

By: Representative Matthews

"AN ACT TO AMEND SECTION 26-5-101, ARTICLE V(1.) OF THE ARKANSAS CODE OF 1987 ANNOTATED TO CLARIFY THE APPLICATION OF THE RECIPROCAL SALES TAX CREDIT; TO AMEND SECTION 26-52-501 OF THE CODE TO ALLOW QUARTERLY OR YEARLY REPORTING FOR TAXPAYERS WHOSE MONTHLY GROSS RECEIPTS TAX LIABILITIES ARE LESS THAN \$100 or \$25, RESPECTIVELY; TO AMEND THE CODE BY ADDING A NEW SECTION 26-53-131 TO CLARIFY APPLICATION OF THE COMPENSATING (USE) TAX CREDIT FOR PERSONS WHO HAVE PAID A SIMILAR TAX IN OTHER STATES; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 26-5-101, Article V(1.) of the Arkansas Code of 1987 Annotated is hereby amended to read as follows:

"1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision. For purposes of applying this credit by other states to Arkansas residents, the term 'gross receipts tax' as applied to Arkansas residents by Arkansas Code of 1987 Annotated, Chapter 52, shall be synonymous with the term 'sales tax' as used by the state applying such credit."

SECTION 2. Section 26-52-501 of the Arkansas Code of 1987 Annotated is hereby amended to read as follows:

"(a) The tax levied hereunder shall be due and payable on the first day of each month, except as provided in this subchapter, by any person liable for the payment of any tax due under this act, as amended.

(b) (1) For the purpose of ascertaining the amount of tax payable under this act, it shall be the duty of all taxpayers on or before the twentieth day of each month to deliver to the Commissioner of Revenues, upon forms prescribed and furnished by him, returns under oath showing the total combined gross receipts or gross proceeds derived from all taxable sales and the total combined gross receipts or gross proceeds derived from all nontaxable sales during the preceding calendar month.

(2) The returns shall show such further information as the commissioner may require to enable him to compute correctly and collect the tax levied.

(c) In addition to the information required on returns, the commissioner may request and the taxpayer must furnish any information deemed necessary for a correct computation of the tax levied.

(d) The tax shall be computed by multiplying the tax rate by the amount of the total combined gross receipts or gross proceeds derived from all taxable sales during the preceding month without regard to the amount that may be allocated to gross receipts tax on the taxpayer's books of account.

(e) The taxpayer shall compute and remit to the commissioner the required tax due for the preceding calendar month, the remittance of the tax

to accompany the returns required in this subchapter.

(f) The return and remittances by the taxpayer as above required shall not be construed to constitute an assessment of the tax.

(g) If not paid on or before the twentieth of that month, the tax shall be delinquent from that date. However, no penalty for delinquency shall be assessed if payment is made on or before the first day of the month next following.

(h) When the total amount of tax for which such taxpayer is liable for the month of January 1990 or any month thereafter does not exceed one hundred (\$100) dollars, a quarterly report and remittance in lieu of a monthly report may be made on or before July 20, October 20, January 20, and April 20 of each year for the preceding three month period.

(i) When the total amount of tax for which such taxpayer is liable for the month of January 1990 or any month thereafter does not exceed twenty-five (\$25) dollars, a yearly report and remittance may be made on or before January 20 of each year for the preceding twelve month period."

SECTION 3. The Arkansas Code of 1987 Annotated is hereby amended by adding a new section 26-53-131 to read as follows:

"26-53-131. Credit for tax paid in another state. (a) The provisions of the Arkansas Compensating Act, Arkansas Code of 1987 Annotated 26-53-101 et seq., the same being Act 487 of 1949, as amended, shall not apply to any tangible personal property used, consumed, distributed or stored in this State upon which a like tax, equal to or greater than the tax imposed by the Arkansas Compensating Tax Act, has been paid in another state. Proof of payment of such tax shall be made according to the rules and regulations promulgated by the Commissioner of Revenues. If the amount of tax paid in another state is less than the amount of Arkansas Compensating Tax imposed on the property by Arkansas Code of 1987 Annotated 26-53-101 et seq., then the taxpayer shall pay to the commissioner an amount of Arkansas Compensating Tax sufficient to make the combined amount of tax paid in the other state and this state equal to the total amount of Arkansas Compensating Tax which would be due if no tax had been paid to any other state on the property. No credit shall be given under this section for taxes paid on such property in another state if that state does not grant credit for taxes paid on similar tangible personal property in this state.

(b) The provisions of this section shall be cumulative to the provisions of Arkansas Code of 1987 Annotated 26-53-101 et seq., the same being Act 487 of 1949, as amended, and shall not be construed as repealing or modifying any of the provisions therein."

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 6. EMERGENCY. It is hereby found and determined by the General Assembly of the State of Arkansas that the provisions of Arkansas Code of 1987 Annotated 26-53-101 et seq. do not specifically provide for allowance to be given to persons for similar taxes paid in other states; that the proper and effective administration of the compensating (use) tax will be greatly enhanced by the provisions of a reciprocal tax credit given by the State of Arkansas to purchasers who have previously paid a compensating tax in another state, provided that such other state offers the same tax credit to Arkansas purchasers for tangible personal property brought into the other state; that

this act is immediately necessary in order to eliminate the possibility that Arkansas taxpayers will be subject to undue multiple taxation by other states due to the failure of the states' taxing authorities to equate the Arkansas Gross Receipts Tax to sales tax for purposes of allowing a reciprocal sales tax credit; that this act is also necessary to lessen the administrative burdens on taxpayers whose monthly gross receipts tax liability is relatively small in amount. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health and welfare, shall be in full force and effect from and after its passage and approval.

APPROVED: March 7, 1989
