

PUBLICATION

Spotlight on Alabama: Legislature Passes Two Pro-Business Tax Acts

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Earlier this month the Alabama Legislature passed two pro-business tax acts. Both acts received the support of various business groups in the state. The first has already been signed into law by Governor Bentley, and we expect the second to be signed very soon. The first act will be known as the Taxpayer Fairness Act (formerly known as the Alabama Taxpayers' Bill of Rights II (or TBOR II)). The second act will be known as the Alabama Limited Liability Company Law of 2014.

Taxpayer Fairness Act (formerly known as Alabama Taxpayers' Bill of Rights II)

The Taxpayer Fairness Act, as reported in the Baker Donelson Alabama Legislative Update, February 25, 2014, conforms Alabama law in several respects to the federal Taxpayers' Bill of Rights. Perhaps the most sweeping change the Act brings about is that it abolishes the Administrative Law Division of the Department of Revenue and provides for the creation of a new, independent state agency -- the Alabama Tax Appeals Commission -- to hear appeals of tax and other matters administered by the Department of Revenue and appeals related to certain local taxes levied by or on behalf of self-administered counties and municipalities. Supporters of the Act argued that the new tribunal will be perceived as being fairer to the taxpayer since it will be independent of the Department of Revenue. Whether the Administrative Law Division was viewed as less objective than an independent tribunal, the perception, if not reality, was that the outcome obtained there may have been biased against the taxpayer. The enactment of the Taxpayer Fairness Act, establishing the Alabama Tax Appeals Commission, is consistent with the recent trend seen throughout the country. The effective date of the Act is generally October 1, 2014.

Alabama Limited Liability Company Law of 2014

The Alabama Limited Liability Company Law of 2014 is being praised for making Alabama more pro-business regarding the establishment and use of limited liability companies in the state. Alabama's law on limited liability companies hasn't been updated in a number of years. The purpose of the new law is to put Alabama's law regarding the establishment and use of limited liability companies in Alabama on par with other states, such as Delaware.

The new law includes a number changes to the establishment and use of limited liability companies in Alabama, including:

- Allowing limited liability companies to merely hold title to real property and solely for use with respect to estate planning.
- Allowing for one or more designated "series" of business assets within a single limited liability company, which allows for protecting parties involved with the respective business activities in each designated series regarding financing of and liability from such business activity (much like a corporation uses separate subsidiaries to conduct disparate business activities).

The Alabama Limited Liability Company Law of 2014 applies only to limited liability companies formed after January 1, 2015. The current law, the Alabama Limited Liability Company Law, will be repealed January 1, 2017.

Please contact any of the attorneys in the Firm's Tax Group with questions you may have regarding these new initiatives in Alabama or any other related issues.