

HB269 ENGROSSED



1 HB269
2 SRQQ585-2
3 By Representatives Colvin, Woods
4 RFD: Ways and Means Education
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A BILL
TO BE ENTITLED
AN ACT

Relating to sales and use taxes and lease or rental taxes; to amend Section 40-23-4, Code of Alabama 1975, to revise the current sales and use tax exemption for certain aircraft and parts; and to amend Section 40-12-223, Code of Alabama 1975, to revise the current lease tax exemption for certain aircraft and parts and to exempt the gross receipts from the lease of certain aircraft not domiciled in this state.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-23-4, Code of Alabama 1975, is amended to read as follows:

"§40-23-4

(a) There are exempted from the provisions of this division and from the computation of the amount of the tax levied, assessed, or payable under this division the following:

(1) The gross proceeds of the sales of lubricating oil and gasoline as defined in Sections 40-17-30 and 40-17-170 and the gross proceeds from those sales of lubricating oil destined for out-of-state use which are transacted in a manner whereby an out-of-state purchaser takes delivery of such oil



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29 at a distributor's plant within this state and transports it
30 out-of-state, which are otherwise taxed.

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

35 (3) The gross proceeds of the sale, or sales, of seeds
36 for planting purposes and baby chicks and poults. Nothing
37 herein shall be construed to exempt or exclude from the
38 computation of the tax levied, assessed, or payable, the gross
39 proceeds of the sale or sales of plants, seedlings, nursery
40 stock, or floral products.

41 (4) The gross proceeds of sales of insecticides and
42 fungicides when used for agricultural purposes or when used by
43 persons properly permitted by the Department of Agriculture
44 and Industries or any applicable local or state governmental
45 authority for structural pest control work and feed for
46 livestock and poultry, but not including prepared food for
47 dogs and cats.

48 (5) The gross proceeds of sales of all livestock by
49 whomsoever sold, and also the gross proceeds of poultry and
50 other products of the farm, dairy, grove, or garden, when in
51 the original state of production or condition of preparation
52 for sale, when such sale or sales are made by the producer or
53 members of the producer's immediate family or for the producer
54 by those employed by the producer to assist in the production
55 thereof. Nothing herein shall be construed to exempt or
56 exclude from the measure or computation of the tax levied,



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57 assessed, or payable hereunder, the gross proceeds of sales of
58 poultry or poultry products when not products of the farm.

59 (6) Cottonseed meal exchanged for cottonseed at or by
60 cotton gins.

61 (7) The gross receipts from the business on which, or
62 for engaging in which, a license or privilege tax is levied by
63 or under Sections 40-21-50, 40-21-53, and 40-21-56 through
64 40-21-60; provided, that nothing contained in this subdivision
65 shall be construed to exempt or relieve the person or persons
66 operating the business enumerated in these sections from the
67 payments of the tax levied by this division upon or measured
68 by the gross proceeds of sales of any tangible personal
69 property, except gas and water, the gross receipts from the
70 sale of which are the measure of the tax levied by Section
71 40-21-50, merchandise or other tangible commodities sold at
72 retail by the persons, unless the gross proceeds of sale
73 thereof are otherwise specifically exempted by this division.

74 (8) The gross proceeds of sales or gross receipts of or
75 by any person, firm, or corporation, from the sale of
76 transportation, gas, water, or electricity, of the kinds and
77 natures, the rates and charges for which, when sold by public
78 utilities, are customarily fixed and determined by the Public
79 Service Commission of Alabama or like regulatory bodies.

80 (9) The gross proceeds of the sale, or sales of wood
81 residue, coal, or coke to manufacturers, electric power
82 companies, and transportation companies for use or consumption
83 in the production of by-products, or the generation of heat or
84 power used in manufacturing tangible personal property for



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85 sale, for the generation of electric power or energy for use
86 in manufacturing tangible personal property for sale or for
87 resale, or for the generation of motive power for
88 transportation.

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

104 For purposes of this subdivision, it shall be presumed
105 that vessels engaged in the transportation of cargo between
106 ports in the State of Alabama and ports in foreign countries
107 or possessions or territories of the United States or between
108 ports in the State of Alabama and ports in other states are
109 engaged in foreign or international commerce or interstate
110 commerce, as the case may be. For the purposes of this
111 subdivision, the engaging in foreign or international commerce
112 or interstate commerce shall not require that the vessel



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113 involved deliver cargo to or receive cargo from a port in the
114 State of Alabama. For purposes of this subdivision, vessels
115 carrying passengers for hire, and no cargo, between ports in
116 the State of Alabama and ports in foreign countries or
117 possessions or territories of the United States or between
118 ports in the State of Alabama and ports in other states shall
119 be engaged in foreign or international commerce or interstate
120 commerce, as the case may be, if, and only if, both of the
121 following conditions are met: (i) The vessel in question is a
122 vessel of at least 100 gross tons; and (ii) the vessel in
123 question has an unexpired certificate of inspection issued by
124 the United States Coast Guard or by the proper authority of a
125 foreign country for a foreign vessel, which certificate is
126 recognized as acceptable under the laws of the United States.
127 Vessels that are engaged in foreign or international commerce
128 or interstate commerce shall be deemed for the purposes of
129 this subdivision to remain in such commerce while awaiting or
130 under repair in a port of the State of Alabama if the vessel
131 returns after such repairs are completed to engaging in
132 foreign or international commerce or interstate commerce. For
133 purposes of this subdivision, seismic or geophysical vessels
134 which are engaged either in seismic or geophysical tests or
135 evaluations exclusively in offshore federal waters or in
136 traveling to or from conducting such tests or evaluations
137 shall be deemed to be engaged in international or foreign
138 commerce. For purposes of this subdivision, proof that fuel
139 and supplies purchased are for use or consumption aboard
140 vessels engaged in foreign or international commerce or in



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

162 (11) The gross proceeds of sales of tangible personal
163 property to the State of Alabama, to the counties within the
164 state and to incorporated municipalities of the State of
165 Alabama.

166 (12) The gross proceeds of the sale or sales of
167 railroad cars, vessels, barges, and commercial fishing vessels
168 of over five tons load displacement as registered with the



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169 U.S. Coast Guard and licensed by the State of Alabama
170 Department of Conservation and Natural Resources, when sold by
171 the manufacturers or builders thereof.

172 (13) The gross proceeds of the sale or sales of
173 materials, equipment, and machinery that, at any time, enter
174 into and become a component part of ships, vessels, towing
175 vessels or barges, or drilling ships, rigs or barges, or
176 seismic or geophysical vessels, other watercraft and
177 commercial fishing vessels of over five tons load displacement
178 as registered with the U.S. Coast Guard and licensed by the
179 State of Alabama Department of Conservation and Natural
180 Resources. Additionally, the gross proceeds from the sale or
181 sales of lifeboats, personal flotation devices, ring life
182 buoys, survival craft equipment, distress signals, EPIRB's,
183 fire extinguishers, injury placards, waste management plans
184 and logs, marine sanitation devices, navigation rulebooks,
185 navigation lights, sound signals, navigation day shapes, oil
186 placard cards, garbage placards, FCC SSL, stability
187 instructions, first aid equipment, compasses, anchor and radar
188 reflectors, general alarm systems, bilge pumps, piping, and
189 discharge and electronic position fixing devices which are
190 used on the aforementioned watercraft.

191 (14) The gross proceeds of the sale or sales of fuel
192 oil purchased as fuel for kiln use in manufacturing
193 establishments.

194 (15) The gross proceeds of the sale or sales of
195 tangible personal property to county and city school boards
196 within the State of Alabama, independent school boards within



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197 the State of Alabama, all educational institutions and
198 agencies of the State of Alabama, the counties within the
199 state, or any incorporated municipalities of the State of
200 Alabama, and private educational institutions operating within
201 the State of Alabama offering conventional and traditional
202 courses of study, such as those offered by public schools,
203 colleges, or universities within the State of Alabama; but not
204 including nurseries, day care centers, and home schools.

205 (16) The gross proceeds from the sale of all devices or
206 facilities, and all identifiable components thereof, or
207 materials for use therein, acquired primarily for the control,
208 reduction, or elimination of air or water pollution and the
209 gross proceeds from the sale of all identifiable components
210 of, or materials used or intended for use in, structures built
211 primarily for the control, reduction, or elimination of air
212 and water pollution.

213 (17) The gross proceeds of sales of tangible personal
214 property or the gross receipts of any business which the state
215 is prohibited from taxing under the Constitution or laws of
216 the United States or under the Constitution of this state.

217 (18) When dealers or distributors use parts taken from
218 stocks owned by them in making repairs without charge for the
219 parts to the owner of the property repaired pursuant to
220 warranty agreements entered into by manufacturers, such use
221 shall not constitute taxable sales to the manufacturers,
222 distributors, or to the dealers, under this division or under
223 any county sales tax law.

224 (19) The gross proceeds received from the sale or



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225 furnishing of food, including potato chips, candy, fruit and
226 similar items, soft drinks, tobacco products, and stationery
227 and other similar or related articles by hospital canteens
228 operated by Alabama state hospitals at Bryce Hospital and
229 Partlow State School for Mental Deficients at Tuscaloosa,
230 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the
231 benefit of the patients therein.

232 (20) The gross proceeds of the sale, or sales, of
233 wrapping paper and other wrapping materials when used in
234 preparing poultry or poultry products for delivery, shipment,
235 or sale by the producer, processor, packer, or seller of such
236 poultry or poultry products, including pallets used in
237 shipping poultry and egg products, paper or other materials
238 used for lining boxes or other containers in which poultry or
239 poultry products are packed together with any other materials
240 placed in such containers for the delivery, shipment, or sale
241 of poultry or poultry products.

242 (21) The gross proceeds of the sales of all
243 antibiotics, hormones and hormone preparations, drugs,
244 medicines or medications, vitamins, minerals or other
245 nutrients, and all other feed ingredients including
246 concentrates, supplements, and other feed ingredients when
247 such substances are used as ingredients in mixing and
248 preparing feed for fish raised to be sold on a commercial
249 basis, livestock, and poultry. Such exemption herein granted
250 shall be in addition to exemptions now provided by law for
251 feed for fish raised to be sold on a commercial basis,
252 livestock, and poultry, but not including prepared foods for



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253 dogs or cats.

254 (22) The gross proceeds of the sale, or sales, of
255 seedlings, plants, shoots, and slips which are to be used for
256 planting vegetable gardens or truck farms and other
257 agricultural purposes. Nothing herein shall be construed to
258 exempt, or exclude from the computation of the tax levied,
259 assessed, or payable, the gross proceeds of the sale, or the
260 use of plants, seedlings, shoots, slips, nursery stock, and
261 floral products, except as hereinabove exempted.

262 (23) The gross proceeds of the sale, or sales, of
263 fabricated steel tube sections, when produced and fabricated
264 in this state by any person, firm, or corporation for any
265 vehicular tunnel for highway vehicular traffic, when sold by
266 the manufacturer or fabricator thereof, and also the gross
267 proceeds of the sale, or sales, of steel which enters into and
268 becomes a component part of such fabricated steel tube
269 sections of said tunnel.

270 (24) The gross proceeds from sales of admissions to any
271 theatrical production, symphonic or other orchestral concert,
272 ballet, or opera production when the concert or production is
273 presented by any society, association, guild, or workshop
274 group, organized within this state, whose members or some of
275 whose members regularly and actively participate in the
276 concerts or productions for the purposes of providing a
277 creative outlet for the cultural and educational interests of
278 its members, and of promoting such interests for the
279 betterment of the community by presenting the productions to
280 the general public for an admission charge. The employment of



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281 a paid director or conductor to assist in any such
282 presentation described in this subdivision shall not be
283 construed to prohibit the exemptions herein provided.

284 (25) The gross proceeds of sales of "herbicides" for
285 agricultural uses by whomsoever sold. The term herbicides, as
286 used in this subdivision, means any substance or mixture of
287 substances intended to prevent, destroy, repel, or retard the
288 growth of weeds or plants. The term includes preemergence
289 herbicides, postemergence herbicides, lay-by herbicides,
290 pasture herbicides, defoliant herbicides, and desiccant
291 herbicides.

292 (26) The Alabama Chapter of the Cystic Fibrosis
293 Research Foundation and the Jefferson Tuberculosis Sanatorium
294 and any of their departments or agencies, heretofore or
295 hereafter organized and existing in good faith in the State of
296 Alabama for purposes other than for pecuniary gain and not for
297 individual profit, shall be exempted from the computation of
298 the tax on the gross proceeds of all sales levied, assessed,
299 or payable.

300 (27) The gross proceeds from the sale or sales of fuel
301 for use or consumption aboard commercial fishing vessels are
302 exempt from the computation of all sales taxes levied,
303 assessed, or payable under this division or levied under any
304 county or municipal sales tax law.

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



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

312 (30) The gross proceeds of the sales of all
313 antibiotics, hormones and hormone preparations, drugs,
314 medicines, and other medications including serums and
315 vaccines, vitamins, minerals, or other nutrients for use in
316 the production and growing of fish, livestock, and poultry by
317 whomsoever sold. The exemption herein granted shall be in
318 addition to the exemption provided by law for feed for fish,
319 livestock, and poultry, and in addition to the exemptions
320 provided by law for the above-enumerated substances and
321 products when mixed and used as ingredients in fish,
322 livestock, and poultry feed.

323 (31) The gross proceeds of the sale or sales of all
324 medicines prescribed by physicians for persons who are 65
325 years of age or older, and when the prescriptions are filled
326 by licensed pharmacists, shall be exempted under this division
327 or under any county or municipal sales tax law. The exemption
328 provided in this section shall not apply to any medicine
329 purchased in any manner other than as is herein provided.

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

333 a. The name and claim number as shown on a Medicare
334 card issued by the United States Social Security
335 Administration.

336 b. A certificate executed by any adult person having



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337 knowledge of the fact that the person for whom the medicine
338 was prescribed is not less than 65 years of age.

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

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

346 (32) There shall be exempted from the tax levied by
347 this division the gross receipts of sales of grass sod of all
348 kinds and character when in the original state of production
349 or condition of preparation for sale, when the sales are made
350 by the producer or members of the producer's family or for the
351 producer by those employed by the producer to assist in the
352 production thereof; provided, that nothing herein shall be
353 construed to exempt sales of sod by a person engaged in the
354 business of selling plants, seedlings, nursery stock, or
355 floral products.

356 (33) The gross receipts of sales of the following items
357 or materials that are necessary in the farm-to-market
358 production of tomatoes when such items or materials are used
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: Twine for tying tomatoes, tomato stakes,
362 field boxes (wooden boxes used to take tomatoes from the
363 fields to shed), and tomato boxes used in shipments to
364 customers.



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365 (34) The gross proceeds from the sale of liquefied
366 petroleum gas or natural gas sold to be used for agricultural
367 purposes.

368 (35) The gross receipts of sales from state nurseries
369 of forest tree seedlings.

370 (36) The gross receipts of sales of forest tree seed by
371 the state.

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

375 (38) The gross receipts from the sale of any aircraft
376 manufactured, sold, and or delivered in this state if the
377 aircraft are is not permanently domiciled in Alabama and are is
378 removed to another state.

379 a. An aircraft shall be considered not permanently
380 domiciled in Alabama under this subdivision if either of the
381 following non-exclusive conditions is true:

382 1. The hanger, airstrip, or other housing unit in which
383 the aircraft is primarily based, departs from, and returns to
384 in its normal operation is located outside of Alabama; or

385 2. The purchaser's headquarters is not in Alabama on
386 the date of purchase, and the aircraft will be operated either
387 by a: (1) certificated air carrier holding certificate of
388 public convenience under 49 U.S.C. §40102; or (2) a foreign
389 air carrier or intrastate air carrier, as defined by 49 U.S.C.
390 §40102.

391 b. The exemption provided in this subdivision shall not
392 apply to county or municipal sales or use taxes unless



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393 approved by resolution or ordinance adopted by the local
394 governing body.

395 c. The exemption provided by this subdivision shall
396 expire on September 30, 2029.

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

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

401 a. Takes place in the State of Alabama on or after
402 January 1, 1984, regardless of when such sales occur; and

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

405 c. Determines a national championship of a national
406 organization, including, but not limited to, the Professional
407 Golfers Association of America, the Tournament Players
408 Association, the United States Golf Association, the United
409 States Tennis Association, and the National Collegiate
410 Athletic Association; and

411 d. Has not been held in the State of Alabama on more
412 than one prior occasion, provided, however, that for such
413 purpose the Professional Golfers Association Championship, the
414 United States Open Golf Championship, the United States
415 Amateur Golf Championship of the United States Golf
416 Association, and the United States Open Tennis Championship
417 shall each be treated as a separate event.

418 (41) The gross receipts from the sale of any aircraft
419 ~~and~~ replacement parts, components, systems, supplies, and
420 sundries affixed or used on the aircraft and ground support



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421 equipment and vehicles used by or for the aircraft to or by a
422 certificated or licensed air carrier ~~with a hub operation~~
423 ~~within this state~~, for use in conducting intrastate,
424 interstate, or foreign commerce for transporting people or
425 property by air. The exemption provided in this subdivision
426 shall not apply to county or municipal sales or use taxes
427 unless approved by resolution or ordinance adopted by the
428 local governing body. The exemption provided by this
429 subdivision shall expire on September 30, 2029. ~~For the purpose~~
430 ~~of this subdivision, the words "hub operation within this~~
431 ~~state" shall be construed to have both of the following~~
432 ~~eriteria:~~

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

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

440 (42) The gross receipts from the sale of hot or cold
441 food and beverage products sold to or by a certificated or
442 licensed air carrier with a hub operation within this state,
443 for use in conducting intrastate, interstate, or foreign
444 commerce for transporting people or property by air. For the
445 purpose of this subdivision, the words "hub operation within
446 this state" shall be construed to have all of the following
447 criteria:

448 a. There originates from the location 15 or more flight



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449 departures and five or more different first-stop destinations
450 five days per week for six or more months during the calendar
451 year.

452 b. Passengers or property or both are regularly
453 exchanged at the location between flights of the same or a
454 different certificated or licensed air carrier.

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

461 a. Air Carrier. Any person, firm, corporation, or
462 entity undertaking by any means, directly or indirectly, to
463 provide air transportation.

464 b. All-Cargo Operations. Any flight conducted by an air
465 carrier for compensation or hire other than a passenger
466 carrying flight, except passengers as specified in 14 C.F.R. §
467 121.583(a) or 14 C.F.R. § 135.85, as amended.

468 c. International Commerce. Any air carrier engaged in
469 all-cargo operations transporting goods for compensation or
470 hire on international flights.

471 d. International Flights. Any air carrier conducting
472 scheduled all-cargo operations between any point within the 50
473 states of the United States and the District of Columbia and
474 any point outside the 50 states of the United States and the
475 District of Columbia, including any interim stops within the
476 United States so long as the ultimate origin or destination of



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477 the aircraft is outside the United States and the District of
478 Columbia.

479 (44) The gross proceeds of the sale or sales of the
480 following:

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

484 b. Tangible personal property exclusively used for the
485 exploration for or production of oil, gas, sulphur, or other
486 minerals in offshore federal waters.

487 c. Fuel and supplies for use or consumption aboard
488 boats, ships, aircraft, and towing vessels when used
489 exclusively in transporting persons or property between a
490 point in Alabama and a point or points in offshore federal
491 waters for the exploration for or production of oil, gas,
492 sulphur, or other minerals in offshore federal waters.

493 d. Drilling equipment that is used for the exploration
494 for or production of oil, gas, sulphur, or other minerals,
495 that is built for exclusive use outside this state and that
496 is, on completion, removed forthwith from this state.

497 The delivery of items exempted by this subdivision to
498 the purchaser or lessee in this state does not disqualify the
499 purchaser or lessee from the exemption if the property is
500 removed from the state by any means, including by the use of
501 the purchaser's or lessee's own facilities.

502 The shipment to a place in this state of equipment
503 exempted by this subdivision for further assembly or
504 fabrication does not disqualify the purchaser or lessee from



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505 the exemption if on completion of the further assembly or
506 fabrication the equipment is removed forthwith from this
507 state. This subdivision applies to a sale that may occur when
508 the equipment exempted is further assembled or fabricated if
509 on completion the equipment is removed forthwith from this
510 state.

511 (45) The gross receipts derived from all bingo games
512 and operations that are conducted in compliance with validly
513 enacted legislation authorizing the conduct of such games and
514 operations, and which comply with the distribution
515 requirements of the applicable local laws; provided that the
516 exemption from sales taxation granted by this subdivision
517 shall apply only to gross receipts taxable under subdivision
518 (2) of Section 40-23-2. It is further provided that this
519 exemption shall not apply to any gross receipts from the sale
520 of tangible personal property, such as concessions, novelties,
521 food, beverages, etc. The exemption provided for in this
522 section shall be limited to those games and operations by
523 organizations that have qualified for exemption under the
524 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or
525 (19), or which are defined in 26 U.S.C. § 501(d).

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

531 (47) The gross receipts derived from the sale or sales
532 of all domestically mined or produced coal, coke, and coke



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533 by-products used in cogeneration plants.

534 (48) The gross receipts from the sale or sales of
535 metal, other than gold or silver, when such metal is purchased
536 for the purpose of transferring such metal to an investment
537 trust in exchange for shares or other units, each of which are
538 both publicly traded and represent fractional undivided
539 beneficial interests in the trust's net assets, including
540 metal stored in warehouses located in this state, as well as
541 the gross proceeds from the sale or other transfer of such
542 metal to or from the investment trust in exchange for shares
543 or other units that are publicly traded and represent
544 fractional undivided beneficial interests in the trust's net
545 assets but not to the extent that metal is transferred to or
546 from the investment trust in exchange for consideration other
547 than such publicly traded shares or other units. For purposes
548 of this subdivision, the term "metals" includes, but is not
549 limited to, copper, aluminum, nickel, zinc, tin, lead, and
550 other similar metals typically used in commercial and
551 industrial applications.

552 (49)a. For the period commencing on October 1, 2012,
553 and ending May 30, 2027, the gross receipts from the sale of
554 parts, components, and systems that become a part of a fixed
555 or rotary wing military aircraft or certified transport
556 category aircraft that undergoes conversion, reconfiguration,
557 or general maintenance so long as the address of the aircraft
558 for FAA registration is not in the state; provided, however,
559 that this exemption shall not apply to a local sales tax
560 unless previously exempted by local law or approved by



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561 resolution of the local governing body.

562 b. The exemption authorized by this subdivision shall
563 not be available for sales of parts, components, or systems
564 for new contracts or projects entered into after May 30, 2027,
565 unless the Legislature enacts legislation to continue or
566 reinstate the exemption for new contracts or projects after
567 that date. No action or inaction on the part of the
568 Legislature shall reduce, suspend, or disqualify sales of
569 parts, components, or systems from the exemption in any past
570 year or future years until May 30, 2030, with respect to
571 contracts or projects entered into on or before May 30, 2027;
572 it being the sole intent that failure of the Legislature to
573 enact legislation to reinstate the exemption for new contracts
574 or projects after May 30, 2027, shall affect only the
575 availability of the exemption to new contracts and projects
576 after that date and shall not affect availability of the
577 exemption for contracts or projects entered into on or before
578 May 30, 2027, for which the exemption shall be available until
579 May 30, 2030.

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

584 (51) The gross proceeds of services provided by
585 photographers, including, but not limited to, sitting fees and
586 consultation fees, even when provided as part of a transaction
587 ultimately involving the sale of one or more photographs, so
588 long as the exempt services are separately stated to the



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589 customer on a bill of sale, invoice, or like memorialization
590 of the transaction. For transactions occurring before October
591 1, 2017, neither the Department of Revenue nor local tax
592 officials may seek payment for sales tax not collected. With
593 regard to such transactions in which sales tax was collected
594 and remitted on services provided by photographers, neither
595 the taxpayer nor the entity remitting sales tax shall have the
596 right to seek refund of such tax.

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

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

603 1. Bullion. Gold, silver, platinum, palladium, or a
604 combination of each precious metal, that has gone through a
605 refining process and for which the item's value depends on its
606 mass and purity, and not on its form, numismatic value, or
607 other value. The term includes bullion in the form of bars,
608 ingots, rounds, or coins that meet the requirements set forth
609 above. Qualifying bullion may contain other metals or
610 substances, provided that the other substances are minimal in
611 value compared with the value of the gold, silver, platinum,
612 or palladium and the other substances do not add value to the
613 item. For purposes of this subparagraph, "gold, silver,
614 platinum, or palladium" does not include jewelry or works of
615 art.

616 2. Mass. An item's mass is its weight in precious



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617 metal.

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

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

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

626 1. Must be refined.

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

629 3. The sales price of the item must fluctuate with and
630 depend on the market price of the underlying precious metal,
631 and not on the item's rarity, condition, age, or other
632 external factor.

633 (53) a. The gross proceeds of the initial retail sales
634 of adaptive equipment that is permanently affixed to a motor
635 vehicle.

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

638 1. Adaptive Equipment. Equipment not generally used by
639 persons with normal mobility that is appropriate for use in a
640 motor vehicle and that is not normally provided by a motor
641 vehicle manufacturer.

642 2. Motor Vehicle. A vehicle as defined in Section
643 40-12-240.

644 3. Motor Vehicle Manufacturer. Every person engaged in



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645 the business of constructing or assembling vehicles or
646 manufactured homes.

647 c. In order to qualify for the exemption provided for
648 herein, the adaptive equipment must be separately stated to
649 the customer on a bill of sale, invoice, or like
650 memorialization of the transaction.

651 (54) For the period commencing on October 1, 2022, and
652 ending September 30, 2027, unless extended by an act of the
653 Legislature, the gross receipts derived from the sale of
654 producer value added agricultural products when the sale is
655 made by the producer or by the producer's immediate family, or
656 for the producer by the producer's employees.

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

663 Section 2. Section 40-12-223, Code of Alabama 1975, is
664 amended to read as follows:

665 "§40-12-223

666 There are exempted from the computation of the amount
667 of the tax levied, assessed, or payable under this article all
668 of the following:

669 (1) The gross proceeds accruing from the leasing or
670 rental of a film or films to a lessee who charges, or proposes
671 to charge, admission for viewing the film or films.

672 (2) The gross proceeds accruing from any charge in



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673 respect to the use of docks or docking facilities furnished
674 for boats or other craft operated on waterways.

675 (3) The gross proceeds accruing from any charge made by
676 a landlord to a tenant in respect of the leasing or furnishing
677 of tangible personal property to be used on the premises of
678 real property leased by the same landlord to the same tenant
679 for use as a residence or dwelling place, including mobile
680 homes.

681 (4) The gross proceeds accruing from the leasing or
682 rental of tangible personal property to a lessee who acquires
683 possession of the property for the purpose of leasing or
684 renting to another the same property under a leasing or rental
685 transaction subject to this article.

686 (5) The gross proceeds accruing from any charge made by
687 a landlord to a tenant in respect to the leasing or furnishing
688 of tangible personal property to be used on the premises of
689 any room or rooms, lodging, or accommodations leased or rented
690 to transients in any hotel, motel, inn, tourist camp, tourist
691 cabin, or any other place in which rooms, lodgings, or
692 accommodations are regularly furnished to transients for a
693 consideration.

694 (6) The gross proceeds accruing from the leasing or
695 rental of tangible personal property which the state is
696 prohibited from taxing under the Constitution or laws of the
697 United States or under the constitution of the state.

698 (7) The gross proceeds accruing from the leasing or
699 rental of nuclear fuel assemblies together with the nuclear
700 material contained therein and other nuclear material used or



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701 useful in the production of electricity and assemblies
702 containing ionizing radiation sources together with the
703 ionizing radiation sources contained therein used or useful in
704 medical treatment or scientific research.

705 (8) A transaction in which the lessor leases a truck or
706 tractor-trailer or semitrailer for operation over the public
707 roads and highways and such lessor furnishes a driver or
708 drivers for each vehicle, and the transaction shall be deemed
709 to constitute the rendition of service and not a "leasing or
710 rental" within the meaning of this article.

711 (9) The gross proceeds accruing from the leasing or
712 rental of vehicles in interchange between regulated motor
713 carriers on a per diem basis.

714 (10) The gross proceeds accruing from the leasing or
715 rental of all structures, devices, facilities, and
716 identifiable components of any thereof acquired primarily for
717 the control, reduction, or elimination of air or water
718 pollution, and the gross proceeds accruing from the leasing or
719 rental of all materials used or intended for use in structures
720 built primarily for the control, reduction, or elimination of
721 air and water pollution.

722 (11) The gross proceeds derived by the lessor, which
723 term includes a sublessor, from the leasing or rental of
724 tangible personal property when the lessor and lessee, which
725 term includes a sublessee, are wholly-owned subsidiary
726 corporations of the same parent corporation or one is the
727 wholly-owned subsidiary of the other; provided, that the
728 appropriate sales or use tax, if any was due, has been paid on



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729 the item of personal property; and provided further, that in
730 the event of any subsequent subleasing of the tangible
731 personal property to any person other than any sister, parent,
732 or subsidiary corporation, any privilege or license tax due
733 and payable with respect to that subsequent subleasing under
734 the provisions of this article shall be paid.

735 (12) The gross proceeds accruing from a transaction
736 which involves the leasing or rental of vessels or railroad
737 equipment which are engaged in interstate or foreign commerce,
738 or both.

739 (13) The gross proceeds accruing from the leasing or
740 rental of aircraft, replacement parts, components, systems,
741 sundries, and supplies affixed or used on the aircraft and all
742 ground support equipment and vehicles used by or for the
743 aircraft to or by a certificated or licensed air carrier ~~with~~
744 ~~a hub operation within this state~~, for use in conducting
745 intrastate, interstate, or foreign commerce for transporting
746 people or property by air. The exemption provided in this
747 subdivision shall not apply to county or municipal lease or
748 rental taxes unless approved by resolution or ordinance
749 adopted by the local governing body. The exemption provided by
750 this subdivision shall expire on September 30, 2029.~~For the~~
751 ~~purpose of this subdivision, the words "hub operation within~~
752 ~~this state" shall be construed to have both of the following~~
753 ~~criteria:~~

754 a. ~~There originates from the location 15 or more flight~~
755 ~~departures and five or more different first-stop destinations~~
756 ~~five days per week for six or more months during the calendar~~



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757 ~~year.~~

758 ~~b. Passengers, property, or both, are regularly~~
759 ~~exchanged at the location between flights of the same or a~~
760 ~~different certificated or licensed air carrier.~~

761 (14) The gross proceeds derived by the lessor, which
762 term includes a sublessor, from the leasing of tangible
763 personal property under all of the following conditions:

764 a. Prior to being leased under the lease subject to
765 this exemption, the leased tangible personal property shall
766 have been owned, or considered to be owned for either Alabama
767 or federal income tax purposes or both, or subject to
768 acquisition pursuant to a binding contract, by the lessee or
769 by a corporation, partnership, or other entity controlled by,
770 or under common control with, the lessee.

771 b. The leased tangible personal property, or the right
772 to ownership thereof, shall have been acquired by the lessor
773 from the lessee or a corporation, partnership, or other entity
774 controlled by, or under common control with, that lessee and
775 leased back to the lessee under a lease that is considered a
776 lease and not a sale for either Alabama or federal income tax
777 purposes, or both, and that has a term of not less than 15
778 years, except that the lessor and the lessee may agree in the
779 lease or any subsequent amendment thereof for the termination
780 of the lease on any date through purchase of the leased
781 tangible personal property by the lessee, which right to
782 purchase the property shall be exercisable solely at the
783 option of the lessee.

784 c. The appropriate sales or use tax levied by the state



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785 shall have been paid with respect to the acquisition or use of
786 the leased tangible personal property, or, alternatively, the
787 acquisition or use of that property shall be exempt by law
788 from such sales or use tax.

789 d. The leased tangible personal property shall be
790 installed in or about an industrial plant or other real
791 property that was specially constructed or modified for the
792 location and use of the tangible personal property and that is
793 owned, or considered to be owned, for either Alabama or
794 federal income tax purposes or both, by a corporation,
795 partnership, or other entity controlled by, or under common
796 control with, the lessee of such tangible personal property.

797 e. The leased tangible property shall be used only by a
798 lessee engaged in the iron and steel industry, and the
799 exemption from the tax levied by this article shall apply only
800 to the gross proceeds derived from leases that become binding
801 contracts of the parties thereto within 180 calendar days
802 following the date on which the act adding the exemption
803 contained in this subsection (14) shall become effective.

804 (15) The gross proceeds accruing from a motor vehicle
805 lease transaction for a duration of at least 180 days with the
806 federal government, or any state, county, or municipal entity
807 within the state, including a public school board or an
808 individual public school, or any entity eligible for a sales
809 tax exemption under federal law or Section 40-23-5.

810 (16) The gross receipts from the lease of any aircraft
811 manufactured or delivered to a lessee in this state if the
812 aircraft is not permanently domiciled in Alabama during the



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813 term of the lease and is removed to another state by the
814 lessee.

815 a. Under this subdivision, an aircraft shall be
816 considered not permanently domiciled in Alabama during the
817 term of the lease if either of the following non-exclusive
818 conditions is true:

819 1. The hanger, airstrip, or other housing unit in which
820 the aircraft primarily based, departs from, and returns to in
821 its normal operation is located outside of Alabama; or

822 2. The lessee's headquarters is not in Alabama on the
823 date the lessee commences, and the aircraft will be operated
824 either by a: (1) certificated air carrier holding certificate
825 of public convenience under 49 U.S.C. §40102; or (2) a foreign
826 air carrier or intrastate air carrier, as defined by 49 U.S.C.
827 §40102.

828 b. The exemption provided in this subdivision shall not
829 apply to county or municipal lease or rental taxes unless
830 approved by resolution or ordinance adopted by the local
831 governing body.

832 c. The exemption provided by this subdivision shall
833 expire on September 30, 2029."

834 Section 3. This act shall become effective on September
835 1, 2024.



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House of Representatives

Read for the first time and referred29-Feb-24
to the House of Representatives
committee on Ways and Means
Education
Read for the second time and placed25-Apr-24
on the calendar:
1 amendment
Read for the third time and passed30-Apr-24
as amended
Yeas 101
Nays 0
Abstains 0

John Treadwell
Clerk