

"AN ACT TO AMEND SECTION 2(c) OF ACT 386 OF 1941, AS AMENDED [ARK. STAT. 84-1902(c)], TO REMOVE THE EXEMPTION FROM ARKANSAS GROSS RECEIPTS AND ARKANSAS COMPENSATING (USE) TAX FOR CERTAIN LEASES AND RENTALS WHERE THE ARKANSAS GROSS RECEIPTS OR COMPENSATING (USE) TAX IS PAID ON THE INITIAL PURCHASE OF THE TANGIBLE PERSONAL PROPERTY WHICH IS LEASED OR RENTED; TO EXEMPT CERTAIN LEASES AND RENTALS OF TANGIBLE PERSONAL PROPERTY FROM ARKANSAS SALES AND USE TAX; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 2(c) of Act 386 of 1941, as amended, the same being Ark. Stat. Ann. 84-1902(c), is hereby amended to read as follows:

"(c) Sale: The term 'sale' is hereby declared to mean the transfer of either the title or possession, except in the case of leases or rentals, for a valuable consideration of tangible personal property, regardless of the manner, method, instrumentality, or device by which such transfer is accomplished. The term 'sale' is also declared to include the exchange, barter, lease or rental of tangible personal property. In the case of leases or rentals of tangible personal property, the tax shall be paid on the basis of rental or lease payments made to the lessor of such tangible personal property during the term of the lease or rental. The term 'sale' shall also include the sale, giving away, exchanging or other disposition of admissions, dues or fees to clubs, to places of amusement, recreational, or athletic events, or for the privilege of having access to or the use of amusement, athletic or entertainment facilities. The term 'sale' shall not include the furnishing or rendering of service or services, except as herein otherwise provided."

SECTION 2. (a) The gross receipts or gross proceeds derived from leases or rentals of tangible personal property shall be subject to the Arkansas Gross Receipts Tax whether or not the Arkansas Gross Receipts Tax or Compensating Tax was paid at the time of the purchase of the tangible personal property or in the case of motor vehicles, the gross receipts or gross proceeds derived from the lease or rental of motor vehicles shall be taxable whether or not the Arkansas Gross Receipts Tax or Compensating Tax was paid at the time of registration; except that the following leases or rentals shall be exempt from the Arkansas Gross Receipts Tax if the Arkansas Gross Receipts Tax or Compensating Tax was paid on the purchase of the tangible personal property:

- (1) the lease or rental of motor vehicles leased for a period of more than thirty (30) days for a commercial purpose;
- (2) the lease or rental of diesel trucks rented or leased for commercial shipping or farm machinery or farm equipment rented or leased for a commercial purpose regardless of the length of the lease or rental agreement; or
- (3) a lease or rental agreement having a duration of thirty (30) days or more.

(b) To qualify as a lease for a commercial purpose the payments made under the lease must qualify as ordinary and necessary business expenses for Federal or Arkansas State Income Tax purposes for the person leasing the vehicle or the shareholders or partners of such person. A lessor may rely on

a written statement provided by the person leasing the vehicle or the shareholder or partner of such person that payments made under the lease qualify as ordinary and necessary business expenses for Federal or Arkansas State Income Tax purposes.

SECTION 3. For the period beginning July 1, 1987 and ending June 30, 1989, the sale of tangible personal property to a person engaged in the business of leasing or renting such tangible personal property shall not be a sale for resale for the purpose of the exemption from the Arkansas Gross Receipts Tax provided by Subsection (i) of Section 4 of Act 386 of 1941, as amended, the same being Arkansas Statutes 84-1904(i).

SECTION 4. Where a written contract for the sale, lease or rental of any item is executed prior to the effective date of this Act then any sale, lease or rental made pursuant to the written contract shall be taxed according to law at the time of execution of the contract.

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 6. It is hereby found and determined by the General Assembly of the State of Arkansas that the State is in serious danger of losing revenues which are necessary to provide adequate funding for schools and other essential services required by the citizens of this State and that the provisions of this Act are necessary to avoid a substantial reduction in State revenues. Therefore, an emergency is hereby declared to exist and this Act being immediately 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: 6-12-87

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