

HB253 INTRODUCED



1 HB253
2 3FQUZZV-1
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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SYNOPSIS:

This bill would exempt the gross receipts from the sale of certain aircraft and aircraft parts from state sales and use tax.

In addition, this bill would exempt the gross receipts from the leasing or rental of certain aircraft parts from the payment of state lease or rental tax.

This bill would also provide for municipalities and counties to exempt these purchases from local sales, use, and rental or lease taxes.

This bill would also provide conditions regarding the application of rental or lease taxes to the rental or lease transactions of commercial aircraft.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

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



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

37 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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



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57 air carrier or intrastate air carrier, as defined by 49 U.S.C.
58 §40102.

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

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

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

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

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

77 b. The purchaser's headquarters is not in Alabama on
78 the date of purchase, and the aircraft will be operated either
79 by a: (1) certificated air carrier holding certificate of
80 public convenience under 49 U.S.C. §40102; or (2) a foreign
81 air carrier or intrastate air carrier, as defined by 49 U.S.C.
82 §40102.

83 (b) The exemption provided in this section shall not
84 apply to county or municipal sales or use taxes unless



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85 approved by resolution or ordinance adopted by the local
86 governing body.

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

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

91 "§40-12-222

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

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

106 (3) The tax levied in this article shall not apply to
107 any leasing or rental, as lessor, by the state, or any
108 municipality or county in the state, or any public corporation
109 organized under the laws of the state, including, without
110 limiting the generality of the foregoing, any corporation
111 organized under the provisions of Sections 11-54-80 through
112 11-54-101.



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

118 (b) Notwithstanding subsection (a), nothing shall
119 prohibit a lessor subject to a state or local privilege or
120 license tax from passing the amounts on to a lessee by adding
121 the taxes to the leasing price or otherwise; provided,
122 however, that all amounts passed on to the lessee shall be
123 includable in the gross proceeds derived from the lease of
124 tangible personal property which shall be subject to the
125 privilege or license tax owed by the lessor.

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

129 (1) Except for automotive vehicles as provided in
130 subdivision (2) and commercial aircraft as provided in
131 subdivision (3), the following shall apply:

132 a. When tangible personal property is delivered to the
133 lessee by the lessor or his or her agent, the privilege or
134 license tax levy shall be determined based on where the
135 property is delivered.

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

140 (2) For automotive vehicles required to be registered



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141 pursuant to Section 32-6-61, each lease payment is considered
142 a separate lease transaction and occurs in the location as
143 provided below and the following rules shall apply:

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

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

161 (3) For commercial aircraft, which are aircraft used by
162 certificated or licensed air carriers, the privilege or
163 license tax levy on gross proceeds, including the initial
164 lease or rental payment and all subsequent lease or rental
165 payments, shall be determined based on the location of the
166 aircraft when the aircraft is first entered into revenue
167 service."

168 Section 4. Section 40-12-223, Code of Alabama 1975 is



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169 amended to read as follows:

170 "§40-12-223

171 There are exempted from the computation of the amount
172 of the tax levied, assessed, or payable under this article all
173 of the following:

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

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

180 (3) The gross proceeds accruing from any charge made by
181 a landlord to a tenant in respect of the leasing or furnishing
182 of tangible personal property to be used on the premises of
183 real property leased by the same landlord to the same tenant
184 for use as a residence or dwelling place, including mobile
185 homes.

186 (4) The gross proceeds accruing from the leasing or
187 rental of tangible personal property to a lessee who acquires
188 possession of the property for the purpose of leasing or
189 renting to another the same property under a leasing or rental
190 transaction subject to this article.

191 (5) The gross proceeds accruing from any charge made by
192 a landlord to a tenant in respect to the leasing or furnishing
193 of tangible personal property to be used on the premises of
194 any room or rooms, lodging, or accommodations leased or rented
195 to transients in any hotel, motel, inn, tourist camp, tourist
196 cabin, or any other place in which rooms, lodgings, or



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197 accommodations are regularly furnished to transients for a
198 consideration.

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

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

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

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

220 (10) The gross proceeds accruing from the leasing or
221 rental of all structures, devices, facilities, and
222 identifiable components of any thereof acquired primarily for
223 the control, reduction, or elimination of air or water
224 pollution, and the gross proceeds accruing from the leasing or



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253 subdivision, the words "hub operation within this state" shall
254 be construed to have both of the following criteria:

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

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

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

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

272 b. The leased tangible personal property, or the right
273 to ownership thereof, shall have been acquired by the lessor
274 from the lessee or a corporation, partnership, or other entity
275 controlled by, or under common control with, that lessee and
276 leased back to the lessee under a lease that is considered a
277 lease and not a sale for either Alabama or federal income tax
278 purposes, or both, and that has a term of not less than 15
279 years, except that the lessor and the lessee may agree in the
280 lease or any subsequent amendment thereof for the termination



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281 of the lease on any date through purchase of the leased
282 tangible personal property by the lessee, which right to
283 purchase the property shall be exercisable solely at the
284 option of the lessee.

285 c. The appropriate sales or use tax levied by the state
286 shall have been paid with respect to the acquisition or use of
287 the leased tangible personal property, or, alternatively, the
288 acquisition or use of that property shall be exempt by law
289 from such sales or use tax.

290 d. The leased tangible personal property shall be
291 installed in or about an industrial plant or other real
292 property that was specially constructed or modified for the
293 location and use of the tangible personal property and that is
294 owned, or considered to be owned, for either Alabama or
295 federal income tax purposes, or both, by a corporation,
296 partnership, or other entity controlled by, or under common
297 control with, the lessee of such tangible personal property.

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

305 (15) The gross proceeds accruing from a motor vehicle
306 lease transaction for a duration of at least 180 days with the
307 federal government, or any state, county, or municipal entity
308 within the state, including a public school board or an



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309 individual public school, or any entity eligible for a sales
310 tax exemption under federal law or Section 40-23-5.

311 (16)a. The gross receipts from the leasing or rental of
312 aircraft replacement parts, components, systems, sundries, and
313 supplies affixed to, used on, or that became part of, aircraft
314 brought into the state and used, or to be used, by certified
315 or licensed air carrier to undergo conversion,
316 reconfiguration, or general maintenance while temporarily
317 within this state.

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

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

326 (ii) The purchaser's headquarters is not in Alabama on
327 the date of purchase, and the aircraft will be operated either
328 by a: (1) certificated air carrier holding certificate of
329 public convenience under 49 U.S.C. §40102; or (2) a foreign
330 air carrier or intrastate air carrier, as defined by 49 U.S.C.
331 §40102.

332 b. The exemption provided in this subdivision shall not
333 apply to county or municipal sales or use taxes unless
334 approved by resolution or ordinance adopted by the local
335 governing body.

336 c. The exemption provided in this subdivision shall be



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337 effective from September 1, 2025, to August 31, 2030."

338 Section 5. This act shall become effective on June 1,

339 2025.