

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 2259

4  
5 By: Representative Lendall

## For An Act To Be Entitled

9 AN ACT TO REPEAL THE EXEMPTIONS TO THE SALES AND  
10 USE TAXES; AND FOR OTHER PURPOSES.

## Subtitle

13 TO REPEAL THE EXEMPTIONS TO THE SALES  
14 AND USE TAXES.

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18  
19 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4 is  
20 repealed.

21 ~~26-52-401. Various products and services.~~

22 ~~There is specifically exempted from the tax imposed by this act the~~  
23 ~~following:~~

24 ~~(1) The gross receipts or gross proceeds derived from the sale~~  
25 ~~of tangible personal property or services by churches, except where the~~  
26 ~~organizations may be engaged in business for profit;~~

27 ~~(2) The gross receipts or gross proceeds derived from the sale~~  
28 ~~of tangible personal property or service by charitable organizations, except~~  
29 ~~where the organizations may be engaged in business for profit;~~

30 ~~(3) Gross receipts or gross proceeds derived from the sale of~~  
31 ~~food in public, common, high school, or college cafeterias and lunch rooms~~  
32 ~~operated primarily for teachers and pupils, not operated primarily for the~~  
33 ~~public and not operated for profit;~~

34 ~~(4) Gross receipts or gross proceeds derived from the sale of~~  
35 ~~newspapers;~~

36 ~~(5) Gross receipts or gross proceeds derived from sales to the~~



1 ~~United States Government;~~

2 ~~(6) Gross receipts or gross proceeds derived from the sale of~~  
3 ~~motor vehicles and adaptive equipment to disabled veterans who have purchased~~  
4 ~~the vehicles or equipment with the financial assistance of the Department of~~  
5 ~~Veterans Affairs as provided under 38 U.S.C. §§ 1901—1905;~~

6 ~~(7) Gross receipts or gross proceeds derived from the sale of~~  
7 ~~tangible personal property including but not limited to office supplies;~~  
8 ~~office equipment; program items at camp such as bows, arrows, and rope;~~  
9 ~~rifles for rifle range and other rifle items; food for camp; lumber and~~  
10 ~~supplies used in camp maintenance; camp equipment; first aid supplies for~~  
11 ~~camp; the leasing of cars used in promoting scouting; or services to the Boy~~  
12 ~~Scouts of America chartered by the United States Congress in 1916 or the Girl~~  
13 ~~Scouts of the United States of America chartered by the United States~~  
14 ~~Congress in 1950 or any of the scout councils in the State of Arkansas;~~

15 ~~(8)(A) Gross receipts or gross proceeds derived from sales of~~  
16 ~~tangible personal property or services to the Boys Clubs of America chartered~~  
17 ~~by the United States Congress in 1956 or any local councils or organizations~~  
18 ~~of the Boys Clubs of America; or~~

19 ~~(B) Gross receipts or gross proceeds derived from sales of~~  
20 ~~tangible personal property or services to the Girls Clubs of America or any~~  
21 ~~local councils or organizations of the Girls Clubs of America;~~

22 ~~(9) Gross receipts or gross proceeds derived from sales of~~  
23 ~~tangible personal property or services to the Poets' Roundtable of Arkansas;~~

24 ~~(10) Gross receipts or gross proceeds derived from sales of~~  
25 ~~tangible personal property or services to 4 H Clubs and FFA Clubs in this~~  
26 ~~state, to the Arkansas 4 H Foundation, the Arkansas Future Farmers of America~~  
27 ~~Foundation, and the Arkansas Future Farmers of America Association;~~

28 ~~(11)(A) Gross receipts or gross proceeds derived from the sale~~  
29 ~~of:~~

30 ~~(i) Gasoline or motor vehicle fuel on which the~~  
31 ~~motor vehicle fuel or gasoline tax has been paid to the State of Arkansas;~~  
32 ~~and~~

33 ~~(ii) Special fuel or petroleum products sold for~~  
34 ~~consumption by vessels, barges, and other commercial watercraft and~~  
35 ~~railroads.~~

36 ~~(B) Nothing in this subdivision shall exempt gasoline from~~

1 ~~the wholesale gross receipts tax imposed pursuant to Act 1005 of 1995.~~

2 ~~(12)(A) Gross receipts or gross proceeds derived from sales for~~  
3 ~~resale to persons regularly engaged in the business of reselling the articles~~  
4 ~~purchased, whether within or without the state if the sales within the state~~  
5 ~~are made to persons to whom sales tax permits have been issued as provided in~~  
6 ~~§ 26-52-202;~~

7 ~~(B) Goods, wares, merchandise, and property sold for use~~  
8 ~~in manufacturing, compounding, processing, assembling, or preparing for sale~~  
9 ~~can be classified as having been sold for the purposes of resale or the~~  
10 ~~subject matter of resale only in the event the goods, wares, merchandise, or~~  
11 ~~property becomes a recognizable integral part of the manufactured,~~  
12 ~~compounded, processed, assembled, or prepared products. The sales of goods,~~  
13 ~~wares, merchandise, and property not conforming to this requirement are~~  
14 ~~classified for the purpose of this act as being "for consumption or use";~~

15 ~~(13) Gross proceeds derived from sales of advertising space in~~  
16 ~~newspapers and publications and billboard advertising services;~~

17 ~~(14) Gross receipts or gross proceeds derived from sales of~~  
18 ~~publications sold through regular subscription, regardless of the type or~~  
19 ~~content of the publication or the place printed or published;~~

20 ~~(15) Gross receipts or gross proceeds derived from gate~~  
21 ~~admission fees at state, district, county, or township fairs or at any rodeo~~  
22 ~~if the gross receipts or gross proceeds derived from gate admission fees to~~  
23 ~~the rodeo are used exclusively for the improvement, maintenance, and~~  
24 ~~operation of the rodeo and if no part of the net earnings thereof inures to~~  
25 ~~the benefit of any private stockholder or individual;~~

26 ~~(16) Gross receipts or gross proceeds derived from sales for~~  
27 ~~resale which the state is prohibited by the Constitution and laws of the~~  
28 ~~United States from taxing or further taxing, or which the state is prohibited~~  
29 ~~by the Arkansas Constitution from taxing or further taxing;~~

30 ~~(17) Gross receipts or gross proceeds derived from isolated~~  
31 ~~sales not made by an established business;~~

32 ~~(18)(A) Gross receipts or gross proceeds derived from the sale~~  
33 ~~of any cotton or seed cotton or lint cotton or baled cotton, whether~~  
34 ~~compressed or not, or cotton seed in its original condition;~~

35 ~~(B) Gross receipts or gross proceeds derived from the sale~~  
36 ~~of seed for use in the commercial production of an agricultural product or of~~

1 seed;

2 ~~(C) Gross receipts or gross proceeds derived from the sale~~  
 3 ~~of raw products from the farm, orchard, or garden, where the sale is made by~~  
 4 ~~the producer of the raw products directly to the consumer and user;~~

5 ~~(D) Gross receipts or gross proceeds derived from the sale~~  
 6 ~~of livestock, poultry, poultry products, and dairy products of producers~~  
 7 ~~owning not more than five (5) cows;~~

8 ~~(E) Exemptions granted by this subdivision shall not apply~~  
 9 ~~when the articles are sold, even though by the producer thereof, at or from~~  
 10 ~~an established business; neither shall this exemption apply unless the~~  
 11 ~~articles are produced or grown within the State of Arkansas;~~

12 ~~(F)(i) However, nothing in this subdivision shall be~~  
 13 ~~construed to mean that the gross receipts or gross proceeds received by the~~  
 14 ~~producer from the sale of the products mentioned herein shall be taxable when~~  
 15 ~~the producer sells, at an established business located on his farm,~~  
 16 ~~commodities produced on the same farm.~~

17 ~~(ii) The provisions of this subdivision are intended~~  
 18 ~~to exempt the sale by livestock producers of livestock sold at special~~  
 19 ~~livestock sales.~~

20 ~~(iii) The provisions of this subdivision shall not~~  
 21 ~~be construed to exempt sales of dairy products by any other businesses.~~

22 ~~(iv) The provisions of this subdivision shall not be~~  
 23 ~~construed to exempt sales by florists and nurserymen. As used in this~~  
 24 ~~subdivision, "nurserymen" does not include Christmas tree farmers.~~

25 ~~(v) The gross receipts or gross proceeds derived~~  
 26 ~~from the sale of baby chickens shall be exempt from the provisions of the~~  
 27 ~~gross receipts tax, and the sale shall not be subject to tax under this act;~~

28 ~~(19) Gross receipts or gross proceeds derived from the sale of~~  
 29 ~~foodstuffs to governmental agencies for free distribution to any public,~~  
 30 ~~penal, and eleemosynary institutions or for free distribution to the poor and~~  
 31 ~~needy;~~

32 ~~(20) Gross receipts or gross proceeds derived from the rental or~~  
 33 ~~sale of medical equipment, for the benefit of persons enrolled in and~~  
 34 ~~eligible for medicare or medicaid programs as contained in Titles XVIII and~~  
 35 ~~XIX of the federal Social Security Act or successor programs or any other~~  
 36 ~~present or future United States Government subsidized health care program, by~~

1 ~~medical equipment suppliers doing business in the State of Arkansas. However,~~  
 2 ~~this exemption applies only to receipts or proceeds received directly or~~  
 3 ~~indirectly through an organization administering such program in the State of~~  
 4 ~~Arkansas pursuant to a contract with the United States Government in~~  
 5 ~~accordance with the terms thereof;~~

6 ~~(21) Gross receipts or gross proceeds derived from the sale of~~  
 7 ~~any tangible personal property or services as herein specifically provided to~~  
 8 ~~any hospital or sanitarium operated for charitable and nonprofit purposes or~~  
 9 ~~any nonprofit organization whose sole purpose is to provide temporary housing~~  
 10 ~~to the family members of patients in a hospital or sanitarium. However, gross~~  
 11 ~~proceeds and gross receipts derived from the sale of materials used in the~~  
 12 ~~original construction or repair or further extension of the hospital or~~  
 13 ~~sanitarium or temporary housing facilities, except state-owned tax-supported~~  
 14 ~~hospitals and sanitariums, shall not be exempt from this act;~~

15 ~~(22) Gross receipts or gross proceeds derived from the sale of~~  
 16 ~~used tangible personal property when the used property was:~~

17 ~~(A) Traded in and accepted by the seller as part of the~~  
 18 ~~sale of other tangible personal property; and~~

19 ~~(B) The state gross receipts tax was collected and paid on~~  
 20 ~~the total amount of consideration for the sale of the other tangible personal~~  
 21 ~~property without any deduction or credit for the value of the used tangible~~  
 22 ~~personal property. The condition that the state gross receipts tax was~~  
 23 ~~collected and paid on the total amount of consideration is not required for~~  
 24 ~~entitlement to this exemption when the sale of the other tangible personal~~  
 25 ~~property was otherwise exempt under other provisions of this act. This~~  
 26 ~~subdivision does not apply to transactions involving used automobiles~~  
 27 ~~provided for in § 26-52-510(b), used mobile homes provided for in § 26-52-~~  
 28 ~~504, or used aircraft provided for in § 26-52-505;~~

29 ~~(23) Gross receipts or gross proceeds derived from the sale of~~  
 30 ~~unprocessed crude oil;~~

31 ~~(24) The gross receipts or gross proceeds derived from the sale~~  
 32 ~~of electricity used in the manufacture of aluminum metal by the electrolytic~~  
 33 ~~reduction process;~~

34 ~~(25) The gross receipts or gross proceeds derived from the sale~~  
 35 ~~of articles sold on the premises of the Arkansas Veterans' Home;~~

36 ~~(26) That portion of the gross receipts or gross proceeds~~

1 ~~derived from the sale of automobile parts which constitute core charges which~~  
 2 ~~are received for the purpose of securing a trade in for the article~~  
 3 ~~purchased, except that when the article is not traded in, then the tax is due~~  
 4 ~~on the core charge;~~

5 ~~(27)(A) Gross receipts and gross proceeds derived from the sale~~  
 6 ~~of tangible personal property lawfully purchased with food stamps or food~~  
 7 ~~coupons issued in accordance with the Food Stamp Act of 1964 and the gross~~  
 8 ~~receipts or gross proceeds derived from the sale of tangible personal~~  
 9 ~~property lawfully purchased with food instruments or vouchers issued under~~  
 10 ~~the Special Supplemental Food Program for Women, Infants and Children (WIC)~~  
 11 ~~in accordance with Section 17 of the Child Nutrition Act of 1966, as amended.~~  
 12 ~~If consideration other than food stamps, food coupons, food instruments, or~~  
 13 ~~vouchers is used in any sale, that portion of the sale shall be fully~~  
 14 ~~taxable;~~

15 ~~(B) Gross receipts and gross proceeds derived from the~~  
 16 ~~sale of food purchased through bids under the Special Supplemental Food~~  
 17 ~~Program for Women, Infants and Children;~~

18 ~~(C) The tax exemption provided by this subdivision shall~~  
 19 ~~expire if the exemption becomes no longer required for full participation in~~  
 20 ~~the food stamp program and the Special Supplemental Food Program for Women,~~  
 21 ~~Infants and Children.~~

22 ~~(28) Parts or other tangible personal property incorporated into~~  
 23 ~~or which become a part of commercial jet aircraft components, or commercial~~  
 24 ~~jet aircraft subcomponents. The term "commercial jet aircraft" shall mean~~  
 25 ~~any commercial, military, private, or other turbine or turbo jet aircraft~~  
 26 ~~having a certified maximum take-off weight of more than twelve thousand five~~  
 27 ~~hundred (12,500) pounds;~~

28 ~~(29) Gross receipts or gross proceeds derived from the sale of~~  
 29 ~~any tangible personal property specifically exempted from taxation by the~~  
 30 ~~Arkansas Compensating Tax Act, § 26-53-101 et seq., and as amended by~~  
 31 ~~legislation enacted subsequent thereto;~~

32 ~~(30) [Repealed.]~~

33 ~~(31)(A) The gross receipts proceeds charged to a consumer or~~  
 34 ~~user for the transfer of fill material by a business engaged in transporting~~  
 35 ~~or delivering fill material, provided;~~

36 ~~(i) Such fill material was obtained free of charge~~

1 by a business engaged in transporting or delivering fill material; and

2 (ii) The charge to the consumer or user is only for  
3 delivery.

4 (B) Any business claiming the exemption under subdivision  
5 (31)(A) of this section shall keep suitable records necessary to determine  
6 that fill material was obtained without charge;

7 (32) Gross receipts or gross proceeds derived from sales of  
8 tangible personal property or services to Habitat for Humanities;

9 (33) Gross receipts or gross proceeds derived from the long-term  
10 lease, thirty (30) days or more, of commercial trucks used for interstate  
11 transportation of goods if the trucks are registered under an international  
12 registration plan similar to § 27-14-501 et seq. and administered by another  
13 state which offers reciprocal privileges for vehicles registered under § 27-  
14 14-501 et seq.;

15 (34) Gross receipts or gross proceeds derived from sales of  
16 tangible personal property or services to the Salvation Army;

17 (35) Gross receipts or gross proceeds derived from sales of  
18 tangible personal property and services to Heifer Project International,  
19 Inc.;

20 (36)(A) Gross receipts or gross proceeds derived from the sale  
21 of catalysts, chemicals, reagents and solutions which are consumed or used in  
22 producing, manufacturing, fabricating, processing, or finishing articles of  
23 commerce at manufacturing or processing plants or facilities in the State of  
24 Arkansas.

25 (B) Gross receipts or gross proceeds derived from the sale  
26 of catalysts, chemicals, reagents and solutions which are consumed or used by  
27 manufacturing or processing plants or facilities in the state to prevent or  
28 reduce air or water pollution or contamination which might otherwise result  
29 from the operation of the plant or facility.

30 (C) For the purpose of subdivision (36) of this section,  
31 the terms "manufacturing" and "processing" shall have the same meaning as set  
32 forth in § 26-52-402(b); and

33 (37)(A) Gross receipts or gross proceeds derived from the sale  
34 of fuel packaging materials to a person engaged in the business of processing  
35 hazardous and non-hazardous waste materials into fuel products at a facility  
36 permitted by the Arkansas Department of Environmental Quality for hazardous

1 ~~waste treatment.~~

2 ~~(B) Gross receipts or gross proceeds derived from the sale~~  
 3 ~~of machinery and equipment, including analytical equipment and chemicals used~~  
 4 ~~directly in processing and packaging of hazardous and non-hazardous waste~~  
 5 ~~materials into fuel products at a facility permitted by the Arkansas~~  
 6 ~~Department of Environmental Quality for hazardous waste treatment.~~

7  
 8 ~~26-52-402. Certain machinery and equipment.~~

9 ~~(a) There is specifically exempted from the tax imposed by this act,~~  
 10 ~~the following:~~

11 ~~(1)(A) Gross receipts or gross proceeds derived from the sale of~~  
 12 ~~tangible personal property consisting of machinery and equipment used~~  
 13 ~~directly in producing, manufacturing, fabricating, assembling, processing,~~  
 14 ~~finishing, or packaging of articles of commerce at manufacturing or~~  
 15 ~~processing plants or facilities in the State of Arkansas, including~~  
 16 ~~facilities and plants for manufacturing of feed, processing of poultry or~~  
 17 ~~eggs, or both, and livestock, and the hatching of poultry, but only to the~~  
 18 ~~extent that the machinery and equipment is purchased and used for the~~  
 19 ~~purposes set forth in this subdivision;~~

20 ~~(B) The machinery and equipment will be exempt under this~~  
 21 ~~subdivision if it is purchased and used to create new manufacturing or~~  
 22 ~~processing plants or facilities within this state or to expand existing~~  
 23 ~~manufacturing or processing plants or facilities within this state;~~

24 ~~(2)(A) Machinery purchased to replace existing machinery and~~  
 25 ~~used directly in producing, manufacturing, fabricating, assembling,~~  
 26 ~~processing, finishing, or packaging of articles of commerce at manufacturing~~  
 27 ~~or processing plants or facilities in this state will be exempt under this~~  
 28 ~~subdivision;~~

29 ~~(B)(i) "Machinery purchased to replace existing machinery"~~  
 30 ~~means that substantially all of the machinery and equipment required to~~  
 31 ~~perform an essential function is physically replaced with new machinery;~~

32 ~~(ii) The term "substantially" is intended to exclude~~  
 33 ~~routine repairs and maintenance and partial replacements that do not improve~~  
 34 ~~efficiency or extend the useful life of the entire machine, but it is not~~  
 35 ~~intended to mean that foundations and minor components that can be~~  
 36 ~~economically adapted, rebuilt, or refurbished must be completely replaced~~



1 when replacement would be more expensive or impracticable than adapting,  
 2 rebuilding, or refurbishing the old foundation or minor components;

3           (C) ~~It is the intent of subdivision (a)(2) of this section~~  
 4 ~~to provide the foregoing exemptions as incentives to encourage the location~~  
 5 ~~of new manufacturing plants in Arkansas, the expansion of existing~~  
 6 ~~manufacturing plants in Arkansas, and the modernization of existing~~  
 7 ~~manufacturing plants in Arkansas through the replacement of old, inefficient,~~  
 8 ~~or technologically obsolete machinery and equipment; and~~

9           (3) ~~Gross receipts or gross proceeds derived from the sale of~~  
 10 ~~tangible personal property consisting of machinery and equipment required by~~  
 11 ~~state law or regulations to be installed and utilized by manufacturing and~~  
 12 ~~processing plants or facilities in this state to prevent or reduce air or~~  
 13 ~~water pollution or contamination which might otherwise result from the~~  
 14 ~~operation of the plant or facility.~~

15           (b) ~~For the purposes of this section, the terms "manufacturing" or~~  
 16 ~~"processing," as used in this section, refer to and include those operations~~  
 17 ~~commonly understood within their ordinary meaning and shall also include~~  
 18 ~~mining, quarrying, refining, extracting oil and gas, cotton ginning, the~~  
 19 ~~drying of rice, soybeans, and other grains and the manufacturing of feed, the~~  
 20 ~~processing of poultry or eggs and livestock and the hatching of poultry, and~~  
 21 ~~printing of all kinds, types, and characters, including the services of~~  
 22 ~~overprinting, and photographic processing incidental to printing, the~~  
 23 ~~processing of scrap metal into grades and bales for further processing into~~  
 24 ~~steel and other metals, the retreading of tires for automobiles, trucks, and~~  
 25 ~~other mobile equipment powered by electrical or internal combustion engines~~  
 26 ~~or motors, and the rebuilding or remanufacturing of used parts for~~  
 27 ~~automobiles, trucks, and other mobile equipment powered by electrical or~~  
 28 ~~internal combustion engines or motors if the rebuilt or remanufactured parts~~  
 29 ~~are not sold directly to the consumer but are sold for resale, and the~~  
 30 ~~production of protective coatings which increase the quality and durability~~  
 31 ~~of a finished product.~~

32           (c)(1) ~~It is the intent of this section to exempt only such machinery~~  
 33 ~~and equipment as shall be utilized directly in the actual manufacturing or~~  
 34 ~~processing operation at any time from the initial stage where actual~~  
 35 ~~manufacturing or processing begins through the completion of the finished~~  
 36 ~~article of commerce and the packaging of the finished end product. The term~~

1 ~~"directly" as used in this act is to limit the exemption to only the~~  
 2 ~~machinery and equipment used in actual production during processing,~~  
 3 ~~fabricating, or assembling raw materials or semifinished materials into the~~  
 4 ~~form in which such personal property is to be sold in the commercial market.~~

5 ~~(2) For purposes of this subsection, the following definitions,~~  
 6 ~~specific inclusions, and specific exclusions shall apply and represent the~~  
 7 ~~intent of the General Assembly as to its interpretation of the term "used~~  
 8 ~~directly":~~

9 ~~(A) Machinery and equipment used in actual production~~  
 10 ~~includes machinery and equipment that meet all other applicable requirements~~  
 11 ~~and which cause a recognizable and measurable mechanical, chemical,~~  
 12 ~~electrical, or electronic action to take place as a necessary and integral~~  
 13 ~~part of manufacturing, the absence of which would cause the manufacturing~~  
 14 ~~operation to cease. "Directly" does not mean that the machinery and equipment~~  
 15 ~~must come into direct physical contact with any of the materials that become~~  
 16 ~~necessary and integral parts of the finished product. Machinery and equipment~~  
 17 ~~which handle raw, semifinished, or finished materials or property before the~~  
 18 ~~manufacturing process begins are not utilized directly in the manufacturing~~  
 19 ~~process. Machinery and equipment which are necessary for purposes of storing~~  
 20 ~~the finished product are not utilized directly in the manufacturing process.~~  
 21 ~~Machinery and equipment used to transport or handle a product while~~  
 22 ~~manufacturing is taking place are used directly;~~

23 ~~(B) Machinery and equipment "used directly" in the~~  
 24 ~~manufacturing process shall include, but shall not be limited to, the~~  
 25 ~~following:~~

26 ~~(i) Molds and dies that determine the physical~~  
 27 ~~characteristics of the finished product or its packaging material;~~

28 ~~(ii) Testing equipment to measure the quality of the~~  
 29 ~~finished product;~~

30 ~~(iii) Computers and related peripheral equipment~~  
 31 ~~that directly control or measure the manufacturing process;~~

32 ~~(iv) Machinery and equipment that produce steam,~~  
 33 ~~electricity, or chemical catalysts and solutions that are essential to the~~  
 34 ~~manufacturing process but which are consumed during the course of the~~  
 35 ~~manufacturing process and do not become necessary and integral parts of the~~  
 36 ~~finished product;~~

1                   ~~(C) Machinery and equipment "used directly" in the~~  
 2 ~~manufacturing process shall not include the following:~~

- 3                   ~~(i) Hand tools;~~
- 4                   ~~(ii) Machinery, equipment, and tools used in~~  
 5 ~~maintaining and repairing any type of machinery and equipment;~~
- 6                   ~~(iii) Transportation equipment, including conveyors,~~  
 7 ~~used solely before or after the manufacturing process has been started or~~  
 8 ~~completed;~~
- 9                   ~~(iv) Office machines and equipment including~~  
 10 ~~computers and related peripheral equipment not directly used in controlling~~  
 11 ~~or measuring the manufacturing process;~~
- 12                   ~~(v) Buildings;~~
- 13                   ~~(vi) Machinery and equipment used in administrative,~~  
 14 ~~accounting, sales, or other such activities of the business;~~
- 15                   ~~(vii) All furniture; and~~
- 16                   ~~(viii) All other machinery and equipment not used~~  
 17 ~~directly in manufacturing or processing operations as defined herein.~~
- 18                   ~~(ix) Machinery and equipment used by a manufacturer~~  
 19 ~~to produce or repair replacement dies, molds, repair parts, or replacement~~  
 20 ~~parts used or consumed in the manufacturer's own manufacturing process.~~

21                   ~~(3) Gross receipts and gross proceeds derived from the rental or~~  
 22 ~~lease of specialized equipment used in the filming of a motion picture which~~  
 23 ~~qualifies for the tax incentives provided by § 26-4-201 et seq.~~

24                   ~~(d) The Director of the Department of Finance and Administration shall~~  
 25 ~~have and be invested with full power and authority to promulgate rules and~~  
 26 ~~regulations for the orderly and efficient administration of this section.~~

27  
 28                   ~~26-52-403. Farm equipment and machinery.~~

29                   ~~(a) The sale of new and used farm equipment and machinery shall not be~~  
 30 ~~subject to the Arkansas gross receipts tax levied by § 26-52-301(1), (2),~~  
 31 ~~(3)(A), (3)(B), (3)(C)(i) (3)(C)(iii), (4), and (5), but shall be exempt~~  
 32 ~~therefrom.~~

33                   ~~(b)(1)(A) As used in this section, "farm equipment and machinery"~~  
 34 ~~means implements used exclusively and directly in farming which for purposes~~  
 35 ~~of this section is defined as the agricultural production of food or fiber as~~  
 36 ~~a business or the agricultural production of grass sod or nursery products as~~

1 a business.

2 (B) ~~Implements used to harvest crops produced in farming~~  
3 ~~by others shall be considered as used in farming.~~

4 (2) ~~Irrigation pipe used to carry water from the irrigation well~~  
5 ~~to the crops produced in farming shall be considered "farm machinery or~~  
6 ~~equipment" regardless of whether the pipe is used above ground or is buried~~  
7 ~~underground.~~

8 (3) ~~However, the term "farm equipment and machinery" shall not~~  
9 ~~include implements used in the production and severance of timber, motor~~  
10 ~~vehicles of a type subject to registration, airplanes, or hand tools.~~

11 (c)(1) ~~Each purchaser of farm machinery must certify, in writing, on~~  
12 ~~the copy of the invoice or sales ticket to be retained by the seller that he~~  
13 ~~is engaged in farming and that the farm machinery will be used only in~~  
14 ~~farming.~~

15 (2) ~~The seller shall certify to the Department of Finance and~~  
16 ~~Administration that the contract price of the items has been reduced to grant~~  
17 ~~the full benefit of the exemption.~~

18 (3) ~~Violation of this subsection by the purchaser or seller~~  
19 ~~shall be a misdemeanor and, upon violation or conviction for a second~~  
20 ~~offense, the Director of the Department of Finance and Administration shall~~  
21 ~~revoke the seller's sales tax permit.~~

22  
23 ~~26-52-404. Feedstuffs used for livestock.~~

24 (a) ~~All feedstuffs used in the commercial production of livestock or~~  
25 ~~poultry in this state are exempt from the Arkansas gross receipts tax levied~~  
26 ~~by the Arkansas Gross Receipts Act, § 26-52-101 et seq.~~

27 (b) ~~As used in this section, unless the context otherwise requires,~~  
28 ~~"feedstuffs" means processed or unprocessed grains; mixed or unmixed grains;~~  
29 ~~whole or ground hay; whole or ground straw; hulls, whether or not mixed with~~  
30 ~~other materials; and all food supplements, whether or not nutritional or~~  
31 ~~medicinal, including hormones, antibiotics, vitamins, minerals, and~~  
32 ~~medications ingested by poultry or livestock.~~

33  
34 ~~26-52-405. Products used for livestock, poultry, and agricultural~~  
35 ~~production.~~

36 ~~The gross receipts or gross proceeds derived from sales of the~~

1 following are exempt from the Arkansas gross receipts tax levied by the  
2 Arkansas Gross Receipts Act, § 26-52-101 et seq.:

3 (1) Agricultural fertilizer;

4 (2) Agricultural limestone; and

5 (3) Agricultural chemicals, including, but not limited to:

6 (A) Agricultural pesticides and herbicides used in  
7 commercial production of agricultural products;

8 (B) Vaccines, medications, and medicinal preparations used  
9 in treating livestock and poultry being grown for commercial purposes; and

10 (C) Chemicals, nutrients, and other ingredients used in  
11 the commercial production of yeast.

12  
13 ~~26-52-406. Prescription drugs and oxygen.~~

14 (a)(1) ~~The (1) gross receipts or gross proceeds derived from the sale,~~  
15 ~~purchase, or use of prescription drugs by licensed pharmacists, hospitals, or~~  
16 ~~physicians when sold, purchased, or administered for human use and from the~~  
17 ~~sale of oxygen sold for human use on prescription of a licensed physician~~  
18 ~~shall be exempt from the Arkansas gross receipts tax levied by the Arkansas~~  
19 ~~Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas~~  
20 ~~compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §~~  
21 ~~26-53-101 et seq.~~

22 (2) ~~The withdrawal of prescription drug samples for free~~  
23 ~~distribution from a stock or inventory, whether located within or outside the~~  
24 ~~State of Arkansas, is exempt from the tax imposed by this chapter.~~

25 (b) ~~The Director of the Department of Finance and Administration shall~~  
26 ~~adopt such appropriate rules and regulations as he deems necessary to assume~~  
27 ~~the effective and efficient administration of the exemption provided for in~~  
28 ~~this section and to prevent abuse thereof.~~

29  
30 ~~26-52-407. Certain vessels.~~

31 ~~The gross receipts and gross proceeds derived from the sale and~~  
32 ~~purchase of vessels, barges, and towboats of at least fifty (50) tons load~~  
33 ~~displacement, and parts and labor used in the repair and construction of~~  
34 ~~them, are exempt from the Arkansas gross receipts tax levied by the Arkansas~~  
35 ~~Gross Receipts Act, § 26-52-101 et seq.~~

~~26-52-408. Certain bagging, packaging, or tying materials.~~

~~(a) Gross receipts and gross proceeds derived from the sale of bagging and other packaging and tie materials sold to and used by cotton gins in Arkansas for packaging or tying baled cotton are exempt from the Arkansas gross receipts tax.~~

~~(b) Gross receipts and gross proceeds derived from the sale of twine which is used in the production of tomato crops are exempt from the Arkansas gross receipts tax.~~

~~26-52-409. Aircraft held for resale and used for rental or charter.~~

~~(a)(1) Any person, whether an established business or an individual, engaged in the business of selling aircraft in this state and holding a retail sales tax permit may purchase aircraft exempt for resale and use the aircraft for rental or charter service without payment of sales or use tax for a period of not to exceed one (1) year from the date of purchase of the aircraft.~~

~~(2) In the case of aircraft purchased for resale which require substantial modification or substantial refurbishing prior to resale, the purchaser may use the aircraft for rental or charter service without payment of sales or use tax for a period of not to exceed two (2) years from the date of purchase of the aircraft.~~

~~(b) The use of the aircraft for rental or charter during the applicable one-year or two-year holding period described in subsection (a) of this section shall not constitute a withdrawal from stock, and the purchaser shall not be required to pay the sales tax on the purchase price of the aircraft held in stock and used for such purposes.~~

~~(c) The aircraft purchaser shall collect and remit gross receipts and short-term rental tax on the rentals and shall subsequently collect and remit the gross receipts tax on the aircraft at the time of subsequent sale in the manner required by law.~~

~~(d) If the purchaser fails to sell the aircraft during the applicable holding period, the purchaser shall be liable for sales or use tax on his purchase price of the aircraft.~~

~~26-52-410. Motor vehicles sold to political subdivisions and schools.~~

~~(a) No tax shall be levied or collected upon gross receipts derived~~

1 ~~from the sale of motor vehicles to municipalities and counties or to state-~~  
 2 ~~supported colleges and universities or to public school districts in this~~  
 3 ~~state.~~

4 ~~(b) No tax shall be levied or collected upon the gross receipts~~  
 5 ~~derived from the sale of school buses to school districts of Arkansas.~~

6 ~~(c) No tax shall be levied or collected upon the gross receipts~~  
 7 ~~derived from the sale of school buses if at the time of sale the school bus~~  
 8 ~~purchaser has contracted with an Arkansas school district to provide school~~  
 9 ~~bus service for the school district, the school buses purchased are used~~  
 10 ~~exclusively in providing such service, and the obligation to pay any taxes~~  
 11 ~~related to the school buses is contractually assumed by the school district.~~  
 12 ~~This exemption shall apply only to school buses which are equipped in~~  
 13 ~~accordance with § 6-19-117(a)-(d).~~

14  
 15 ~~26-52-411. Admission tickets sold by municipalities.~~

16 ~~The gross receipts or gross proceeds derived by municipalities of this~~  
 17 ~~state from the sale of tickets or admissions to places of amusement or to~~  
 18 ~~athletic, entertainment, or recreational events; or fees for the privilege of~~  
 19 ~~having access to or the use of amusement, entertainment, athletic, or~~  
 20 ~~recreational facilities, including free or complimentary passes, tickets,~~  
 21 ~~admissions, dues, or fees, such free or complimentary passes, tickets, dues,~~  
 22 ~~or fees hereby being declared to have a value equivalent to the sale price of~~  
 23 ~~tickets, passes, admissions, fees, or dues of like kind, shall be exempt from~~  
 24 ~~the Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act, §~~  
 25 ~~26-52-101 et seq.~~

26  
 27 ~~26-52-412. Admission tickets sold by schools, universities, and~~  
 28 ~~colleges.~~

29 ~~(a) Gross receipts or gross proceeds from the sale of tickets for~~  
 30 ~~admission to athletic events and interscholastic activities at public and~~  
 31 ~~private elementary and secondary schools in this state shall be exempt from~~  
 32 ~~the provisions of the Arkansas gross receipts tax.~~

33 ~~(b) Gross receipts or gross proceeds from the sale of tickets for~~  
 34 ~~admission to athletic events at universities and colleges in this state,~~  
 35 ~~whether or not supported by public funds, shall be exempt from the provisions~~  
 36 ~~of the Arkansas gross receipts tax.~~

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~~26-52-413. Products sold to orphans' or children's homes.~~

~~All sales to all orphans' homes in this state, or children's homes, which are not operated for profit and whether operated by a church, religious organization, or other benevolent charitable association shall be exempt from the gross receipts or gross proceeds tax, commonly referred to as the sales tax.~~

~~26-52-414. Products sold to humane societies.~~

~~(a) All sales to humane societies which are not operated for profit and are organized under the provisions of § 20-19-101 for the prevention of cruelty to animals shall be exempt from the Arkansas Gross Receipts Act, § 26-52-101 et seq.~~

~~(b) The Director of the Department of Finance and Administration shall issue a certificate to the officers of each humane society organized under § 20-19-101, which shall indicate the identity of the humane society officer and the humane society with which he is associated. Sales to a humane society shall be exempt from the Arkansas gross receipts tax upon presentation of the certificate.~~

~~26-52-415. New automobiles sold to blind veterans.~~

~~(a) Gross receipts and gross proceeds derived from the sale of new automobiles to a veteran of the United States armed services who is blind as the result of a service-connected injury shall be exempt from the Arkansas gross receipts tax.~~

~~(b) This exemption shall apply only to those persons who furnish the Department of Finance and Administration a statement from the Department of Veterans Affairs certifying that the individual is a veteran of the United States armed services and has been blinded as the result of a service-connected injury. This statement shall be supplied the department upon application for a vehicle license.~~

~~(c) The exemption allowed by this section shall be available only on the gross receipts or gross proceeds derived from the sale of one (1) new automobile every two (2) years to a veteran who complies with the requirements of this section.~~

~~(d) As used in this section, "automobile" means a passenger automobile~~



~~or pickup truck but does not include trucks with a maximum gross load in excess of three quarters (3/4) ton and does not include any trailer.~~

~~26-52-416. Electricity sold to low income households.~~

~~(a) The sale of the first five hundred (500) kilowatt hours of electricity per month and the total franchise taxes billed to each residential customer whose household income is no more than twelve thousand dollars (\$12,000) per year shall be exempt from the Arkansas gross receipts tax levied pursuant to § 26-52-301(1), (2), (3)(A), (B), (C)(i)-(iii), (4), (5), and all other state excise taxes which would otherwise be levied thereon.~~

~~(b) For the purposes of this section, the terms "income" and "household income" shall have the same meaning as ascribed to them in § 26-51-602.~~

~~(c) The exemption provided by this section shall apply to sales by all electric utilities operating in this state, whether investor-owned utilities, electric cooperative corporations created or existing under the authority of § 23-18-301 et seq., or municipally owned electric utilities.~~

~~(d) Persons qualifying for the exemption provided by this section shall notify, on forms provided by the Director of the Department of Finance and Administration, the electric utility providing service to them of the residential customer's intention to claim the exemptions provided in this section.~~

~~(e)(1) After a person has qualified for this exemption no additional application shall be required. When a person who has qualified for this exemption has household income exceeding the twelve thousand dollar (\$12,000) limit, the person is disqualified and must notify the electric utility on forms provided by the director. The notice form must be mailed to the electric utility on or before March 1 of the year following the year the household income exceeds twelve thousand dollars (\$12,000).~~

~~(2) The provisions of this subsection shall be in full force and effect for years beginning on or after December 31, 1990.~~

~~(f)(1) If a person does not notify the electric utility and continues to receive this exemption after his household income exceeds the qualification limit, such person shall be liable for the amount of the tax exemption received after the time for notification. The electric utility~~

1 company shall bill the amount of tax due as a result of disqualification and  
 2 remit the tax to the director.

3 (2) ~~The provisions of this subsection shall be in full force and~~  
 4 ~~effect for years beginning on or after December 31, 1990.~~

5  
 6 ~~26-52-417. Motor fuels used in municipal buses.~~

7 (a) ~~The gross receipts or gross proceeds derived from the sale of~~  
 8 ~~motor fuels to owners or operators of motor buses operated on designated~~  
 9 ~~streets according to regular schedule and under municipal franchise which are~~  
 10 ~~used for municipal transportation purposes shall be exempt from the tax~~  
 11 ~~levied in the Arkansas Gross Receipts Act, § 26-52-101 et seq.~~

12 (b) ~~However, it shall be unlawful for the owners or operators of motor~~  
 13 ~~buses operating under municipal franchise as provided in this section to use~~  
 14 ~~any or permit the use of any motor fuels upon which the gross receipts tax~~  
 15 ~~has not been paid in any motor vehicle other than motor buses operated on~~  
 16 ~~designated streets according to regular schedules under municipal franchise.~~

17 (c)(1) ~~Any owner or operator of motor buses permitting the motor fuels~~  
 18 ~~to be used in violation of this section shall be guilty of a misdemeanor and,~~  
 19 ~~upon conviction, shall be fined in an amount of not less than five hundred~~  
 20 ~~dollars (\$500) nor more than five thousand dollars (\$5,000).~~

21 (2) ~~In addition thereto, the owner or operator shall be liable~~  
 22 ~~to the State of Arkansas for a penalty of triple the amount of gross receipts~~  
 23 ~~due the State of Arkansas on any motor fuels upon which the taxes have not~~  
 24 ~~been paid and used in violation of the provisions of this section.~~

25  
 26 ~~26-52-418. Out-of-state telephones sent to Arkansas for repairs.~~

27 ~~From and after July 1, 1989, the Arkansas gross receipts tax levied by~~  
 28 ~~§ 26-52-301 et seq. and § 26-52-501 et seq. and all city and county sales~~  
 29 ~~taxes shall not be levied against the repair or refurbishing of telephone~~  
 30 ~~instruments which are sent into this state for repair or refurbishing and~~  
 31 ~~then shipped back to the state of origin.~~

32  
 33 ~~26-52-419. Insulin and test strips.~~

34 ~~There is hereby exempted from the Arkansas Gross Receipts Act of 1941,~~  
 35 ~~as amended, § 26-52-101 et seq., the gross receipts and gross proceeds~~  
 36 ~~derived from the sale of insulin and test strips for testing blood sugar~~

1 ~~levels in human beings.~~

2

3 ~~26-52-420. New motor vehicles purchased by nonprofit organizations or~~  
4 ~~with Urban Mass Transit Administration funds.~~

5 ~~Gross receipts or gross proceeds derived from the sale of new motor~~  
6 ~~vehicles which are purchased by nonprofit organizations and used for the~~  
7 ~~performance of contracts with the Department of Human Services or new motor~~  
8 ~~vehicles purchased with Urban Mass Transit Administration (UMTA) funds shall~~  
9 ~~be exempt from the taxes levied under the Arkansas Gross Receipts Act of~~  
10 ~~1941, § 26-52-101 et seq., the Arkansas Compensating Tax Act of 1949, § 26-~~  
11 ~~53-101 et seq., and all other state and local sales and use taxes, provided~~  
12 ~~that the motor vehicles meet the following requirements:~~

13 ~~(1) The vehicles are purchased in lots of ten (10) vehicles or~~  
14 ~~more and therefore are sold at fleet price by the manufacturer;~~

15 ~~(2) The vehicles meet or exceed the state specifications for~~  
16 ~~that class of vehicles as prescribed in the state purchasing law and~~  
17 ~~regulations promulgated thereunder; and~~

18 ~~(3) The vehicles are used for transportation under the~~  
19 ~~Department of Human Service's programs for the aging, disabled, mentally ill,~~  
20 ~~and children and family services.~~

21

22 ~~26-52-421. Nonprofit food distribution agencies.~~

23 ~~The gross receipts or gross proceeds derived from the sale of~~  
24 ~~foodstuffs to nonprofit agencies organized under the Arkansas Nonprofit~~  
25 ~~Corporation Act, § 4-28-201 et seq., for free distribution to the poor and~~  
26 ~~needy shall be exempt from the Arkansas gross receipts tax levied by the~~  
27 ~~Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.~~

28

29 ~~26-52-422. Manufacturing forms.~~

30 ~~Forms constructed of plaster, cardboard, fiberglass, natural fibers,~~  
31 ~~synthetic fibers or composites thereof which determine the physical~~  
32 ~~characteristics of an item of tangible personal property and which are~~  
33 ~~destroyed or consumed during the manufacture of the item for which the~~  
34 ~~destroyed or consumed form was built are hereby exempt from the taxes levied~~  
35 ~~in the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.~~

36

~~26-52-423. Natural gas used to make glass.~~

~~The gross receipts or gross proceeds derived from sales of natural gas used as fuel in the process of manufacturing glass is hereafter exempt from the Arkansas gross receipts tax levied by §§ 26-52-301, 26-52-302, and 26-52-1002, and the Arkansas compensating use tax levied by §§ 26-53-106 and 26-53-107, and all city and county sales and use taxes.~~

~~26-52-424. Sales to Fort Smith Clearinghouse.~~

~~The gross receipts or gross proceeds derived from sales to Fort Smith Clearinghouse are hereafter exempt from the Arkansas gross receipts tax levied by §§ 26-52-301, 26-52-302, and 26-52-1002, and the Arkansas compensating use tax levied by §§ 26-53-106 and 26-53-107, and from all city and county sales and use taxes.~~

~~26-52-425. Substitute fuel for manufacturing.~~

~~There is specifically exempted from the tax imposed by §§ 26-52-301 and 26-52-302, the gross receipts or gross proceeds derived from the sale of substitute fuel used in producing, manufacturing, fabricating, assembling, processing, finishing, or packaging of articles of commerce at manufacturing or processing plants or facilities in the State of Arkansas. The terms "manufacturing" or "processing" shall have the same meaning as set out in § 26-52-402(b). The term "substitute fuel" shall mean products or materials which have been derived from tires, from municipal or other solid waste, from used motor oil, from used railroad ties, or from petroleum-based waste, for use in producing heat or power by burning; provided, however, that the term "solid waste" shall be strictly construed to only include waste as commonly understood on the date of enactment, excluding solid wood chips and other wood by-products.~~

~~26-52-426. Railroad rolling stock manufactured for use in interstate commerce.~~

~~(a) The gross receipts or gross proceeds derived from the sale or lease of railroad rolling stock manufactured for use in transporting persons or property in interstate commerce is exempt from the gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.~~

~~(b)(1) For the purpose of this section, "railroad rolling stock" means~~

1 ~~completed railroad locomotives and completed railroad cars designed to haul~~  
2 ~~either passengers or freight.~~

3 ~~(2)(A) "Railroad rolling stock" shall not include repair parts~~  
4 ~~or materials used to repair locomotives or railroad cars, components of~~  
5 ~~railroad cars or locomotives, trailers, or any property not used directly in~~  
6 ~~the transportation of passengers or freight.~~

7 ~~(B) "Railroad rolling stock" shall also not include~~  
8 ~~machinery used to repair or maintain railroad cars, locomotives, track,~~  
9 ~~railroad ties, or railroad roadway.~~

10  
11 ~~26-52-427. Property purchased for use in performance of construction~~  
12 ~~contract.~~

13 ~~(a) Tangible personal property which becomes a recognizable part of a~~  
14 ~~completed structure or improvement to real property and which is purchased~~  
15 ~~for use or consumption in the performance of construction contracts shall be~~  
16 ~~exempt from any additional gross receipts tax or compensating (use) tax~~  
17 ~~levied by the state or any city or county when the construction contract for~~  
18 ~~which the property was purchased is entered into prior to the effective date~~  
19 ~~of the levy of the additional state, city, or county gross receipts tax or~~  
20 ~~compensating (use) tax.~~

21 ~~(b) For the purposes of this section, "construction contract" means a~~  
22 ~~contract to construct, manage, or supervise the construction, erection, or~~  
23 ~~substantial modification of a building or other improvement or structure~~  
24 ~~affixed to real property. The term "construction contract" shall not mean~~  
25 ~~contract to produce tangible personal property.~~

26 ~~(c) The exemption provided by this section shall apply to tangible~~  
27 ~~personal property purchased within five (5) years from the effective date of~~  
28 ~~the levy of the additional state, city, or county gross receipts tax or~~  
29 ~~compensating (use) tax.~~

30 ~~(d) The exemption shall not apply to cost plus contracts which allow~~  
31 ~~the contractor to pass any additional tax on to the principal as a part of~~  
32 ~~the contractor's costs.~~

33  
34 ~~26-52-428. Railroad parts, cars, and equipment.~~

35 ~~There is specifically exempted from any tax imposed by the Arkansas~~  
36 ~~Gross Receipts Act of 1941, § 26-52-101 et seq., as amended, including, but~~

1 not limited to, §§ 26-52-301 and 26-52-302, the gross receipts or gross  
 2 proceeds derived from the sale of parts and other tangible personal property  
 3 incorporated into or which ultimately become a part of railroad parts,  
 4 railroad cars, and equipment brought into the State of Arkansas solely and  
 5 exclusively for the purpose of being repaired, refurbished, modified, or  
 6 converted within this state.

7  
 8 ~~26-52-429. Gas and energy produced from biomass.~~

9 ~~(a)(1) The gross receipts or gross proceeds derived from the sale of~~  
 10 ~~gas produced from biomass in a facility meeting all of the eligibility~~  
 11 ~~requirements for the credit allowed under federal Internal Revenue Code § 29,~~  
 12 ~~as in effect on December 31, 1996, and sold to an entity for the purpose of~~  
 13 ~~generating steam, hot air or electricity to be sold to the gas producer are~~  
 14 ~~exempt from the tax levied by the Arkansas Gross Receipts Act of 1941, § 26-~~  
 15 ~~52-101, et seq.~~

16 ~~(2) The gross receipts or gross proceeds derived from the sale~~  
 17 ~~of steam, hot air or electricity from the entity purchasing the gas produced~~  
 18 ~~from biomass in a facility meeting all of the eligibility requirements for~~  
 19 ~~the credit allowed under federal Internal Revenue Code § 29, as in effect on~~  
 20 ~~December 31, 1996, to the gas producer are exempt from the tax levied by the~~  
 21 ~~Arkansas Gross Receipts Act of 1941, § 26-52-101, et seq.~~

22 ~~(b) As used in this section, the term "gas produced from biomass"~~  
 23 ~~shall mean gas produced from any organic material other than oil and natural~~  
 24 ~~gas or any product thereof; or coal, including lignite, or any product~~  
 25 ~~thereof.~~

26  
 27 ~~26-52-430. Charitable organizations.~~

28 ~~(a) The exemptions set forth in this subchapter for charitable~~  
 29 ~~organizations shall not extend to sales of new tangible personal property by~~  
 30 ~~the organization if the sale competes with sales by for-profit businesses.~~

31 ~~(b) A sale by a charitable organization does not compete with a sale~~  
 32 ~~by a for-profit business if:~~

33 ~~(1) The sales transaction is conducted by members of the~~  
 34 ~~charitable organization and not by any franchisee or licensee;~~

35 ~~(2) All the proceeds derived from the transaction go to the~~  
 36 ~~charitable organization;~~

1           ~~(3) The transaction is not a continuing one and is held not more~~  
 2 ~~than three (3) times a year; and~~

3           ~~(4) The dominant motive of the majority of purchasers of the~~  
 4 ~~items sold is the making of a charitable contribution, with the purchase of~~  
 5 ~~the item being merely incidental and secondary to the dominant purpose of~~  
 6 ~~making a gift to the charity.~~

7           ~~(e) The provisions of this section shall not apply to sales made by a~~  
 8 ~~nonprofit hospital, a cafeteria at a nonprofit hospital, or a gift shop at a~~  
 9 ~~nonprofit hospital, whether operated by the hospital, a hospital auxiliary,~~  
 10 ~~or other nonprofit organization. The provisions of this section shall also~~  
 11 ~~not apply to a gift shop operated by a charitable organization at a for-~~  
 12 ~~profit hospital.~~

13  
 14           ~~26-52-431. Timber harvesting equipment.~~

15           ~~(a) The first fifty thousand dollars (\$50,000) of the purchase price~~  
 16 ~~from the sale of machinery or equipment and related attachments that are sold~~  
 17 ~~to or used by a person engaged primarily in the harvesting of timber shall be~~  
 18 ~~exempt from the taxes levied by the Arkansas Gross Receipts Act of 1941, as~~  
 19 ~~amended, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949,~~  
 20 ~~as amended, § 26-53-101 et seq.~~

21           ~~(b) Equipment and related attachments are not exempt unless they are:~~

22           ~~(1) Purchased by a person whose primary activity is the~~  
 23 ~~harvesting of timber; and~~

24           ~~(2) Used exclusively in the off-road activity of harvesting of~~  
 25 ~~timber.~~

26           ~~(c) The exemption provided in this section shall not apply to~~  
 27 ~~purchases of repair or replacement parts for the equipment.~~

28           ~~(d) For the purpose of this section:~~

29           ~~(1) "Equipment used in the harvesting of timber" means all off-~~  
 30 ~~road equipment and related attachments used in every forestry procedure~~  
 31 ~~starting with the severing of a tree from the ground through the point at~~  
 32 ~~which the tree or its parts in any form have been loaded in the field in or~~  
 33 ~~on a truck or other vehicle for transport to the place of use;~~

34           ~~(2) "Machinery or equipment" means only complete systems or~~  
 35 ~~units that operate exclusively and directly in the harvesting of timber;~~

36           ~~(3) "Off-road equipment" means and includes skidders, feller~~

1 ~~bunchers, delimiters of all types, chippers of all types, loaders of all~~  
 2 ~~types, and bulldozers equipped with grapples used as skidders; and~~

3 ~~(4) "Primary activity" means the principal activity in which a~~  
 4 ~~person is engaged and to which more than fifty percent (50%) of all the~~  
 5 ~~resources of his or her activities are committed.~~

6 ~~(e) This section shall be effective beginning July 1, 1999.~~

7  
 8 ~~26-52-432. Assistance to owners of agricultural aircraft damaged during~~  
 9 ~~January 1999.~~

10 ~~(a) If a purchaser of agricultural aircraft used in the production of~~  
 11 ~~food, fiber, or timber establishes to the satisfaction of the Director of the~~  
 12 ~~Department of Finance and Administration that he was the owner of an~~  
 13 ~~agricultural aircraft which was destroyed or damaged by the storms which~~  
 14 ~~struck Arkansas during January, 1999, and that he purchased a replacement~~  
 15 ~~agricultural aircraft on or before December 1, 1999, then the purchaser is~~  
 16 ~~entitled to a refund of sales tax as detailed in subsection (b) of this~~  
 17 ~~section.~~

18 ~~(b)(1) The purchaser of a new agricultural aircraft is entitled to a~~  
 19 ~~refund of thirty eight percent (38%) of the state sales or use tax paid on~~  
 20 ~~the purchase of the aircraft.~~

21 ~~(2) The purchaser of a used agricultural aircraft is entitled to~~  
 22 ~~a refund of one hundred percent (100%) of the state sales or use tax paid on~~  
 23 ~~the purchase of the used aircraft.~~

24 ~~(3)(A) The purchaser shall apply to the director for a refund~~  
 25 ~~regardless of whether the tax was paid directly to the director or collected~~  
 26 ~~by the aircraft seller.~~

27 ~~(B) The application for refund must be made within six (6)~~  
 28 ~~months of the purchase of the replacement aircraft.~~

29 ~~(C) No interest shall be paid on tax refunded under this~~  
 30 ~~section.~~

31 ~~(e)(1) For purposes of this section, an agricultural aircraft is~~  
 32 ~~"destroyed or damaged" if, as a result of the storm, the retail value of the~~  
 33 ~~aircraft was reduced by at least fifty percent (50%), as established by a~~  
 34 ~~reliable published industry source.~~

35 ~~(2) For purposes of this section, an agricultural aircraft is~~  
 36 ~~"destroyed or damaged" if, as a result of the storm, the market value of the~~



1 ~~aircraft was reduced by at least fifty percent (50%), as established by~~  
 2 ~~reliable means.~~

3  
 4 SECTION 2. Arkansas Code § 26-52-303 is repealed.

5 ~~26-52-303. Border cities or towns—Tax rate—Exemptions.~~

6 ~~(a)(1) In instances where:~~

7 ~~(A) An Arkansas city or incorporated town is divided by a~~  
 8 ~~state line from an incorporated city or town in an adjoining state;~~

9 ~~(B) The city or town in the adjoining state is of greater~~  
 10 ~~population than the Arkansas city or town; and~~

11 ~~(C) A tax imposed in such adjoining state is in the nature~~  
 12 ~~of a selective sales tax or limited to specific items as a special excise~~  
 13 ~~tax; then the rate of tax upon such articles on the Arkansas side shall be at~~  
 14 ~~the same rate imposed in such adjoining state not to exceed the state sales~~  
 15 ~~tax rate as levied by the General Assembly, initiatives enacted by the people~~  
 16 ~~of the State of Arkansas, and amendments to the Arkansas Constitution.~~

17 ~~(2) Provided that, if such border city has voted to levy an~~  
 18 ~~additional one percent (1%) gross receipts tax in such city in lieu of paying~~  
 19 ~~state income taxes by individuals who are residents of said city, as~~  
 20 ~~authorized by § 26-52-601 et seq., in such event the rate of tax shall be one~~  
 21 ~~percent (1%) above the state sales tax rate as levied by the General~~  
 22 ~~Assembly, initiatives enacted by the people of the State of Arkansas, and~~  
 23 ~~amendments to the Arkansas Constitution.~~

24 ~~(b) The exception hereunder shall not be applicable to gross receipts~~  
 25 ~~or gross proceeds derived from the sale of beer, wine, liquor, or any other~~  
 26 ~~form of intoxicating beverages in any border city or incorporated town in the~~  
 27 ~~State of Arkansas.~~

28 ~~(c) With respect to motor vehicles sold in any such city or~~  
 29 ~~incorporated town, the exemption authorized herein shall be applicable only~~  
 30 ~~to motor vehicles sold to and registered by bona fide residents of such~~  
 31 ~~Arkansas city or incorporated town and shall not be applicable to motor~~  
 32 ~~vehicles sold to nonresidents.~~

33 ~~(d)(1) The director shall require any person claiming this exemption~~  
 34 ~~to file a sworn statement in writing that the person is a resident of that~~  
 35 ~~city or incorporated town, and such other information as the director may~~  
 36 ~~determine is necessary to establish the residence of any such person.~~

1           ~~(2) Any person filing a false statement or otherwise falsely~~  
2 ~~obtaining, or assisting any other person to falsely obtain, the benefits of~~  
3 ~~the exemption authorized in this section shall, upon conviction, be fined in~~  
4 ~~a sum of not less than one hundred dollars (\$100) nor more than five hundred~~  
5 ~~dollars (\$500).~~

6  
7           SECTION 3. Arkansas Code Title 26, Chapter 52, Subchapter 8 is  
8 repealed.

9           ~~26-52-801. Definition.~~

10          ~~(a) As used in this subchapter, unless the context otherwise requires,~~  
11 ~~"custom manufactured homes" means a factory built structure made to be moved~~  
12 ~~to a location away from the factory by a conveyance which is not a part of~~  
13 ~~the structure and which structure is designed to be used as a dwelling unit~~  
14 ~~with a permanent foundation.~~

15          ~~(b) For the purpose of this definition, the phrase "with a permanent~~  
16 ~~foundation" means the support system of the home is constructed so that the~~  
17 ~~custom manufactured home may not be moved without a supporting frame or~~  
18 ~~chassis being added to or placed under the structure.~~

19          ~~(c) The term "custom manufactured home" does not include a mobile home~~  
20 ~~as defined in Acts 1973, No. 510, § 2 [repealed].~~

21  
22          ~~26-52-802. Manufacturers deemed contractors.~~

23          ~~Manufacturers of custom manufactured homes shall be considered~~  
24 ~~contractors within the meaning of § 26-52-103(a)(9).~~

25  
26          ~~26-52-803. Exemption granted.~~

27          ~~Gross receipts from the sale of new custom manufactured homes~~  
28 ~~constructed from materials on which the state gross receipts tax or state~~  
29 ~~compensating tax has been paid shall be exempt from the Arkansas Gross~~  
30 ~~Receipts Tax.~~

31  
32          ~~26-52-804. Furnishings not exempt.~~

33          ~~It is not the intent of this subchapter, and nothing contained in this~~  
34 ~~subchapter shall be construed, to exempt from the state gross receipts tax or~~  
35 ~~the state compensating tax furniture, appliances, or other furnishings~~  
36 ~~installed or placed in custom manufactured homes by the manufacturers of~~

1 ~~these homes.~~

2  
 3 SECTION 4. Arkansas Code Title 26, Chapter 52, Subchapter 9 is  
 4 repealed.

5 ~~26-52-901. Definitions.~~

6 ~~For the purposes of this subchapter:~~

7 ~~(1) The term "invested" shall include expenditures made from the~~  
 8 ~~proceeds of bonds, including interim notes or other evidence of indebtedness,~~  
 9 ~~issued by a municipality, county, or an agency or instrumentality of a~~  
 10 ~~municipality, county, or the State of Arkansas, if the obligation to repay~~  
 11 ~~the bonds, including interest thereon, is a legal binding obligation,~~  
 12 ~~directly or indirectly, of the taxpayer;~~

13 ~~(2) A "qualified manufacturer of steel" is any natural person,~~  
 14 ~~company, or corporation engaged in the manufacture, refinement, or processing~~  
 15 ~~of steel whenever more than fifty percent (50%) of the electricity or more~~  
 16 ~~than fifty percent (50%) of the natural gas consumed in the manufacture,~~  
 17 ~~refinement, or processing of steel is used to power an electric arc furnace~~  
 18 ~~or furnaces, continuous casting equipment, or rolling mill equipment in~~  
 19 ~~connection with the melting, continuous casting, or rolling of steel or in~~  
 20 ~~the preheating of steel for processing through a rolling mill or rolling~~  
 21 ~~mills, or both.~~

22  
 23 ~~26-52-902. Certification required.~~

24 ~~(a) To claim the benefits of this subchapter, a taxpayer must obtain a~~  
 25 ~~certification from the Director of the Arkansas Economic Development~~  
 26 ~~Commission certifying to the Revenue Division of the Department of Finance~~  
 27 ~~and Administration that the taxpayer:~~

28 ~~(1) Operates a steel mill in Arkansas which began production~~  
 29 ~~after February 16, 1987; and~~

30 ~~(2) Has invested, after February 16, 1987, in excess of one~~  
 31 ~~hundred twenty million dollars (\$120,000,000) in the steel mill, which~~  
 32 ~~investment expenditure is for one (1) of the following:~~

33 ~~(A) Property purchased for use in the construction of a~~  
 34 ~~building or buildings or any addition or improvement thereon to house the~~  
 35 ~~steel mill.~~

36 ~~(B) Machinery and equipment to be located in or in~~

1 connection with the steel mill. Motor vehicles of a type subject to  
 2 registration shall not be considered as machinery and equipment.

3 (C) ~~Project planning costs or construction labor costs,~~  
 4 ~~including on-site direct labor and supervision, whether employed by a~~  
 5 ~~contractor or the project owner; architectural fees or engineering fees, or~~  
 6 ~~both; right-of-way purchases; utility extensions; site preparation; parking~~  
 7 ~~lots; disposal or containment systems; water and sewer treatment systems;~~  
 8 ~~rail spurs; streets and roads; purchase of mineral rights; land; buildings;~~  
 9 ~~building renovation; production, processing, and testing equipment; freight~~  
 10 ~~charges; building demolition; material handling equipment; drainage systems;~~  
 11 ~~water tanks and reservoirs; storage facilities; equipment rental;~~  
 12 ~~contractor's cost plus fees; builders risk insurance; original spare parts;~~  
 13 ~~job administrative expenses; office furnishings and equipment; rolling stock;~~  
 14 ~~capitalized start-up costs as recognized by generally accepted accounting~~  
 15 ~~principles; and other costs related to the construction.~~

16 (b) ~~"Production, processing, and testing equipment", as used in~~  
 17 ~~subdivision (a)(2)(C) of this section, includes machinery and equipment~~  
 18 ~~essential for the receiving, storing, processing, and testing of raw~~  
 19 ~~materials and the production, storage, testing, and shipping of finished~~  
 20 ~~products, including facilities for the production of steam, electricity,~~  
 21 ~~chemicals, and other materials that are essential to the manufacturing~~  
 22 ~~process, but which are consumed in the manufacturing process and do not~~  
 23 ~~become essential components of the finished product.~~

24 (c) ~~To claim the benefits of § 26-52-903, a taxpayer must be certified~~  
 25 ~~pursuant to subsection (a) of this section or obtain a certification from the~~  
 26 ~~Director of the Arkansas Department of Economic Development certifying to the~~  
 27 ~~Revenue Division of the Department of Finance and Administration that the~~  
 28 ~~taxpayer meets the definition of "qualified manufacturer of steel" contained~~  
 29 ~~in § 26-52-901.~~

30  
 31 ~~26-52-903. Exemption from taxes.~~

32 ~~Sales of natural gas and electricity to taxpayers qualified under § 26-~~  
 33 ~~52-902 for use in connection with the steel mill shall be exempt from the~~  
 34 ~~gross receipts tax levied by the Arkansas Gross Receipts Act, § 26-52-101 et~~  
 35 ~~seq., and the Compensating Tax Act, § 26-53-101 et seq., and any other state~~  
 36 ~~or local tax administered under those acts.~~

~~26-52-911. Definitions.~~

For purposes of §§ ~~26-52-911—26-52-914~~, the following definitions apply:

~~(a) A taxpayer is a "qualified manufacturer of steel" if:~~

~~(1) The taxpayer is a natural person, company, or corporation engaged in the manufacture, refinement, or processing of steel; and~~

~~(2) More than fifty percent (50%) of the electricity or natural gas consumed in the manufacture, refinement, or processing of steel by the taxpayer is used either:~~

~~(A) To power an electric arc furnace or furnaces, continuous casting equipment, or rolling mill equipment in connection with melting, continuous casting, or rolling of steel; or~~

~~(B) In the preheating of steel for processing through a rolling mill;~~

~~(b) "Production and processing equipment" includes machinery and equipment essential for the receiving, storing, processing, and testing of raw materials and the production, storage, testing, and shipping of finished products, including facilities for the production of steam, electricity, chemicals, and such other materials that are essential to the manufacturing process, but which are consumed in the manufacturing process and do not become essential components of the finished product;~~

~~(c) "Invested" shall include expenditures made from the proceeds of bonds including interim notes or other evidence of indebtedness issued by a municipality, county, or an agency or instrumentality of a municipality, county, or the State of Arkansas, if the obligation to repay the bonds, including interest thereon, is a legal, binding obligation, directly or indirectly, of the taxpayer.~~

~~26-52-912. Certification required—Contents.~~

To claim the benefits of §§ ~~26-52-911—26-52-914~~, a taxpayer must obtain certification prior to June 30, 1994, from the Director of the Arkansas Department of Economic Development certifying to the Revenue Division of the Department of Finance and Administration that:

~~(a) The taxpayer is a "qualified manufacturer of steel" as defined in § ~~26-52-911~~; or~~

~~(b)(1) The taxpayer operates a steel mill in Arkansas which began~~

1 production after February 13, 1991; and

2 ~~(2) The taxpayer has invested, after February 13, 1991, in~~  
 3 ~~excess of one hundred twenty million dollars (\$120,000,000) in the steel~~  
 4 ~~mill, which investment expenditure is for one (1) of the following:~~

5 ~~(A) Property purchased for use in the construction of a~~  
 6 ~~building or buildings or any addition or improvement thereon to house the~~  
 7 ~~steel mill;~~

8 ~~(B) Machinery and equipment to be located in or in~~  
 9 ~~connection with the steel mill. Motor vehicles of a type subject to~~  
 10 ~~registration shall not be considered as machinery and equipment;~~

11 ~~(C) Project planning costs; construction labor costs,~~  
 12 ~~including on-site direct labor and supervision whether employed by a~~  
 13 ~~contractor or the project owner; architectural or engineering fees; right-of-~~  
 14 ~~way purchases; utility extensions; site preparation; parking lots; disposal~~  
 15 ~~or containment systems; water and sewer treatment systems; rail spurs;~~  
 16 ~~streets and roads; purchase of mineral rights; land; buildings; building~~  
 17 ~~renovation; production, processing, and testing equipment; freight charges;~~  
 18 ~~building demolition; material handling equipment; drainage systems; water~~  
 19 ~~tanks and reservoirs; storage facilities; equipment rental; contractor's cost~~  
 20 ~~plus fees; builders risk insurance; original spare parts; job administration~~  
 21 ~~expenses; office furnishings and equipment; rolling stock; capitalized start-~~  
 22 ~~up costs as recognized by generally accepted accounting principles; and other~~  
 23 ~~costs related to the construction.~~

24  
 25 ~~26-52-913. Net operating loss deduction—Carry forward.~~

26 ~~Taxpayers qualified under § 26-52-912(b) and entitled to a net~~  
 27 ~~operating loss deduction as provided in § 26-51-427 may carry forward that~~  
 28 ~~deduction to the next succeeding taxable year following the year of such net~~  
 29 ~~operating loss and annually thereafter for a total period of ten (10) years~~  
 30 ~~or until such net operating loss has been exhausted, whichever is earlier.~~  
 31 ~~The net operating loss deduction must be carried forward in the order named~~  
 32 ~~above.~~

33  
 34 ~~26-52-914. Exemption of sales of natural gas and electricity.~~

35 ~~(a) Sales of natural gas and electricity to taxpayers qualified under~~  
 36 ~~subsection (a) or (b) of § 26-52-912 for use in connection with the steel~~

1 mill shall be exempt from the Arkansas gross receipts tax levied by the  
2 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq., and the  
3 Arkansas compensating use tax, levied by the Arkansas Compensating Tax Act of  
4 1949, as amended, § 26-53-101 et seq., and any other state or local tax  
5 administered under those acts.

6 (b) The benefits of exemptions granted pursuant to this section shall  
7 become effective on July 1, 1991.

8

9 SECTION 5. Arkansas Code § 26-52-1003(b)(2), regarding the exemption  
10 from gross receipts tax for churches and charitable organizations, is  
11 repealed.

12 (2) However, the gross receipts or gross proceeds derived from  
13 the sale or rental of other tangible personal property or services by a  
14 church or charitable organization shall be exempt from the tax imposed by  
15 this subchapter, except where the organization is engaged in business for  
16 profit.

17

18 SECTION 6. Arkansas Code § 26-52-1004, regarding exemptions to the  
19 tourism gross receipts tax, is repealed.

20 ~~26-52-1004. Exemptions.~~

21 There is specifically exempted from the tax imposed by this subchapter  
22 the following:

23 (1) The gross receipts or gross proceeds derived from the sale  
24 or rental of tangible personal property or services to the Boy Scouts of  
25 America, chartered by the United States Congress in 1916, or the Girl Scouts  
26 of America, chartered by the United States Congress in 1950, or any of the  
27 scout councils in the State of Arkansas;

28 (2) Gross receipts or gross proceeds derived from the sale or  
29 rental of tangible personal property or services to the Boys Clubs of  
30 America, chartered by the United States Congress in 1956, or any local  
31 councils or organizations of the Boys Clubs of America;

32 (3) The gross receipts or gross proceeds derived from the sale  
33 or rental of tangible personal property or services to the Girls Clubs of  
34 America, or any local councils or organizations of the Girls Clubs of  
35 America; or

36 (4) Gross receipts or gross proceeds derived from the sale or

1 ~~rental of tangible personal property or services to 4 H Clubs and FFA Clubs~~  
2 ~~in this state, to the Arkansas 4 H Foundation, the Arkansas Future Farmers of~~  
3 ~~America Foundation, and the Arkansas Future Farmers of America Association.~~

4  
5 SECTION 7. Arkansas Code §§ 26-53-112 through 26-53-120 are repealed.  
6 ~~26-53-112. Exemptions generally.~~

7 ~~There is specifically exempted from the taxes levied in this~~  
8 ~~subchapter:~~

9 ~~(1) Property, the storage, use, or consumption of which this state is~~  
10 ~~prohibited from taxing under the Constitution or laws of the United States of~~  
11 ~~America or of this state;~~

12 ~~(2) Sales of tangible personal property on which the tax under the~~  
13 ~~Arkansas Gross Receipts Act, § 26-52-101 et seq., is levied, and any tangible~~  
14 ~~personal property specifically exempted from taxation by the Arkansas Gross~~  
15 ~~Receipts Act, § 26-52-101 et seq., and legislation enacted subsequent~~  
16 ~~thereto.~~

17  
18 ~~26-53-113. Exemption for unprocessed crude oil.~~

19 ~~Unprocessed crude oil is specifically exempted from the taxes levied in~~  
20 ~~this subchapter.~~

21  
22 ~~26-53-114. Exemption for certain machinery and equipment.~~

23 ~~(a) There is specifically exempted from the taxes levied in this~~  
24 ~~subchapter:~~

25 ~~(1)(A) Machinery and equipment used directly in producing,~~  
26 ~~manufacturing, fabricating, assembling, processing, finishing, or packaging~~  
27 ~~of articles of commerce at manufacturing or processing plants or facilities~~  
28 ~~in the State of Arkansas, including facilities and plants for manufacturing~~  
29 ~~feed, processing of poultry and eggs and livestock and the hatching of~~  
30 ~~poultry, but only to the extent that the machinery and equipment is purchased~~  
31 ~~and used for the purposes set forth in this subdivision.~~

32 ~~(B) Such machinery and equipment will be exempt under this~~  
33 ~~section if it is purchased and used to create new manufacturing or processing~~  
34 ~~plants or facilities within this state or to expand existing manufacturing or~~  
35 ~~processing plants or facilities within this state;~~

36 ~~(2)(A) Machinery purchased to replace existing machinery in its~~



1 ~~entirety and used directly in producing, manufacturing, fabricating,~~  
 2 ~~assembling, processing, finishing, or packaging of articles of commerce at~~  
 3 ~~manufacturing or processing plants or facilities in this state will be exempt~~  
 4 ~~under this section.~~

5 ~~(B)(i) "Machinery purchased to replace existing machinery"~~  
 6 ~~means that substantially all of the machinery and equipment required to~~  
 7 ~~perform an essential function is physically replaced with new machinery.~~

8 ~~(ii) The term "substantially" is intended to exclude~~  
 9 ~~routine repairs and maintenance and partial replacements that do not improve~~  
 10 ~~efficiency or extend the useful life of the entire machine, but it is not~~  
 11 ~~intended to mean that foundations and minor components which can be~~  
 12 ~~economically adapted, rebuilt, or refurbished must be completely replaced~~  
 13 ~~when replacement would be more expensive or impracticable than adapting,~~  
 14 ~~rebuilding, or refurbishing the old foundation and minor components;~~

15 ~~(3) Machinery and equipment required by state or federal law or~~  
 16 ~~regulations to be installed and utilized by manufacturing or processing~~  
 17 ~~plants or facilities or cities or towns in this state to prevent or reduce~~  
 18 ~~air or water pollution or contamination which might otherwise result from the~~  
 19 ~~operation of the plants or facility or city or town.~~

20 ~~(b) For the purpose of this section, the terms "manufacturing" and~~  
 21 ~~"processing" refer to and include those operations commonly understood within~~  
 22 ~~their ordinary meaning and shall also include mining, quarrying, refining,~~  
 23 ~~extracting oil and gas, cotton ginning, the drying of rice, soybeans, and~~  
 24 ~~other grains; and the manufacturing of feed, processing of poultry and eggs~~  
 25 ~~and the hatching of poultry; and printing of all kinds, types, and~~  
 26 ~~characters, including the services of overprinting and photographic processes~~  
 27 ~~incidental to printing; the processing of scrap metal into grades and bales~~  
 28 ~~for further processing into steel and other metals and the rebuilding or~~  
 29 ~~remanufacturing of used parts and retreading of tires for automobiles,~~  
 30 ~~trucks, and other mobile equipment powered by electrical or internal~~  
 31 ~~combustion engines or motors if the rebuilt or remanufactured parts or~~  
 32 ~~retreaded tires are not sold directly to the consumer but are sold for~~  
 33 ~~resale, and the production of protective coatings which increase the quality~~  
 34 ~~and durability of a finished product.~~

35 ~~(c)(1) It is the intent of this section to exempt only such machinery~~  
 36 ~~and equipment as shall be utilized directly in the actual manufacturing or~~

1 ~~processing operation at any time from the initial stage where actual~~  
 2 ~~manufacturing or processing begins through the completion of the finished~~  
 3 ~~article of commerce and the packaging of the finished end product.~~

4 ~~(2) The term "directly" as used in this section is to limit the~~  
 5 ~~exemption to only the machinery and equipment used in actual production~~  
 6 ~~during processing, fabricating, or assembling raw materials or semifinished~~  
 7 ~~materials into the form in which such personal property is to be sold in the~~  
 8 ~~commercial market.~~

9 ~~(3) For purposes of this subsection, the following definitions,~~  
 10 ~~specific inclusions, and specific exclusions shall apply and represent the~~  
 11 ~~intent of the General Assembly as to its interpretation of the term "used~~  
 12 ~~directly":~~

13 ~~(A) Machinery and equipment used in actual production~~  
 14 ~~include machinery and equipment that meet all other applicable requirements~~  
 15 ~~and which cause a recognizable and measurable mechanical, chemical,~~  
 16 ~~electrical, or electronic action to take place as a necessary and integral~~  
 17 ~~part of manufacturing, the absence of which would cause the manufacturing~~  
 18 ~~operation to cease. "Directly" does not mean that the machinery and equipment~~  
 19 ~~must come into direct physical contact with any of the materials that become~~  
 20 ~~necessary and integral parts of the finished product. Machinery and equipment~~  
 21 ~~which handle raw, semifinished, or finished materials or property before the~~  
 22 ~~manufacturing process begins are not utilized directly in the manufacturing~~  
 23 ~~process. Machinery and equipment which are necessary for purposes of storing~~  
 24 ~~the finished product are not utilized directly in the manufacturing process.~~  
 25 ~~Machinery and equipment used to transport or handle product while~~  
 26 ~~manufacturing is taking place are used directly;~~

27 ~~(B) Further, machinery and equipment "used directly" in~~  
 28 ~~the manufacturing process shall include, but shall not be limited to, the~~  
 29 ~~following:~~

30 ~~(i) Molds and dies that determine the physical~~  
 31 ~~characteristics of the finished product or its packaging materials;~~

32 ~~(ii) Testing equipment to measure the quality of the~~  
 33 ~~finished product;~~

34 ~~(iii) Computers and related peripheral equipment~~  
 35 ~~that directly control or measure the manufacturing process; and~~

36 ~~(iv) Machinery and equipment that produce steam,~~

1 ~~electricity, or chemical catalysts and solutions that are essential to the~~  
 2 ~~manufacturing process but which are consumed during the course of the~~  
 3 ~~manufacturing process and do not become necessary and integral parts of the~~  
 4 ~~finished product;~~

5 ~~(C) Machinery and equipment "used directly" in the~~  
 6 ~~manufacturing process shall not include the following:~~

7 ~~(i) Hand tools;~~

8 ~~(ii) Machinery, equipment, and tools used in~~  
 9 ~~maintaining and repairing any type of machinery and equipment;~~

10 ~~(iii) Transportation equipment, including conveyors,~~  
 11 ~~used solely before or after the manufacturing process has been started or~~  
 12 ~~completed;~~

13 ~~(iv) Office machines and equipment including~~  
 14 ~~computers and related peripheral equipment not directly used in controlling~~  
 15 ~~or measuring the manufacturing process;~~

16 ~~(v) Buildings;~~

17 ~~(vi) Machinery and equipment used in administrative,~~  
 18 ~~accounting, sales, or other such activities of the business;~~

19 ~~(vii) All furniture;~~

20 ~~(viii) All other machinery and equipment not used~~  
 21 ~~directly in manufacturing or processing operations as defined in this~~  
 22 ~~section; and~~

23 ~~(ix) Machinery and equipment used by a manufacturer~~  
 24 ~~to produce or repair replacement dies, molds, repair parts or replacement~~  
 25 ~~parts, used or consumed in the manufacturer's own manufacturing process.~~

26 ~~(d) The director shall have and be invested with full power and~~  
 27 ~~authority to promulgate rules and regulations for the orderly and efficient~~  
 28 ~~administration of this section.~~

30 ~~26-53-115. Exemption for certain aircraft and railroad cars, parts, and~~  
 31 ~~equipment.~~

32 ~~(a) The tax levied in this subchapter shall not apply to aircraft,~~  
 33 ~~aircraft equipment, and railroad parts, cars, and equipment, or to tangible~~  
 34 ~~personal property owned or leased by aircraft, airmotive, or railroad~~  
 35 ~~companies brought into the State of Arkansas solely and exclusively for:~~

36 ~~(1) Refurbishing, conversion, or modification within this state~~

1 and which is not used or intended for use in this state, and the presence of  
 2 such tangible personal property within this state shall not be construed as  
 3 storage, use, or consumption in this state for the purpose of this subchapter  
 4 if the aircraft, aircraft equipment, and railroad parts, cars, and equipment,  
 5 or tangible personal property is removed from this state within sixty (60)  
 6 days from the date of the completion of the refurbishing, conversion, or  
 7 modification; or

8           (2) ~~Storage for use outside or inside the State of Arkansas~~  
 9 ~~regardless of the length of time any such property is so stored in the State~~  
 10 ~~of Arkansas.~~

11           (b) ~~If any such property is subsequently initially used in the State~~  
 12 ~~of Arkansas, the tax levied by this subchapter shall be and become applicable~~  
 13 ~~to the property so used in Arkansas.~~

14           (c) ~~[Repealed.]~~

15           (d)(1) ~~The General Assembly determines that it was not the intent of~~  
 16 ~~the Arkansas Compensating Tax Act, § 26-53-101 et seq., to impose the~~  
 17 ~~compensating tax upon aircraft, aircraft equipment, and railroad parts, cars,~~  
 18 ~~and equipment, or to any tangible personal property owned or leased by~~  
 19 ~~aircraft, airmotive, or railroad companies as provided in § 26-53-106 and as~~  
 20 ~~classified by this section.~~

21           (2) ~~Any claim that the State of Arkansas now has for collection~~  
 22 ~~of compensating taxes upon any such aircraft, aircraft equipment, and~~  
 23 ~~railroad parts, cars, and equipment, or to tangible personal property owned~~  
 24 ~~or leased by aircraft, airmotive, or railroad companies brought into the~~  
 25 ~~State of Arkansas solely and exclusively for refurbishing, conversion, or~~  
 26 ~~modification shall not be collected, whether the claim is pending in the~~  
 27 ~~Revenue Division of the Department of Finance and Administration or is~~  
 28 ~~pending and unpaid as a result of any court litigation or court decision of~~  
 29 ~~this state.~~

30           (3) ~~It is the intent of the General Assembly that the State of~~  
 31 ~~Arkansas should not pursue collection of any claim now pending or the~~  
 32 ~~execution of any court order with respect to any such claim for the~~  
 33 ~~collection of compensating taxes upon such property.~~

34           (e) ~~However, no person shall have a claim against the State of~~  
 35 ~~Arkansas for any compensating tax paid to the State of Arkansas on or before~~  
 36 ~~February 16, 1976, with respect to such tangible personal property.~~

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~~26-53-116. Exemption for sale and purchase of certain vessels.~~

~~The gross receipts and gross proceeds derived from the sale and purchase of vessels, barges, and towboats of at least fifty (50) tons load displacement and parts and labor used in the repair and construction of them are exempt from the state compensating tax levied by this subchapter.~~

~~26-53-117. Exemption for motor fuels used in municipal buses—~~

~~Penalties for abuse of exemption.~~

~~(a) The gross receipts or gross proceeds derived from the sale of motor fuels to the owners or operators of motor buses operated on designated streets according to regular schedule, under municipal franchise, which are used for municipal transportation purposes, shall be exempt from the tax levied in the Arkansas Compensating Tax Act, § 26-53-101 et seq.~~

~~(b) However, it shall be unlawful for the owners or operators of motor buses operating under municipal franchise as provided in this section to use any, or permit the use of any, motor fuels upon which the compensating tax has not been paid in any motor vehicle other than motor buses operated on designated streets according to regular schedules under municipal franchise.~~

~~(c)(1) Any owner or operator of motor buses permitting the motor fuels to be used in violation of this section shall be guilty of a misdemeanor and upon conviction shall be fined in an amount of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000).~~

~~(2) In addition, the owner or operator shall be liable to the State of Arkansas for a penalty of triple the amount of compensating tax due the State of Arkansas on any motor fuels upon which the taxes have not been paid and which were used in violation of the provisions of this section.~~

~~26-53-118. Exemption for custom manufactured homes.~~

~~The storage, use, or consumption of custom manufactured homes constructed from materials on which the Arkansas gross receipts tax or state compensating tax has once been paid shall be exempt from the state compensating tax.~~

~~26-53-119. Exemption for sale of products for treating livestock and~~

~~poultry and other commercial agricultural production.~~

1           ~~The gross receipts or gross proceeds derived from sales of the~~  
 2 ~~following are exempt from the state compensating tax as levied by this~~  
 3 ~~subchapter:~~

- 4                     ~~(1) Agricultural fertilizer;~~
- 5                     ~~(2) Agricultural limestone; and~~
- 6                     ~~(3) Agricultural chemicals, including, but not limited to:~~
  - 7                             ~~(A) Agricultural pesticides and herbicides used in~~
  - 8 ~~commercial production of agricultural products;~~
  - 9                             ~~(B) Vaccines, medications, and medicinal preparations used~~
  - 10 ~~in treating livestock and poultry being grown for commercial purposes; and~~
  - 11                             ~~(C) Chemicals, nutrients, and other ingredients used in~~
  - 12 ~~the commercial production of yeast.~~

13  
 14           ~~26-53-120. Feedstuffs used for livestock.~~

15           ~~(a) All feedstuffs used in the commercial production of livestock or~~  
 16 ~~poultry in this state are exempt from the state compensating tax as levied by~~  
 17 ~~this subchapter.~~

18           ~~(b) As used in this section, unless the context otherwise requires,~~  
 19 ~~"feedstuffs" means processed or unprocessed grains; mixed or unmixed grains;~~  
 20 ~~whole or ground hay; whole or ground straw; hulls, whether or not mixed with~~  
 21 ~~other materials; and all food supplements, whether or not nutritional or~~  
 22 ~~medicinal, including hormones, antibiotics, vitamins, minerals, and~~  
 23 ~~medications ingested by poultry or livestock.~~

24  
 25           SECTION 8. Arkansas Code §§ 26-53-130 through 26-53-139 are repealed.

26           ~~26-53-130. Exemption for aircraft and railroad equipment in state for~~  
 27 ~~refurbishing, etc.~~

28           ~~(a) The General Assembly determines that:~~

29                     ~~(1) It was not the intent of § 26-53-101 et seq. to impose the~~  
 30 ~~compensating use tax upon aircraft, aircraft equipment, and railroad parts,~~  
 31 ~~cars, and equipment, or on any tangible personal property owned or leased by~~  
 32 ~~aircraft, airmotive, or railroad companies, as provided in §§ 26-53-106 and~~  
 33 ~~26-53-115 and as classified by this section.~~

34                     ~~(2) Any claim that the State of Arkansas now has for collection~~  
 35 ~~of compensating use taxes upon any aircraft, aircraft equipment, and railroad~~  
 36 ~~parts, cars, and equipment, or on tangible personal property owned or leased~~

1 by aircraft, airmotive, or railroad companies brought into the State of  
 2 Arkansas solely and exclusively for refurbishing, conversion, or modification  
 3 shall not be collected, whether the claim is pending in the Revenue Division  
 4 of the Department of Finance and Administration or is pending and unpaid as a  
 5 result of any court litigation or court decision of this state.

6 (b) It is the intent of the General Assembly that the State of  
 7 Arkansas should not pursue the collection of any claim now pending or the  
 8 execution of any court order with respect to any claim for the collection of  
 9 compensating use taxes upon such property.

10 (c) No person shall have a claim against the State of Arkansas for any  
 11 compensating use tax paid to the State of Arkansas on or before April 7,  
 12 1987, with respect to this tangible personal property.

13  
 14 ~~26-53-133. Exemption for manufacturing forms.~~

15 ~~Forms constructed of plaster, cardboard, fiberglass, natural fibers,~~  
 16 ~~synthetic fibers or composites thereof which determine the physical~~  
 17 ~~characteristics of an item of tangible personal property and which are~~  
 18 ~~destroyed or consumed during the manufacture of the item for which the~~  
 19 ~~destroyed or consumed form was built are hereby exempt from the taxes levied~~  
 20 ~~in this subchapter.~~

21  
 22 ~~26-53-134. Exemption for natural gas used in manufacture of glass.~~

23 ~~The gross receipts or gross proceeds derived from sales of natural gas~~  
 24 ~~used as fuel in the process of manufacturing glass is hereafter exempt from~~  
 25 ~~the Arkansas gross receipts tax levied by §§ 26-52-301, 26-52-302, and 26-52-~~  
 26 ~~1002, and the Arkansas compensating use tax levied by §§ 26-53-106 and 26-53-~~  
 27 ~~107, and all city and county sales and use taxes.~~

28  
 29 ~~26-53-135. Exemption for sales to Fort Smith Clearinghouse.~~

30 ~~The gross receipts or gross proceeds derived from sales to Fort Smith~~  
 31 ~~Clearinghouse are hereafter exempt from the Arkansas gross receipts tax~~  
 32 ~~levied by §§ 26-52-301, 26-52-302, and 26-52-1002, and the Arkansas~~  
 33 ~~compensating use tax levied by §§ 26-53-106 and 26-53-107, and from all city~~  
 34 ~~and county sales and use taxes.~~

35  
 36 ~~26-53-136. Exemption for nonprofit food distribution agencies.~~

1           ~~The gross receipts or gross proceeds derived from the sale of~~  
 2 ~~foodstuffs to nonprofit agencies organized under the Arkansas Nonprofit~~  
 3 ~~Corporation Act, § 4-28-201 et seq., for free distribution to the poor and~~  
 4 ~~needy shall be exempt from the Arkansas gross receipts tax levied by this~~  
 5 ~~subchapter.~~

6  
 7           ~~26-53-137. Exemption for railroad rolling stock manufactured for use in~~  
 8 ~~interstate commerce.~~

9           ~~Railroad rolling stock manufactured for use in transporting persons or~~  
 10 ~~property in interstate commerce is exempt from the taxes levied in this~~  
 11 ~~subchapter.~~

12  
 13           ~~26-53-138. Exemption for property purchased for use in performance of~~  
 14 ~~construction contract.~~

15           ~~(a) Tangible personal property which becomes a recognizable part of a~~  
 16 ~~completed structure or improvement to real property and which is purchased~~  
 17 ~~for use or consumption in the performance of construction contracts shall be~~  
 18 ~~exempt from any additional gross receipts tax or compensating (use) tax~~  
 19 ~~levied by the state or any city or county when the construction contract for~~  
 20 ~~which the property was purchased is entered into prior to the effective date~~  
 21 ~~of the levy of the additional state, city, or county gross receipts tax or~~  
 22 ~~compensating (use) tax.~~

23           ~~(b) For the purposes of this section, "construction contract" means a~~  
 24 ~~contract to construct, manage, or supervise the construction, erection, or~~  
 25 ~~substantial modification of a building or other improvement or structure~~  
 26 ~~affixed to real property. The term "construction contract" shall not mean~~  
 27 ~~contract to produce tangible personal property.~~

28           ~~(c) The exemption provided by this section shall apply to tangible~~  
 29 ~~personal property purchased within five (5) years from the effective date of~~  
 30 ~~the levy of the additional state, city, or county gross receipts tax or~~  
 31 ~~compensating (use) tax.~~

32           ~~(d) The exemption shall not apply to cost plus contracts which allow~~  
 33 ~~the contractor to pass any additional tax on to the principal as a part of~~  
 34 ~~the contractor's costs.~~

35  
 36           ~~26-53-139. Exemption from Arkansas Compensating Tax Act.~~



1           ~~There is specifically exempted from any tax imposed by the Arkansas~~  
2 ~~Compensating Tax Act of 1949, § 26-53-101 et seq., as amended, including, but~~  
3 ~~not limited to, §§ 26-53-106—26-53-108, the following: Parts and other~~  
4 ~~tangible personal property incorporated into or which ultimately become a~~  
5 ~~part of railroad parts, railroad cars, and equipment brought into the State~~  
6 ~~of Arkansas solely and exclusively for the purpose of being repaired,~~  
7 ~~refurbished, modified, or converted within this state.~~

8  
9           SECTION 9. This act shall become effective on January 1, 2004.

10