

## **Ordinance #2019-001**

### **AN ORDINANCE AMENDING ORDINANCE NUMBER 113-X, OF THE CITY OF MOULTON, ALABAMA AND ADOPTING PROCEDURES IN ORDINANCE NUMBER 2019-001 TO IMPOSE A RENTAL OR LEASING TAX.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOULTON, ALABAMA, AS FOLLOWS:**

#### **Definitions- Rental or Lease Tax**

For purposes of this article, the following terms shall have the respective meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Business:** All activities engaged in, or caused to be engaged in, with the object of gain, profit, benefit or advantage, either direct or indirect, and not excepting subactivities producing marketable commodities used or consumed in the main business activity, each of which subactivities shall be considered business engaged in, taxable in the class in which it falls.

**City:** The City of Moulton, Alabama.

**City clerk:** The city clerk/administrator of the City of Moulton, Alabama.

**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 expense whatsoever, and without any deduction on account of loss, and shall also include on the part of any person claiming exemption under Section 40-12-223(4) of the Code of Alabama 1975, an amount equal to the rental paid on any tangible personal property acquired under such exemption and thereafter diverted to the use of such person.

**Leasing or rental:** A transaction where under 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 acetylene tanks and similar property, in respect of which detention a demurrage or per diem charge is made against the user of such property, shall not be deemed to constitute a transaction where under property is leased or rented to another within the meaning of this article.

**Person:** Any natural person, firm, partnership, association, corporation, receiver, trust, estate or other entity, or any other group or combination of any thereof acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

**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.

### **License required-**

If any person shall engage in or continue in any business for which a privilege tax is imposed as a condition precedent to engaging or continuing in such business, he shall apply for and obtain from the city a license to engage in and to conduct such business for the current tax year upon the condition that he shall pay the taxes accruing to the city under the provisions of this article; provided, that no license shall be issued under the provisions of this article to any person who has not complied with the provisions of this article, and no provision of this article shall be construed as relieving any person from the payment of any license or privilege tax now or hereafter imposed by law.

### **Levy and amount of tax-**

There is hereby levied and imposed, in addition to all other taxes now imposed by law, a privilege or license tax upon each person engaging or continuing in this city in the business of leasing or renting tangible personal property at the rate of two (2) percent of the gross proceeds derived by the lessor from the lease or rental of tangible personal property; provided, that the said privilege or license tax on each person engaging or continuing in this city in the business of leasing or renting any automotive vehicle or truck trailer, semitrailer or house trailer shall be at the rate of two (2) percent of the gross proceeds derived by the lessor from the lease or rental of such automotive vehicle or truck trailer, semitrailer or house trailer; provided further, that the tax levied in this article shall not apply to any leasing or rental, as lessor, by the State of Alabama, or any municipality or county in the State of Alabama, or any public corporation organized under the laws of the State of Alabama, or any public corporation organized under the laws of the State of Alabama, including without limiting the generality of the foregoing, any corporation organized under the provisions of Sections 11-54-80 through 11-54-101 of the Code of Alabama 1975; provided further, that the privilege or license tax on each person engaging or continuing in this city in the business of the leasing and rental of linens and garments shall be at the rate of two (2) percent of the gross proceeds derived by the lessor from the lease or rental of such linens and garments.

### **Tax levied in police jurisdiction-**

There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon each person engaging or continuing in the business outside the corporate limits of the city, but within its police jurisdiction, at one-half ( $\frac{1}{2}$ ) the regular rate rates specified in this article.

### **Exemptions-**

There are exempted from the provisions of this article and from the computation of the amount of the tax levied, assessed or payable under this article the gross proceeds derived by the lessor from the lease or rental of tangible personal property: (a) Which are exempted from taxation under the provisions of Article 4, [Chapter 12](#), Title 40, Code of Alabama 1975, entitled "Tax on Leasing or Renting Tangible Personal Property", as the same is now or hereafter amended and all acts supplemental thereto except where inapplicable or where herein otherwise provided; and (b) pursuant to leases or rental contracts in affect before February 1, 2019, provided that the exemption hereby afforded shall not apply to any renewal or extension of such leases or contracts and shall not apply to gross proceeds accruing after January 29, 2021.

### **Collection of tax-**

The provisions of this article shall be administered and the tax herein levied shall be collected by AVENU Insights & Analytics LLC at a rate of one and a half (1.50) percent of gross revenues collected and provided, that wherever in the said provisions the term "gross proceeds of sales" or "gross receipts" shall appear, the same for the purposes of this article shall be construed to mean "gross proceeds" as defined in this article; provided further, that a sale of tangible personal property to any person engaging in the business of leasing or renting such tangible personal property to others, if such tangible personal property is purchased for the purpose of leasing or renting it to others under a transaction subject to the tax levied in this article, shall be deemed to be a "wholesale sale" or a "sale at wholesale" for the purpose of administering the Sales Tax Ordinance and Article VII, Division 3, known as the Use Tax Ordinance; provided further, that a sale of tangible personal property previously purchased at wholesale for the purpose of leasing or renting under a transaction subject to the privilege or license tax levied in this article shall be deemed to be a "retail sale" or a "sale at retail" for the purpose of administering the Sales Tax Ordinance and the Use Tax Ordinance, regardless of whether such sale is to the person who theretofore leased or rented the said tangible property or to some other person; provided further, in the event of the repeal of the Sales Tax Ordinance, such repeal shall not operate to eliminate the tax collection procedures contained herein to the extent they are incorporated in this article by reference, unless the ordinance providing for such repeal shall clearly indicate such a result.

**Proceeds of tax-**

The proceeds derived from the rental tax herein levied shall be placed in the general fund for the City of Moulton, Alabama, subject to appropriation by its city council for any lawful purpose of the city.

**Severability-**

The provisions of this article are severable. If any part of this article is declared invalid or unconstitutional by a court of competent jurisdiction such declaration shall not affect the part which remains.

**Effective date-**

This article shall become effective commencing February 1, 2019.

**This Ordinance shall take effect upon its adoption and publication as provided by law.**

**ADOPTED and APPROVED this 28<sup>th</sup> day of January, 2019.**

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Roger Weatherwax, Mayor

ATTEST:

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Deroma Pepper, City Clerk