

Act 510 of the 1989 Regular Session.

Act 510

HB1405

By: Representative Arnold

"AN ACT TO LEVY AN ADDITIONAL TAX TO BE KNOWN AS THE 'RENTAL VEHICLE TAX'; TO PROHIBIT A SALE FOR RESALE GROSS RECEIPTS TAX EXEMPTION FOR LICENSED RENTAL MOTOR VEHICLES; TO PROHIBIT CERTAIN SURCHARGES; AND FOR OTHER PURPOSES."

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

SECTION 1. (a) In addition to the Arkansas gross receipts tax, Arkansas Code 26-52-101, et seq., there is levied a tax to be known as the 'Rental Vehicle Tax'. The rental vehicle tax shall be levied on the gross receipts or gross proceeds derived from rentals of licensed motor vehicles leased for a period of less than thirty (30) days. The gross receipts or gross proceeds derived from the rentals shall be taxable whether or not the Arkansas gross receipts tax, Arkansas Code 26-52-101, et seq., or compensating tax, Arkansas Code 26-53-101, et seq., was paid at the time of registration.

(b) The rental vehicle tax shall be levied at the same rate as the combined Arkansas Gross Receipts Tax, levied by Arkansas Code 26-52-301 and 26-52-302 and any act supplemental thereto.

(c) Except as provided otherwise in this section, the tax shall be collected, reported and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, payment of the tax imposed by the Arkansas Gross Receipts Tax, Arkansas Code 26-52-101, et seq.

(d) A portion of the rental vehicle tax collected by a person engaged in the business of renting licensed motor vehicles shall be retained by the person as a credit for the Arkansas gross receipts tax or Arkansas compensating tax paid by the person on the purchase of motor vehicles which are licensed by the person and used exclusively for the purpose of rentals for a period of less than thirty (30) days. The credit shall be equal to the amount of the Arkansas gross receipts tax or Arkansas compensating tax paid by the person on licensed motor vehicles purchased on or after July 1, 1989, and used for the purpose of providing rentals for a period of less than thirty days. If the amount of the rental vehicle tax collected is not sufficient to provide the person the full amount of the credit, the remaining portion of the credit may be carried forward until sufficient tax is collected.

(e) Any amount of rental vehicle tax collected in excess of the amount necessary to provide credits under this section shall be remitted to the Director of the Department of Finance and Administration and shall be deposited in the State Treasury as general revenues.

(f) As a condition for qualifying for the credit, the person shall file a copy of the receipt of payment of the Arkansas gross receipts tax, Arkansas Code 26-52-101 et seq., or compensating tax, Arkansas Code 26-53-101 et seq., on the automobiles for which the credit is claimed.

SECTION 2. Arkansas Code 26-52-310 is hereby amended to read as follows:

"(a) For the purpose of this section the following terms shall have the following meanings:

(1) 'Short term rental' means a rental or lease of tangible personal property for a period of less than thirty (30) days except rentals or leases

of diesel trucks for commercial shipping, rentals of farm machinery and equipment or rentals of motor vehicles.

(2) 'Motor vehicle' means any vehicle required to be licensed for highway use under Arkansas law.

(b)(1) In addition to the Arkansas gross receipts tax or compensating tax levied by Arkansas Code Title 26, there is hereby levied an additional tax of one percent (1%) on the short term rental of tangible personal property. The one percent (1%) tax levied by this section and all other gross receipts taxes or compensating taxes are applicable to short term rentals regardless of whether tax was paid on the rental property at the time of purchase.

(2) Property purchased for short term rental may be purchased tax exempt for resale pursuant to Arkansas Code 26-52-401 (12) (A). The gross receipts tax or compensating tax, except for the additional one percent (1%) tax levied by this subsection, shall be collected on sales, other than rentals or leases, of property held tax exempt for rental.

(3) Nothing in this subsection shall affect the taxability of any transaction prior to the effective date of this subsection.

(c)(1) The lease or rental of motor vehicles, other than diesel trucks rented for commercial shipping, for a period of less than thirty (30) days shall be subject to the gross receipts tax or compensating tax regardless of whether tax was paid on the rental vehicle at the time of purchase.

(2) No sale for resale exemption shall be allowed for the purchase of motor vehicles for rental or lease regardless of the length of the rental or lease.

(3) This subsection does not repeal or amend the Rental Vehicle Tax or any credits allowed thereunder. The provisions of this subsection shall be read in conjunction with the Rental Vehicle Tax and taxes due pursuant to this subsection are in addition to the Rental Vehicle Tax."

SECTION 3. It shall be unlawful for any person engaged in the business of renting licensed motor vehicles for a period of less than thirty (30) days to include a surcharge on the rental of the motor vehicles for any Arkansas gross receipts or compensating use taxes paid by the person. Any person who violates this section shall be subject to a fine not to exceed one thousand dollars (\$1,000).

SECTION 4. Nothing in Sections 1, 2, or 3 of this Act shall apply to 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.

SECTION 5. Arkansas Code 26-52-103 (a)(3)(C) is hereby amended to read as follows:

"(C) 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; however, except for short term rentals and rentals of motor vehicles for less than thirty (30) days provided in Arkansas Code 26-52-310, the tax shall not apply to gross receipts or gross proceeds derived from leases or rentals of tangible personal property upon which either the Arkansas gross receipts tax or compensating tax was paid at the time of purchase of the tangible personal property."

SECTION 6. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 7. 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 8. It is hereby found and determined by the General Assembly that this Act establishes a new tax known as the "Rental Vehicle Tax" and provides persons engaged in the business of renting licensed motor vehicles a credit for portion of the sales tax paid by the person on certain licensed motor vehicles purchased on or after July 1, 1989, and that for the effective administration of this act, the Act should become effective on July 1, 1989. Therefore an emergency id hereby declared to exist and this Act being necessary for the immediate presevation of the public peace, health, safety shall be in full force and effect from and after July 1,1989.

APPROVED: March 13, 1989

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