

1 SB11
2 208175-2
3 By Senator Givhan
4 RFD: Finance and Taxation Education
5 First Read: 02-FEB-21
6 PFD: 10/01/2020

1 SB11

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4 ENROLLED, An Act,

5 To amend Sections 40-9-14.1 and 40-9-60, Code of
6 Alabama 1975, relating to the tax exemption of airport
7 authorities and certificates of exemption to governmental
8 entities, contractors, etc. for certain tax exempt projects;
9 to exempt airport authorities from sales and use taxes; to
10 include airport authorities among those tax exempt entities
11 whose contractors may receive tax exemption certificates for
12 certain projects; and to include airport authorities among
13 those that are not required to obtain an annual certificate of
14 exemption.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Notwithstanding any other provision of
17 law, beginning January 1, 2020, all airport authorities
18 established pursuant to Chapter 3 of Title 4 of the Code of
19 Alabama 1975, or by local law and contracts entered into by
20 airport authorities on or after January 1, 2020, are exempted
21 from paying any state, county, and municipal sales and use
22 tax.

23 Section 2. Sections 40-9-14.1 and 40-9-60, Code of
24 Alabama 1975, are amended to read as follows:

25 "§40-9-14.1.

1 "(a) For the purposes of this section, the term
2 governmental entity means the State of Alabama and its
3 political subdivisions, including a county, a municipality, an
4 industrial or economic development board or authority, airport
5 authority, and any public water or sewer authority, district,
6 system, or board that otherwise is sales and use tax exempt. A
7 governmental entity shall also include an educational
8 institution of any of the foregoing Alabama political
9 subdivisions including a public college or university, a
10 county or city board of education, and the State Board of
11 Education.

12 "(b) (1) The Department of Revenue shall issue a
13 certificate of exemption to the governmental entity for each
14 tax exempt project.

15 "(2) The Department of Revenue shall grant a
16 certificate of exemption from state and local sales and use
17 taxes to any contractor licensed by the State Licensing Board
18 for General Contractors, or any subcontractor working under
19 the same contract, for the purchase of building materials,
20 construction materials and supplies, and other tangible
21 personal property that becomes part of the structure that is
22 the subject of a written contract for the construction of a
23 building or other project, not to include any contract for the
24 construction of any highway, road, or bridge, for and on

1 behalf of a governmental entity which is exempt from the
2 payment of sales and use taxes.

3 "(c) The use of a certificate of exemption for the
4 purchase of tangible personal property pursuant to this
5 section shall include only tangible personal property that
6 becomes part of the structure that is the subject of the
7 construction contract. Any contractor or subcontractor
8 purchasing any tangible personal property pursuant to a
9 certificate of exemption shall maintain an accurate cost
10 accounting of the purchase and use of the property in the
11 construction of the project.

12 "(d) A contractor who has an exemption from sales
13 and use tax for the purchase of materials to use on a
14 government project shall file, in a manner as prescribed by
15 the department, reports of all exempt purchases. The reports
16 shall be filed as a prerequisite to renewal of a certificate
17 of exemption.

18 "(e) (1) The department may assess any contractor or
19 subcontractor with state and local sales or use taxes on any
20 item purchased with a certificate of exemption not properly
21 accounted for and reported as required.

22 "(2) Any contractor or subcontractor who
23 intentionally uses a certificate of exemption in violation of
24 this section shall, in addition to the actual sales or use tax
25 liability due, be subject to a civil penalty levied by the

1 department in the amount of not less than a minimum of two
2 thousand dollars (\$2,000) or two times any state and local
3 sales or use tax due for the property and, based on the
4 contractor's or subcontractor's willful misuse of the
5 certificate of exemption, may be barred from the use of any
6 certificate of exemption on any project for up to two years.

7 "(f) The department may adopt rules to implement
8 this section in order to effectuate the purposes of this
9 section and to provide for accurate accounting and enforcement
10 of this section.

11 "(g) In bidding the work on a tax exempt project,
12 the bid form shall provide for an accounting for the tax
13 savings.

14 "(h) The intent of this section is to lower the
15 administrative cost for the governmental entity, contractor,
16 and subcontractor for public works projects. It is not the
17 intent of this section to change the basis for determining
18 professional services from fair market value, which may
19 include sales and use taxes.

20 "(i) This section shall be operative for contracts
21 entered into with governmental entities as defined in
22 subsection (a), not including public water or sewer
23 authorities, districts, systems, or boards that otherwise are
24 sales and use tax exempt, on January 1, 2014, or thereafter,
25 and shall not apply to any contract entered into prior to

1 January 1, 2014. This section shall be operative for contracts
2 entered into with public water or sewer authorities,
3 districts, systems, or boards that otherwise are sales and use
4 tax exempt on January 1, 2019, and thereafter, and shall not
5 apply to any contract entered into with such entities prior to
6 January 1, 2019. In addition, this section shall not apply to
7 any contract change orders or contract extensions, including
8 revised, renegotiated, or altered contracts, when the original
9 contract was entered into prior to January 1, 2014, with a
10 governmental entity. Nor shall this section apply to any
11 contract change orders or contract extensions, including
12 revised, renegotiated, or altered contracts with any public
13 water or sewer authority, district, system, or board that
14 otherwise is sales and use tax exempt, when the original
15 contract was entered into prior to January 1, 2019. The
16 Department of Revenue may adopt rules to implement this
17 section.

18 "§40-9-60.

19 "(a) All persons or companies, including, but not
20 limited to, those cited in this chapter, other than
21 governmental entities, which have statutory exemption from the
22 payment of Alabama sales and use taxes levied in, including,
23 but not limited to, Chapter 23 of this title, or lodgings
24 taxes levied in Chapter 26 of this title, regardless of the
25 type of transaction or whether the tangible personal property

1 is subject to sales and use tax or whether the accommodations
2 are subject to lodgings tax, shall be required to annually
3 obtain a certificate of exemption from the Department of
4 Revenue. This requirement does not supersede or replace the
5 provisions of Section 40-9-14.1 or any other provision of
6 statute requiring an entity to obtain a certificate of
7 exemption.

8 "This article only applies to entities that have
9 been granted a general exemption from sales, use, or lodging
10 taxes. The requirements of this article are not triggered by
11 the purchase of tangible personal property that is exempt from
12 sales and use tax.

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

20 "(2) The term governmental entity does not include
21 public corporations, other than those public corporations
22 described in subdivision (1), private schools, or private
23 universities.

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

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

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

19 "(c) Any person or company that intentionally uses a
20 certificate of exemption in violation of its intended purpose,
21 in addition to the actual sales, use, and lodgings tax
22 liability due, shall be subject to a civil penalty levied by
23 the Department of Revenue in an amount of not less than
24 two-thousand dollars (\$2,000) or two times any state and local
25 sales, use, and lodgings tax due for the transactions,

1 whichever is greater, and based on the person or company's
2 willful misuse of the certificate of exemption, may be barred
3 from the use of any certificate of exemption for up to two
4 years.

5 "(d) This section shall be operative for all
6 applicable exempt persons or companies on January 1, 2016.

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

16 Section 3. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB11
Senate 16-MAR-21
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 15-APR-21

Senate concurred in House amendment 20-APR-21

By: Senator Givhan