

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representatives J. Miller and Cunningham**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO IMPOSE ARKANSAS GROSS RECEIPTS AND COMPENSATING
9 TAX ON ALL USED MOTOR VEHICLES, TRAILERS, MOBILE HOMES,
10 AND AIRPLANES; TO ALLOW A CREDIT FOR TRADE-IN VALUE ON
11 USED MOTOR VEHICLES, TRAILERS, SEMI-TRAILERS, MOBILE HOMES
12 AND AIRPLANES; TO IMPOSE CRIMINAL PENALTIES ON PERSONS WHO
13 ASSIST TAXPAYERS IN EVADING PAYMENT OF TAX; TO IMPOSE A
14 PENALTY EQUAL TO THE AMOUNT OF TAX EVADED ON ANY PERSON
15 WHO ASSISTS A TAXPAYER IN EVADING OR DEFEATING THE PAYMENT
16 OF TAX; TO PROVIDE FOR PROSECUTION OF TAX OFFENSES IN
17 PULASKI COUNTY; AND FOR OTHER PURPOSES."

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code of 1987 Annotated §26-52-504 is hereby amended
22 to read as follows:

23 "26-52-504. Sale of house trailers or mobile homes.

24 (a) Every person selling new or used house trailers or mobile homes in
25 this state, whether from an established business, under a dealership, or
26 otherwise, shall obtain and hold a permit as provided by § 26-52-202 and shall
27 make a monthly report and remittance to the director of the Department of
28 Finance and Administration as provided in the Arkansas Gross Receipts Act, §
29 26-52-101 et seq., together with copies of invoices, sales tickets, or bills
30 of sale reflecting the date of all sales of such house trailers or mobile
31 homes, the purchaser's name and address, the make, year model, serial number,
32 and gross sales price of each house trailer or mobile home, and the amount of
33 tax collected from the purchaser.

34 (b) When a used house trailer or mobile home is taken in trade as a
35 credit or part payment on the sale of a new or used house trailer or mobile

1 home, the tax levied by Arkansas Code of 1987 Annotated §26-52-101 et seq.
2 shall be paid on the net difference between the total consideration for the
3 house trailer or mobile home sold and the credit for the used trailer or
4 mobile home taken in trade. However, if the total consideration for the sale
5 of the new or used house trailer or mobile home is less than \$2,000, no tax
6 shall be due.

7 (c) Any permittee who fraudulently attempts to evade any provision of
8 this section or of the Arkansas Gross Receipts Act, §26-52-101 et seq., shall
9 be subject to having his permit revoked after notice and hearing as provided
10 by §26-52-208, as amended."

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12 SECTION 2. Arkansas Code of 1987 Annotated §26-52-505 is hereby amended
13 to read as follows:

14 "26-52-505. Sales of aircraft.

15 (a) Every person selling new or used aircraft in this state, whether
16 from an established business, under a dealership, as a flying service, or as a
17 private individual, shall obtain and hold a permit as provided in § 26-52-202
18 and shall make a monthly report and remittance to the Director of the
19 Department of Finance and Administration as provided in the Arkansas Gross
20 Receipts Act, § 26-52-101 et seq., together with copies of invoices, sales
21 tickets, or bills of sales reflecting the date of all sales of aircraft, the
22 purchaser's name and address, the make, year model, serial number, and gross
23 sales price of each aircraft, and the amount of tax collected from the
24 purchaser.

25 (b) When a used aircraft is taken in trade as a credit or part payment
26 on the sale of a new or used aircraft, the tax levied by Arkansas Code of 1987
27 Annotated §26-52-101 et seq. shall be paid on the net difference between the
28 total consideration for the new or used aircraft sold and the credit for the
29 used aircraft taken in trade. However, if the total consideration for the
30 sale of the new or used aircraft is less than \$2,000, no tax shall be due.

31 (c) However, the gross receipts or gross proceeds derived from the sale
32 of new aircraft manufactured or substantially completed within the State of
33 Arkansas shall not be subject to the gross receipts tax when sold by the
34 manufacturer or substantial completer to a purchaser for use exclusively
35 outside this state, notwithstanding the fact that possession may be taken in

1 the state for the sole purpose of removing the aircraft from the state under
2 its own power."

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4 SECTION 3. Arkansas Code of 1987 Annotated §26-52-510 is hereby amended
5 to read as follows:

6 "26-52-510. Direct payment of tax by consumer-user - New and used cars.

7 (a) The tax levied by this act in respect to the sale of new or used
8 motor vehicles, trailers or semi-trailers required to be licensed in this
9 state shall be paid by the consumer to the director of the Department of
10 Finance and Administration instead of being collected by the dealer, and it is
11 the mandatory duty of the director to require the payment of such tax before
12 issuing licenses for new or used motor vehicles or trailers. However, when a
13 consumer purchases a new automobile which is so defective that the dealer or
14 manufacturer agrees either to grant the consumer a full cash refund or to
15 replace the original automobile with another new automobile, then the amount
16 of gross receipts tax paid on the defective vehicle shall be applied as a
17 credit upon the gross receipts tax due from the purchase or receipt of the new
18 automobile which is a replacement vehicle for the original vehicle.

19 (b) When a used motor vehicle, trailer or semi-trailer is taken in
20 trade as a credit or part payment on the sale of a new or used motor vehicle,
21 trailer or semi-trailer, the tax levied by this act shall be paid on the net
22 difference between the total consideration for the new or used vehicle,
23 trailer or semi-trailer sold and the credit for the used vehicle, trailer or
24 semi-trailer taken in trade. However, if the total consideration for the sale
25 of the new or used motor vehicle, trailer or semi-trailer is less than \$2,000,
26 no tax shall be due.

27 (c) Used car dealers shall be deemed the consumer-users of all parts
28 and accessories used by them for the reconditioning or rebuilding of used
29 automobiles and shall be required to report as a sale all parts and
30 accessories withdrawn or used from the stock in trade. In instances where
31 dealers are not engaged in the sale of parts and accessories in connection
32 with the sale of used cars, the tax shall be paid to the seller at the time
33 purchases of parts and accessories are made.

34 (d) Nothing in this section shall be construed to repeal any exemption
35 from the Arkansas Gross Receipts Act, §26-52-101 et seq.

1 (e) No credit shall be allowed for sales or use taxes paid to another
2 state with respect to the purchase of motor vehicles, trailers, or
3 semitrailers which were first registered by the purchaser in Arkansas. This
4 subsection shall apply to all motor vehicles, trailers, or semitrailers
5 purchased on or after November 3, 1989."

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7 SECTION 4. Arkansas Code of 1987 Annotated §26-53-126 is hereby amended
8 to read as follows:

9 "26-53-126. Tax on used cars - Payment and collection.

10 (a) All new and used motor vehicles, trailers or semi-trailers required
11 to be licensed in this state shall, upon being registered in this state , be
12 subject to the tax levied herein irrespective of whether such motor vehicle,
13 trailer or semi-trailer was purchased from a dealer or an individual. The tax
14 shall be paid to the director by the person making application to register the
15 motor vehicle, trailer or semi-trailer instead of being collected by the
16 dealer or individual seller. It shall be the mandatory duty of the director
17 to collect the tax before issuing a license for any motor vehicle, trailer or
18 semi-trailer.

19 (b) When a used motor vehicle, trailer or semi-trailer is taken in trade
20 as a credit or part payment on the sale of a new or used vehicle, trailer or
21 semi-trailer, the tax levied herein shall be paid on the net difference
22 between the total consideration for the new or used vehicle, trailer or
23 semi-trailer sold and the credit for the used vehicle, trailer or semi-trailer
24 taken in trade. However, if the total consideration for the sale of the new
25 or used motor vehicle, trailer or semi-trailer is less than \$2,000, no tax
26 shall be due.

27 (c) The tax imposed by this subchapter shall not apply to a motor
28 vehicle, trailer or semi-trailer to be registered by a bona fide nonresident
29 of this state.

30 (d) Nothing in this section shall be construed to repeal any exemption
31 from the Arkansas Compensating Tax Act, §26-53-101 et seq.

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33 SECTION 5. The Director of the Department of Finance and Administration
34 is authorized to adopt an alternative method for determining the total
35 consideration for the sale of new or used house trailers or mobile homes under

1 Arkansas Code of 1987 Annotated §26-52-504; new or used aircraft under
2 Arkansas Code of 1987 Annotated §26-52-505; and new or used motor vehicles,
3 trailers or semi-trailers under Arkansas Code of 1987 Annotated §26-52-510 and
4 §26-53-126. The alternative method adopted shall incorporate any generally
5 accepted method of determining the value of the item being sold. If the
6 consideration stated by the parties to the sale is less than the value
7 determined by such generally accepted method of valuation, then for purposes
8 of taxation, it shall be presumed that the higher figure is the total
9 consideration unless the taxpayer provides a contract, bill of sale or other
10 evidence establishing that the true consideration is less than the value
11 determined under the alternative method.

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13 SECTION 6. Arkansas Code of 1987 Annotated §26-18-201 is amended to
14 read as follows:

15 "26-18-201. Attempt to evade or defeat tax.

16 (a) Any taxpayer who willfully attempts to evade or defeat the payment
17 of any tax, penalty, or interest due under any state tax law shall be guilty
18 of a Class C felony.

19 (b) Any person who willfully assists a taxpayer in evading or defeating
20 the payment of any tax, penalty, or interest due under any state tax law shall
21 be guilty of a Class C felony."

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23 SECTION 7. Subchapter 2 of Chapter 18 of Title 26 of the Arkansas Code
24 of 1987 Annotated is hereby amended by adding two new Sections at the end
25 thereof to read as follows:

26 "26-18-209.

27 Any person who assists a taxpayer in evading or defeating the payment of
28 any state tax shall be liable for a penalty equal to the total amount of the
29 tax evaded, or not collected, or not accounted for and paid over to the
30 Director.

31 26-18-210.

32 Prosecution of any criminal offense provided for in this subchapter may
33 be in the county wherein the taxpayer resides, has an established place of
34 business, or in Pulaski County."

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1 SECTION 8. All provisions of this act of a general and permanent nature
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 9. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 10. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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14 SECTION 11. EMERGENCY CLAUSE. It is hereby found and determined that
15 the State of Arkansas is lacking adequate funds to provide for the education
16 of its citizens and for other essential services; that increased funds must be
17 raised to adequately provide for those needs; that certain persons are
18 assisting taxpayers in evading or defeating the payment or collection of
19 lawfully imposed state taxes depriving the state of needed revenues and that
20 this act is designed to provide the necessary revenues to the state sufficient
21 to meet these needs. Therefore, an emergency is declared to exist and this
22 act, being necessary for the immediate preservation of the public peace,
23 health and safety, shall be in full force and effective on and after May 1,
24 1991.

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