

HB253 ENGROSSED



1 HB253
2 4UUDNI3-2
3 By Representatives Colvin, Woods, Faulkner, Lovvorn, Lee,
4 Clouse, Clarke
5 RFD: Ways and Means Education
6 First Read: 11-Feb-25



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A BILL
TO BE ENTITLED
AN ACT

Relating to taxation; to exempt the gross receipts from the sale of certain aircraft and aircraft parts from state sales and use tax; to amend Sections 40-12-222 and 40-12-223, Code of Alabama 1975, relating to the state lease or rental tax; to provide conditions regarding the application of rental or lease taxes to the rental or lease transactions of commercial aircraft; to exempt the gross receipts from the lease of certain aircraft parts from the state lease or rental tax; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The gross receipts from the sale of aircraft replacement parts, components, systems, sundries, and supplies affixed to, used on, or that became part of, aircraft brought into the state and used, or to be used, by certified or licensed air carrier to undergo conversion, reconfiguration, or general maintenance while temporarily within this state are exempt from the state sales and use taxes provided for in Sections 40-23-2 and 40-23-61, Code of Alabama 1975.

(1) Under this section, an aircraft shall be considered



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29 not permanently domiciled in Alabama if either of the
30 following non-exclusive conditions is true:

31 a. The hanger, airstrip, or other housing unit in which
32 the aircraft is primarily based, departs from, and returns to
33 in its normal operation is located outside of Alabama; or

34 b. The purchaser's headquarters is not in Alabama on
35 the date of purchase, and the aircraft will be operated either
36 by a: (1) certificated air carrier holding certificate of
37 public convenience under 49 U.S.C. §40102; or (2) a foreign
38 air carrier or intrastate air carrier, as defined by 49 U.S.C.
39 §40102.

40 (b) The exemption provided in this section shall not
41 apply to county or municipal sales or use taxes unless
42 approved by resolution or ordinance adopted by the local
43 governing body.

44 (c) The exemption provided pursuant to this section
45 shall be available from September 1, 2025, to August 31, 2030.

46 Section 2. (a) The gross receipts from the sale of
47 aircraft delivered in this state and used, or to be used, by
48 certified or licensed air carriers, so long as the aircraft
49 will not be hubbed in Alabama, are exempt from the state sales
50 and use taxes provided for in Sections 40-23-2 and 40-23-61,
51 Code of Alabama 1975.

52 (1) Under this section, an aircraft shall be considered
53 not permanently domiciled in Alabama if either of the
54 following non-exclusive conditions is true:

55 a. The hanger, airstrip, or other housing unit in which
56 the aircraft is primarily based, departs from, and returns to



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57 in its normal operation is located outside of Alabama; or

58 b. The purchaser's headquarters is not in Alabama on
59 the date of purchase, and the aircraft will be operated either
60 by a: (1) certificated air carrier holding certificate of
61 public convenience under 49 U.S.C. §40102; or (2) a foreign
62 air carrier or intrastate air carrier, as defined by 49 U.S.C.
63 §40102.

64 (b) The exemption provided in this section shall not
65 apply to county or municipal sales or use taxes unless
66 approved by resolution or ordinance adopted by the local
67 governing body.

68 (c) The exemption provided pursuant to this section
69 shall be available from September 1, 2025, to August 31, 2030.

70 Section 3. Section 40-12-222, Code of Alabama 1975, is
71 amended to read as follows:

72 "§40-12-222

73 (a) (1) In addition to all other taxes now imposed by
74 law, there is hereby levied and shall be collected a privilege
75 or license tax on each person engaging or continuing within
76 this state in the business of leasing or renting tangible
77 personal property at the rate of four percent of the gross
78 proceeds derived by the lessor from the lease or rental of
79 tangible personal property.

80 (2) The privilege or license tax on each person
81 engaging or continuing within this state in the business of
82 leasing or renting any automotive vehicle or truck trailer,
83 semitrailer, or house trailer shall be at the rate of one and
84 one-half percent of the gross proceeds derived by the lessor



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85 from the lease or rental of such automotive vehicle or truck
86 trailer, semitrailer, or house trailer.

87 (3) The tax levied in this article shall not apply to
88 any leasing or rental, as lessor, by the state, or any
89 municipality or county in the state, or any public corporation
90 organized under the laws of the state, including, without
91 limiting the generality of the foregoing, any corporation
92 organized under the provisions of Sections 11-54-80 through
93 11-54-101.

94 (4) The privilege or license tax on each person or firm
95 engaging or continuing within this state in the business of
96 the leasing and rental of linens and garments shall be at the
97 rate of two percent of the gross proceeds derived by the
98 lessor from the lease or rental of the linens and garments.

99 (b) Notwithstanding subsection (a), nothing shall
100 prohibit a lessor subject to a state or local privilege or
101 license tax from passing the amounts on to a lessee by adding
102 the taxes to the leasing price or otherwise; provided,
103 however, that all amounts passed on to the lessee shall be
104 includable in the gross proceeds derived from the lease of
105 tangible personal property which shall be subject to the
106 privilege or license tax owed by the lessor.

107 (c) The state and applicable local privilege or license
108 taxes applicable to a lease or rental transaction to which a
109 lessor is subject shall be determined as follows:

110 (1) Except for automotive vehicles as provided in
111 subdivision (2) and commercial aircraft as provided in
112 subdivision (3), the following shall apply:



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113 a. When tangible personal property is delivered to the
114 lessee by the lessor or his or her agent, the privilege or
115 license tax levy shall be determined based on where the
116 property is delivered.

117 b. When tangible personal property is picked up at the
118 lessor's rental location by the lessee or his or her agent,
119 the privilege or license tax levy shall be determined based on
120 the rental location.

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

125 a. The privilege or license tax levy on any
126 nonrecurring gross proceeds due at the inception of the lease
127 to a new motor vehicle dealer or a used motor vehicle dealer
128 licensed pursuant to Section 40-12-391, including any
129 capitalized cost reduction or other fee that is retained by
130 the dealer in connection with its initiation of the lease,
131 shall be determined based on the location of the dealer where
132 the lease was initiated.

133 b. The privilege or license tax levy on gross proceeds
134 other than those described in paragraph a., including the
135 initial lease or rental payment and all subsequent lease or
136 rental payments, shall be determined based on the garage
137 address of the lessee as provided to the county licensing
138 official. The lessor is considered to be engaging or
139 continuing within this state in the business of leasing or
140 renting tangible personal property when its lessee has a



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141 garage address within this state.

142 (3) For commercial aircraft, which are aircraft used by
143 certificated or licensed air carriers, the privilege or
144 license tax levy on gross proceeds, including the initial
145 lease or rental payment and all subsequent lease or rental
146 payments, shall be determined based on the location of the
147 aircraft when the aircraft is first entered into revenue
148 service."

149 Section 4. Section 40-12-223, Code of Alabama 1975 is
150 amended to read as follows:

151 "§40-12-223

152 There are exempted from the computation of the amount
153 of the tax levied, assessed, or payable under this article all
154 of the following:

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

158 (2) The gross proceeds accruing from any charge in
159 respect to the use of docks or docking facilities furnished
160 for boats or other craft operated on waterways.

161 (3) The gross proceeds accruing from any charge made by
162 a landlord to a tenant in respect of the leasing or furnishing
163 of tangible personal property to be used on the premises of
164 real property leased by the same landlord to the same tenant
165 for use as a residence or dwelling place, including mobile
166 homes.

167 (4) The gross proceeds accruing from the leasing or
168 rental of tangible personal property to a lessee who acquires



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169 possession of the property for the purpose of leasing or
170 renting to another the same property under a leasing or rental
171 transaction subject to this article.

172 (5) The gross proceeds accruing from any charge made by
173 a landlord to a tenant in respect to the leasing or furnishing
174 of tangible personal property to be used on the premises of
175 any room or rooms, lodging, or accommodations leased or rented
176 to transients in any hotel, motel, inn, tourist camp, tourist
177 cabin, or any other place in which rooms, lodgings, or
178 accommodations are regularly furnished to transients for a
179 consideration.

180 (6) The gross proceeds accruing from the leasing or
181 rental of tangible personal property which the state is
182 prohibited from taxing under the Constitution or laws of the
183 United States or under the ~~constitution of the~~
184 ~~state.~~Constitution of Alabama of 2022.

185 (7) The gross proceeds accruing from the leasing or
186 rental of nuclear fuel assemblies together with the nuclear
187 material contained therein and other nuclear material used or
188 useful in the production of electricity and assemblies
189 containing ionizing radiation sources together with the
190 ionizing radiation sources contained therein used or useful in
191 medical treatment or scientific research.

192 (8) A transaction in which the lessor leases a truck or
193 tractor-trailer or semitrailer for operation over the public
194 roads and highways and such lessor furnishes a driver or
195 drivers for each vehicle, and the transaction shall be deemed
196 to constitute the rendition of service and not a "leasing or



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197 rental" within the meaning of this article.

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

201 (10) The gross proceeds accruing from the leasing or
202 rental of all structures, devices, facilities, and
203 identifiable components of any thereof acquired primarily for
204 the control, reduction, or elimination of air or water
205 pollution, and the gross proceeds accruing from the leasing or
206 rental of all materials used or intended for use in structures
207 built primarily for the control, reduction, or elimination of
208 air and water pollution.

209 (11) The gross proceeds derived by the lessor, which
210 term includes a sublessor, from the leasing or rental of
211 tangible personal property when the lessor and lessee, which
212 term includes a sublessee, are wholly-owned subsidiary
213 corporations of the same parent corporation or one is the
214 wholly-owned subsidiary of the other; provided, that the
215 appropriate sales or use tax, if any was due, has been paid on
216 the item of personal property; and provided further, that in
217 the event of any subsequent subleasing of the tangible
218 personal property to any person other than any sister, parent,
219 or subsidiary corporation, any privilege or license tax due
220 and payable with respect to that subsequent subleasing under
221 the provisions of this article shall be paid.

222 (12) The gross proceeds accruing from a transaction
223 which involves the leasing or rental of vessels or railroad
224 equipment which are engaged in interstate or foreign commerce,



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225 or both.

226 (13) The gross proceeds accruing from the leasing or
227 rental of aircraft, replacement parts, components, systems,
228 sundries, and supplies affixed or used on the aircraft and all
229 ground support equipment and vehicles used by or for the
230 aircraft to or by a certificated or licensed air carrier with
231 a hub operation within this state, for use in conducting
232 intrastate, interstate, or foreign commerce for transporting
233 people or property by air. For the purpose of this
234 subdivision, the words "hub operation within this state" shall
235 be construed to have both of the following criteria:

236 a. There originates from the location 15 or more flight
237 departures and five or more different first-stop destinations
238 five days per week for six or more months during the calendar
239 year.

240 b. Passengers, property, or both, are regularly
241 exchanged at the location between flights of the same or a
242 different certificated or licensed air carrier.

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

246 a. Prior to being leased under the lease subject to
247 this exemption, the leased tangible personal property shall
248 have been owned, or considered to be owned, for either Alabama
249 or federal income tax purposes or both, or subject to
250 acquisition pursuant to a binding contract, by the lessee or
251 by a corporation, partnership, or other entity controlled by,
252 or under common control with, the lessee.



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253 b. The leased tangible personal property, or the right
254 to ownership thereof, shall have been acquired by the lessor
255 from the lessee or a corporation, partnership, or other entity
256 controlled by, or under common control with, that lessee and
257 leased back to the lessee under a lease that is considered a
258 lease and not a sale for either Alabama or federal income tax
259 purposes, or both, and that has a term of not less than 15
260 years, except that the lessor and the lessee may agree in the
261 lease or any subsequent amendment thereof for the termination
262 of the lease on any date through purchase of the leased
263 tangible personal property by the lessee, which right to
264 purchase the property shall be exercisable solely at the
265 option of the lessee.

266 c. The appropriate sales or use tax levied by the state
267 shall have been paid with respect to the acquisition or use of
268 the leased tangible personal property, or, alternatively, the
269 acquisition or use of that property shall be exempt by law
270 from such sales or use tax.

271 d. The leased tangible personal property shall be
272 installed in or about an industrial plant or other real
273 property that was specially constructed or modified for the
274 location and use of the tangible personal property and that is
275 owned, or considered to be owned, for either Alabama or
276 federal income tax purposes, or both, by a corporation,
277 partnership, or other entity controlled by, or under common
278 control with, the lessee of such tangible personal property.

279 e. The leased tangible property shall be used only by a
280 lessee engaged in the iron and steel industry, and the



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281 exemption from the tax levied by this article shall apply only
282 to the gross proceeds derived from leases that become binding
283 contracts of the parties thereto within 180 calendar days
284 following the date on which the act adding the exemption
285 contained in this subsection ~~(14)~~ shall become effective.

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

292 (16)a. The gross receipts from the leasing or rental of
293 aircraft replacement parts, components, systems, sundries, and
294 supplies affixed to, used on, or that became part of, aircraft
295 brought into the state and used, or to be used, by certified
296 or licensed air carrier to undergo conversion,
297 reconfiguration, or general maintenance while temporarily
298 within this state.

299 1. Under this subdivision an aircraft shall be
300 considered not permanently domiciled in Alabama during the
301 term of the lease if either of the following non-exclusive
302 conditions is true:

303 (i) The hanger, airstrip, or other housing unit in
304 which the aircraft is primarily based, departs from, and
305 returns to in its normal operation is located outside of
306 Alabama; or

307 (ii) The purchaser's headquarters is not in Alabama on
308 the date of purchase, and the aircraft will be operated either



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309 by a: (1) certificated air carrier holding certificate of
310 public convenience under 49 U.S.C. §40102; or (2) a foreign
311 air carrier or intrastate air carrier, as defined by 49 U.S.C.
312 §40102.

313 b. The exemption provided in this subdivision shall not
314 apply to county or municipal rental or lease taxes unless
315 approved by resolution or ordinance adopted by the local
316 governing body.

317 c. The exemption provided in this subdivision shall be
318 effective from September 1, 2025, to August 31, 2030."

319 Section 5. This act shall become effective on June 1,
320 2025.



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House of Representatives

324 Read for the first time and referred11-Feb-25
325 to the House of Representatives
326 committee on Ways and Means
327 Education
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329 Read for the second time and placed05-Mar-25
330 on the calendar:
331 1 amendment
332
333 Read for the third time and passed18-Mar-25
334 as amended
335 Yeas 101
336 Nays 0
337 Abstains 1
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John Treadwell
Clerk