

"AN ACT TO REQUIRE COLLECTION OF THE ARKANSAS COMPENSATING (USE) TAX BY OUT-OF-STATE VENDORS WHO SOLICIT ARKANSAS SALES BY MEANS OF ADVERTISEMENTS IN NEWSPAPERS, MAIL ORDER OR CATALOG PUBLICATIONS, RADIO OR TELEVISION; TO REQUIRE COLLECTION OF THE ARKANSAS GROSS RECEIPTS TAX BY PROVIDERS OF INTERSTATE TELECOMMUNICATIONS SERVICES; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Upon the effective date of this Act, every out-of-state vendor who engages in business in this State through the continuous, regular or systematic solicitation of retail sales by advertisement in the newspaper, radio or television media operating within this State, or through mail order or catalog publications, shall be required to register as a vendor and collect, report and remit the Arkansas Compensating (Use) Tax pursuant to Act 487 of 1949, as amended [Ark. Stat. Ann. 84-3101 et seq.]. Every such vendor shall be required to so register and collect, report and remit the tax even though such vendor's only activity is the solicitation of retail sales by advertisement as described herein.

SECTION 2. Subsection (c)(1) of Section 3 of Act 386 of 1941, as amended, [Ark. Stat. Ann. 84-1903(c)(1)], is hereby amended to read as follows:

(c)(1) Service by telephone, telecommunications and telegraph companies to subscribers or users, including transmission of messages or images, whether local or long distance. Taxable services shall include basic local service and/or rental charges, including all installation and construction charges and all service and rental charges having any connection with transmission of any message or image. Except as provided below, taxable long distance services shall include (a) long distance messages which originate and terminate within this State; (b) interstate long distance messages which originate within this State and terminate outside this State and are billed to an Arkansas telephone number or customer location; (c) interstate long distance messages which originate outside of this State and terminate within this State and are billed to an Arkansas telephone number or customer location. Provided however, the following services shall not be subject to the tax:

1. Any interstate private communications service which is not accessible by the public.

2. Any interstate service which allows access to private telephone lines and which is not accessible by the public; or

3. Any interstate wide area telecommunications service or other similar service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telecommunications service in a specified area which is outside the state in which the station provided with this service is located.

This tax shall apply to all customer access line charges billed to an Arkansas telephone number. Access line charges are those charges associated with or for access to the long distance network. Provided, however, that access or other telecommunication services provided to telephone, telegraph, or telecommunications companies which will be used to provide telecommunications services shall not be subject to this tax.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. EMERGENCY. It is hereby found and determined by the General Assembly that in-state sellers of property and services are being discriminated against as a result of out-of-state vendors, who solicit sales by advertisements, not being required to collect and pay to the State compensating (use) tax upon such sales that, as a result of the foregoing, this State is being deprived of much-needed revenue to which it is rightfully entitled; that providers of interstate telecommunication services have not been required to collect and remit gross receipts tax on interstate access and long distance telecommunications services which are hereby declared to be subject to the gross receipts tax. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: February 11, 1987

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