

HB131 ENGROSSED



1 HB131
2 IL9AWZW-2
3 By Representatives Butler, Gidley
4 RFD: State Government
5 First Read: 07-Feb-24



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A BILL
TO BE ENTITLED
AN ACT

To amend Sections 40-9-30 and 40-9-60, Code of Alabama, 1975, to require certain health care providers to obtain a certificate of exemption from the Department of Revenue to make sales tax exempt purchases of certain durable medical equipment and medical supplies; and to provide further for the issuance of certificates of exemption.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-9-30 and 40-9-60, Code of Alabama 1975, are amended to read as follows:

"§40-9-30

(a) As used in this section, the term "durable medical equipment" means equipment which can stand repeated use, is used to serve a purpose for medical reasons, and is appropriate and suitable for use in the home.

(b) Oxygen or durable medical equipment dispensed under orders from a duly licensed physician by a participating provider to a recipient of benefits under the Medicare program shall be exempt from state and local sales and use taxes.

(c) A provider who rents or leases oxygen or durable medical equipment to a recipient of benefits under the



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Medicare or Medicaid program under orders from a duly licensed physician shall be exempt from all state and local rental and leasing taxes.

(d) (1) In addition to any other exemptions provided in subsection (b) or (c), any items used for the treatment of illness or injury or to replace all or part of a limb or internal body part purchased by or on behalf of an individual pursuant to a valid prescription and covered by and billed to Medicare, Medicaid, or a health benefit plan shall be exempt from state, county, and municipal sales, use, and rental and leasing taxes, including, but not limited to, any of the following: Durable medical equipment, including repair parts and the disposable or single patient use supplies required for the use of the equipment; medical oxygen and related equipment and supplies; prosthetic and orthotic devices; and medical supplies, as defined and covered under the Medicare program, including, but not limited to, items such as catheters, catheter supplies, ostomy bags and supplies related to ostomy care, specialized wound care products, and similar items that are covered by and billed to Medicare, Medicaid, or a health benefit plan.

(2) Beginning September 1, 2024, any health care provider claiming an exemption pursuant to this subsection shall obtain and maintain a certificate of exemption from the Department of Revenue, in accordance with the provisions of Section 40-9-60, prior to the purchase and shall provide the certificate to the seller at the time of the purchase."

"§40-9-60



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(a) All persons or companies, including, but not limited to, those cited in this chapter, other than governmental entities, which have statutory exemption from the payment of Alabama sales and use taxes levied in, including, but not limited to, Chapter 23, or lodgings taxes levied in Chapter 26, regardless of the type of transaction or whether the tangible personal property is subject to sales and use tax or whether the accommodations are subject to lodgings tax, shall be required to annually obtain a certificate of exemption from the Department of Revenue. This requirement does not supersede or replace the provisions of Section 40-9-14.1 or any other provision of statute requiring an entity to obtain a certificate of exemption.

Except as otherwise provided in this title, this ~~This~~ article only applies to entities that have been granted a general exemption from sales, use, or lodging taxes. Except as otherwise provided in this title, the ~~The~~ requirements of this article are not triggered by the purchase of tangible personal property that is exempt from sales and use tax.

(1) For purposes of this article, the term governmental entity means the Federal Government, the State of Alabama, Alabama public schools, Alabama public universities, healthcare authorities, airport authorities, Alabama counties and municipalities, and public corporations incorporated under any of the provisions of Chapter 50 of Title 11, Chapter 50A of Title 11, Chapter 5 of Title 37, or Chapter 7 of Title 39.

(2) The term governmental entity does not include public corporations, other than those public corporations



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described in subdivision (1), private schools, or private universities.

(3) For purposes of this article, the term lodgings tax means Transient Occupancy Tax, levied in Chapter 26.

(4) For the purposes of this article, the terms person or company shall have the same meaning as prescribed in Section 40-23-1.

(b) Certificates of exemption shall be valid for one year from the date of issuance and shall be renewed annually each subsequent year. Any person or company that fails to obtain or renew a certificate of exemption prior to its expiration may not make tax exempt purchases or rent tax exempt accommodations after the expiration. The Department of Revenue may assess any person or company with state and local sales, use, and lodgings tax for any transaction conducted with a certificate of exemption not properly accounted for and reported as required in Section 40-9-61. Any reports required by the Department of Revenue shall be filed as a prerequisite to the renewal of a certificate of exemption.

(c) Any person or company that intentionally uses a certificate of exemption in violation of its intended purpose, in addition to the actual sales, use, and lodgings tax liability due, shall be subject to a civil penalty levied by the Department of Revenue in an amount of not less than two-thousand dollars (\$2,000) or two times any state and local sales, use, and lodgings tax due for the transactions, whichever is greater, and based on the person or company's willful misuse of the certificate of exemption, may be barred



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from the use of any certificate of exemption for up to two years.

(d) Except as otherwise provided in this title, this
~~This~~ section shall be operative for all applicable exempt persons or companies on January 1, 2016.

(e) The Department of Revenue may adopt rules to administer and implement this section and may adopt rules requiring an annual exemption certificate for persons or companies not subject to subsection (a), other than government entities, providing for an annual information report from such persons or companies, and imposing penalties equivalent to the penalties provided for in subsection (c) for noncompliance by such persons or companies in order to verify exemptions and make reports to the Legislature."

Section 2. This act shall become effective immediately.



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House of Representatives

131 Read for the first time and referred07-Feb-24
132 to the House of Representatives
133 committee on State Government
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135 Read for the second time and placed21-Feb-24
136 on the calendar:
137 0 amendments
138
139 Read for the third time and passed22-Feb-24
140 as amended
141 Yeas 101
142 Nays 0
143 Abstains 0
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145
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John Treadwell
Clerk