences between the two versions will be negotiated when federal lawmakers return from their spring recess at the end of this month.

Both budget resolutions would extend current AMT relief for middle-class taxpayers for another year, although the two chambers disagreed on how to pay for the relief. A variety of tax provisions that expired at the end of 2007, including a 15-year depreciation period for improvements to leased retail stores, would be renewed retroactively.

Both chambers rejected Republican proposals to make permanent the full \$1.7 trillion package of tax cuts President Bush signed into law in 2001 and 2003, which included reductions in personal income tax rates along with reductions in rates for dividends and capital gains and a phase-out of the estate tax. All of the provisions are scheduled to expire at the end of 2010, with taxes returning to pre-2001 levels unless Congress acts to renew them before then.

The bills make permanent only portions of the package that were aimed at low- and middle-income families. Included are the 10 percent income tax bracket, the increased child tax credit, marriage penalty relief, the child care tax credit and the increased adoption credit. Other income tax rate cuts and cuts in capital gains and dividends were left out.

Estate tax would be made permanent at the 2009 level of the current phase-out plan, exempting the first \$3.5 million and taxing amounts above that figure at 45 percent. The Republican proposal would have raised the exemption to \$5 million and set the rate at 35 percent.

Enactment of the Bush tax cuts would boost retail sales by putting more money into consumers' pockets.

Additional FMLA Poster Required Until Federal Poster Updated

The U.S. Department of Labor has published proposed changes to the Family Medical Leave Act (FMLA), but continues to take comments on the changes until midnight April 11.

>> [Read the Labor Department's proposed changes](#)

However, amendments to the FMLA currently are in effect and require an addendum to the FMLA poster you now are displaying at your business.

This supplemental Department of Labor poster should be displayed NOW alongside your current ARA-provided all-in-one federal poster.

Once the Labor Department completes its rule-making related to the FMLA changes, ARA will incorporate the changes into a new all-in-one poster and get that poster to you.

Landmark Antitrust Bill Addresses \$40 Billion in Credit Card Fees

[H.R. 5546](#), the Credit Card Fair Fee Act, was introduced March 6 by House Judiciary Committee Chairman John Conyers, D-Mich., with Rep. Chris Cannon, R-Utah, as the lead co-sponsor.

This landmark antitrust legislation addresses hidden MasterCard and Visa fees that cost merchants and their customers more than \$40 billion annually.

Conyers said the legislation would *"help level the playing field for merchants and retailers ... and ultimately reduce the costs of everyday goods for consumers."*

Averaging close to 2 percent, interchange is a fee Visa and MasterCard banks charge merchants every time a credit card or signature debit card is used to pay for a transaction. Visa and MasterCard collected an estimated \$42 billion in interchange fees in 2007, an increase of 17 percent over the previous year and 150 percent since 2001.

The Conyers bill would require credit card systems possessing *"substantial market power"* to negotiate with merchants to reach a voluntary agreement on credit card terms and conditions. If an agreement cannot be reached, both sides would be required to submit to binding arbitration by a three-judge panel appointed by the U.S. Department of Justice and Federal Trade Commission.

The arbitration proceedings would take place with a limited 60-day discovery period and other statutory deadlines, and the judges would be required to apply a market standard reflecting a perfectly competitive system where neither side had market power. Terms and conditions set by the panel would be in effect for three years, at which time the process would repeat itself. Both sides would receive limited immunity from antitrust laws in order to participate in the process.

The legislation requires that terms and conditions set under the process be available to any merchant regardless of size, industry or location. Individual merchants or groups of merchants would remain free to negotiate voluntary arrangements with credit card companies and their banks.

IRS May Let Retailers Deduct Costs of Evaluating Store Locations

Retailers would see many favorable changes – including the ability to deduct costs involved with evaluating new store locations immediately rather than having to amortize them over a number of years – if new regulations proposed by the Internal Revenue Service are adopted.

The IRS updated the [proposed regulations](#) March 7. Part of the proposal is that improvements made in the course of routine maintenance should be deductible as long as they don't substantially increase the life of the property. The proposal cites improvements made to update the appearance of a store rather than to fix material defects or make material additions to the store as an example of an expense that would not have to be capitalized.

Comments on the proposed regulations are being accepted by the IRS until June 9 and a hearing is scheduled for June 24.

If made final, the proposed regulations could provide significant savings for retail companies considering new store locations. Evaluation of a location can involve a wide variety of expenses such as land surveys, building inspections, engineering, legal and accounting services, and fees charged by state or local governments.

The **Capitol Retail Report** is another **Benefit from the Value** of **Alabama Retail Association** membership. For more benefits, go to www.alabamaretail.org