

1 SB536
2 119902-3
3 By Senators Bedford, Little (Z), Smitherman, Mitchell,
4 Mitchem, Figures, Keahey, Denton, Holley, Means, Singleton,
5 Dunn, Coleman, Ross, and Barron
6 RFD: Finance and Taxation Education
7 First Read: 11-MAR-10

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8 SYNOPSIS: This bill would remove the tax rate for a
9 new passenger vehicle or new truck manufactured
10 within this state until December 31, 2011.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

16 Sections 40-23-2 and 40-23-61, Code of Alabama 1975,
17 relating to tax on automobiles; to remove the tax rate for a
18 new passenger vehicle or new truck manufactured within this
19 state until December 31, 2011.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 40-23-2 and 40-23-61, Code of
22 Alabama 1975, are amended to read as follows:

23 "§40-23-2.

24 "There is levied, in addition to all other taxes of
25 every kind now imposed by law, and shall be collected as
26 herein provided, a privilege or license tax against the person
27 on account of the business activities and in the amount to be

1 determined by the application of rates against gross sales, or
2 gross receipts, as the case may be, as follows:

3 "(1) Upon every person, firm, or corporation,
4 (including the State of Alabama and its Alcoholic Beverage
5 Control Board in the sale of alcoholic beverages of all kinds,
6 the University of Alabama, Auburn University, and all other
7 institutions of higher learning in the state, whether the
8 institutions be denominational, state, county, or municipal
9 institutions, any association or other agency or
10 instrumentality of the institutions) engaged or continuing
11 within this state, in the business of selling at retail any
12 tangible personal property whatsoever, including merchandise
13 and commodities of every kind and character, (not including,
14 however, bonds or other evidences of debts or stocks, nor
15 sales of material and supplies to any person for use in
16 fulfilling a contract for the painting, repair, or
17 reconditioning of vessels, barges, ships, other watercraft,
18 and commercial fishing vessels of over five tons load
19 displacement as registered with the U.S. Coast Guard and
20 licensed by the State of Alabama Department of Conservation
21 and Natural Resources), an amount equal to four percent of the
22 gross proceeds of sales of the business except where a
23 different amount is expressly provided herein. Provided,
24 however, that any person engaging or continuing in business as
25 a retailer and wholesaler or jobber shall pay the tax required
26 on the gross proceeds of retail sales of the business at the
27 rates specified, when his or her books are kept so as to show

1 separately the gross proceeds of sales of each business, and
2 when his or her books are not kept he or she shall pay the tax
3 as a retailer, on the gross sales of the business.

4 "Where any used part including tires of an
5 automotive vehicle or a truck trailer, semitrailer, or house
6 trailer is taken in trade, or in a series of trades, as a
7 credit or part payment on the sale of a new or rebuilt part or
8 tire, the tax levied herein shall be paid on the net
9 difference, that is, the price of the new or used part or tire
10 sold less the credit for the used part or tire taken in trade,
11 provided, however, this provision shall not be construed to
12 include batteries.

13 "(2) Upon every person, firm, or corporation engaged
14 or continuing within this state in the business of conducting
15 or operating places of amusement or entertainment, billiard
16 and pool rooms, bowling alleys, amusement devices, musical
17 devices, theaters, opera houses, moving picture shows,
18 vaudevilles, amusement parks, athletic contests, including
19 wrestling matches, prize fights, boxing and wrestling
20 exhibitions, football and baseball games, (including athletic
21 contests, conducted by or under the auspices of any
22 educational institution within this state, or any athletic
23 association thereof, or other association whether the
24 institution or association be a denominational, a state, or
25 county, or a municipal institution, or association or a state,
26 county, or city school, or other institution, association or
27 school), skating rinks, race tracks, golf courses, or any

1 other place at which any exhibition, display, amusement, or
2 entertainment is offered to the public or place or places
3 where an admission fee is charged, including public bathing
4 places, public dance halls of every kind and description
5 within the State of Alabama, an amount equal to four percent
6 of the gross receipts of any such business. Provided, however,
7 notwithstanding any language to the contrary in the prior
8 portion of this subdivision, the tax provisions so specified
9 shall not apply to any athletic event conducted by a public or
10 nonpublic primary or secondary school or any athletic event
11 conducted by or under the auspices of the Alabama High School
12 Athletic Association. The tax amount which would have been
13 collected pursuant to this subdivision shall continue to be
14 collected by the public or nonpublic primary or secondary
15 school, but shall be retained by the school which collected it
16 and shall be used by the school for school purposes.

17 "(3) Upon every person, firm, or corporation engaged
18 or continuing within this state in the business of selling at
19 retail machines used in mining, quarrying, compounding,
20 processing, and manufacturing of tangible personal property an
21 amount equal to one and one-half percent of the gross proceeds
22 of the sale of the machines. The term "machine," as herein
23 used, shall include machinery which is used for mining,
24 quarrying, compounding, processing, or manufacturing tangible
25 personal property, and the parts of the machines, attachments,
26 and replacements therefor, which are made or manufactured for
27 use on or in the operation of the machines and which are

1 necessary to the operation of the machines and are customarily
2 so used.

3 "(4) Upon every person, firm, or corporation engaged
4 or continuing within this state in the business of selling at
5 retail any automotive vehicle or truck trailer, semitrailer,
6 or house trailer, or mobile home set-up materials and supplies
7 including but not limited to steps, blocks, anchoring, cable
8 pipes, and any other materials pertaining thereto an amount
9 equal to two percent of the gross proceeds of sale of the
10 automotive vehicle or truck trailer, semitrailer, or house
11 trailer, or mobile home set-up materials and supplies
12 provided, however, where a person subject to the tax provided
13 for in this subdivision withdraws from his or her stock in
14 trade any automotive vehicle or truck trailer, semitrailer, or
15 house trailer for use by him or her or by his or her employee
16 or agent in the operation of the business, there shall be
17 paid, in lieu of the tax levied herein, a fee of five dollars
18 (\$5) per year or part thereof during which the automotive
19 vehicle, truck trailer, semitrailer, or house trailer shall
20 remain the property of the person. Each year or part thereof
21 shall begin with the day or anniversary date, as the case may
22 be, of such withdrawal and shall run for the 12 succeeding
23 months or part thereof during which the automotive vehicle,
24 truck trailer, semitrailer, or house trailer shall remain the
25 property of the person.

1 "The tax rate for a new passenger vehicle or new
2 truck manufactured within this state levied by this section
3 shall be waived until December 31, 2011.

4 "Where any used automotive vehicle or truck trailer,
5 semitrailer, or house trailer is taken in trade or in a series
6 of trades, as a credit or part payment on the sale of a new or
7 used vehicle, the tax levied herein shall be paid on the net
8 difference, that is, the price of the new or used vehicle sold
9 less the credit for the used vehicle taken in trade.

10 "Sales of automobiles, motorcycles, trucks, truck
11 trailers, or semitrailers that will be registered or titled
12 outside Alabama, that are exported or removed from Alabama
13 within 72 hours by the purchaser or his or her agent for first
14 use outside Alabama are not subject to the Alabama sales tax.
15 Sales of other vehicles such as mobile homes, motor bikes, all
16 terrain vehicles, and boats do not qualify for the export
17 exemption provision and are taxable unless the dealer can
18 provide factual evidence that the vehicle was delivered
19 outside of Alabama or to a common carrier for transportation
20 outside Alabama. In order for the sale to be exempt from
21 Alabama tax, the information relative to the exempt sale shall
22 be documented on forms approved by the Revenue Department.

23 "Of the total \$.02 tax on each dollar of sale
24 provided hereunder, 58 percent of the total tax generated by
25 this subdivision (4) shall be deposited to the credit of the
26 Education Trust Fund; and 42 percent of the total tax

1 generated by this subdivision (4) shall be deposited to the
2 credit of the State General Fund.

3 "(5) Upon every person, firm, or corporation engaged
4 or continuing within this state in the business of selling
5 through coin-operated dispensing machines, food and food
6 products for human consumption, not including beverages other
7 than coffee, milk, milk products, and substitutes therefor,
8 there is levied a tax equal to three percent of the cost of
9 the food, food products, and beverages sold through the
10 machines, which cost for the purpose of this subdivision shall
11 be the gross proceeds of sales of the business.

12 "§40-23-61.

13 "(a) An excise tax is hereby imposed on the storage,
14 use or other consumption in this state of tangible personal
15 property, not including, however, materials and supplies
16 bought for use in fulfilling a contract for the painting,
17 repairing or reconditioning of vessels, barges, ships, other
18 watercraft and commercial fishing vessels of over five tons
19 load displacement as registered with the U.S. Coast Guard and
20 licensed by the State of Alabama Department of Conservation
21 and Natural Resources, purchased at retail on or after October
22 1, 1965, for storage, use or other consumption in this state
23 at the rate of four percent of the sales price of such
24 property or the amount of tax collected by the seller,
25 whichever is greater; provided, however, when the seller
26 follows the Department of Revenue's suggested use tax brackets
27 and his records prove that his following said brackets

1 resulted in a net undercollection of tax for the month, he may
2 report the tax due or tax collected, whichever is less, except
3 as provided in subsections (b) and (c) of this section.

4 "(b) An excise tax is hereby imposed on the storage,
5 use or other consumption in this state of any machines used in
6 mining, quarrying, compounding, processing and manufacturing
7 of tangible personal property, purchased at retail on or after
8 October 1, 1965, at the rate of one and one-half percent of
9 the sales price of any such machine or the amount of tax
10 collected by the seller, whichever is greater; provided,
11 however, when the seller follows the Department of Revenue's
12 suggested use tax brackets and his records prove that his
13 following said brackets resulted in a net undercollection of
14 tax for the month, he may report the tax due or tax collected,
15 whichever is less; provided, that the term "machine," as
16 herein used, shall include machinery which is used for mining,
17 quarrying, compounding, processing, or manufacturing tangible
18 personal property, and the parts of such machines, attachments
19 and replacements therefor, which are made or manufactured for
20 use on or in the operation of such machines and which are
21 necessary to the operation of such machines and are
22 customarily so used.

23 "(c) An excise tax is hereby imposed on the storage,
24 use or other consumption in this state of any automotive
25 vehicle or truck trailer, semitrailer or house trailer, and
26 mobile home set-up materials and supplies including but not
27 limited to steps, blocks, anchoring, cable pipes and any other

1 materials pertaining thereto, purchased at retail on or after
2 October 1, 1965, for storage, use or other consumption in this
3 state at the rate of two percent of the sales price of such
4 automotive vehicle, truck trailer, semitrailer or house
5 trailer, and mobile home set-up materials and supplies as
6 specified above, or the amount of tax collected by the seller,
7 whichever is greater; provided, however, when the seller
8 follows the Department of Revenue's suggested use tax brackets
9 and his records prove that his following said brackets
10 resulted in a net undercollection of tax for the month, he may
11 report the tax due or tax collected, whichever is less. Where
12 any used automotive vehicle or truck trailer, semitrailer or
13 house trailer is taken in trade, or in a series of trades, as
14 a credit or part payment on the sale of a new or used vehicle,
15 the tax levied herein shall be paid on the net difference,
16 that is, the price of the new or used vehicle sold less the
17 credit for the used vehicle taken in trade.

18 "Of the total \$.02 tax on each dollar of sale
19 provided hereunder, 58 percent of the total tax generated by
20 this subsection shall be deposited to the credit of the
21 Education Trust Fund; and 42 percent of the total tax
22 generated by this subsection shall be deposited to the credit
23 of the State General Fund.

24 "(d) Every person storing, using or otherwise
25 consuming in this state tangible personal property purchased
26 at retail shall be liable for the tax imposed by this article,
27 and the liability shall not be extinguished until the tax has

1 been paid to this state; provided, that a receipt from a
2 retailer maintaining a place of business in this state or a
3 retailer authorized by the department, under such rules and
4 regulations as it may prescribe, to collect the tax imposed
5 hereby and who shall for the purpose of this article be
6 regarded as a retailer maintaining a place of business in this
7 state, given to the purchaser in accordance with the
8 provisions of Section 40-23-67, shall be sufficient to relieve
9 the purchaser from further liability for tax to which such
10 receipt may refer.

11 "(e) An excise tax is hereby imposed on the classes
12 of tangible personal property, and at the rates imposed on
13 such classes, specified in subsections (a), (b) and (c) of
14 this section, on the storage, use, or other consumption in the
15 performance of a contract in this state of any such tangible
16 personal property, new or used, the tax to be measured by the
17 sales price or the fair and reasonable market value of such
18 tangible personal property when put into use in this state,
19 whichever is less; provided, that the tax imposed by this
20 subsection shall not apply where the taxes imposed by
21 subsection (a), (b), or (c) of this section apply.

22 "(f) The tax rate for a new passenger vehicle or new
23 truck manufactured within this state levied by this section
24 shall be waived until December 31, 2011."

25 Section 2. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

