

HB253 ENROLLED



1 HB253
2 4UUDNI3-3
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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Enrolled, 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 not permanently domiciled in Alabama if either of the following non-exclusive conditions is true:

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



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

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

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

Section 2. (a) The gross receipts from the sale of aircraft delivered in this state and used, or to be used, by certified or licensed air carriers, so long as the aircraft will not be hubbed in Alabama, 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 not permanently domiciled in Alabama if either of the following non-exclusive conditions is true:

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

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



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air carrier or intrastate air carrier, as defined by 49 U.S.C. §40102.

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

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

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

"§40-12-222

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

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

(3) The tax levied in this article shall not apply to any leasing or rental, as lessor, by the state, or any municipality or county in the state, or any public corporation



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85 organized under the laws of the state, including, without
86 limiting the generality of the foregoing, any corporation
87 organized under the provisions of Sections 11-54-80 through
88 11-54-101.

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

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

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

105 (1) Except for automotive vehicles as provided in
106 subdivision (2) and commercial aircraft as provided in
107 subdivision (3), the following shall apply:

108 a. When tangible personal property is delivered to the
109 lessee by the lessor or his or her agent, the privilege or
110 license tax levy shall be determined based on where the
111 property is delivered.

112 b. When tangible personal property is picked up at the



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lessor's rental location by the lessee or his or her agent, the privilege or license tax levy shall be determined based on the rental location.

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

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

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

(3) For commercial aircraft, which are aircraft used by certificated or licensed air carriers, the privilege or license tax levy on gross proceeds, including the initial lease or rental payment and all subsequent lease or rental



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141 payments, shall be determined based on the location of the
142 aircraft when the aircraft is first entered into revenue
143 service."

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

146 "§40-12-223

147 There are exempted from the computation of the amount
148 of the tax levied, assessed, or payable under this article all
149 of the following:

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

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

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

162 (4) The gross proceeds accruing from the leasing or
163 rental of tangible personal property to a lessee who acquires
164 possession of the property for the purpose of leasing or
165 renting to another the same property under a leasing or rental
166 transaction subject to this article.

167 (5) The gross proceeds accruing from any charge made by
168 a landlord to a tenant in respect to the leasing or furnishing



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of tangible personal property to be used on the premises of any room or rooms, lodging, or accommodations leased or rented to transients in any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration.

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

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

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

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

(10) The gross proceeds accruing from the leasing or



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rental of all structures, devices, facilities, and identifiable components of any thereof acquired primarily for the control, reduction, or elimination of air or water pollution, and the gross proceeds accruing from the leasing or rental of all materials used or intended for use in structures built primarily for the control, reduction, or elimination of air and water pollution.

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

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

(13) The gross proceeds accruing from the leasing or rental of aircraft, replacement parts, components, systems, sundries, and supplies affixed or used on the aircraft and all ground support equipment and vehicles used by or for the



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aircraft to or by a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate, or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words "hub operation within this state" shall be construed to have both of the following criteria:

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

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

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

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

b. The leased tangible personal property, or the right to ownership thereof, shall have been acquired by the lessor from the lessee or a corporation, partnership, or other entity controlled by, or under common control with, that lessee and leased back to the lessee under a lease that is considered a



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253 lease and not a sale for either Alabama or federal income tax
254 purposes, or both, and that has a term of not less than 15
255 years, except that the lessor and the lessee may agree in the
256 lease or any subsequent amendment thereof for the termination
257 of the lease on any date through purchase of the leased
258 tangible personal property by the lessee, which right to
259 purchase the property shall be exercisable solely at the
260 option of the lessee.

261 c. The appropriate sales or use tax levied by the state
262 shall have been paid with respect to the acquisition or use of
263 the leased tangible personal property, or, alternatively, the
264 acquisition or use of that property shall be exempt by law
265 from such sales or use tax.

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

274 e. The leased tangible property shall be used only by a
275 lessee engaged in the iron and steel industry, and the
276 exemption from the tax levied by this article shall apply only
277 to the gross proceeds derived from leases that become binding
278 contracts of the parties thereto within 180 calendar days
279 following the date on which the act adding the exemption
280 contained in this subsection ~~(14)~~ shall become effective.



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

(16)a. The gross receipts from the leasing or rental 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.

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

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

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

b. The exemption provided in this subdivision shall not



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309 apply to county or municipal rental or lease taxes unless
310 approved by resolution or ordinance adopted by the local
311 governing body.

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

314 Section 5. This act shall become effective on June 1,
315 2025.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and
was passed by the House 18-Mar-25.

John Treadwell
Clerk

Senate

24-Apr-25

Amended and Passed

House

Concurred in Senate
Amendment