

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

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8 SYNOPSIS: Under current law, sales and use taxpayers
9 are required to file reports monthly or quarterly.
10 In addition, lodgings taxpayers are required to
11 file reports monthly. This bill would provide
12 qualifying seasonal sales, use, and lodgings
13 taxpayers the option to file on a quarterly,
14 semi-annual, or annual basis.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 Relating to sales, use, and lodgings taxes; to
21 provide for additional filing frequency options and amount
22 limits for the filing of sales, use, and lodgings tax reports.
23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 "§40-23-7.

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

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

13 "(c) Any taxpayer liable for taxes under the
14 provisions of this division whose average monthly state sales
15 tax liability was two thousand five hundred dollars (\$2,500)
16 or greater during the preceding calendar year shall make
17 estimated payments to the department on or before the 20th day
18 of the month in which the liability occurs as follows:

19 "(1) The amount of the first estimated payment shall
20 be 66 2/3 percent of the taxpayer's actual tax liability for
21 the month of October 1983; thereafter the amounts of the
22 payment shall be the lesser of 66 2/3 percent of the
23 taxpayer's actual tax liability for the same calendar month of
24 the preceding year or 66 2/3 percent of the current month's
25 estimated liability.

26 "(2) Any outstanding credit or deficit arising from
27 the taxpayer's overpayment or underpayment of his final

1 liability shall be applied to either increase or reduce, as
2 the case may be, that month's final tax liability which shall
3 be reported and paid not later than the 20th day of the month
4 next succeeding the month in which the tax accrues.

5 "(3) The provisions of this subsection shall not
6 apply to the provisions of Sections 11-51-180, 11-51-200,
7 40-12-4, nor to any municipal or county taxes levied by past
8 or future special or local acts of the Legislature.

9 ~~"(d) When the total state sales tax for which any~~
10 ~~person is liable under this division averages less than two~~
11 ~~hundred dollars (\$200) per month during the preceding calendar~~
12 ~~year, a quarterly return and remittance in lieu of the monthly~~
13 ~~returns may be made, by election of the taxpayer to the~~
14 ~~department, on or before the 20th day of the month next~~
15 ~~succeeding the end of the quarter for which the tax is due~~
16 ~~under any rules and regulations as may be prescribed. The~~
17 ~~election to file quarterly shall be made in writing no later~~
18 ~~than February 20 of each year and shall be filed with the~~
19 ~~department. Notwithstanding the above, no state sales tax~~
20 ~~return shall be due until January 20 of each year unless the~~
21 ~~total state sales tax for which any person is liable under~~
22 ~~this division during the preceding calendar year exceeds ten~~
23 ~~dollars (\$10). Taxpayers meeting the criteria set forth in the~~
24 subdivisions of this subsection may elect to file quarterly,
25 semi-annually, or annually. Any election to file quarterly,
26 semi-annually, or annually shall be made in writing no later
27 than February 20 of each year and shall be filed with the

1 department in the manner prescribed by the department.
2 Qualifying taxpayers electing to file quarterly,
3 semi-annually, or annually, shall report to the department, on
4 a form prescribed by the department, a true and correct
5 statement showing such information as the department may
6 require. Qualifying taxpayers shall pay to the department the
7 amount of tax shown to be due on or before the applicable
8 deadlines, under any rules and regulations as may be
9 prescribed, as follows:

10 "(1) When the total state sales tax for which any
11 person is liable under this division is less than \$2,400
12 during the preceding calendar year, the person may elect to
13 file quarterly returns. Quarterly returns and payments of the
14 amount of tax shown to be due shall be due on or before the
15 20th day of the month next succeeding the end of the quarter
16 for which the tax is due.

17 "(2) When the total state sales tax for which any
18 person is liable under this division is less than \$1,200
19 during the preceding calendar year, or the person liable for
20 the tax has made retail sales in this state during no more
21 than two, thirty consecutive day periods during the preceding
22 calendar year, the person may file semi-annual returns. The
23 semi-annual returns and payment of the amount of the tax shown
24 to be due shall be due on or before July 20 and January 20
25 following the end of the six-month period for which the tax is
26 due.

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

10 "(e) The department, for good cause, may extend the
11 time for making any state or state-administered return
12 required under the provisions of this division, but the time
13 for filing any such return shall not be extended for a period
14 greater than 30 days from the date such return is due to be
15 made.

16 "§40-23-68.

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

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

26 "(1) Maintains, occupies, or uses, permanently or
27 temporarily, directly or indirectly, or through a subsidiary,

1 or agent by whatever name called, an office, place of
2 distribution, sales or sample room or place, warehouse or
3 storage place or other place of business;

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

6 "(3) Employs or retains under contract any
7 representative, agent, salesman, canvasser, solicitor or
8 installer operating in this state under the authority of the
9 person or its subsidiary for the purpose of selling,
10 delivering, or the taking of orders for the sale of tangible
11 personal property or any services taxable under this chapter
12 or otherwise solicits and receives purchases or orders by any
13 agent or salesman;

14 "(4) Solicits, pursuant to a contract with a
15 broadcaster or publisher located in this state, orders for
16 tangible personal property by means of advertising which is
17 disseminated primarily to consumers located in this state and
18 only secondarily to bordering jurisdiction;

19 "(5) Solicits orders for tangible personal property
20 by mail if the solicitations are substantial and recurring and
21 if the retailer benefits from any banking, financing, debt
22 collection, telecommunication, or marketing activities
23 occurring in this state or benefits from the location in this
24 state of authorized installation, servicing, or repair
25 facilities. Notwithstanding the previous sentence, a seller
26 who contracts with a provider of call center services shall
27 not be deemed to benefit from telecommunication activities

1 occurring in this state or from the location in this state of
2 authorized installation, servicing, or repair facilities
3 merely as a result of contracting for and receiving only call
4 center services from a call center located in this state. The
5 preceding sentence shall only apply for call centers, as
6 authorized or specified in Division 3 of Article 17 of Chapter
7 10 of Title 41, and placed in service in this state on or
8 before October 1, 2003;

9 "(6) Has, under a franchise or licensing arrangement
10 or contract, a franchisee or licensee operating under its
11 trade name;

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

16 "(8) Solicits orders for tangible personal property
17 by means of a telecommunication or television shopping system
18 which is intended by the person to be broadcast by cable
19 television or other means of broadcasting, to consumers
20 located in this state;

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

25 "(10) Distributes catalogs or other advertising
26 matter and by reason thereof receives and accepts orders from
27 residents, within the State of Alabama,

1 shall be subject to all the provisions of this chapter and
2 shall, except as otherwise provided in subsection (f), on or
3 before the 20th day of the month following the close of each
4 month file with the department a return for the preceding
5 month in such form as may be prescribed by the department
6 showing the total sales price of the tangible personal
7 property sold by such seller, the storage, use, or consumption
8 of which became subject to the tax imposed by this article
9 during the preceding month and such other information as the
10 department may deem necessary for the proper administration of
11 this article.

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

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

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

12 "(e) For the purpose of the proper administration of
13 this article and to prevent evasion of the tax and the duty to
14 collect the same herein imposed, it shall be presumed that
15 tangible personal property sold by any person for delivery in
16 this state is sold for storage, use, or other consumption in
17 this state unless the person selling such property has taken
18 from the purchaser a certificate signed by and bearing the
19 name and address of the purchaser to the effect that the
20 property was purchased for resale, and it shall be further
21 presumed that tangible personal property shipped to this state
22 by the purchaser thereof was purchased from a retailer on and
23 after March 1, 1939, for storage, use, or other consumption in
24 this state. Except as otherwise provided in subsection (f),
25 any seller making cash and credit sales for storage, use, or
26 other consumption in Alabama may report such cash sales and
27 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
26 a form prescribed by the department, a true and correct
27 statement showing such information as the department may

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

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

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

26 "(3) When the total state use tax for which any
27 person is liable under this article during the preceding

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

8 "§40-26-3.

9 "(a) The taxes levied under the provisions of this
10 chapter, except as otherwise provided in paragraph (b), shall
11 be due and payable in monthly installments on or before the
12 twentieth day of the month next succeeding the month in which
13 the tax accrues. On or before the twentieth day of each month
14 after this chapter has taken effect, every person, firm or
15 corporation on whom the taxes levied by this chapter are
16 imposed shall render to the Department of Revenue, hereinafter
17 referred to as the department, on a form prescribed by the
18 department, a true and correct statement showing the gross
19 proceeds of the business for the next preceding month,
20 together with such other information as the department may
21 demand and require, and at the time of making such monthly
22 report the taxpayer shall compute the taxes due and shall pay
23 to the department the amount of taxes shown to be due. ~~The~~
24 ~~department, for good cause, may extend the time for making any~~
25 ~~return required under the provisions of this chapter, but the~~
26 ~~time for filing any such return shall not be extended for a~~

1 ~~period greater than 30 days from the date such return is due~~
2 ~~to be made.~~

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

21 "(1) When the total state transient occupancy tax
22 for which any person is liable under this chapter is less than
23 \$2,400 during the preceding calendar year, the person may
24 elect to file quarterly returns. Quarterly returns and the
25 amount of tax shown to be due shall be due on or before the
26 20th day of the month next succeeding the end of the quarter
27 for which the tax is due.

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

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.