

1 SB76
2 96345-1
3 By Senator Means
4 RFD: Finance and Taxation Education
5 First Read: 05-FEB-08

2
3
4
5
6
7
8 SYNOPSIS: Act 2004-638, effective July 1, 2004,
9 repealed Section 40-9-33 of the Code of Alabama
10 1975, which exempted the gross proceeds of the sale
11 to, or the storage, use, or consumption by, any
12 contractor or subcontractor of tangible personal
13 property incorporated into realty pursuant to a
14 contract with specified governmental and education
15 entities and public corporations.

16 This bill, with certain modifications and
17 additional procedural requirements, effective
18 October 1, 2008, would restore this exemption.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Commencing October 1, 2008, exempting the gross
25 proceeds of the sale to, or the storage, use, or consumption
26 by, any contractor or subcontractor of tangible personal
27 property incorporated into realty pursuant to a contract with

1 specified governmental and educational entities and public
2 corporations.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 40-9-33 is added to the Code of
5 Alabama 1975, to read as follows:

6 (a) Commencing October 1, 2008, the gross proceeds
7 of the sale to, or the storage, use, or consumption by, any
8 contractor or subcontractor of any tangible personal property
9 to be incorporated into realty pursuant to a contract with the
10 United States government, the State of Alabama, a county or
11 incorporated municipality of the State of Alabama, a
12 corporation created for public purposes pursuant to a
13 provision of the Constitution of Alabama of 1901, or a general
14 or local law of the State of Alabama, or any educational
15 institution of the United States government, the State of
16 Alabama, or a county or incorporated municipality of the State
17 of Alabama shall be exempt from all state, county, and
18 municipal sales and use taxes. The exemption provided herein
19 shall not apply to the following:

20 (1) Any purchases of tangible personal property by a
21 contractor or subcontractor for storage, use, or consumption
22 in conjunction with performing a contract with a governmental
23 entity, public corporation, or educational institution that is
24 not itself exempt from state sales and use taxes; or any
25 industrial development board and/or authority.

1 (2) Any purchases by the contractor or subcontractor
2 of tangible personal property that is not incorporated into
3 realty pursuant to the contract.

4 (b) In order to qualify for the exemption provided
5 herein, the contractor or subcontractor shall obtain from the
6 contracting entity an exemption certificate designating the
7 contractor or subcontractor as the agent to purchase any
8 tangible personal property for storage, use, or consumption in
9 connection with the construction project. The exemption
10 certificate shall be valid only until the expiration date set
11 forth in the certificate or until the date of final acceptance
12 of the construction project by the contracting entity,
13 whichever is the latest. The issuance of the exemption
14 certificate and agency appointment shall be made prior to the
15 purchase of the tangible personal property to be stored, used,
16 or consumed in conjunction with performing the contract. All
17 purchase orders and remittance advices issued by contractors
18 or subcontractors shall clearly reflect the agency
19 appointment.

20 (c) The Department of Revenue shall promulgate rules
21 and regulations requiring contractors or subcontractors who
22 qualify for the exemption under subsection (a) to apply for
23 and obtain the exemption certificate and agency appointment
24 which the contractor or subcontractor shall use to claim the
25 exemption when making qualifying tax exempt purchases from
26 vendors. Liability for sales and use taxes found to be due on
27 tax exempt purchases made illegally with these exemption

1 certificates shall be determined in accordance with the
2 provisions of Section 40-23-120, and the collection and
3 recovery of the taxes due shall be made in accordance with
4 Section 40-23-121.

5 Section 2. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.