

1 HB62
2 215410-1
3 By Representative Robbins
4 RFD: Ways and Means General Fund
5 First Read: 11-JAN-22
6 PFD: 01/06/2022

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8 SYNOPSIS: This bill would exempt leases to a nonprofit
9 corporation from lease tax.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT

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15 Relating to lease tax exemptions; to amend Section
16 40-12-223, Code of Alabama 1975, as last amended by Act
17 2021-221, 2021 Regular Session, to exempt leases to nonprofit
18 corporations from lease tax.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 40-12-223, Code of Alabama 1975,
21 as last amended by Act 2021-221, 2021 Regular Session, is
22 amended to read as follows:

23 "§40-12-223.

24 "There are exempted from the computation of the
25 amount of the tax levied, assessed, or payable under this
26 article all of the following:

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

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

7 "(3) The gross proceeds accruing from any charge
8 made by a landlord to a tenant in respect of the leasing or
9 furnishing of tangible personal property to be used on the
10 premises of real property leased by the same landlord to the
11 same tenant for use as a residence or dwelling place,
12 including mobile homes.

13 "(4) The gross proceeds accruing from the leasing or
14 rental of tangible personal property to a lessee who acquires
15 possession of the property for the purpose of leasing or
16 renting to another the same property under a leasing or rental
17 transaction subject to this article.

18 "(5) The gross proceeds accruing from any charge
19 made by a landlord to a tenant in respect to the leasing or
20 furnishing of tangible personal property to be used on the
21 premises of any room or rooms, lodging, or accommodations
22 leased or rented to transients in any hotel, motel, inn,
23 tourist camp, tourist cabin, or any other place in which
24 rooms, lodgings, or accommodations are regularly furnished to
25 transients for a consideration.

26 "(6) The gross proceeds accruing from the leasing or
27 rental of tangible personal property which the state is

1 prohibited from taxing under the Constitution or laws of the
2 United States or under the constitution of the state.

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

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

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

19 "(10) The gross proceeds accruing from the leasing
20 or rental of all structures, devices, facilities, and
21 identifiable components of any thereof acquired primarily for
22 the control, reduction, or elimination of air or water
23 pollution, and the gross proceeds accruing from the leasing or
24 rental of all materials used or intended for use in structures
25 built primarily for the control, reduction, or elimination of
26 air and water pollution.

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

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

18 "(13) The gross proceeds accruing from the leasing
19 or rental of aircraft, replacement parts, components, systems,
20 sundries, and supplies affixed or used on the aircraft and all
21 ground support equipment and vehicles used by or for the
22 aircraft to or by a certificated or licensed air carrier with
23 a hub operation within this state, for use in conducting
24 intrastate, interstate, or foreign commerce for transporting
25 people or property by air. For the purpose of this
26 subdivision, the words hub operation within this state shall
27 be construed to have both of the following criteria:

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

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

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

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

18 "b. The leased tangible personal property, or the
19 right to ownership thereof, shall have been acquired by the
20 lessor from the lessee or a corporation, partnership, or other
21 entity controlled by, or under common control with, that
22 lessee and leased back to the lessee under a lease that is
23 considered a lease and not a sale for either Alabama or
24 federal income tax purposes, or both, and that has a term of
25 not less than 15 years, except that the lessor and the lessee
26 may agree in the lease or any subsequent amendment thereof for
27 the termination of the lease on any date through purchase of

1 the leased tangible personal property by the lessee, which
2 right to purchase the property shall be exercisable solely at
3 the option of the lessee.

4 "c. The appropriate sales or use tax levied by the
5 state shall have been paid with respect to the acquisition or
6 use of the leased tangible personal property, or,
7 alternatively, the acquisition or use of that property shall
8 be exempt by law from such sales or use tax.

9 "d. The leased tangible personal property shall be
10 installed in or about an industrial plant or other real
11 property that was specially constructed or modified for the
12 location and use of the tangible personal property and that is
13 owned, or considered to be owned, for either Alabama or
14 federal income tax purposes or both, by a corporation,
15 partnership, or other entity controlled by, or under common
16 control with, the lessee of such tangible personal property.

17 "e. The leased tangible property shall be used only
18 by a lessee engaged in the iron and steel industry, and the
19 exemption from the tax levied by this article shall apply only
20 to the gross proceeds derived from leases that become binding
21 contracts of the parties thereto within 180 calendar days
22 following the date on which the act adding the exemption
23 contained in this subsection (14) shall become effective.

24 "(15) The gross proceeds accruing from a motor
25 vehicle lease transaction for a duration of at least 180 days
26 with the federal government, or any state, county, or
27 municipal entity within the state, including a public school

1 board or an individual public school, or any entity eligible
2 for a sales tax exemption under federal law or Section
3 40-23-5.

4 "(16) The gross proceeds accruing from the leasing
5 or rental of tangible personal property to a lessee who is a
6 nonprofit corporation as defined in Section 10A-3-1.02."

7 Section 2. This act shall become effective on
8 October 1, 2022, following its passage and approval by the
9 Governor, or its otherwise becoming law.