

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 483

" TO ENABLE ARKANSAS TO ENTER INTO THE STREAMLINED SALES AND USE TAX
AGREEMENT BY AMENDING THE ARKANSAS SALES AND USE TAX LAWS."

Amendment No. 1 to Senate Bill No. 483.

Amend Senate Bill No. 483 as originally introduced:

Page 1, line 17, delete "14-64-301" and substitute "14-164-301"

AND

Page 2, line 13, delete "(a), upon" and substitute "(a) and (b), upon"

AND

Page 2, delete line 14 and substitute the following:
"effect as outlined by that agreement.

(d)(1) The General Assembly has the authority to establish the parameters of state and local sales and use taxes, including the application, exemptions, limitations, and administration of those taxes.

(2) The changes to existing law effectuated by this act are intended as an expression of the General Assembly's authority to modify the parameters of state and local sales and use taxes, and the changes are not intended as a revocation or restraint of the power of cities and counties to levy local sales and use taxes.

(3) It is the intent of the General Assembly that any modifications to the application or administration of local sales and use taxes resulting from this act shall not require the approval of local voters, and that the modifications shall not invalidate existing local sales and use taxes."

AND

Page 4, line 25, delete "26-52-103", and substitute "26-52-101"

AND

Page 12, line 21, delete "(a)(1)" and substitute "(a)~~(1)~~"



AND

Page 12, line 22, delete “(A)” and substitute “~~(A)~~(1)”

AND

Page 12, line 24, delete “(B)” and substitute “~~(B)~~(2)”

AND

Page 12, line 26, delete “(C)” and substitute “~~(C)~~(3)”

AND

Page 12, line 32, delete “(D)” and substitute “(4)”

AND

Page 16, delete line 2 and substitute the following:

“(B) All charges for mobile telecommunications services are deemed to be”

AND

Page 21, delete lines 13 through 14 and substitute the following:

“where receipt by the purchaser, or the purchaser’s designated donee, occurs, including the location indicated by instructions for”

AND

Page 25, line 15, delete “sale; any” and substitute “sale or any”

AND

Page 25, delete line 16 and substitute the following:

“imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or”

AND

Page 25, delete line 23 and substitute the following:

“(C) The term “sales price” shall include, in addition to the”

AND

Page 27, line 7, delete “distributtee,”

AND

Page 34, line 2, delete “tax, to” and substitute “tax, is amended to”

AND

Page 35, line 4, delete “or services” and substitute “or services”

AND

Page 35, delete line 21 and substitute the following:
“retailers maintaining a place of business in Arkansas.”

SECTION 33. Effective January 1, 2006, Arkansas Code § 26-73-301 is amended to read as follows:

Any municipal or county sales or use tax levied pursuant to the laws of this state shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price ~~from a single transaction~~ on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, and mobile homes. This provision shall apply to all municipal and county sales and use taxes heretofore or hereafter adopted and shall be in addition to and not in lieu of any other limitations imposed by law.”

AND

Appropriately renumber all remaining sections

AND

Page 36, line 1, delete “or services” and substitute “or services”

AND

Page 36, line 13, delete “(a)” and substitute “(a)”

AND

Page 36, line 15, delete “subchapter, and” and substitute “subchapter, and”

AND

Page 38, line 3, delete “Arkansas Code § 26-74-213” and substitute “Effective January 1, 2006, Arkansas Code § 26-74-213”

AND

Page 38, line 26, delete “Arkansas Code § 26-74-220” and substitute “Effective January 1, 2006, Arkansas Code § 26-74-220”

AND

Page 41, delete line 2 and substitute the following:
“seq., and the Arkansas Compensating Use Tax Act, § 26-53-101 et seq.”

SECTION 41. Effective January 1, 2006, Arkansas Code § 26-74-320 is

amended to read as follows:

(a)(1) Any county general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price ~~from a single transaction~~ on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes, and vendors shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price ~~from a single transaction~~ on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

(2)(A) Each vendor who is liable for one (1) or more county sales or use taxes shall report a combined county sales tax and a combined county use tax on his or her sales and use tax report.

(B) The combined county sales tax is equal to the sum of all sales taxes levied by a county under this subchapter or any other provision of the Arkansas Code.

(C) The combined county use tax is equal to the sum of all use taxes levied by a county under this subchapter or any other provision of the Arkansas Code.

(3) This provision applies only to taxes collected by the Director of the Department of Finance and Administration.

~~(b)(1) The term "single transaction", as used in this section, shall be defined by ordinance.~~

~~(2)(A) Every county ordinance adopted after January 1, 1998, which calls for an election to levy a local sales and use tax authorized by this subchapter or any other provision of the Arkansas Code shall contain a definition of the term "single transaction", which definition shall amend all other previous ordinances defining "single transaction".~~

~~(B) Provided, however, any county which adopts an ordinance which calls for an election to levy a local sales and use tax authorized by this subchapter or any other provision of the Arkansas Code may comply with this provision by adopting a definition of the term "single transaction" prior to the commencement of the collection of the local sales and use tax.~~

~~(3) The most recent definition of "single transaction" adopted prior to January 1, 1998, shall apply to and amend all previous local sales and use tax ordinances.~~

~~(4) It is the intent of this provision to require each county which levies a local sales and use tax to adopt a uniform definition of the term "single transaction" for all taxes levied by the county.~~

~~(5) This provision is limited to ordinances levying local sales and use taxes collected by the department."~~

AND

Appropriately renumber all remaining sections

AND

Page 41, delete line 15 and substitute the following:

"of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.,"

and

Page 41, line 33, delete “subchapter, and” and substitute “subchapter, and”

AND

Page 42, line 24, delete “Arkansas Code § 26-74-408(a)” and substitute “Effective January 1, 2006, Arkansas Code § 26-74-408(a)”

AND

Page 42, line 33, delete “Arkansas Code § 26-74-412” and substitute “Effective January 1, 2006, Arkansas Code § 26-74-412”

AND

Page 43, line 13, delete “(b)(1) ~~The~~” and substitute “~~(b)(1) The~~”

AND

Page 44, delete line 16 and substitute the following:
“the taxpayer for the month computed.

SECTION 46. Arkansas Code § 26-74-605(e) is amended to read as follows:

(e) If no election challenge is timely filed, there shall be levied, effective on the first day of the first month of the calendar quarter after a minimum of sixty (60) days’ notice by the director to sellers and subsequent to the expiration of the thirty-day challenge period, a county-wide tax on the gross receipts from the sale at retail within the eligible county of all items that are subject to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. Furthermore, in every eligible county where the local sales and use tax has been adopted pursuant to the provisions of this subchapter, there is imposed an excise tax on the storage, use, distribution, or consumption within the eligible county of taxable services and tangible personal property purchased, leased, or rented from any retailer outside the state after the effective date of the sales and use tax for storage, use, distribution, or other consumption in the eligible county at the same rate as on the sale price of the property or, in the case of leases or rentals, of the lease or rental price, the rate of the use tax to correspond to the rate of the sales tax portion of the tax. The use tax portion of the local sales and use tax shall be collected according to the terms of the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

SECTION 47. Arkansas Code § 26-74-607 is amended to read as follows:

Within ten (10) days after the certification of the votes of any election resulting in the adoption or abolition of a tax levied pursuant to this subchapter and ninety (90) days before the effective date of the tax, the county judge shall notify the Director of the Department of Finance and Administration of the results.

SECTION 48. Arkansas Code § 26-74-608 is amended to read as follows:
26-74-608. Applicability of tax.

(a)(1) A tax levied pursuant to the authority granted in this subchapter shall be applicable to sales of items and services sold by a business ~~located in the eligible county to a resident or nonresident of the eligible county but shall not be applicable to the sale of motor vehicles to nonresidents of the eligible county.~~ Provided, however, the tax shall not be applicable to the sale of items and services sold to a nonresident of the eligible county if the sale is made for delivery to an address that is in a city or county that does not impose a city or county sales tax and the sale is of an item that is primarily sold through meter and by route delivery if the sale is documented by a sales invoice indicating that the sale was made for delivery and that delivery was actually made to the person at the place noted thereon located outside a county or city in which a sales tax is levied and the tax shall be administered under the Arkansas Gross Receipts Act of 1941, § 26-52-101, et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101, et seq.

~~(2) When a motor vehicle is sold to a person who resides in Arkansas but outside the eligible county where the sale was made and when the city or county, or both, of residence of the purchaser levies a sales and use tax, a use tax shall be collected at the rate levied in the city or county, or both, of residence of the purchaser, and in that event the tax shall be transmitted to the city or county, or both, of residence.~~

~~(b) The tax shall not be applicable to the sale of the following items if the sale is made to a nonresident of the eligible county and if the sales invoice indicates that the sale was made for delivery to and delivery was actually made to an address that is located in a city or county that does not impose a city or county sales tax:~~

- ~~(1) Aviation fuel;~~
- ~~(2) Distillate special fuel used for agricultural purposes;~~
- ~~(3) Agricultural machinery, parts, repairs, and supplies therefor;~~
- ~~(4) Water wells and water well supplies;~~
- ~~(5) Agricultural feed, seed, and fertilizer; and~~
- ~~(6) Agricultural chemicals.~~

~~(e)(1)(b)~~ When a direct pay permit holder purchases tangible personal property or taxable services either from an Arkansas or out-of-state vendor for use, storage, consumption, or distribution in Arkansas, the permit holder shall accrue and remit the county sales or use tax, if any, of the county where the property or services ~~is~~ are first used, stored, consumed, or distributed.

~~(2) When a direct pay permit holder purchases taxable services, the permit holder shall accrue and remit the sales tax, if any, of the county where the services are performed.~~

SECTION 49. Effective January 1, 2006, Arkansas Code § 26-74-612 is amended to read as follows:

26-74-612. Maximum tax limitation.

(a)(1) Any county general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price from a single transaction on the sale of motor vehicles, aircraft,

watercraft, modular homes, manufactured homes, or mobile homes, and vendors shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price ~~from a single transaction~~ on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

(2) Vendors collecting, reporting, and remitting the tax shall show the tax as a separate entry on the tax report form filed with the Director of the Department of Finance and Administration.

~~(b)(1) The term "single transaction" as used in this section and §§ 26-75-207 - 26-75-212 shall be defined by ordinance of the eligible county levying the tax.~~

~~(2)(A) Every county ordinance adopted after January 1, 1998, that calls for an election to levy a local sales and use tax authorized by this subchapter or any other provision of the Arkansas Code shall contain a definition of the term "single transaction", which definition shall amend all other previous ordinances defining "single transaction".~~

~~(B) Provided, however, any eligible county that adopts an ordinance which calls for an election to levy a local sales and use tax authorized by this subchapter or any other provision of the Arkansas Code may comply with this provision by adopting a definition of the term "single transaction" prior to the commencement of the collection of the local sales and use tax.~~

~~(3) The most recent definition of "single transaction" adopted prior to January 1, 1998, shall apply to and amend all previous local sales and use tax ordinances.~~

~~(4) It is the intent of this provision to require each eligible county that levies a local sales and use tax to adopt a uniform definition of the term "single transaction" for all taxes levied by the eligible county.~~

~~(5) This provision is limited to ordinances levying local sales and use taxes collected by the Department of Finance and Administration."~~

AND

Page 47, line 30, delete "(b)" and substitute "(b)"

and

Page 48, line 3, delete "Arkansas Code § 26-75-222" and substitute "Effective January 1, 2006, Arkansas Code § 26-75-222"

AND

Page 48, line 9, delete "manufactured homes, or mobile homes" and substitute "manufactured homes, or mobile homes"

AND

Page 49, line 21, delete "challenge; and" and substitute "challenge~~;~~ and"

AND

Page 50, delete lines 10 through 36 and substitute the following:

“SECTION 57. Arkansas Code § 26-75-312(a), concerning collection of tax, is amended to read as follows:

(a)(1) In each city in which a local sales and use tax has been imposed in the manner provided by this subchapter, every retailer shall add the tax imposed by the Arkansas Gross Receipts Act, § 26-52-101 et seq., and the Arkansas Compensating Tax Act, § 26-53-101 et seq., and the tax imposed by this subchapter to his or her sale price, and when added, the combined tax shall:

- (A) Constitute a part of the price;
- (B) Be a debt of the purchaser to the retailer until paid;

and

(C) Be recoverable at law in the same manner as the purchase price.

(2) When the sale price in the city shall involve a fraction of a dollar, the two (2) combined taxes shall be added to the sale price ~~according to a schedule and bracket system formula established by the director.~~

(3) A retailer shall be entitled to the same discount with respect to tax remitted under this subchapter as is authorized for the collection and remission of gross receipts taxes to the State of Arkansas as authorized in § 26-52-503.

~~(2)(b)(1)~~ Any fraction of one cent (1¢) of tax which is less than one-half of one cent (1/2 of 1¢) shall not be collected.

(2) Any fraction of one cent (1¢) of tax equal to one-half of one cent (1/2 of 1¢) or more shall be collected as a whole cent (1¢) of tax.

~~(3)(c)~~ In the event the General Assembly or the electors of the state shall either increase or decrease the rate of the state gross receipts tax, the combined rate of state tax and the local sales tax shall be the sum of the two (2) rates. ~~In this event, the director may publish a schedule of the taxes due with reference to sales involving a fraction of one dollar (\$1.00).~~

~~(b) A city shall provide in its ordinance authorized by this subchapter for a rebate from the city for taxes collected pursuant to this subchapter in excess of the tax on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price from a single transaction.”~~

AND

Page 51, delete lines 1 through 11 and substitute the following:

“SECTION 58. Effective January 1, 2006, Arkansas Code Title 26, Chapter 75, Subchapter 3 is amended to add an additional section to read as follows:

26-75-321. Rebate.

A city shall provide in its ordinance authorized by this subchapter for a rebate from the city for taxes collected under this subchapter in excess of the tax on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

SECTION 59. Effective January 1, 2006, Arkansas Code § 26-75-319 is

amended to read as follows:

26-75-319. Maximum tax limitation.

(a)(1) Any municipal general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price ~~from a single transaction on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes~~, and vendors shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price ~~from a single transaction on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes~~.

(2)(A) Each vendor who is liable for one (1) or more municipal sales or use taxes shall report a combined city sales tax and a combined city use tax on his or her sales and use tax report.

(B) The combined city sales tax is equal to the sum of all sales taxes levied by a city under this subchapter or any other provision of the Arkansas Code.

(C) The combined city use tax is equal to the sum of all use taxes levied by a city under this subchapter or any other provision of the Arkansas Code.

(3) This provision applies only to taxes collected by the Director of the Department of Finance and Administration.

~~(b)(1) The term "single transaction", as used in this section, shall be defined by ordinance.~~

~~(2)(A) Every city ordinance adopted after January 1, 1998, which calls for an election to levy a local sales and use tax authorized by this subchapter or any other provision of the Arkansas Code shall contain a definition of the term "single transaction" which definition shall amend all other previous ordinances defining "single transaction".~~

~~(B) Provided, however, any city which adopts an ordinance which calls for an election to levy a local sales and use tax authorized by this subchapter or any other provision of the Arkansas Code may comply with this provision by adopting a definition of the term "single transaction" prior to the commencement of the collection of the local sales and use tax.~~

~~(3) The most recent definition of "single transaction" adopted prior to January 1, 1998, shall apply to and amend all previous local sales and use tax ordinances.~~

~~(4) It is the intent of this provision to require each city which levies a local sales and use tax to adopt a uniform definition of the term "single transaction" for all taxes levied by the city.~~

~~(5) This provision is limited to ordinances levying local sales and use taxes collected by the department."~~

AND

Page 53, delete line 27 and substitute the following:

"et seq., and the Arkansas Compensating Tax Act, § 26-53-101 et seq."

AND

Page 54, line 7, delete "Arkansas Code § 26-81-104(a)" and substitute "Effective January 1, 2006, Arkansas Code § 26-81-104(a)"

AND

Page 56, line 4, delete "Arkansas Code § 26-81-107(b)(1)" and substitute "Effective January 1, 2006, Arkansas Code § 26-81-107(b)(1)"

AND

Page 56, line 10, delete "Arkansas Code § 26-81-107(c)(2)" and substitute "Effective January 1, 2006, Arkansas Code § 26-81-107(c)(2)"

AND

Page 56, line 24, delete "Arkansas Code § 26-81-110" and substitute "Effective January 1, 2006, Arkansas Code § 26-81-110"

AND

Page 58, line 8, delete "Arkansas Code § 14-164-303(b)" and substitute "Effective January 1, 2006, Arkansas Code § 14-164-303(b)"

AND

Page 60, line 35, delete "Arkansas Code § 14-164-334(a)" and substitute "Effective January 1, 2006, Arkansas Code § 14-164-334(a)"

AND

Page 61, line 7, delete "Arkansas Code § 14-164-334(b)(1)" and substitute "Effective January 1, 2006, Arkansas Code § 14-164-334(b)(1)"

AND

Page 61, line 22, delete "Arkansas Code § 14-164-337(g)" and substitute "Effective January 1, 2006, Arkansas Code § 14-164-337(g)"

AND

Page 62, delete line 19 and substitute the following:
"agreement will become effective unless a specific effective date is otherwise given. Therefore, the provisions of this act shall"

AND

Page 62, delete line 20 and substitute the following:
"become effective either on the effective date specified in that section or, if no effective date is listed in the section, then on the first day of the first quarter following the"

AND

Appropriately renumber all sections in this bill

The Amendment was read the first time, rules suspended and read the second time and _____
By: Senator Hill
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Secretary