

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 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 2480

4
5 By: Representatives Hardwick, Mathis
6 By: Senator Higginbothom

For An Act To Be Entitled

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9
10 AN ACT TO PROVIDE FOR A SALES AND USE TAX
11 EXEMPTION FOR QUALIFIED MUSEUMS; AND FOR OTHER
12 PURPOSES.

Subtitle

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15 TO PROVIDE FOR A SALES AND USE TAX
16 EXEMPTION FOR QUALIFIED MUSEUMS.

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

20
21 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended
22 to add an additional section to read as follows:

23 26-52-438. Exemption for qualified museums.

24 (a) As used in this section:

25 (1) "Exemption certificate" means an exemption certificate
26 issued by the Director of the Department of Finance and Administration under
27 subdivision (d)(1) of this section;

28 (2) "Nonprofit organization" means any organization described in
29 Section 501(c)(3) of the Internal Revenue Code of 1986, as in effect on
30 January 1, 2005;

31 (3) "Qualified museum" means any nonprofit organization that
32 acquires a collection of artwork for purposes of establishing and operating a
33 qualified museum facility, regardless of whether the nonprofit organization
34 may engage in any other charitable activities, if the:

35 (A) Fair market value of the artwork collection of the
36 nonprofit organization for public viewing and exhibition at the qualified



1 museum facility exceeds one hundred million dollars (\$100,000,000) prior to
2 January 1, 2013; and

3 (B) The Director of the Department of Finance and
4 Administration has issued an exemption certificate to the nonprofit
5 organization; and

6 (4) "Qualified museum facility" means a facility, including the
7 structures, buildings, and any ancillary or related structures or buildings
8 and real property associated with the facility, including auditoriums,
9 parking areas, and educational facilities that house a collection of art or
10 other exhibits for public viewing and exhibition, if the:

11 (A) Principal location and primary operations of the
12 facility will be located within the State of Arkansas;

13 (B) Museum portion of the facility opens to the public
14 after January 1, 2005, and prior to January 1, 2013; and

15 (C) Aggregate total costs of the construction and
16 acquisition of the facility exceeds thirty million dollars (\$30,000,000)
17 prior to January 1, 2013.

18 (b)(1) The gross receipts or gross proceeds derived from the sale of
19 any tangible personal property or services to a qualified museum are exempt
20 from the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

21 (2) The exemption provided in subdivision (b)(1) of this section
22 shall also apply to the gross receipts or gross proceeds derived from the
23 sale of materials to a qualified museum or its contractor or agent used in
24 the construction, repair, expansion, or operation of the qualified museum
25 facility.

26 (c) A nonprofit organization requesting recognition as a qualified
27 museum shall file with the director, on forms prescribed by the director, a
28 written statement under oath:

29 (1) Describing the facts upon which the nonprofit organization
30 claims the exemption under this section. This statement shall be filed prior
31 to first claiming this exemption and shall include facts indicating that the
32 nonprofit organization has a good faith plan and intent to satisfy the
33 conditions under subdivision (c)(2) of this section; and

34 (2) On or before June 30, 2013, stating that the following
35 conditions have been met:

36 (A) The nonprofit organization has established and

1 operated prior to January 1, 2013, a facility that houses a collection of art
 2 or other exhibits for public viewing and exhibition;

3 (B) The principal location and primary operations of the
 4 facility are located within the State of Arkansas;

5 (C) The museum portion of the facility first opened to the
 6 public after January 1, 2005, and prior to January 1, 2013;

7 (D) The aggregate total costs of construction and
 8 acquisition of the facility including the structures, buildings, ancillary or
 9 related structures or buildings, real property used in connection with the
 10 facility, auditoriums, parking areas and educational facilities exceeded
 11 thirty million dollars (\$30,000,000) prior to January 1, 2013; and

12 (E) Prior to January 1, 2013, the nonprofit organization
 13 acquired a collection of artwork with a fair market value in excess of one
 14 hundred million dollars (\$100,000,000) for public viewing and exhibition at
 15 the qualified museum facility.

16 (d)(1) After filing the statement required under subdivision (c)(1) of
 17 this section, if the director finds that the nonprofit organization has a
 18 good faith plan and intent to satisfy the conditions of subdivision (c)(2) of
 19 this subsection prior to January 1, 2013, the director shall issue an
 20 exemption certificate to the nonprofit organization within sixty (60) days
 21 after the filing of the statement.

22 (2) The director may revoke the exemption certificate at any
 23 time after it is issued if the director determines that the nonprofit
 24 organization is unable to satisfy the conditions under subdivision (c)(2) of
 25 this subsection prior to January 1, 2013.

26 (3) After filing the statement required under subdivision (c)(2)
 27 of this section, if the director determines that the nonprofit organization
 28 has not met the conditions under subdivision (c)(2) of this section, the
 29 director shall revoke the exemption certificate of the nonprofit
 30 organization.

31 (4) If the nonprofit organization fails to file the statement
 32 described in subdivision (c)(2) of this section on or prior to June 30, 2013,
 33 the director shall revoke the exemption certificate.

34 (5) Revocation by the director of an exemption certificate shall
 35 be retroactive to the date of its issuance subject to subsection (e) of this
 36 section.

1 (e)(1) If the director revokes the exemption certificate, any tax
 2 deficiency, related interest, and applicable penalties due under the Arkansas
 3 Gross Receipts Act of 1941, § 26-52-101 et seq., Arkansas Compensating Tax
 4 Act of 1949, § 26-53-101 et seq., or the Arkansas Tax Procedure Act, § 26-18-
 5 101 et seq., may be assessed against the nonprofit organization but may not
 6 be assessed against a third party that has relied in good faith on the
 7 exemption certificate prior to its revocation.

8 (2) If the director revokes the exemption certificate, any tax
 9 deficiency, related interest, and applicable penalties assessed against the
 10 nonprofit organization shall also include any tax deficiency, related
 11 interest, and applicable penalties assessed on purchases made by the
 12 nonprofit organization's contractors and agents for the benefit of the
 13 nonprofit organization in reliance on the exemption certificate.

14 (3) Any assessment by the director under subdivisions (e)(1) or
 15 (2) of this section shall be made in accordance with the Arkansas Tax
 16 Procedure Act, § 26-18-101 et seq. However, the time period for the director
 17 to make the assessment is extended to whichever of the following occurs
 18 first:

19 (A) Three (3) years from the date the nonprofit
 20 organization files the statement under subdivision (c)(2) of this section; or

21 (B) July 1, 2016.

22 (4) The nonprofit organization may contest any assessment or
 23 other determination by the director in accordance with the Arkansas Tax
 24 Procedure Act, § 26-18-101 et seq.

25
 26 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended
 27 to add an additional section to read as follows:

28 26-53-145. Exemption for qualified museums.

29 (a) As used in this section:

30 (1) "Exemption certificate" means an exemption certificate
 31 issued by the Director of the Department of Finance and Administration under
 32 subdivision (d)(1) of this section;

33 (2) "Nonprofit organization" means any organization described in
 34 Section 501(c)(3) of the Internal Revenue Code of 1986, as in effect on
 35 January 1, 2005;

36 (3) "Qualified museum" means any nonprofit organization that

1 acquires a collection of artwork for purposes of establishing and operating a
 2 qualified museum facility, regardless of whether the nonprofit organization
 3 may engage in any other charitable activities, if the:

4 (A) Fair market value of the artwork collection of the
 5 nonprofit organization for public viewing and exhibition at the qualified
 6 museum facility exceeds one hundred million dollars (\$100,000,000) prior to
 7 January 1, 2013; and

8 (B) The Director of the Department of Finance and
 9 Administration has issued an exemption certificate to the nonprofit
 10 organization; and

11 (4) "Qualified museum facility" means a facility, including the
 12 structures, buildings, and any ancillary or related structures or buildings
 13 and real property associated with the facility, including auditoriums,
 14 parking areas and educational facilities that house a collection of art or
 15 other exhibits for public viewing and exhibition, if the:

16 (A) Principal location and primary operations of the
 17 facility will be located within the State of Arkansas;

18 (B) Museum portion of the facility opens to the public
 19 after January 1, 2005, and prior to January 1, 2013; and

20 (C) Aggregate total costs of the construction and
 21 acquisition of the facility exceeds thirty million dollars (\$30,000,000)
 22 prior to January 1, 2013.

23 (b)(1) The storage, use, distribution, or consumption of any tangible
 24 personal property by a qualified museum is exempt from the Arkansas
 25 Compensating Tax Act of 1949, § 26-53-101 et seq.

26 (2) The exemption provided in subdivision (b)(1) of this section
 27 shall also apply to the storage, use, distribution, or consumption of
 28 materials by a qualified museum, or its contractor or agent used in the
 29 construction, repair, expansion, or operation of the qualified museum
 30 facility.

31 (c) A nonprofit organization requesting recognition as a qualified
 32 museum shall file with the director, on forms prescribed by the director, a
 33 written statement under oath:

34 (1) Describing the facts upon which the nonprofit organization
 35 claims the exemption under this section. This statement shall be filed prior
 36 to first claiming this exemption and shall include facts indicating that the

1 nonprofit organization has a good faith plan and intent to satisfy the
 2 conditions under subdivision (c)(2) of this section; and

3 (2) On or before June 30, 2013, stating that the following
 4 conditions have been met:

5 (A) The nonprofit organization has established and
 6 operated prior to January 1, 2013, a facility that houses a collection of art
 7 or other exhibits for public viewing and exhibition;

8 (B) The principal location and primary operations of the
 9 facility are located within the State of Arkansas;

10 (C) The museum portion of the facility first opened to the
 11 public after January 1, 2005, and prior to January 1, 2013;

12 (D) The aggregate total costs of construction and
 13 acquisition of the facility including the structures, buildings, ancillary or
 14 related structures or buildings, real property used in connection with the
 15 facility, auditoriums, parking areas and educational facilities exceeded
 16 thirty million dollars (\$30,000,000) prior to January 1, 2013; and

17 (E) Prior to January 1, 2013, the nonprofit organization
 18 acquired a collection of artwork with a fair market value in excess of one
 19 hundred million dollars (\$100,000,000) for public viewing and exhibition at
 20 the qualified museum facility.

21 (d)(1) After filing the statement required under subdivision (c)(1) of
 22 this section, if the director finds that the nonprofit organization has a
 23 good faith plan and intent to satisfy the conditions of subdivision (c)(2) of
 24 this section prior to January 1, 2013, the director shall issue an exemption
 25 certificate to the nonprofit organization within sixty (60) days after the
 26 filing of the statement.

27 (2) The director may revoke the exemption certificate at any
 28 time after it is issued if the director determines that the nonprofit
 29 organization is unable to satisfy the conditions under subdivision (c)(2) of
 30 this section prior to January 1, 2013.

31 (3) After filing the statement required under subdivision (c)(2)
 32 of this section, if the director determines that the nonprofit organization
 33 has not met the conditions under subdivision (c)(2) of this section, the
 34 director shall revoke the exemption certificate of the nonprofit
 35 organization.

36 (4) If the nonprofit organization fails to file the statement

1 described in subdivision (c)(2) of this section on or prior to June 30, 2013,
2 the director shall revoke the exemption certificate.

3 (5) Revocation by the director of an exemption certificate shall
4 be retroactive to the date of its issuance subject to subsection (e) of this
5 section.

6 (e)(1) If the director revokes the exemption certificate, any tax
7 deficiency, related interest, and applicable penalties due under the Arkansas
8 Gross Receipts Act of 1941, § 26-52-101 et seq., the Arkansas Compensating
9 Tax Act of 1949, § 26-53-101 et seq., or the Arkansas Tax Procedure Act, §
10 26-18-101 et seq., may be assessed against the nonprofit organization but may
11 not be assessed against a third party that has relied in good faith on the
12 exemption certificate prior to its revocation.

13 (2) If the director revokes the exemption certificate, any tax
14 deficiency, related interest, and applicable penalties assessed against the
15 nonprofit organization shall also include any tax deficiency, related
16 interest, and applicable penalties assessed on purchases made by the
17 nonprofit organization’s contractors and agents for the benefit of the
18 nonprofit organization in reliance on the exemption certificate.

19 (3) Any assessment by the director under subdivisions (e)(1) or
20 (2) of this section shall be made in accordance with the Arkansas Tax
21 Procedure Act, § 26-18-101 et seq. However, the time period for the director
22 to make the assessment is extended to whichever of the following occurs
23 first:

24 (A) Three (3) years from the date the nonprofit
25 organization files the statement under subdivision (c)(2) of this section; or

26 (B) July 1, 2016.

27 (4) The nonprofit organization may contest any assessment or
28 other determination by the director in accordance with the Arkansas Tax
29 Procedure Act, § 26-18-101 et seq.

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