

1 HB149
2 154664-1
3 By Representative Johnson (R)
4 RFD: Ways and Means Education
5 First Read: 14-JAN-14
6 PFD: 01/10/2014

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SYNOPSIS: Under existing law, when a used automotive part or vehicle is taken as a credit on a new or rebuilt part or a vehicle, sales tax is due on the net difference in price, or when the used automotive part or core is later returned, the purchaser is generally refunded the value of the returned used part or core plus any sales tax originally paid. However, by exception in the law, when a used automotive battery is taken as a credit on a new battery, this provision does not apply and sales tax is due on the full purchase price of the new battery without regard to any credit for the return of the old battery.

This bill would delete the above exception on the trade-in of a used automotive battery for a new battery. The sales tax due would be based on the net price of a new automotive battery less any credit for return of the old battery.

A BILL

1 TO BE ENTITLED

2 AN ACT

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4 Relating to sales tax; to amend Section 40-23-2 of
5 the Code of Alabama 1975, providing generally that sales tax
6 is levied on the net difference in the price when a used
7 automotive part is taken in an exchange in the purchase of a
8 new part or rebuilt part, to delete an exception on the
9 purchase of a new automotive battery requiring sales tax to be
10 paid on the full purchase price when an old battery is
11 exchanged or returned.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 40-23-2 of the Code of Alabama
14 1975, is amended to read as follows:

15 "§40-23-2.

16 "There is levied, in addition to all other taxes of
17 every kind now imposed by law, and shall be collected as
18 herein provided, a privilege or license tax against the person
19 on account of the business activities and in the amount to be
20 determined by the application of rates against gross sales, or
21 gross receipts, as the case may be, as follows:

22 "(1) Upon every person, firm, or corporation,
23 (including the State of Alabama and its Alcoholic Beverage
24 Control Board in the sale of alcoholic beverages of all kinds,
25 the University of Alabama, Auburn University, and all other
26 institutions of higher learning in the state, whether the
27 institutions be denominational, state, county, or municipal

1 institutions, any association or other agency or
2 instrumentality of the institutions) engaged or continuing
3 within this state, in the business of selling at retail any
4 tangible personal property whatsoever, including merchandise
5 and commodities of every kind and character, (not including,
6 however, bonds or other evidences of debts or stocks, nor
7 sales of material and supplies to any person for use in
8 fulfilling a contract for the painting, repair, or
9 reconditioning of vessels, barges, ships, other watercraft,
10 and commercial fishing vessels of over five tons load
11 displacement as registered with the U.S. Coast Guard and
12 licensed by the State of Alabama Department of Conservation
13 and Natural Resources), an amount equal to four percent of the
14 gross proceeds of sales of the business except where a
15 different amount is expressly provided herein. Provided,
16 however, that any person engaging or continuing in business as
17 a retailer and wholesaler or jobber shall pay the tax required
18 on the gross proceeds of retail sales of the business at the
19 rates specified, when his or her books are kept so as to show
20 separately the gross proceeds of sales of each business, and
21 when his or her books are not kept he or she shall pay the tax
22 as a retailer, on the gross sales of the business.

23 "Where any used part including tires of an
24 automotive vehicle or a truck trailer, semitrailer, or house
25 trailer is taken in trade, or in a series of trades, as a
26 credit or part payment on the sale of a new or rebuilt part or
27 tire, the tax levied herein shall be paid on the net

1 difference, that is, the price of the new or used part or tire
2 sold less the credit for the used part or tire taken in trade,
3 ~~provided, however, this provision shall not be construed to~~
4 ~~include batteries.~~

5 "(2) Upon every person, firm, or corporation engaged
6 or continuing within this state in the business of conducting
7 or operating places of amusement or entertainment, billiard
8 and pool rooms, bowling alleys, amusement devices, musical
9 devices, theaters, opera houses, moving picture shows,
10 vaudevilles, amusement parks, athletic contests, including
11 wrestling matches, prize fights, boxing and wrestling
12 exhibitions, football and baseball games, (including athletic
13 contests, conducted by or under the auspices of any
14 educational institution within this state, or any athletic
15 association thereof, or other association whether the
16 institution or association be a denominational, a state, or
17 county, or a municipal institution, or association or a state,
18 county, or city school, or other institution, association or
19 school), skating rinks, race tracks, golf courses, or any
20 other place at which any exhibition, display, amusement, or
21 entertainment is offered to the public or place or places
22 where an admission fee is charged, including public bathing
23 places, public dance halls of every kind and description
24 within the State of Alabama, an amount equal to four percent
25 of the gross receipts of any such business. Provided, however,
26 notwithstanding any language to the contrary in the prior
27 portion of this subdivision, the tax provisions so specified

1 shall not apply to any athletic event conducted by a public or
2 nonpublic primary or secondary school or any athletic event
3 conducted by or under the auspices of the Alabama High School
4 Athletic Association. The tax amount which would have been
5 collected pursuant to this subdivision shall continue to be
6 collected by the public or nonpublic primary or secondary
7 school, but shall be retained by the school which collected it
8 and shall be used by the school for school purposes.

9 "(3) Upon every person, firm, or corporation engaged
10 or continuing within this state in the business of selling at
11 retail machines used in mining, quarrying, compounding,
12 processing, and manufacturing of tangible personal property an
13 amount equal to one and one-half percent of the gross proceeds
14 of the sale of the machines. The term "machine," as herein
15 used, shall include machinery which is used for mining,
16 quarrying, compounding, processing, or manufacturing tangible
17 personal property, and the parts of the machines, attachments,
18 and replacements therefor, which are made or manufactured for
19 use on or in the operation of the machines and which are
20 necessary to the operation of the machines and are customarily
21 so used.

22 "(4) Upon every person, firm, or corporation engaged
23 or continuing within this state in the business of selling at
24 retail any automotive vehicle or truck trailer, semitrailer,
25 or house trailer, or mobile home set-up materials and supplies
26 including but not limited to steps, blocks, anchoring, cable
27 pipes, and any other materials pertaining thereto an amount

1 equal to two percent of the gross proceeds of sale of the
2 automotive vehicle or truck trailer, semitrailer, or house
3 trailer, or mobile home set-up materials and supplies
4 provided, however, where a person subject to the tax provided
5 for in this subdivision withdraws from his or her stock in
6 trade any automotive vehicle or truck trailer, semitrailer, or
7 house trailer for use by him or her or by his or her employee
8 or agent in the operation of the business, there shall be
9 paid, in lieu of the tax levied herein, a fee of five dollars
10 (\$5) per year or part thereof during which the automotive
11 vehicle, truck trailer, semitrailer, or house trailer shall
12 remain the property of the person. Each year or part thereof
13 shall begin with the day or anniversary date, as the case may
14 be, of such withdrawal and shall run for the 12 succeeding
15 months or part thereof during which the automotive vehicle,
16 truck trailer, semitrailer, or house trailer shall remain the
17 property of the person.

18 "Where any used automotive vehicle or truck trailer,
19 semitrailer, or house trailer is taken in trade or in a series
20 of trades, as a credit or part payment on the sale of a new or
21 used vehicle, the tax levied herein shall be paid on the net
22 difference, that is, the price of the new or used vehicle sold
23 less the credit for the used vehicle taken in trade.

24 "Sales of automobiles, motorcycles, trucks, truck
25 trailers, or semitrailers that will be registered or titled
26 outside Alabama, that are exported or removed from Alabama
27 within 72 hours by the purchaser or his or her agent for first

1 use outside Alabama are not subject to the Alabama sales tax.
2 Sales of other vehicles such as mobile homes, motor bikes, all
3 terrain vehicles, and boats do not qualify for the export
4 exemption provision and are taxable unless the dealer can
5 provide factual evidence that the vehicle was delivered
6 outside of Alabama or to a common carrier for transportation
7 outside Alabama. In order for the sale to be exempt from
8 Alabama tax, the information relative to the exempt sale shall
9 be documented on forms approved by the Revenue Department.

10 "Of the total \$.02 tax on each dollar of sale
11 provided hereunder, 58 percent of the total tax generated by
12 this subdivision (4) shall be deposited to the credit of the
13 Education Trust Fund; and 42 percent of the total tax
14 generated by this subdivision (4) shall be deposited to the
15 credit of the State General Fund.

16 "(5) Upon every person, firm, or corporation engaged
17 or continuing within this state in the business of selling
18 through coin-operated dispensing machines, food and food
19 products for human consumption, not including beverages other
20 than coffee, milk, milk products, and substitutes therefor,
21 there is levied a tax equal to three percent of the cost of
22 the food, food products, and beverages sold through the
23 machines, which cost for the purpose of this subdivision shall
24 be the gross proceeds of sales of the business."

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

