SB24

164130-3

By Senator Whatley

RFD: Finance and Taxation Education

First Read: 02-FEB-16

PFD: 01/15/2016
SYNOPSIS: Under existing law, a sales and use tax of 1.5 percent is levied by the state on the sale or the use of agricultural machinery and equipment. This bill would provide that the sale or the use of agricultural machinery and equipment would be exempt from state sales or use tax.

A BILL
TO BE ENTITLED
AN ACT

Relating to agriculture; to amend Sections 40-23-37 and 40-23-63 of the Code of Alabama 1975, to provide that the sale or the use, storage, and consumption of agricultural machinery and equipment for use on a farm would be exempt from state sales and use tax; and to repeal Sections 40-23-38 and 40-23-64 of the Code of Alabama 1975, relating to the administration of sales and use tax on agricultural machinery and equipment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Sections 40-23-37 and 40-23-63 of the Code of Alabama 1975, are amended to read as follows:

"§40-23-37.

(a) There is hereby levied, in lieu of the exempt from the state sales tax levied by Section 40-23-2, a privilege or license tax against any person on account of the business activities engaged in and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be as follows:

"Upon every any person, firm or corporation engaged or continuing within this state in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products or for agriculture or agricultural purposes, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, an amount equal to one and one half percent of the gross proceeds of the sale thereof; provided, that the one and one half percent rate exemption provided herein prescribed with respect to parts, attachments and replacements shall not apply to any automotive vehicle or trailer designed primarily for public
highway use, except farm trailers used primarily in the
production and harvesting of agricultural commodities.

"Where any used machine, machinery or equipment
which is used in planting, cultivating and harvesting farm
products, or used in connection with the production of
agricultural produce or products, livestock and poultry on
farms is taken in trade or in a series of trades as a credit
or part payment on a sale of a new or used machine, machinery
or equipment, the tax levied herein shall be paid on the net
difference, that is, the price of the new or used machine,
machinery or equipment sold, less the credit for the used
machine, machinery or equipment taken in trade.

"(b) This exemption shall not apply to a local sales
tax unless previously exempted by local law or approved by
resolution of the local governing body.

"(c) For the purposes of this section, the terms
"agriculture or agricultural" shall have the same meaning as
those terms are defined in subdivision (1) of Section
41-14-51.

"§40-23-63.

"(a) There is hereby levied and imposed an exempt
from the state excise tax on the storage, use, or other
consumption in this state of any machine, machinery, or
equipment which is used in planting, cultivating, and
harvesting farm products or for agriculture or agricultural
purposes, or used in connection with the production of
agricultural produce or products, livestock, or poultry, or
farms, and the parts of such machines, machinery or equipment, attachments, and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery, or equipment, and which are necessary to and customarily used in the operation of such machine, machinery, or equipment, which is purchased at retail after October 1, 1966, for storage, use, or other consumption in this state, at the rate of one and one-half percent of the sales price of such property or the amount of tax collected by the seller, whichever is greater, provided, however, when the seller follows the Department of Revenue's suggested use tax brackets and his records prove that his following said brackets resulted in a net undercollection of tax for the month, he may report the tax due or tax collected whichever is less, regardless of whether the retailer is or is not engaged in business in this state. The tax herein levied and imposed shall be in lieu of the excise tax levied and imposed by Section 40-23-61; provided, that the one and one-half percent rate exemption herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use except farm trailers used primarily in the production and harvesting of agricultural commodities.

"Every person storing, using or otherwise consuming in this state such tangible personal property purchased at retail shall be liable for the tax imposed by this article, and the liability shall not be extinguished until the tax has
been paid to this state; provided, that a receipt from a retailer maintaining a place of business in this state or a retailer authorized by the Department of Revenue under such rules and regulations as the Commissioner of Revenue may prescribe, to collect the tax imposed hereby and who shall for the purpose of this article be regarded as a retailer maintaining a place of business in this state, given to the purchaser in accordance with the provisions of Section 40-23-67, shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer. 

"(b) This exemption shall not apply to a local use tax unless previously exempted by local law or approved by resolution of the local governing body."

"(c) For the purposes of this section, the terms "agriculture or agricultural" shall have the same meaning as those terms are defined in subdivision (1) of Section 41-14-51."

Section 2. Sections 40-23-38 and 40-23-63 of the Code of Alabama 1975, are repealed. 

Section 3. This act shall become effective on October 1, 2016.