

HB438 INTRODUCED



1 OZSBJW-1
2 By Representatives Rafferty, Hollis, Daniels, England, Hall,
3 Wood (D), Wilcox, Givan, Morris, Hulsey, McClammy, Clarke,
4 Holk-Jones
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SYNOPSIS:

Under existing law, there are a variety of exemptions and exclusions applicable to state sales and use tax.

This bill would exempt the purchase of diapers, menstrual hygiene products, or both for personal use from sales and use tax.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 40-23-4, as last amended by Act 2022-291, Act 2022-293, Act 2022-373, and Act 2022-199, Code of Alabama 1975, relating to sales tax exemptions; to provide for a sales and use tax exemption for certain purchases of diapers; to provide for a sales and use tax exemption for certain purchases of menstrual hygiene products; to provide for definitions; and to provide for rulemaking authority.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-23-4, as last amended by Act 2022-291, Act 2022-293, Act 2022-373, and Act 2022-199, Code of Alabama 1975, is amended to read as follows:

"§40-23-4

(a) There are exempted from the provisions of this



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29 division and from the computation of the amount of the tax
30 levied, assessed, or payable under this division the
31 following:

32
33 (1) The gross proceeds of the sales of lubricating oil
34 and gasoline as defined in Sections 40-17-30 and 40-17-170 and
35 the gross proceeds from those sales of lubricating oil
36 destined for out-of-state use which are transacted in a manner
37 whereby an out-of-state purchaser takes delivery of such oil
38 at a distributor's plant within this state and transports it
39 out-of-state, which are otherwise taxed.

40 (2) The gross proceeds of the sale, or sales, of
41 fertilizer when used for agricultural purposes. The word
42 "fertilizer" shall not be construed to include cottonseed
43 meal, when not in combination with other materials.

44 (3) The gross proceeds of the sale, or sales, of seeds
45 for planting purposes and baby chicks and poults. Nothing
46 herein shall be construed to exempt or exclude from the
47 computation of the tax levied, assessed, or payable, the gross
48 proceeds of the sale or sales of plants, seedlings, nursery
49 stock, or floral products.

50 (4) The gross proceeds of sales of insecticides and
51 fungicides when used for agricultural purposes or when used by
52 persons properly permitted by the Department of Agriculture
53 and Industries or any applicable local or state governmental
54 authority for structural pest control work and feed for
55 livestock and poultry, but not including prepared food for
56 dogs and cats.



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57 (5) The gross proceeds of sales of all livestock by
58 whomsoever sold, and also the gross proceeds of poultry and
59 other products of the farm, dairy, grove, or garden, when in
60 the original state of production or condition of preparation
61 for sale, when such sale or sales are made by the producer or
62 members of the producer's immediate family or for the producer
63 by those employed by the producer to assist in the production
64 thereof. Nothing herein shall be construed to exempt or
65 exclude from the measure or computation of the tax levied,
66 assessed, or payable hereunder, the gross proceeds of sales of
67 poultry or poultry products when not products of the farm.

68 (6) Cottonseed meal exchanged for cottonseed at or by
69 cotton gins.

70 (7) The gross receipts from the business on which, or
71 for engaging in which, a license or privilege tax is levied by
72 or under Sections 40-21-50, 40-21-53, and 40-21-56 through
73 40-21-60; provided, that nothing contained in this subdivision
74 shall be construed to exempt or relieve the person or persons
75 operating the business enumerated in these sections from the
76 payments of the tax levied by this division upon or measured
77 by the gross proceeds of sales of any tangible personal
78 property, except gas and water, the gross receipts from the
79 sale of which are the measure of the tax levied by Section
80 40-21-50, merchandise or other tangible commodities sold at
81 retail by the persons, unless the gross proceeds of sale
82 thereof are otherwise specifically exempted by this division.

83 (8) The gross proceeds of sales or gross receipts of or
84 by any person, firm, or corporation, from the sale of



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85 transportation, gas, water, or electricity, of the kinds and
86 natures, the rates and charges for which, when sold by public
87 utilities, are customarily fixed and determined by the Public
88 Service Commission of Alabama or like regulatory bodies.

89 (9) The gross proceeds of the sale, or sales of wood
90 residue, coal, or coke to manufacturers, electric power
91 companies, and transportation companies for use or consumption
92 in the production of by-products, or the generation of heat or
93 power used in manufacturing tangible personal property for
94 sale, for the generation of electric power or energy for use
95 in manufacturing tangible personal property for sale or for
96 resale, or for the generation of motive power for
97 transportation.

98 (10) The gross proceeds from the sale or sales of fuel
99 and supplies for use or consumption aboard ships, vessels,
100 towing vessels, or barges, or drilling ships, rigs or barges,
101 or seismic or geophysical vessels, or other watercraft (herein
102 for purposes of this exemption being referred to as "vessels")
103 engaged in foreign or international commerce or in interstate
104 commerce; provided, that nothing in this division shall be
105 construed to exempt or exclude from the measure of the tax
106 herein levied the gross proceeds of sale or sales of material
107 and supplies to any person for use in fulfilling a contract
108 for the painting, repair, or reconditioning of vessels,
109 barges, ships, other watercraft, and commercial fishing
110 vessels of over five tons load displacement as registered with
111 the U.S. Coast Guard and licensed by the State of Alabama
112 Department of Conservation and Natural Resources.



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113 For purposes of this subdivision, it shall be presumed
114 that vessels engaged in the transportation of cargo between
115 ports in the State of Alabama and ports in foreign countries
116 or possessions or territories of the United States or between
117 ports in the State of Alabama and ports in other states are
118 engaged in foreign or international commerce or interstate
119 commerce, as the case may be. For the purposes of this
120 subdivision, the engaging in foreign or international commerce
121 or interstate commerce shall not require that the vessel
122 involved deliver cargo to or receive cargo from a port in the
123 State of Alabama. For purposes of this subdivision, vessels
124 carrying passengers for hire, and no cargo, between ports in
125 the State of Alabama and ports in foreign countries or
126 possessions or territories of the United States or between
127 ports in the State of Alabama and ports in other states shall
128 be engaged in foreign or international commerce or interstate
129 commerce, as the case may be, if, and only if, both of the
130 following conditions are met: (i) The vessel in question is a
131 vessel of at least 100 gross tons; and (ii) the vessel in
132 question has an unexpired certificate of inspection issued by
133 the United States Coast Guard or by the proper authority of a
134 foreign country for a foreign vessel, which certificate is
135 recognized as acceptable under the laws of the United States.
136 Vessels that are engaged in foreign or international commerce
137 or interstate commerce shall be deemed for the purposes of
138 this subdivision to remain in such commerce while awaiting or
139 under repair in a port of the State of Alabama if the vessel
140 returns after such repairs are completed to engaging in



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141 foreign or international commerce or interstate commerce. For
142 purposes of this subdivision, seismic or geophysical vessels
143 which are engaged either in seismic or geophysical tests or
144 evaluations exclusively in offshore federal waters or in
145 traveling to or from conducting such tests or evaluations
146 shall be deemed to be engaged in international or foreign
147 commerce. For purposes of this subdivision, proof that fuel
148 and supplies purchased are for use or consumption aboard
149 vessels engaged in foreign or international commerce or in
150 interstate commerce may be accomplished by the merchant or
151 seller securing the duly signed certificate of the vessel
152 owner, operator, or captain or such person's respective agent,
153 on a form prescribed by the department, that the fuel and
154 supplies purchased are for use or consumption aboard vessels
155 engaged in foreign or international commerce or in interstate
156 commerce. Any person filing a false certificate shall be
157 guilty of a misdemeanor and upon conviction shall be fined not
158 less than twenty-five dollars (\$25) nor more than five hundred
159 dollars (\$500) for each offense. Each false certificate filed
160 shall constitute a separate offense. Any person filing a false
161 certificate shall be liable to the department for all taxes
162 imposed by this division upon the merchant or seller, together
163 with any interest or penalties thereon, by reason of the sale
164 or sales of fuel and supplies applicable to the false
165 certificate. If a merchant or seller of fuel and supplies
166 secures the certificate herein mentioned, properly completed,
167 the merchant or seller shall not be liable for the taxes
168 imposed by this division, if the merchant or seller had no



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169 knowledge that the certificate was false when it was filed
170 with the merchant or seller.

171 (11) The gross proceeds of sales of tangible personal
172 property to the State of Alabama, to the counties within the
173 state and to incorporated municipalities of the State of
174 Alabama.

175 (12) The gross proceeds of the sale or sales of
176 railroad cars, vessels, barges, and commercial fishing vessels
177 of over five tons load displacement as registered with the
178 U.S. Coast Guard and licensed by the State of Alabama
179 Department of Conservation and Natural Resources, when sold by
180 the manufacturers or builders thereof.

181 (13) The gross proceeds of the sale or sales of
182 materials, equipment, and machinery that, at any time, enter
183 into and become a component part of ships, vessels, towing
184 vessels or barges, or drilling ships, rigs or barges, or
185 seismic or geophysical vessels, other watercraft and
186 commercial fishing vessels of over five tons load displacement
187 as registered with the U.S. Coast Guard and licensed by the
188 State of Alabama Department of Conservation and Natural
189 Resources. Additionally, the gross proceeds from the sale or
190 sales of lifeboats, personal flotation devices, ring life
191 buoys, survival craft equipment, distress signals, EPIRB's,
192 fire extinguishers, injury placards, waste management plans
193 and logs, marine sanitation devices, navigation rulebooks,
194 navigation lights, sound signals, navigation day shapes, oil
195 placard cards, garbage placards, FCC SSL, stability
196 instructions, first aid equipment, compasses, anchor and radar



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197 reflectors, general alarm systems, bilge pumps, piping, and
198 discharge and electronic position fixing devices which are
199 used on the aforementioned watercraft.

200 (14) The gross proceeds of the sale or sales of fuel
201 oil purchased as fuel for kiln use in manufacturing
202 establishments.

203 (15) The gross proceeds of the sale or sales of
204 tangible personal property to county and city school boards
205 within the State of Alabama, independent school boards within
206 the State of Alabama, all educational institutions and
207 agencies of the State of Alabama, the counties within the
208 state, or any incorporated municipalities of the State of
209 Alabama, and private educational institutions operating within
210 the State of Alabama offering conventional and traditional
211 courses of study, such as those offered by public schools,
212 colleges, or universities within the State of Alabama; but not
213 including nurseries, day care centers, and home schools.

214 (16) The gross proceeds from the sale of all devices or
215 facilities, and all identifiable components thereof, or
216 materials for use therein, acquired primarily for the control,
217 reduction, or elimination of air or water pollution and the
218 gross proceeds from the sale of all identifiable components
219 of, or materials used or intended for use in, structures built
220 primarily for the control, reduction, or elimination of air
221 and water pollution.

222 (17) The gross proceeds of sales of tangible personal
223 property or the gross receipts of any business which the state
224 is prohibited from taxing under the Constitution or laws of



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225 the United States or under the Constitution of this state.

226 (18) When dealers or distributors use parts taken from
227 stocks owned by them in making repairs without charge for the
228 parts to the owner of the property repaired pursuant to
229 warranty agreements entered into by manufacturers, such use
230 shall not constitute taxable sales to the manufacturers,
231 distributors, or to the dealers, under this division or under
232 any county sales tax law.

233 (19) The gross proceeds received from the sale or
234 furnishing of food, including potato chips, candy, fruit and
235 similar items, soft drinks, tobacco products, and stationery
236 and other similar or related articles by hospital canteens
237 operated by Alabama state hospitals at Bryce Hospital and
238 Partlow State School for Mental Deficients at Tuscaloosa,
239 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
240 benefit of the patients therein.

241 (20) The gross proceeds of the sale, or sales, of
242 wrapping paper and other wrapping materials when used in
243 preparing poultry or poultry products for delivery, shipment,
244 or sale by the producer, processor, packer, or seller of such
245 poultry or poultry products, including pallets used in
246 shipping poultry and egg products, paper or other materials
247 used for lining boxes or other containers in which poultry or
248 poultry products are packed together with any other materials
249 placed in such containers for the delivery, shipment, or sale
250 of poultry or poultry products.

251 (21) The gross proceeds of the sales of all
252 antibiotics, hormones and hormone preparations, drugs,



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253 medicines or medications, vitamins, minerals or other
254 nutrients, and all other feed ingredients including
255 concentrates, supplements, and other feed ingredients when
256 such substances are used as ingredients in mixing and
257 preparing feed for fish raised to be sold on a commercial
258 basis, livestock, and poultry. Such exemption herein granted
259 shall be in addition to exemptions now provided by law for
260 feed for fish raised to be sold on a commercial basis,
261 livestock, and poultry, but not including prepared foods for
262 dogs or cats.

263 (22) The gross proceeds of the sale, or sales, of
264 seedlings, plants, shoots, and slips which are to be used for
265 planting vegetable gardens or truck farms and other
266 agricultural purposes. Nothing herein shall be construed to
267 exempt, or exclude from the computation of the tax levied,
268 assessed, or payable, the gross proceeds of the sale, or the
269 use of plants, seedlings, shoots, slips, nursery stock, and
270 floral products, except as hereinabove exempted.

271 (23) The gross proceeds of the sale, or sales, of
272 fabricated steel tube sections, when produced and fabricated
273 in this state by any person, firm, or corporation for any
274 vehicular tunnel for highway vehicular traffic, when sold by
275 the manufacturer or fabricator thereof, and also the gross
276 proceeds of the sale, or sales, of steel which enters into and
277 becomes a component part of such fabricated steel tube
278 sections of said tunnel.

279 (24) The gross proceeds from sales of admissions to any
280 theatrical production, symphonic or other orchestral concert,



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281 ballet, or opera production when the concert or production is
282 presented by any society, association, guild, or workshop
283 group, organized within this state, whose members or some of
284 whose members regularly and actively participate in the
285 concerts or productions for the purposes of providing a
286 creative outlet for the cultural and educational interests of
287 its members, and of promoting such interests for the
288 betterment of the community by presenting the productions to
289 the general public for an admission charge. The employment of
290 a paid director or conductor to assist in any such
291 presentation described in this subdivision shall not be
292 construed to prohibit the exemptions herein provided.

293 (25) The gross proceeds of sales of "herbicides" for
294 agricultural uses by whomsoever sold. The term herbicides, as
295 used in this subdivision, means any substance or mixture of
296 substances intended to prevent, destroy, repel, or retard the
297 growth of weeds or plants. The term includes preemergence
298 herbicides, postemergence herbicides, lay-by herbicides,
299 pasture herbicides, defoliant herbicides, and desiccant
300 herbicides.

301 (26) The Alabama Chapter of the Cystic Fibrosis
302 Research Foundation and the Jefferson Tuberculosis Sanatorium
303 and any of their departments or agencies, heretofore or
304 hereafter organized and existing in good faith in the State of
305 Alabama for purposes other than for pecuniary gain and not for
306 individual profit, shall be exempted from the computation of
307 the tax on the gross proceeds of all sales levied, assessed,
308 or payable.



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309 (27) The gross proceeds from the sale or sales of fuel
310 for use or consumption aboard commercial fishing vessels are
311 exempt from the computation of all sales taxes levied,
312 assessed, or payable under this division or levied under any
313 county or municipal sales tax law.

314 (28) The gross proceeds from the sales of rope, fishing
315 nets, tools, or any substitute used directly in the process of
316 commercial fishing by a holder of a commercial license issued
317 pursuant to Chapter 12 of Title 9.

318 (29) The gross proceeds of sales of sawdust, wood
319 shavings, wood chips, and other like materials sold for use as
320 chicken litter by poultry producers and poultry processors.

321 (30) The gross proceeds of the sales of all
322 antibiotics, hormones and hormone preparations, drugs,
323 medicines, and other medications including serums and
324 vaccines, vitamins, minerals, or other nutrients for use in
325 the production and growing of fish, livestock, and poultry by
326 whomsoever sold. The exemption herein granted shall be in
327 addition to the exemption provided by law for feed for fish,
328 livestock, and poultry, and in addition to the exemptions
329 provided by law for the above-enumerated substances and
330 products when mixed and used as ingredients in fish,
331 livestock, and poultry feed.

332 (31) The gross proceeds of the sale or sales of all
333 medicines prescribed by physicians for persons who are 65
334 years of age or older, and when the prescriptions are filled
335 by licensed pharmacists, shall be exempted under this division
336 or under any county or municipal sales tax law. The exemption



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337 provided in this section shall not apply to any medicine
338 purchased in any manner other than as is herein provided.

339 For the purposes of this subdivision, proof of age may
340 be accomplished by filing with the dispensing pharmacist any
341 one or more of the following documents:

342 a. The name and claim number as shown on a Medicare
343 card issued by the United States Social Security
344 Administration.

345 b. A certificate executed by any adult person having
346 knowledge of the fact that the person for whom the medicine
347 was prescribed is not less than 65 years of age.

348 c. An affidavit executed by any adult person having
349 knowledge of the fact that the person for whom the medicine
350 was prescribed is not less than 65 years of age.

351 For the purposes of this subdivision, any person filing
352 a false proof of age shall be guilty of a misdemeanor and upon
353 conviction thereof shall be punished by a fine of one hundred
354 dollars (\$100).

355 (32) There shall be exempted from the tax levied by
356 this division the gross receipts of sales of grass sod of all
357 kinds and character when in the original state of production
358 or condition of preparation for sale, when the sales are made
359 by the producer or members of the producer's family or for the
360 producer by those employed by the producer to assist in the
361 production thereof; provided, that nothing herein shall be
362 construed to exempt sales of sod by a person engaged in the
363 business of selling plants, seedlings, nursery stock, or
364 floral products.



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365 (33) The gross receipts of sales of the following items
366 or materials that are necessary in the farm-to-market
367 production of tomatoes when such items or materials are used
368 by the producer or members of the producer's family or for the
369 producer by those employed by the producer to assist in the
370 production thereof: Twine for tying tomatoes, tomato stakes,
371 field boxes (wooden boxes used to take tomatoes from the
372 fields to shed), and tomato boxes used in shipments to
373 customers.

374 (34) The gross proceeds from the sale of liquefied
375 petroleum gas or natural gas sold to be used for agricultural
376 purposes.

377 (35) The gross receipts of sales from state nurseries
378 of forest tree seedlings.

379 (36) The gross receipts of sales of forest tree seed by
380 the state.

381 (37) The gross receipts of sales of Lespedeza bicolor
382 and other species of perennial plant seed and seedlings sold
383 for wildlife and game food production purposes by the state.

384 (38) The gross receipts of any aircraft manufactured,
385 sold, and delivered in this state if the aircraft are not
386 permanently domiciled in Alabama and are removed to another
387 state.

388 (39) The gross proceeds from the sale or sales of all
389 diesel fuel used for off-highway agricultural purposes.

390 (40) The gross proceeds from sales of admissions to any
391 sporting event that:

392 a. Takes place in the State of Alabama on or after



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393 January 1, 1984, regardless of when such sales occur; and

394 b. Is hosted by a not-for-profit corporation organized
395 and existing under the laws of the State of Alabama; and

396 c. Determines a national championship of a national
397 organization, including, but not limited to, the Professional
398 Golfers Association of America, the Tournament Players
399 Association, the United States Golf Association, the United
400 States Tennis Association, and the National Collegiate
401 Athletic Association; and

402 d. Has not been held in the State of Alabama on more
403 than one prior occasion, provided, however, that for such
404 purpose the Professional Golfers Association Championship, the
405 United States Open Golf Championship, the United States
406 Amateur Golf Championship of the United States Golf
407 Association, and the United States Open Tennis Championship
408 shall each be treated as a separate event.

409 (41) The gross receipts from the sale of any aircraft
410 and replacement parts, components, systems, supplies, and
411 sundries affixed or used on the aircraft and ground support
412 equipment and vehicles used by or for the aircraft to or by a
413 certificated or licensed air carrier with a hub operation
414 within this state, for use in conducting intrastate,
415 interstate, or foreign commerce for transporting people or
416 property by air. For the purpose of this subdivision, the
417 words "hub operation within this state" shall be construed to
418 have both of the following criteria:

419 a. There originates from the location 15 or more flight
420 departures and five or more different first-stop destinations



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421 five days per week for six or more months during the calendar
422 year.

423 b. Passengers or property or both are regularly
424 exchanged at the location between flights of the same or a
425 different certificated or licensed air carrier.

426 (42) The gross receipts from the sale of hot or cold
427 food and beverage products sold to or by a certificated or
428 licensed air carrier with a hub operation within this state,
429 for use in conducting intrastate, interstate, or foreign
430 commerce for transporting people or property by air. For the
431 purpose of this subdivision, the words "hub operation within
432 this state" shall be construed to have all of the following
433 criteria:

434 a. There originates from the location 15 or more flight
435 departures and five or more different first-stop destinations
436 five days per week for six or more months during the calendar
437 year.

438 b. Passengers or property or both are regularly
439 exchanged at the location between flights of the same or a
440 different certificated or licensed air carrier.

441 (43) The gross receipts from the sale of any aviation
442 jet fuel to a certificated or licensed air carrier purchased
443 for use in scheduled all-cargo operations being conducted on
444 international flights or in international commerce. For
445 purposes of this subdivision, the following words or terms
446 shall be defined and interpreted as follows:

447 a. Air Carrier. Any person, firm, corporation, or
448 entity undertaking by any means, directly or indirectly, to



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449 provide air transportation.

450 b. All-Cargo Operations. Any flight conducted by an air
451 carrier for compensation or hire other than a passenger
452 carrying flight, except passengers as specified in 14 C.F.R. §
453 121.583(a) or 14 C.F.R. § 135.85, as amended.

454 c. International Commerce. Any air carrier engaged in
455 all-cargo operations transporting goods for compensation or
456 hire on international flights.

457 d. International Flights. Any air carrier conducting
458 scheduled all-cargo operations between any point within the 50
459 states of the United States and the District of Columbia and
460 any point outside the 50 states of the United States and the
461 District of Columbia, including any interim stops within the
462 United States so long as the ultimate origin or destination of
463 the aircraft is outside the United States and the District of
464 Columbia.

465 (44) The gross proceeds of the sale or sales of the
466 following:

467 a. Drill pipe, casing, tubing, and other pipe used for
468 the exploration for or production of oil, gas, sulphur, or
469 other minerals in offshore federal waters.

470 b. Tangible personal property exclusively used for the
471 exploration for or production of oil, gas, sulphur, or other
472 minerals in offshore federal waters.

473 c. Fuel and supplies for use or consumption aboard
474 boats, ships, aircraft, and towing vessels when used
475 exclusively in transporting persons or property between a
476 point in Alabama and a point or points in offshore federal



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477 waters for the exploration for or production of oil, gas,
478 sulphur, or other minerals in offshore federal waters.

479 d. Drilling equipment that is used for the exploration
480 for or production of oil, gas, sulphur, or other minerals,
481 that is built for exclusive use outside this state and that
482 is, on completion, removed forthwith from this state.

483 The delivery of items exempted by this subdivision to
484 the purchaser or lessee in this state does not disqualify the
485 purchaser or lessee from the exemption if the property is
486 removed from the state by any means, including by the use of
487 the purchaser's or lessee's own facilities.

488 The shipment to a place in this state of equipment
489 exempted by this subdivision for further assembly or
490 fabrication does not disqualify the purchaser or lessee from
491 the exemption if on completion of the further assembly or
492 fabrication the equipment is removed forthwith from this
493 state. This subdivision applies to a sale that may occur when
494 the equipment exempted is further assembled or fabricated if
495 on completion the equipment is removed forthwith from this
496 state.

497 (45) The gross receipts derived from all bingo games
498 and operations that are conducted in compliance with validly
499 enacted legislation authorizing the conduct of such games and
500 operations, and which comply with the distribution
501 requirements of the applicable local laws; provided that the
502 exemption from sales taxation granted by this subdivision
503 shall apply only to gross receipts taxable under subdivision
504 (2) of Section 40-23-2. It is further provided that this



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505 exemption shall not apply to any gross receipts from the sale
506 of tangible personal property, such as concessions, novelties,
507 food, beverages, etc. The exemption provided for in this
508 section shall be limited to those games and operations by
509 organizations that have qualified for exemption under the
510 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
511 (19), or which are defined in 26 U.S.C. § 501(d).

512 (46) The gross receipts derived from the sale or sales
513 of fruit or other agricultural products by the person or
514 company, as defined in Section 40-23-1, that planted or
515 cultivated and harvested the fruit or agricultural product,
516 when the land is owned or leased by the seller.

517 (47) The gross receipts derived from the sale or sales
518 of all domestically mined or produced coal, coke, and coke
519 by-products used in cogeneration plants.

520 (48) The gross receipts from the sale or sales of
521 metal, other than gold or silver, when such metal is purchased
522 for the purpose of transferring such metal to an investment
523 trust in exchange for shares or other units, each of which are
524 both publicly traded and represent fractional undivided
525 beneficial interests in the trust's net assets, including
526 metal stored in warehouses located in this state, as well as
527 the gross proceeds from the sale or other transfer of such
528 metal to or from the investment trust in exchange for shares
529 or other units that are publicly traded and represent
530 fractional undivided beneficial interests in the trust's net
531 assets but not to the extent that metal is transferred to or
532 from the investment trust in exchange for consideration other



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533 than such publicly traded shares or other units. For purposes
534 of this subdivision, the term "metals" includes, but is not
535 limited to, copper, aluminum, nickel, zinc, tin, lead, and
536 other similar metals typically used in commercial and
537 industrial applications.

538 (49)a. For the period commencing on October 1, 2012,
539 and ending May 30, 2027, the gross receipts from the sale of
540 parts, components, and systems that become a part of a fixed
541 or rotary wing military aircraft or certified transport
542 category aircraft that undergoes conversion, reconfiguration,
543 or general maintenance so long as the address of the aircraft
544 for FAA registration is not in the state; provided, however,
545 that this exemption shall not apply to a local sales tax
546 unless previously exempted by local law or approved by
547 resolution of the local governing body.

548 b. The exemption authorized by this subdivision shall
549 not be available for sales of parts, components, or systems
550 for new contracts or projects entered into after May 30, 2027,
551 unless the Legislature enacts legislation to continue or
552 reinstate the exemption for new contracts or projects after
553 that date. No action or inaction on the part of the
554 Legislature shall reduce, suspend, or disqualify sales of
555 parts, components, or systems from the exemption in any past
556 year or future years until May 30, 2030, with respect to
557 contracts or projects entered into on or before May 30, 2027;
558 it being the sole intent that failure of the Legislature to
559 enact legislation to reinstate the exemption for new contracts
560 or projects after May 30, 2027, shall affect only the



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561 availability of the exemption to new contracts and projects
562 after that date and shall not affect availability of the
563 exemption for contracts or projects entered into on or before
564 May 30, 2027, for which the exemption shall be available until
565 May 30, 2030.

566 (50) The gross proceeds from the sale or sales within
567 school buildings of lunches to pupils of kindergarten,
568 grammar, and high schools, either public or private, that are
569 not sold for profit.

570 (51) The gross proceeds of services provided by
571 photographers, including, but not limited to, sitting fees and
572 consultation fees, even when provided as part of a transaction
573 ultimately involving the sale of one or more photographs, so
574 long as the exempt services are separately stated to the
575 customer on a bill of sale, invoice, or like memorialization
576 of the transaction. For transactions occurring before October
577 1, 2017, neither the Department of Revenue nor local tax
578 officials may seek payment for sales tax not collected. With
579 regard to such transactions in which sales tax was collected
580 and remitted on services provided by photographers, neither
581 the taxpayer nor the entity remitting sales tax shall have the
582 right to seek refund of such tax.

583 (52) a. For the period commencing on June 1, 2018, and
584 ending 10 years thereafter, unless extended by an act of the
585 Legislature, the gross proceeds of sales of bullion or money,
586 as defined in Section 40-1-1(7).

587 b. For purposes of this subdivision, the following
588 words or terms shall be defined and interpreted as follows:



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589 1. Bullion. Gold, silver, platinum, palladium, or a
590 combination of each precious metal, that has gone through a
591 refining process and for which the item's value depends on its
592 mass and purity, and not on its form, numismatic value, or
593 other value. The term includes bullion in the form of bars,
594 ingots, rounds, or coins that meet the requirements set forth
595 above. Qualifying bullion may contain other metals or
596 substances, provided that the other substances are minimal in
597 value compared with the value of the gold, silver, platinum,
598 or palladium and the other substances do not add value to the
599 item. For purposes of this subparagraph, "gold, silver,
600 platinum, or palladium" does not include jewelry or works of
601 art.

602 2. Mass. An item's mass is its weight in precious
603 metal.

604 3. Numismatic Value. An external value above and beyond
605 the base value of the underlying precious metal, due to the
606 item's rarity, condition, age, or other external factor.

607 4. Purity. An item's purity is the proportion of
608 precious metal contained within.

609 c. In order for bullion to qualify for the sales tax
610 exemption, gold, silver, platinum, and palladium items must
611 meet all of the following requirements:

612 1. Must be refined.

613 2. Must contain at least 80 percent gold, silver,
614 platinum, or palladium or some combination of these metals.

615 3. The sales price of the item must fluctuate with and
616 depend on the market price of the underlying precious metal,



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617 and not on the item's rarity, condition, age, or other
618 external factor.

619 (53) a. The gross proceeds of the initial retail sales
620 of adaptive equipment that is permanently affixed to a motor
621 vehicle.

622 b. For the purposes of this subdivision, the following
623 words or terms shall be defined and interpreted as follows:

624 1. Adaptive Equipment. Equipment not generally used by
625 persons with normal mobility that is appropriate for use in a
626 motor vehicle and that is not normally provided by a motor
627 vehicle manufacturer.

628 2. Motor Vehicle. A vehicle as defined in Section
629 40-12-240.

630 3. Motor Vehicle Manufacturer. Every person engaged in
631 the business of constructing or assembling vehicles or
632 manufactured homes.

633 c. In order to qualify for the exemption provided for
634 herein, the adaptive equipment must be separately stated to
635 the customer on a bill of sale, invoice, or like
636 memorialization of the transaction.

637 (54) For the period commencing on October 1, 2022, and
638 ending September 30, 2027, unless extended by an act of the
639 Legislature, the gross receipts derived from the sale of
640 producer value added agricultural products when the sale is
641 made by the producer or by the producer's immediate family, or
642 for the producer by the producer's employees.

643 (55) a. The gross proceeds from the sales of diapers
644 and menstrual hygiene products for personal use.



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645 b. For the purpose of this subdivision the following
646 words and phrases shall have the following meanings:

647 (1) DIAPER. Any absorbent diaper or undergarment used
648 for incontinence in adults and any absorbent diaper or
649 undergarment designed to be worn by a child who cannot control
650 bladder or bowel movements.

651 (2) MENSTRUAL HYGEINE PRODUCT. Tampons, menstrual pads,
652 sanitary napkins, panty liners, menstrual sponges, and
653 menstrual cups, including disposable and washable versions of
654 these items.

655 (b) Any violation of any provision of this section
656 shall be punishable in a court of competent jurisdiction by a
657 fine of not less than five hundred dollars (\$500) and no more
658 than two thousand dollars (\$2,000) and imprisonment of not
659 less than six months nor more than one year in the county
660 jail."

661 Section 2. The Alabama Department of Revenue shall
662 adopt rules and develop any tax forms, directions, and
663 worksheets as necessary to effectuate the intent of this act.

664 Section 3. This act shall become effective on September
665 1, 2023 following its passage and approval by the Governor, or
666 its otherwise becoming law.