

1 SB24
2 171008-1
3 By Senator Pittman
4 RFD: Finance and Taxation Education
5 First Read: 03-AUG-15

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8 SYNOPSIS: Under current law, all persons or companies
9 which are exempt from the payment of Alabama sales,
10 use, and lodgings taxes are not required to obtain
11 a certificate of exemption.

12 This bill would require all persons or
13 companies that are exempt from the payment of
14 Alabama sales, use, and lodgings taxes, other than
15 governmental entities, to annually obtain a
16 certificate of exemption from the Department of
17 Revenue.

18 In addition, this bill would require certain
19 persons or companies exempt from the payment of
20 Alabama sales, use, and lodgings taxes to file
21 reports with the Department of Revenue providing
22 information regarding exempt transactions.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT

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2 To require all persons or companies exempt from the
3 payment of sales, use, and lodgings taxes, other than
4 governmental entities, to annually obtain a certificate of
5 exemption from the Department of Revenue; to require persons
6 or companies exempt from the payment of sales, use, and
7 lodgings taxes to file information reports with the Department
8 of Revenue; to provide penalties for noncompliance; to require
9 the Department of Revenue to promulgate rules; and to provide
10 effective dates.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. (a) All persons or companies, including
13 but not limited to those cited in Title 40, Chapter 9, other
14 than governmental entities, which have statutory exemption
15 from the payment of Alabama sales and use taxes levied in,
16 including but not limited to, Title 40, Chapter 23, or
17 lodgings taxes levied in Title 40, Chapter 26, regardless of
18 the type of transaction or whether the tangible personal
19 property is subject to sales and use tax or whether the
20 accommodations are subject to lodgings tax, shall be required
21 to annually obtain a certificate of exemption from the
22 Department of Revenue. This requirement does not supersede or
23 replace the provisions of Section 40-9-14.1 or any other
24 provision of statute requiring an entity to obtain a
25 certificate of exemption.

1 (1) For purposes of this act, the term governmental
2 entity means the Federal Government, the State of Alabama,
3 Alabama public schools, Alabama public universities,
4 healthcare authorities, and Alabama counties and
5 municipalities.

6 (2) The term governmental entity does not include
7 public corporations, private schools, or private universities.

8 (3) For purposes of this act, the term lodgings tax
9 means Transient Occupancy Tax, levied in Title 40, Chapter 26,
10 Code of Alabama 1975.

11 (4) For the purposes of this act, the terms person
12 or company shall have the same meaning as prescribed in Title
13 40, Chapter 23, Section 1, Code of Alabama 1975.

14 (b) Certificates of exemption shall be valid for one
15 year from the date of issuance and shall be renewed annually
16 each subsequent year. Any person or company that fails to
17 obtain or renew a certificate of exemption, prior to its
18 expiration, will no longer be allowed to make tax exempt
19 purchases or rent tax exempt accommodations. The Department of
20 Revenue may assess any person or company with state and local
21 sales, use, and lodgings tax for any transaction conducted
22 with a certificate of exemption not properly accounted for and
23 reported as required in Section 2 of this act. Any reports
24 required by the Department of Revenue shall be filed as a
25 prerequisite to the renewal of a certificate of exemption.

1 (c) Any person or company that intentionally uses a
2 certificate of exemption in violation of its intended purpose
3 shall, in addition to the actual sales, use, and lodgings tax
4 liability due, be subject to a civil penalty levied by the
5 Department of Revenue in an amount of not less than
6 two-thousand dollars (\$2,000) or two times any state and local
7 sales, use, and lodgings tax due for the transactions,
8 whichever is greater, and based on the person or company's
9 willful misuse of the certificate of exemption, may be barred
10 from the use of any certificate of exemption for up to two
11 years.

12 (d) This section shall be operative for all
13 applicable exempt persons or companies on January 1, 2016.

14 (e) The Department of Revenue may adopt rules to
15 administer and implement this section and may adopt rules
16 requiring an annual exemption certificate for persons or
17 companies not subject to the provisions of subsection (a),
18 other than government entities, providing for an annual
19 information report from such persons or companies, and
20 imposing penalties equivalent to the penalties provided for in
21 subsection (c) for noncompliance by such persons or companies
22 in order to verify exemptions and make reports to the
23 Legislature.

24 Section 2. (a) All persons or companies, other than
25 governmental entities as defined in Section 1, exempt from the
26 payment of Alabama sales, use, and lodgings tax, regardless of

1 the type of transaction or whether the tangible personal
2 property is subject to sales and use tax, or whether the
3 accommodations are subject to lodgings tax, may be required to
4 file an information report in a manner as prescribed by the
5 Department of Revenue.

6 (b) Any person or company that does not comply with
7 the reporting requirements of this act and any rules
8 promulgated thereunder, may be barred from the use of any
9 certificate of exemption for up to six months for the first
10 offense and one year for the second offense. On the third
11 offense, such person or company shall be barred from the use
12 of any certificate of exemption until such time as the person
13 or company is authorized to obtain a certificate of exemption
14 pursuant to a joint resolution by the Alabama legislature.

15 Section 3. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law.