

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative B. Wood**

A Bill

HOUSE BILL

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."

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

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

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

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

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35 SECTION 4. The provisions of this Act shall be effective on and after

1 January 1, 1992 or at such time thereafter as the Commissioner contracts for
2 services necessary for the implementation of this Act pursuant to Section 3 of
3 this Act.

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5 SECTION 5.(a) If the Commissioner determines that a taxpayer's monthly
6 liability for

7 (1) income withholding tax under Ark. Code Ann. § 26-51-901 et seq.; or

8 (2) taxes on tobacco products under Ark. Code Ann. § 26-57-201 et seq;

9 or

10 (3) severance taxes under Ark. Code Ann. §§ 26-58-101 through
11 26-58-303; or

12 (4) taxes on spirituous liquors, wines, malt liquors and beer under
13 Ark. Code Ann. §§ 3-5-101 through 3-7-114; or

14 (5) motor fuels and special motor fuels taxes under Ark. Code Ann. §§
15 26-55-101 through 26-56-504, except taxes owed by an interstate user as
16 defined in Ark. Code Ann. § 26-56-102(6); or

17 (6) gross receipts (sales), compensating (use), special alcoholic
18 beverage excise, alcoholic beverage supplemental taxes, and any other taxes
19 supplemental thereto or required to be collected and remitted in the same
20 manner as sales or use taxes, under Ark. Code Ann. §§ 26-52-101 et seq.,
21 26-53-101 et seq., 26-74-201 through 26-75-705, 3-7-201, 3-9-213, 3-9-223, and
22 any other law of this State

23 equals or exceeds five thousand dollars (\$5,000.00), the taxpayer shall pay
24 the taxes due by electronic funds transfer. The transfer shall be made no
25 later than the day before the due date for payment of the taxes so that
26 payment of the taxes is received by the Commissioner on or before the due date
27 for payment of the taxes as required by the laws of this State. Monthly
28 liability for taxes shall be determined by the Commissioner on the basis of
29 average monthly liability for the preceding year.

30 (b) A taxpayer who pays income withholding tax by electronic funds
31 transfer in the time and manner required by this Section shall not be required
32 to file a monthly withholding return. However, the taxpayer shall annually
33 file a withholding return, setting forth the basis for each monthly payment
34 made during the year by electronic funds transfer, on or before the fifteenth
35 (15th) day following the end of each year. The annual withholding return

1 shall be made on such form, and shall include such information, as the
2 Commissioner prescribes.

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

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7 SECTION 6. (a) If the Commissioner determines that a corporation's
8 estimated quarterly state income tax liability under Ark. Code Ann. §
9 26-51-911 et seq. equals or exceeds five thousand dollars (\$5,000), the
10 corporation shall pay the quarterly income taxes due by electronic funds
11 transfer. The transfer shall be made no later than the day before the due
12 date for payment of the taxes so that payment of the taxes is received by the
13 Commissioner on or before the due date for payment of the taxes as required by
14 the laws of this State. A corporation's quarterly liability shall be
15 determined on the basis of average quarterly liability for the preceding year.

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

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

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26 SECTION 8. In addition to all other penalties imposed under this Act and
27 the Arkansas Tax Procedure Act [Ark. Code Ann. § 26-18-101 et seq.], a
28 taxpayer required to pay sales taxes by electronic funds transfer, who fails
29 to so pay any of the said sales taxes on or before the due date for payment of
30 the taxes in the amounts required under Ark. Code Ann. §§ 26-52-501 or
31 26-52-512, shall not be entitled to the benefits contained in Ark. Code Ann.
32 §§ 26-52-503 and 26-52-512.

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34 SECTION 9. The Commissioner is authorized to adopt rules and regulations
35 which he deems necessary to implement and enforces the provisions of this Act.

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

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

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