

1 HB383
2 198753-3
3 By Representative McMillan
4 RFD: Ways and Means Education
5 First Read: 09-APR-19

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENROLLED, An Act,

Relating to sales, use, and lodgings taxes; to provide for additional filing frequency options and amount limits for the filing of sales, use, and lodgings tax reports.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-23-7, 40-23-68, 40-26-3, Code of Alabama 1975, are amended to read as follows:

"§40-23-7.

"(a) The taxes levied under the provisions of this division, except as otherwise provided in subsection (d), shall be due and payable in monthly installments on or before the 20th day of the month next succeeding the month in which the tax accrues.

"(b) Except as otherwise provided in subsection (d) on or before the 20th day of each month, every person on whom the taxes levied by this division are imposed shall report to the department, on a form prescribed by the department, a true and correct statement showing such information as the department may require, and shall pay to the department the amount of taxes shown to be due.

"(c) Any taxpayer liable for taxes under the provisions of this division whose average monthly state sales tax liability was two thousand five hundred dollars (\$2,500) or greater during the preceding calendar year shall make

1 estimated payments to the department on or before the 20th day
2 of the month in which the liability occurs as follows:

3 "(1) The amount of the first estimated payment shall
4 be 66 2/3 percent of the taxpayer's actual tax liability for
5 the month of October 1983; thereafter the amounts of the
6 payment shall be the lesser of 66 2/3 percent of the
7 taxpayer's actual tax liability for the same calendar month of
8 the preceding year or 66 2/3 percent of the current month's
9 estimated liability.

10 "(2) Any outstanding credit or deficit arising from
11 the taxpayer's overpayment or underpayment of his final
12 liability shall be applied to either increase or reduce, as
13 the case may be, that month's final tax liability which shall
14 be reported and paid not later than the 20th day of the month
15 next succeeding the month in which the tax accrues.

16 "(3) The provisions of this subsection shall not
17 apply to the provisions of Sections 11-51-180, 11-51-200,
18 40-12-4, nor to any municipal or county taxes levied by past
19 or future special or local acts of the Legislature.

20 "~~(d) When the total state sales tax for which any~~
21 ~~person is liable under this division averages less than two~~
22 ~~hundred dollars (\$200) per month during the preceding calendar~~
23 ~~year, a quarterly return and remittance in lieu of the monthly~~
24 ~~returns may be made, by election of the taxpayer to the~~
25 ~~department, on or before the 20th day of the month next~~

1 ~~succeeding the end of the quarter for which the tax is due~~
2 ~~under any rules and regulations as may be prescribed. The~~
3 ~~election to file quarterly shall be made in writing no later~~
4 ~~than February 20 of each year and shall be filed with the~~
5 ~~department. Notwithstanding the above, no state sales tax~~
6 ~~return shall be due until January 20 of each year unless the~~
7 ~~total state sales tax for which any person is liable under~~
8 ~~this division during the preceding calendar year exceeds ten~~
9 ~~dollars (\$10). Taxpayers meeting the criteria set forth in the~~
10 ~~subdivisions of this subsection may elect to file quarterly,~~
11 ~~semi-annually, or annually. Any election to file quarterly,~~
12 ~~semi-annually, or annually shall be made in writing no later~~
13 ~~than February 20 of each year and shall be filed with the~~
14 ~~department in the manner prescribed by the department.~~
15 ~~Qualifying taxpayers electing to file quarterly,~~
16 ~~semi-annually, or annually, shall report to the department, on~~
17 ~~a form prescribed by the department, a true and correct~~
18 ~~statement showing such information as the department may~~
19 ~~require. Qualifying taxpayers shall pay to the department the~~
20 ~~amount of tax shown to be due on or before the applicable~~
21 ~~deadlines, under any rules and regulations as may be~~
22 ~~prescribed, as follows:~~

23 "(1) When the total state sales tax for which any
24 person is liable under this division is less than \$2,400
25 during the preceding calendar year, the person may elect to

1 file quarterly returns. Quarterly returns and payments of the
2 amount of tax shown to be due shall be due on or before the
3 20th day of the month next succeeding the end of the quarter
4 for which the tax is due.

5 "(2) When the total state sales tax for which any
6 person is liable under this division is less than \$1,200
7 during the preceding calendar year, or the person liable for
8 the tax has made retail sales in this state during no more
9 than two, thirty consecutive day periods during the preceding
10 calendar year, the person may file semi-annual returns. The
11 semi-annual returns and payment of the amount of the tax shown
12 to be due shall be due on or before July 20 and January 20
13 following the end of the six-month period for which the tax is
14 due.

15 "(3) When the total state sales tax for which any
16 person is liable under this division during the preceding
17 calendar year is less than six hundred dollars (\$600), or the
18 person liable for the tax has made retail sales in this state
19 during no more than one, thirty consecutive day period during
20 the preceding calendar year, the person may elect to file an
21 annual return. The annual return and payment of the tax shown
22 to be due shall be due on or before January 20 following the
23 end of the annual period for which the tax is due.

24 "(e) The department, for good cause, may extend the
25 time for making any state or state-administered return

1 required under the provisions of this division, but the time
2 for filing any such return shall not be extended for a period
3 greater than 30 days from the date such return is due to be
4 made.

5 "§40-23-68.

6 "(a) Except as otherwise provided in subsection (f),
7 the tax imposed by this article shall be due and payable to
8 the department monthly on or before the 20th day of the month
9 next succeeding each month during which the storage, use or
10 other consumption of tangible personal property became taxable
11 hereunder.

12 "(b) Every seller or person engaged in making retail
13 sales of tangible personal property for storage, use or other
14 consumption in this state, who alternatively:

15 "(1) Maintains, occupies, or uses, permanently or
16 temporarily, directly or indirectly, or through a subsidiary,
17 or agent by whatever name called, an office, place of
18 distribution, sales or sample room or place, warehouse or
19 storage place or other place of business;

20 "(2) Qualifies to do business or registers with the
21 state to collect the tax levied by this chapter;

22 "(3) Employs or retains under contract any
23 representative, agent, salesman, canvasser, solicitor or
24 installer operating in this state under the authority of the
25 person or its subsidiary for the purpose of selling,

1 delivering, or the taking of orders for the sale of tangible
2 personal property or any services taxable under this chapter
3 or otherwise solicits and receives purchases or orders by any
4 agent or salesman;

5 "(4) Solicits, pursuant to a contract with a
6 broadcaster or publisher located in this state, orders for
7 tangible personal property by means of advertising which is
8 disseminated primarily to consumers located in this state and
9 only secondarily to bordering jurisdiction;

10 "(5) Solicits orders for tangible personal property
11 by mail if the solicitations are substantial and recurring and
12 if the retailer benefits from any banking, financing, debt
13 collection, telecommunication, or marketing activities
14 occurring in this state or benefits from the location in this
15 state of authorized installation, servicing, or repair
16 facilities. Notwithstanding the previous sentence, a seller
17 who contracts with a provider of call center services shall
18 not be deemed to benefit from telecommunication activities
19 occurring in this state or from the location in this state of
20 authorized installation, servicing, or repair facilities
21 merely as a result of contracting for and receiving only call
22 center services from a call center located in this state. The
23 preceding sentence shall only apply for call centers, as
24 authorized or specified in Division 3 of Article 17 of Chapter

1 10 of Title 41, and placed in service in this state on or
2 before October 1, 2003;

3 "(6) Has, under a franchise or licensing arrangement
4 or contract, a franchisee or licensee operating under its
5 trade name;

6 "(7) Solicits, pursuant to a contract with a cable
7 television operator located in this state, orders for tangible
8 personal property by means of advertising which is transmitted
9 or distributed over a cable television system in this state;

10 "(8) Solicits orders for tangible personal property
11 by means of a telecommunication or television shopping system
12 which is intended by the person to be broadcast by cable
13 television or other means of broadcasting, to consumers
14 located in this state;

15 "(9) Maintains any other contact with this state
16 that would allow this state to require the seller to collect
17 and remit the tax due under the provisions of the Constitution
18 and laws of the United States; or

19 "(10) Distributes catalogs or other advertising
20 matter and by reason thereof receives and accepts orders from
21 residents, within the State of Alabama,
22 shall be subject to all the provisions of this chapter and
23 shall, except as otherwise provided in subsection (f), on or
24 before the 20th day of the month following the close of each
25 month file with the department a return for the preceding

1 month in such form as may be prescribed by the department
2 showing the total sales price of the tangible personal
3 property sold by such seller, the storage, use, or consumption
4 of which became subject to the tax imposed by this article
5 during the preceding month and such other information as the
6 department may deem necessary for the proper administration of
7 this article.

8 "(c) The return shall be accompanied by a remittance
9 of the amount of tax herein required to be collected by the
10 seller during the period covered by the return. Returns shall
11 be signed by the seller or his duly authorized agent but need
12 not be verified by oath.

13 "(d) Except as otherwise provided in subsection (f),
14 every person purchasing tangible personal property, the
15 storage, use, or other consumption of which is subject to the
16 tax imposed by this article, and who has not paid the tax due
17 with respect thereto to a seller required or authorized
18 hereunder to collect the tax, shall on or before the 20th day
19 of the month following the close of each month file with the
20 department a return for the preceding month in such form as
21 may be prescribed by the department showing the total sales
22 price of the tangible personal property purchased by such
23 person, the storage, use, or other consumption of which became
24 subject to the tax imposed by this article during the
25 preceding month and with respect to which the tax was not paid

1 to a seller required or authorized hereunder to collect the
2 tax, and such other information as the department may deem
3 necessary for the proper administration of this article. The
4 return shall be accompanied by a remittance of the amount of
5 tax herein imposed and not paid to a seller required or
6 authorized hereunder to collect the tax during the period
7 covered by the return. Returns shall be signed by the person
8 liable for the tax or his duly authorized agent, but need not
9 be verified by oath.

10 "(e) For the purpose of the proper administration of
11 this article and to prevent evasion of the tax and the duty to
12 collect the same herein imposed, it shall be presumed that
13 tangible personal property sold by any person for delivery in
14 this state is sold for storage, use, or other consumption in
15 this state unless the person selling such property has taken
16 from the purchaser a certificate signed by and bearing the
17 name and address of the purchaser to the effect that the
18 property was purchased for resale, and it shall be further
19 presumed that tangible personal property shipped to this state
20 by the purchaser thereof was purchased from a retailer on and
21 after March 1, 1939, for storage, use, or other consumption in
22 this state. Except as otherwise provided in subsection (f),
23 any seller making cash and credit sales for storage, use, or
24 other consumption in Alabama may report such cash sales and
25 shall thereafter include in each monthly report all credit

1 collections made during the preceding month, and shall pay the
2 taxes due thereon at the time of filing such report, but in no
3 event shall the gross proceeds of credit sales be included in
4 the measure of the tax to be paid until collections of such
5 credit sales shall have been made.

6 ~~"(f) When the total state use tax for which any~~
7 ~~person is liable under this division averages less than two~~
8 ~~hundred dollars (\$200) per month during the preceding calendar~~
9 ~~year, a quarterly return and remittance in lieu of the monthly~~
10 ~~returns may be made, by election of the taxpayer to the~~
11 ~~department, on or before the 20th day of the month next~~
12 ~~succeeding the end of the quarter for which the tax is due~~
13 ~~under such rules and regulations as may be prescribed by the~~
14 ~~department. The election Taxpayers meeting the criteria set~~
15 ~~forth in the subdivisions of this subsection may elect to file~~
16 ~~quarterly, semi-annually, or annually. Any election to file~~
17 ~~quarterly, semi-annually, or annually shall be made in writing~~
18 ~~no later than February 20 of each year and shall be filed with~~
19 ~~the department in the manner prescribed by the department. The~~
20 ~~department, for good cause, may extend the time for making any~~
21 ~~return required under the provisions of this chapter, but the~~
22 ~~time for filing any such return shall not be extended for a~~
23 ~~period greater than 30 days from the date such return is due~~
24 ~~to be made. Qualifying taxpayers electing to file quarterly,~~
25 ~~semi-annually, or annually, shall report to the department, on~~

1 a form prescribed by the department, a true and correct
2 statement showing such information as the department may
3 require. Qualifying taxpayers shall pay to the department the
4 amount of tax shown to be due on or before the applicable
5 deadlines, under any rules and regulations as may be
6 prescribed, as follows: ~~Notwithstanding the above, no state~~
7 ~~use tax return shall be due until January 20 of each year~~
8 ~~unless the total state use tax for which any person is liable~~
9 ~~under this division during the preceding calendar year exceeds~~
10 ~~ten dollars (\$10).~~

11 "(1) When the total state use tax for which any
12 person is liable under this article is less than \$2,400 during
13 the preceding calendar year, the person may elect to file
14 quarterly returns. Quarterly returns and payment of the amount
15 of tax shown to be due shall be due on or before the 20th day
16 of the month next succeeding the end of the quarter for which
17 the tax is due under such rules and regulations as may be
18 prescribed by the department.

19 "(2) When the total state use tax for which any
20 person is liable under this article is less than \$1,200 for
21 the preceding calendar year or the person liable for the tax
22 has made no more than two transactions subject to use tax
23 during the preceding calendar year, the person may elect to
24 file semi-annual returns. The semi-annual returns and payment
25 of the tax shown to be due shall be due on or before July 20

1 and January 20 following the end of the six-month period for
2 which the tax is due.

3 "(3) When the total state use tax for which any
4 person is liable under this article during the preceding
5 calendar year is less than six hundred dollars (\$600) or the
6 person liable for the tax has made no more than one
7 transaction subject to use tax during the preceding calendar
8 year, the person may elect to file an annual return. The
9 annual return and payment of the tax shown to be due shall be
10 due on or before January 20 following the end of the annual
11 period for which the tax is due.

12 "§40-26-3.

13 "(a) The taxes levied under the provisions of this
14 chapter, except as otherwise provided in paragraph (b), shall
15 be due and payable in monthly installments on or before the
16 twentieth day of the month next succeeding the month in which
17 the tax accrues. On or before the twentieth day of each month
18 after this chapter has taken effect, every person, firm or
19 corporation on whom the taxes levied by this chapter are
20 imposed shall render to the Department of Revenue, hereinafter
21 referred to as the department, on a form prescribed by the
22 department, a true and correct statement showing the gross
23 proceeds of the business for the next preceding month,
24 together with such other information as the department may
25 demand and require, and at the time of making such monthly

1 report the taxpayer shall compute the taxes due and shall pay
2 to the department the amount of taxes shown to be due. ~~The~~
3 ~~department, for good cause, may extend the time for making any~~
4 ~~return required under the provisions of this chapter, but the~~
5 ~~time for filing any such return shall not be extended for a~~
6 ~~period greater than 30 days from the date such return is due~~
7 ~~to be made.~~

8 "(b) Taxpayers meeting the criteria set forth in the
9 subdivisions of this subsection may elect to file quarterly,
10 semi-annually, or annually. Any such election to file
11 quarterly, semi-annually, or annually shall be made in writing
12 no later than February 20 of each year and shall be filed with
13 the department in the manner prescribed by the department. The
14 department, for good cause, may extend the time for making any
15 return required under the provisions of this chapter, but the
16 time for filing any such return shall not be extended for a
17 period greater than 30 days from the date such return is due
18 to be made. Qualifying taxpayers electing to file quarterly,
19 semi-annually, or annually, shall report to the department, on
20 a form prescribed by the department, a true and correct
21 statement showing such information as the department may
22 require. Qualifying taxpayers shall pay to the department the
23 amount of tax shown to be due on or before the applicable
24 deadlines, under any rules and regulations as may be
25 prescribed, as follows:

1 "(1) When the total state transient occupancy tax
2 for which any person is liable under this chapter is less than
3 \$2,400 during the preceding calendar year, the person may
4 elect to file quarterly returns. Quarterly returns and the
5 amount of tax shown to be due shall be due on or before the
6 20th day of the month next succeeding the end of the quarter
7 for which the tax is due.

8 "(2) When the total state transient occupancy tax
9 for which any person is liable under this chapter is less than
10 \$1,200 during the preceding calendar year or the person liable
11 for the tax has provided accommodations during no more than
12 two, thirty consecutive day periods during the preceding
13 calendar year, the person may elect to file semi-annual
14 returns. The semi-annual returns and payment of the tax shown
15 to be due shall be due on or before July 20 and January 20
16 following the end of the six-month period for which the tax is
17 due. (3) When the total state transient occupancy tax for
18 which any person is liable under this chapter is less than six
19 hundred dollars (\$600) for the preceding calendar year or the
20 person liable for the tax provides accommodations during no
21 more than one, thirty consecutive day period during the
22 preceding calendar year, the person may elect to file an
23 annual return. The annual return and payment of the tax shown
24 to be due shall be due on or before January 20 following the
25 end of the annual period for which the tax is due.

1 Section 2. Section 40-23-6.1, is hereby added to the
2 Code of Alabama 1975, as follows:

3 §40-23-6.1

4 The commissioner may, subject to the appeal
5 provisions allowed in Chapter 2A of Title 40, suspend or
6 revoke a license, or deny a license application or renewal,
7 issued under Sections 40-12-221, 40-23-6, or 40-23-66 for
8 reasonable cause including the following:

9 (1) Fraud practiced or any material misstatement in
10 the license application.

11 (2) Changes of conditions in ownership or business
12 structure after a license is granted or the failure to engage
13 in or continue to engage in business for which the license is
14 issued.

15 (3) Failure to comply with the provisions of Chapter
16 12 and Chapter 23 of Title 40, or any rule promulgated
17 thereunder.

18 (4) Failure to provide or maintain a surety bond as
19 required in section 40-23-6.

20 (c) The Department of Revenue may adopt rules to
21 administer this section.

22 Section 3. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by 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 30-APR-19, as amended.

Jeff Woodard
Clerk

Senate

16-MAY-19

Passed