

1 HB155  
2 198709-3  
3 By Representative Clouse  
4 RFD: Ways and Means General Fund  
5 First Read: 19-MAR-19

1  
2 ENROLLED, An Act,

3           Relating to privilege or license taxes on the  
4 leasing or rental of tangible personal property; to amend  
5 Section 40-12-222 of the Code of Alabama 1975, to make  
6 specific provisions concerning the payment and collection of  
7 state and local lease taxes; and to provide that this act is  
8 declaratory of existing law and shall apply retroactively to  
9 all open tax periods.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11           Section 1. Section 40-12-222 of the Code of Alabama  
12 1975, is amended to read as follows:

13           "§40-12-222.

14           "(a) In addition to all other taxes now imposed by  
15 law, there is hereby levied and shall be collected as herein  
16 provided a privilege or license tax on each person engaging or  
17 continuing within this state in the business of leasing or  
18 renting tangible personal property at the rate of four percent  
19 of the gross proceeds derived by the lessor from the lease or  
20 rental of tangible personal property; provided, that the said  
21 privilege or license tax on each person engaging or continuing  
22 within this state in the business of leasing or renting any  
23 automotive vehicle or truck trailer, semitrailer, or house  
24 trailer shall be at the rate of one and one-half percent of  
25 the gross proceeds derived by the lessor from the lease or

1 rental of such automotive vehicle or truck trailer,  
2 semitrailer, l or house trailer; provided further, that the tax  
3 levied in this article shall not apply to any leasing or  
4 rental, as lessor, by the state, or any municipality or county  
5 in the state, or any public corporation organized under the  
6 laws of the state, including, without limiting the generality  
7 of the foregoing, any corporation organized under the  
8 provisions of Sections 11-54-80 through 11-54-101; provided  
9 further, that the privilege or license tax on each person or  
10 firm engaging or continuing within this state in the business  
11 of the leasing and rental of linens and garments shall be at  
12 the rate of two percent of the gross proceeds derived by the  
13 lessor from the lease or rental of ~~such~~ the linens and  
14 garments.

15 "(b) Notwithstanding the above, nothing shall  
16 prohibit a lessor subject to a state or local privilege or  
17 license tax from passing ~~such~~ the amounts on to a lessee by  
18 adding ~~such~~ the taxes to the leasing price or otherwise<sup>7</sup>;  
19 provided, however, that all ~~such~~ amounts passed on to the  
20 lessee shall be includable in the gross proceeds derived from  
21 the lease of tangible personal property which shall be subject  
22 to the privilege or license tax owed by the lessor.

23 "Provided, however, the authority to pass on ~~such~~  
24 the amounts of the privilege or license tax granted in this  
25 subsection shall not apply to the leasing or renting of

1 tangible personal property to the State of Alabama, or a  
2 municipality, or county in the state, unless the flat amount  
3 collected by the lessor includes both the tax and the leasing  
4 fee.

5 "(c) The state and applicable local privilege or  
6 license taxes applicable to a lease or rental transaction to  
7 which a lessor is subject shall be determined as follows:

8 "(1) Except for automotive vehicles as provided in  
9 subdivision (2), the following shall apply:

10 "a. When tangible personal property is delivered to  
11 the lessee by the lessor or his or her agent, the privilege or  
12 license tax levy shall be determined based on where the  
13 property is delivered.

14 "b. When tangible personal property is picked up at  
15 the lessor's rental location by the lessee or his or her  
16 agent, the privilege or license tax levy shall be determined  
17 based on the rental location.

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

23 "a. The privilege or license tax levy on any  
24 nonrecurring gross proceeds due at the inception of the lease  
25 to a new motor vehicle dealer or a used motor vehicle dealer

1 licensed pursuant to Section 40-12-391, including any  
2 capitalized cost reduction or other fee that is retained by  
3 the dealer in connection with its initiation of the lease,  
4 shall be determined based on the location of the dealer where  
5 the lease was initiated.

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

15 Section 2. The provisions of this act are  
16 declaratory of existing law and shall apply retroactively to  
17 all open tax years and tax periods for which a preliminary  
18 assessment or final assessment could be entered pursuant to  
19 Section 40-2A-7, Code of Alabama 1975, or any successor  
20 general or local law. No assessments of a privilege or license  
21 tax on the leasing or rental of tangible personal property  
22 shall be entered and no refunds shall be due or issued  
23 pursuant to the rental tax sourcing clarifications provided in  
24 subsection (c) of Section 40-12-222, Code of Alabama 1975, as

1 amended by this act, with respect to those periods prior to  
2 the effective date of this act.

3 Section 3. This act shall become effective the first  
4 day of the third month following its passage and approval by  
5 the Governor, or its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

---

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 04-APR-19.

Jeff Woodard  
Clerk

Senate	<hr/> 18-APR-19 <hr/>	Amended and Passed
House	<hr/> 23-APR-19 <hr/>	Concurred in Senate Amendment