

1 SB89
2 197645-3
3 By Senator Scofield
4 RFD: Finance and Taxation General Fund
5 First Read: 19-MAR-19

2
3
4
5
6
7
8 SYNOPSIS: This bill would provide specific provisions
9 concerning the payment and collection of state and
10 local taxes on the leasing and rental of tangible
11 personal property. The bill would apply
12 retroactively to all open tax periods.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to privilege or license taxes on the
19 leasing or rental of tangible personal property; to amend
20 Section 40-12-222 of the Code of Alabama 1975, to make
21 specific provisions concerning the payment and collection of
22 state and local lease taxes; and to provide that this act is
23 declaratory of existing law and shall apply retroactively to
24 all open tax periods.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 40-12-222 of the Code of Alabama
27 1975, is amended to read as follows:

1 "§40-12-222.

2 "(a) In addition to all other taxes now imposed by
3 law, there is hereby levied and shall be collected as herein
4 provided a privilege or license tax on each person engaging or
5 continuing within this state in the business of leasing or
6 renting tangible personal property at the rate of four percent
7 of the gross proceeds derived by the lessor from the lease or
8 rental of tangible personal property; provided, that the said
9 privilege or license tax on each person engaging or continuing
10 within this state in the business of leasing or renting any
11 automotive vehicle or truck trailer, semitrailer, l or house
12 trailer shall be at the rate of one and one-half percent of
13 the gross proceeds derived by the lessor from the lease or
14 rental of such automotive vehicle or truck trailer,
15 semitrailer, l or house trailer; provided further, that the tax
16 levied in this article shall not apply to any leasing or
17 rental, as lessor, by the state, or any municipality or county
18 in the state, or any public corporation organized under the
19 laws of the state, including, without limiting the generality
20 of the foregoing, any corporation organized under the
21 provisions of Sections 11-54-80 through 11-54-101; provided
22 further, that the privilege or license tax on each person or
23 firm engaging or continuing within this state in the business
24 of the leasing and rental of linens and garments shall be at
25 the rate of two percent of the gross proceeds derived by the
26 lessor from the lease or rental of ~~such~~ the linens and
27 garments.

1 "(b) Notwithstanding the above, nothing shall
2 prohibit a lessor subject to a state or local privilege or
3 license tax from passing ~~such~~ the amounts on to a lessee by
4 adding ~~such~~ the taxes to the leasing price or otherwise~~;~~
5 provided, however, that all ~~such~~ amounts passed on to the
6 lessee shall be includable in the gross proceeds derived from
7 the lease of tangible personal property which shall be subject
8 to the privilege or license tax owed by the lessor.

9 "Provided, however, the authority to pass on ~~such~~
10 the amounts of the privilege or license tax granted in this
11 subsection shall not apply to the leasing or renting of
12 tangible personal property to the State of Alabama~~;~~ or a
13 municipality~~;~~ or county in the state, unless the flat amount
14 collected by the lessor includes both the tax and the leasing
15 fee.

16 "(c) The state and applicable local privilege or
17 license taxes applicable to a lease or rental transaction to
18 which a lessor is subject shall be determined as follows:

19 "(1) Except for automotive vehicles as provided in
20 subdivision (2), the following shall apply:

21 "a. When tangible personal property is delivered to
22 the lessee by the lessor or his or her agent, the privilege or
23 license tax levy shall be determined based on where the
24 property is delivered.

25 "b. When tangible personal property is picked up at
26 the lessor's rental location, the privilege or license tax
27 levy shall be determined based on the rental location.

1 "(2) For automotive vehicles required to be
2 registered pursuant to Section 32-6-61, each lease payment is
3 considered a separate lease transaction and occurs in the
4 location as provided below and the following shall apply:

5 "a. The privilege or license tax levy for the
6 initial lease payment and other charges due at the inception
7 of the lease shall be determined in the same manner as
8 provided in subdivision (1).

9 "b. The privilege or license tax levy for all
10 subsequent lease payments shall be determined based on the
11 resident address of the lessee as provided to the county
12 licensing official. The lessor is considered to be engaging or
13 continuing within this state in the business of leasing or
14 renting tangible personal property when a lessee has a
15 resident address within this state."

16 Section 2. The provisions of this act are
17 declaratory of existing law and shall apply retroactively to
18 all open tax periods.

19 Section 3. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.