

ORDINANCE NO.: 98-2

**AN ORDINANCE LEVYING AND IMPOSING ON LESSORS
OR RENTERS OF TANGIBLE PERSONAL PROPERTY AN
ADDITIONAL LICENSE BASED ON THE GROSS
PROCEEDS OF SUCH BUSINESS OF LEASING OR
RENTING TANGIBLE PERSONAL PROPERTY**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EVA, ALABAMA AS
FOLLOWS:

Section 1. Definitions. The following words, terms, and phrases, when used herein, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) PERSON or COMPANY. Any individual, firm, partnership, association, corporation, receiver, trustee, entity, or any other group or combination acting as a unit, and the plural as well as the singular member.
- (b) TOWN. The Town of Eva, Alabama.
- (c) TOWN CLERK - TREASURER. The Town Clerk of the Town of Eva, Alabama.
- (d) BUSINESS. All activities which may be licensed under Section 11-51-90, Code of Alabama, 1975.
- (e) GROSS PROCEEDS. The value proceeding or accruing from the leasing or rental of tangible personal property, without any deduction on account of the cost of the property so leased or rented, the cost of materials used, labor, or service cost, interest paid or any other expenses whatsoever, and without any deductions on account of loss, and shall also include on the part of any person claiming exemption under Subsection (d) of Section 3 an equal amount to the amount of rental paid on any tangible personal property acquired under such exemption and thereafter diverted to the use of such person.
- (f) LEASING or RENTAL. A transaction whereunder the person who owns or controls the possession of tangible personal property permits another person to have the possession or use thereof for a consideration and for the duration of a definite or indefinite period of time without transfer of the title to such property. The detention by the user, thereof of freight cars, oxygen, and detention a demurrage or per diem charge is made against the user of such property is leased or rented to another within the meaning of this article.
- (g) TANGIBLE PERSONAL PROPERTY. Personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance, or other contracts, or securities.

Section 2. LEVY OF TAX. In addition to all privilege license taxes of every kind now imposed by law, there is hereby levied and shall be collected as herein provided, a privilege or license tax on each person engaging or continuing within the municipal limits of the Town of Eva, Alabama in the business of leasing or renting tangible personal property, and such tax shall be in the amounts to be determined by the application of the rates against gross proceeds as follows:

At the rate of THREE (3) percent of the gross proceeds derived by the lessor or renter from the lease or rental of tangible personal property; provided the privilege or license tax on

Section 3. EXEMPTIONS. There shall be exempted from the computation of any tax due hereunder the following:

- (a) The gross proceeds accruing from the leasing or rental of film to a lessee who charges admission for viewing same;
- (b) 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;
- (c) 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 real property leased by the same landlord to the same tenant for use as a residence or dwelling place, including mobile homes;
- (d) The gross proceeds accruing from the leasing or rental of tangible personal property to a lessee who acquires possession of the same property for the purpose of leasing or renting at another the same property under a leasing or rental transaction subject to a tax hereunder;
- (e) 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;
- (f) The gross proceeds accruing from the leasing or renting of tangible personal property which the Town is prohibited from taxing under the Constitution or laws of the United States or under the Constitution or laws of the state;
- (g) 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;
- (h) The gross proceeds accruing from a transaction whereunder the lessor leases a truck or tractor-trailer or semitrailer for operation over the public roads and highways, and such lessor furnishes a driver for each such vehicle;
- (i) The gross proceeds accruing from the leasing or rental of vehicles in interchange between regulated motor carriers on a per diem basis;
- (j) 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 or water pollution;
- (k) The gross proceeds derived by the lessor (which term includes a sub-lessor) from the leasing or rental of tangible personal property when the lessor and lessee (which term includes a sub-lessee) are wholly-owned subsidiary corporations of the same parent corporation or one is the wholly-owned subsidiary of the other.

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

Section 4. **COLLECTION OF TAX.** The privilege license tax levied hereunder, except as otherwise provided, shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the privilege license tax accrues. On or before such twentieth day every person on whom the amounts levied hereunder are imposed shall render to the Town, on a form the prescribed by the Town, a true and correct statement showing the gross proceeds of his business, for the next preceding month, the amount of gross proceeds which are not subject to the privilege license tax, or are not to be used as a measurement of the amounts due by such person and the nature thereof, together with such other information as the Town may require, and at the time of making such monthly report such person shall compute the privilege license taxes due and shall pay to the Town the amounts shown to be due. If any person subject hereto should fail to tender any report in the statements or returns required hereunder he shall upon conviction be punished as provided in the section listed below as penalty.

Section 5. **REPORTS OF CASH AND CREDIT RENTALS.** Any person taxable hereunder who makes cash or credit leases or rentals, may report such cash leases or rentals only, and he shall thereafter include in each monthly report all credit collections made during the months proceeding, and shall pay the privilege license tax due thereon at the time of filing such report.

Section 6. **RECORDS.** It shall be the duty of every person engaging or continuing in any business for which a privilege tax is imposed hereby to keep and preserve suitable records of the gross proceeds of any such business and such other books or accounts as may be necessary to determine the amount of tax for which he is liable hereunder. It shall be the duty of every person to keep and preserve for a period of three years, all invoices of gross proceeds, proceeding or accruing from the leasing or rental herein taxed and all such books, invoices, and other records shall be open for examination, at any time by the Town or its agent, any persons leasing, who in addition leases for re-leasing. Each occurrence of a failure to keep records or allow examination thereof shall constitute a separate offense.

Section 7. **PENALTY.** Any person who shall fail to keep records as herein required or who shall refuse to permit such examination thereof, or who violated any other provisions hereof shall upon conviction be punishable by such fine as may be fixed by ordinance.

Section 8. **SEVERABILITY.** Should any section, subsection or provision hereof be declared invalid or unconstitutional by any court of competent jurisdiction, the same shall not affect any other section, subsection, or provision hereof.

Section 9. **PENALTY FOR FAILURE TO PAY TAX.** Any person who fails to pay the tax herein levied within the time required by this ordinance shall pay, in addition to the tax, a penalty of ten (10) percent of the amount of the tax due, together with interest thereon at the rate on one (1) percent per month or fraction thereof, from the date at which the tax herein levied became delinquent, that is due and payable, such penalty and interest to be assessed and collected as part of the tax. Provided the Town if a good and sufficient reason is shown, may waive or remit the penalty of ten (10) percent of a portion thereof.

Section 10. **EFFECTIVE DATE.** This ordinance shall become effective on the 1st day of March, 1998 and the first payment of taxes hereunder shall be due and payable on or before the 20th day of April, 1998.