

ORDINANCE NO. 97-007

TAX ON RENTORS OR LESSORS OF
TANGIBLE PERSONAL PROPERTY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORDOVA, IN THE
STATE OF ALABAMA, AS FOLLOWS:

SECTION ONE. Definitions. The following words, terms, and phrases when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

"**Business**" shall mean all activities engaged in, or caused to be engaged in, by any person with the object of gain, profit, benefit or advantage, either direct or indirect, to such person.

"**Gross Proceeds**" shall mean 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, but shall not include the gross proceeds accruing from the leasing or renting to another of the same property which is to be leased or rented in a transaction subject to the provisions of this article as long as the lessee in such excluded transaction (who has leased to re-lease) shall not use the same property to its own use; nor shall it include a transaction whereunder the lessor leases a truck or tractor trailer or semitrailer with driver furnished for operation over the public roads and highways, such transaction being deemed to constitute the rendition of service and not a "leasing or rental"; nor shall it include the gross proceeds accruing from charges made by operators of hotels, motels, tourist courts, tourist cabins, lodging houses, and rooming houses renting furnished rooms to transients, nor to furniture and furnishings included with a house, apartment or other residential unit being rented or leased to other persons as a "furnished" residential unit.

"**Leasing or rental**" shall mean a transaction whereunder the person who owns or controls the possession of tangible personal property permits another person in the city 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 of 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 whereunder property is leased or rented to another within the meaning of this article.

"Tangible personal property" shall mean 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 TWO. Levied; rate. There is hereby levied in addition to all privilege license taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against persons on account of the business activities and in the amounts to be determined by the application of rates against gross proceeds as follows:

- (1) Upon each person whose place of business is within the city engaging or continuing to engage in the business of leasing or renting tangible personal property within the city or outside the city, at the rate two per cent (2%) of the gross proceeds derived by the lessor therefrom; provided that the privilege license tax levied in this article shall not apply to any leasing or rental, as lessor, by the United States of America, the State, or any municipality or county in the State.
- (2) Upon each person whose place of business is not within the corporate limits of the city but who engages in or continues in the business of leasing or renting tangible personal property used or to be used within the city at the rate of two per cent (2%) of the gross proceeds derived by the lessor therefrom the tangible personal property used or to be used within the city; provided that the privilege license tax levied in this article shall not apply to any leasing or rental, as lessor, by the United States of America, the State or any municipality or county in the State.

SECTION THREE. Exemptions. There are exempted from the computation of the amount of the privilege license tax levied, assessed or payable under this article the gross proceeds accruing from the leasing or rental of tangible personal property which the city is prohibited from taxing under the Constitution or laws of the United States of America, or under the Constitution and laws of the State.

SECTION FOUR. When payment is due. (a) The privilege license tax levied under the provisions of this article, except as otherwise provided, shall be due and payable in monthly installments on the twentieth (20th) day of the month next succeeding the month in which the privilege license tax accrues. On the twentieth (20th) day of each month, every person on whom the amounts levied by this article are imposed shall render to the city, on a form prescribed by the city, a true and correct statement showing the gross proceeds of its 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 city 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 city the amounts shown to be due.

(b) Such report and such payment shall be delinquent if no rendered and paid on or before the last day of the month in which they are due and payable.

(c) If any person subject to this article should fail to render any report required hereby or should willfully make a false statement of facts in the statements or returns required hereunder he shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Ordinance 94-104.

SECTION FIVE. Reports of cash and credit rentals. Any person taxable under this article making cash and credit leases or rentals may, if he desires, report such cash leases or rentals only, and he shall thereafter include in each monthly report all cash and credit collections made during the month preceding, and shall pay the privilege license tax due thereon at the time of filing such report.

SECTION SIX. Records. (a) It shall be the duty of every person engaging in or continuing in any business for which a privilege tax is imposed by this article 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 under the provisions of this article. It shall be the duty of every person to keep and preserve for a period of three (3) 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 city council or its authorized representative. Any person leasing who in addition leases for re-leasing shall keep his books so as to show separately the gross proceeds of leasing and the gross proceeds of leasing for re-leasing.

(b) The books, records, and accounts mentioned above shall at all times be open to examination by the city council or its authorized representative, upon request by the city council. Upon demand by the city council or its authorized representative, it shall be the duty of any person subject to this license tax to submit to the city council or its authorized representative, for inspection and examination, during reasonable business hours, in the city, all books of account. Each occurrence of a failure to keep records, or allow examination thereof, shall constitute a separate offense.

SECTION SEVEN. Penalty. Any person who shall fail to keep records as required by this article or who shall refuse to permit their examination or who violates any other provision of this article shall be guilty of an offense against the city and upon conviction shall be punished as prescribed in Ordinance #94-104.

SECTION EIGHT. Severability. Each and every provision of this ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void and invalid for any reason shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provision which might have been invalid.

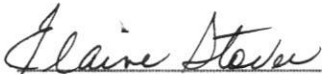
SECTION NINE. Effective date. This ordinance shall become effective on the 1st day of January, 1998, and the first payment of taxes hereunder shall be due and payable on the 20th day of February, 1998. This Ordinance shall remain in full force and effect and shall apply to each month of the year 1998, beginning with the month of January and to each month of each calendar year thereafter from year to year.

SECTION TEN. Adopted and approved this 23rd day of December, 1997.



Mayor/City of Cordova

Attest:



City Clerk