HB105

L3ZCWWW-1

By Representative Lee

RFD: Ways and Means General Fund

First Read: 06-Feb-24

SYNOPSIS:

Under existing law, the state levies a transient occupancy tax on the furnishing of rooms, lodging, or accommodations to transients for consideration.

This bill would exclude certain registered vehicles and vessels from this tax under certain conditions.

Also under existing law, the state levies a tax for the lease or rental of certain vehicles. This bill would exclude certain vehicles and vessels from this tax under certain conditions.

A BILL

TO BE ENTITLED

AN ACT

Relating to the transient occupancy tax; to amend Section 40-26-1, Code of Alabama 1975, to exempt certain registered vehicles and vessels from the transient occupancy tax under certain conditions; relating to the rental or lease tax; to amend Section 40-12-223, Code of Alabama 1975, to exempt certain vehicles and vessels from the rental or lease tax under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-26-1 and 40-12-223, Code of Alabama 1975, are amended to read as follows:

"§40-26-1

(a) There is levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon every person, firm, or corporation engaging in the business of renting or furnishing any room or rooms, lodging, or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin, marine slip, place or space for tent camping, place or space provided for a motor home, travel trailer, self-propelled camper or house car, truck camper, or similar recreational vehicle commonly known as a R.V., or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration, in any county which is located in the geographic region comprising the Alabama mountain lakes area, those being Blount, Cherokee, Colbert, Cullman, DeKalb, Etowah, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, and Winston, in an amount to be determined by the application of the rate of five percent of the charge for such room, rooms, lodgings, or accommodations, including the charge for use or rental of personal property and services furnished in such room, and the rate of four percent of the charge in every other county. There is exempted from the tax levied under this chapter any rentals or services taxed under Division 1 of Article 1 of Chapter 23 of this title.

(b) The tax shall not apply to rooms, lodgings, or accommodations supplied: (i) For a period of 180 continuous days or more in any place; (ii) by camps, conference centers, or similar facilities operated by nonprofit organizations primarily for the benefit of, and in connection with, recreational or educational programs for children, students, or members or guests of other nonprofit organizations during any calendar year; or (iii) by privately operated camps, conference centers, or similar facilities that provide lodging and recreational or educational programs exclusively for the benefit of children, students, or members or guests of nonprofit organizations during any calendar year.

(c) For purposes of subsection (b): "Children" means individuals under age 21; "student" is defined in accordance with 26 U.S.C. § 151(c)(4), as in effect from time to time or by any successor law; "nonprofit organization" is an organization exempt from federal income tax under 26 U.S.C. § 501(c)(3), as in effect from time to time or any successor law; and "privately operated" refers to any camp, conference center, or similar facility other than those operated by a nonprofit organization as herein defined.

(d) For transactions entered into on or after ~~October~~September 1, ~~2019~~2024, the tax shall not apply to any of the following which are supplied for a period of 60 continuous days or more:

(1) Marine~~marine~~ slips~~,~~.

(2) Places~~places~~ or spaces for tent camping~~, or~~.

(3) Places~~places~~ or spaces provided for motor homes, travel trailers, self-propelled campers or house cars, truck

campers, or similar recreational vehicles commonly known as R.V.~~s,~~.

(4) Any vehicle or vessel required to be registered pursuant to Title 40 or Title 32, respectively, continuously occupying any slip, place, or space provided in subdivisions (1) through (3)~~which are supplied for a period of 90 continuous days or more in any place~~.

(e)(1) Charges made for the rental of a ballroom, dining room, club room, sample room, conference room, wedding chapel, or similar room or space that is not intended nor suitable for overnight sleeping purposes and that is not used for overnight sleeping purposes is not subject to the tax levied pursuant to this chapter if the charges for the rental are separately stated by the facility and the room or space is used exclusively as a room or space for a meeting, conference, seminar, club meeting, private party, or similar activity.

(2) The exclusion provided in subdivision (1) applies solely to the transient occupancy tax levied under this chapter and does not apply to any other taxes, licenses, or fees except a separately stated rental charge for a meeting room or other space excluded pursuant to subdivision (1) is also excluded from the tax levied by Chapter 23 of Title 40."

"§40-12-223

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

(1) The gross proceeds accruing from the leasing or rental of a film or films to a lessee who charges, or proposes

to charge, admission for viewing the film or films.

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

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

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

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

(6) The gross proceeds accruing from the leasing or rental of tangible personal property which the state is prohibited from taxing under the Constitution or laws of the United States or under the constitution of the state.

(7) The gross proceeds accruing from the leasing or

rental of nuclear fuel assemblies together with the nuclear material contained therein and other nuclear material used or useful in the production of electricity and assemblies containing ionizing radiation sources together with the ionizing radiation sources contained therein used or useful in medical treatment or scientific research.

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

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

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

(11) The gross proceeds derived by the lessor, which term includes a sublessor, from the leasing or rental of tangible personal property when the lessor and lessee, which term includes a sublessee, are wholly-owned subsidiary corporations of the same parent corporation or one is the

wholly-owned subsidiary of the other; provided, that the appropriate sales or use tax, if any was due, has been paid on the item of personal property; and provided further, that in the event of any subsequent subleasing of the tangible personal property to any person other than any sister, parent, or subsidiary corporation, any privilege or license tax due and payable with respect to that subsequent subleasing under the provisions of this article shall be paid.

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

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

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

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

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

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

b. The leased tangible personal property, or the right to ownership thereof, shall have been acquired by the lessor from the lessee or a corporation, partnership, or other entity controlled by, or under common control with, that lessee and leased back to the lessee under a lease that is considered a lease and not a sale for either Alabama or federal income tax purposes, or both, and that has a term of not less than 15 years, except that the lessor and the lessee may agree in the lease or any subsequent amendment thereof for the termination of the lease on any date through purchase of the leased tangible personal property by the lessee, which right to purchase the property shall be exercisable solely at the option of the lessee.

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

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

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

(15) The gross proceeds accruing from a motor vehicle lease transaction for a duration of at least 180 days with the federal government, or any state, county, or municipal entity within the state, including a public school board or an individual public school, or any entity eligible for a sales tax exemption under federal law or Section 40-23-5.

(16) The gross proceeds accruing from the leasing or rental of a vehicle or vessel exempt from taxation pursuant to of Section 40-26-1(d)."

Section 2. This act shall become effective on September 1, 2024.