

As Engrossed: 3/4/93

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Thicksten**

A Bill

ACT 848 OF 1993
HOUSE BILL 1608

For An Act To Be Entitled

8 "AN ACT TO FACILITATE THE REMITTANCE TO THE STATE BY
9 ELECTRONIC FUNDS TRANSFER BY AUTHORIZING ELECTRONIC FUNDS
10 TRANSFER FOR THE PAYMENT OF TAXES; TO AUTHORIZE THE
11 COMMISSIONER OF REVENUES TO PROMULGATE RULES AND
12 REGULATIONS TO IMPLEMENT THIS ACT; AND FOR OTHER
13 PURPOSES."

Subtitle

16 "ACT TO FACILITATE REMITTANCE OF TAXES BY ELECTRONIC FUNDS
17 TRANSFER."

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

21 SECTION 1. As used in this Act, the term "electronic funds transfer"
22 means any transfer of funds, other than a transaction originated by check,
23 draft, or similar paper instrument, that is initiated through an electronic
24 terminal, telephone, or computer or magnetic tape for the purpose of ordering,
25 instructing, or authorizing a financial institution to debit or credit an
26 account.

28 SECTION 2. The provisions of the Arkansas Tax Procedure Act [Ark. Code
29 Ann. § 26-18-101 et seq.] shall be applicable to this Act.

31 SECTION 3. The Commissioner of Revenues is authorized to require, and
32 to contract for services necessary to implement, payment of taxes as specified
33 in this Act by electronic funds transfer. Provided, however, that this Act
34 shall not be construed to require the Commissioner to contract for such
35 services or implement a system for payment of any taxes by electronic funds
36 transfer if the Commissioner determines that it is fiscally unsound or

1 administratively burdensome to do so.

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3 SECTION 4. The provisions of this Act shall be effective on and after
4 January 1, 1994 for the taxes set forth in Section 5(a); on and after January
5 1, 1995 for the taxes set forth in Section 5(b); and for the taxable period
6 beginning on or after January 1, 1995 for the taxes set forth in Section 6.

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8 SECTION 5.(a) If the Commissioner determines that a taxpayer's monthly
9 liability for income withholding tax under Ark. Code Ann. § 26-51-901 et seq.;
10 gross receipts (sales), compensating (use), privilege tax, special alcoholic
11 beverage excise, alcoholic beverage supplemental taxes, and any other taxes
12 supplemental thereto or required to be collected and remitted in the same
13 manner as sales or use taxes, under Ark. Code Ann. §§ 26-52-101 et seq., 26-
14 53-101 et seq., Act 4 of 1992, Second Extraordinary Session, 26-74-201
15 through 26-75-705, 14-164-301 et seq., 3-7-201, 3-9-213, 3-9-223, and any
16 other law of this State for the calendar year 1993 or any calendar year
17 thereafter equals or exceeds fifty thousand dollars (\$50,000.00), the taxpayer
18 shall pay the taxes due by electronic funds transfer beginning January 1,
19 1994, and if for the calendar year 1994 or any calendar year thereafter the
20 monthly liability exceeds twenty thousand dollars (\$20,000.00) the taxpayer
21 shall pay the taxes due by electronic funds transfer beginning January 1,
22 1995.

23 (b) If the Commissioner determines that a taxpayer's monthly liability
24 for taxes on tobacco products under Ark. Code Ann. § 26-57-201 et seq.;
25 *severance taxes under Ark. Code Ann. §§26-58-101 through 26-58-303; or taxes*
26 *on spirituous liquors, wines, malt liquors and beer under Ark. Code Ann. §§3-*
27 *5-101 through 3-7-114 equals or exceeds twenty thousand dollars (\$20,000.00)*
28 for calendar year 1994 or any calendar year thereafter, the taxpayer shall pay
29 the taxes due by electronic funds transfer beginning January 1, 1995.

30 (c) The transfer shall be made no later than the day before the due
31 date for payment of the taxes so that payment of the taxes is received by the
32 Commissioner on or before the due date for payment of the taxes as required by
33 the laws of this State. Monthly liability for taxes shall be determined by
34 the Commissioner on the basis of average monthly liability for the preceding
35 year.

1 (d) A taxpayer who pays income withholding tax by electronic funds
2 transfer in the time and manner required by this Section shall not be required
3 to file a monthly withholding return. However, the taxpayer shall annually
4 file a withholding return, setting forth the basis for each monthly payment
5 made during the year by electronic funds transfer, on or before the fifteenth
6 (15th) day following the end of each year. The annual withholding return
7 shall be made on such form, and shall include such information, as the
8 Commissioner prescribes.

9 (e) Except as otherwise provided by this Act, no taxpayer required to
10 pay tax by electronic funds transfer shall be relieved from filing returns or
11 complying with all other requirements of state tax laws.

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13 SECTION 6. (a) If the Commissioner determines that a corporation's
14 estimated quarterly state income tax liability under Ark. Code Ann. § 26-51-
15 *911 et seq. equals or exceeds twenty thousand dollars (\$20,000.00)*, the
16 corporation shall pay the quarterly income taxes due by electronic funds
17 transfer. The transfer shall be made no later than the day before the due
18 date for payment of the taxes so that payment of the taxes is received by the
19 Commissioner on or before the due date for payment of the taxes as required by
20 the laws of this State. A corporation's quarterly liability shall be
21 determined on the basis of average quarterly liability for the preceding year.

22 (b) If the corporation's income tax payment is timely made by
23 electronic funds transfer, the corporation is not required to file a quarterly
24 estimated tax declaration.

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26 SECTION 7. In addition to the penalties imposed under the Arkansas Tax
27 Procedure Act [Ark. Code Ann. § 26-18-101 et seq.], a taxpayer required to pay
28 taxes by electronic funds transfer who fails to so pay the amount required
29 under any state law on or before the due date for payment of the taxes shall
30 be assessed a penalty of five percent (5%) of the amount of taxes due.

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32 SECTION 8. In addition to all other penalties imposed under this Act
33 and the Arkansas Tax Procedure Act [Ar. Code Ann. § 26-18-101 et seq.], a
34 taxpayer required to pay sales taxes by electronic funds transfer, who fails
35 to so pay any of the said sales taxes on or before the due date for payment of

1 the taxes in the amounts required under Ark. Code Ann. §§ 26-52-501 or 26-52-
2 512, shall not be entitled to the benefits contained in Ark. Code Ann. §§ 26-
3 52-503 and 26-52-512.

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5 SECTION 9. The Commissioner is authorized to adopt rules and
6 regulations which he deems necessary to implement and enforce the provisions
7 of this Act.

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9 SECTION 10. The provisions of this Act are hereby declared to be
10 severable. If any section, paragraph, sentence, or clause of this Act shall
11 be held unconstitutional or invalid, the invalidity of such section,
12 paragraph, sentence, or clause shall not affect the validity of the remainder
13 of this Act.

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15 SECTION 11. All provisions of this Act of a general and permanent
16 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
17 Code Revision Commission shall incorporate the same in the Code.

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19 SECTION 12. All laws and parts of law in conflict with this Act are
20 hereby repealed.

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22 /s/E. Thicksten

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24 APPROVED: 4/2/93

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