

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 2665

4
5 By: Representative Mahony
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE §§ 26-52-304 AND
10 26-53-109 TO PROVIDE THAT GROSS RECEIPTS FROM THE
11 SALE OF SOFTWARE AND LICENSES ARE TAXABLE WITHOUT
12 REGARD TO THE MANNER OF DELIVERY AND IMPOSING
13 SALES TAX ON SOFTWARE RELATED SERVICES AND
14 COMPUTER CONSULTING SERVICES; AND FOR OTHER
15 PURPOSES.

Subtitle

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18 AN ACT PROVIDING THAT SALES OF SOFTWARE
19 AND LICENSES ARE SUBJECT TO THE GROSS
20 RECEIPTS AND COMPENSATING USE TAX
21 WITHOUT REGARD TO THE MANNER OF DELIVERY
22 AND LEVYING SALES TAX ON SOFTWARE
23 RELATED SERVICES.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 26-52-304(a), relating to computer software
29 and services, is amended to read as follows:

30 (a) The excise tax levied by the Arkansas Gross Receipts Act, § 26-52-
31 101 et seq., and by any act supplemental thereto, is levied on gross receipts
32 or gross proceeds received from the following:

33 (1) Sales of computer software or licenses to use software, which
34 shall be taxed as sales of tangible personal property~~+, whether the software~~
35 or license is delivered in a tangible or intangible manner. Software shall
36 include ~~tapes, disks, cards, or other devices or materials which contain~~



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1 instructions for a computer and dictate different operations or functions to
2 be performed by the computer;

3 (2) Service of repairing or maintaining computer equipment or
4 hardware in any form; and

5 (3) Service of programming, writing, creating, producing,
6 designing, modifying, installing, implementing, or maintaining computer
7 software or processing of data.

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9 SECTION 2. Arkansas Code § 26-53-109(a) is amended to read as follows:

10 (a) The excise tax levied by the Arkansas Compensating Tax Act, § 26-
11 53-101 et seq., and by any act supplemental thereto, is levied on the
12 privilege of storing, using, distributing, or consuming within this state any
13 computer software or license to use software which shall be treated as a use,
14 storage, distribution, or consumption of tangible personal property for
15 purposes of tax, whether the software or license is delivered in a tangible
16 or intangible manner. Computer software shall include ~~tapes, disks, cards,~~
17 ~~or other devices or materials which contain~~ instructions for a computer and
18 dictate different operations or functions to be performed by the computer.

19

20 SECTION 3. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended
21 to add an additional section to read as follows:

22 26-52-315. Computer consultants.

23 (a) As used in this section unless the context otherwise requires:

24 (1) "Computer consultant" means any person, firm, partnership,
25 corporation, limited liability company, or other entity who installs,
26 maintains, repairs, or updates computer hardware or software or who provides
27 technical support or assistance in the purchase, installation, maintenance,
28 repair or updating of computer hardware or software; and

29 (2) "Services" means all acts or work rendered, furnished, or
30 performed, for a valuable consideration by any person engaged in computer
31 consulting for a consumer or client other than an employer.

32 (b) All fees and compensation collected by any computer consultant for
33 services performed shall be subject to the Arkansas Gross Receipts Act of
34 1941, § 26-52-101 et seq.

35 (c) The tax shall be collected, reported, and paid in the same manner
36 and at the same time as is prescribed by law for the collection, reporting,

1 and payment of the tax imposed by the Arkansas Gross Receipts Act of 1941, §
2 26-52-101 et seq.

3 (d) Any computer consultant required to collect and remit gross
4 receipts tax on fees collected for services under this section shall obtain a
5 sales tax permit as provided by § 26-52-501.

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7 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that revenue available for the
9 support of necessary state services has declined during the last twelve
10 months as a result of the nationwide economic slow down; that without
11 additional revenue, some state services will be reduced or eliminated; that
12 some Arkansans will suffer as a result of service reductions or cuts; and
13 that this bill will provide the necessary revenue to avoid state service
14 reductions or cuts. Therefore, an emergency is declared to exist and this
15 act being immediately necessary for the preservation of the public peace,
16 health and safety shall become effective on July 1, 2003.

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