

Act 817 of the 1989 Regular Session.

Act 817

HB1820

By: Representative McGinnis

"AN ACT TO AMEND SECTIONS 26-53-106, 26-53-107, AND 26-53-109 OF THE ARKANSAS CODE OF 1987 ANNOTATED TO PROVIDE THAT THE ARKANSAS COMPENSATING (USE) TAX SHALL APPLY TO PROPERTY PURCHASED OUTSIDE ARKANSAS FOR DISTRIBUTION IN ARKANSAS; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 26-53-106 of the Arkansas Code of 1987 Annotated is hereby amended to read as follows:

"26-53-106. Imposition and rate of tax generally - Presumptions. (a) There is levied and there shall be collected from every person in this state a tax or excise for the privilege of storing, using, distributing, or consuming within this state any article of tangible personal property purchased for storage, use, distribution, or consumption in this state at the rate of three percent (3%) of the sales price of the property.

(b) This tax will not apply with respect to the storage, use, distribution, or consumption of any article of tangible personal property purchased, produced or manufactured outside this state until the transportation of the article has finally come to rest within this state or until the article has become commingled with the general mass of property of this state.

(c) This tax shall apply to use, storage, distribution, or consumption of every article of tangible personal property, except as provided in this subchapter, irrespective of whether the article or similar articles are manufactured within the State of Arkansas or are available for purchase within the State of Arkansas and irrespective of any other condition.

(d) (1) For the purpose of the proper administration of this subchapter and to prevent evasion of the tax and the duty to collect the tax imposed in this section, it shall be presumed that tangible personal property sold by any vendor for delivery in this state or transportation to this state is sold for storage, use, distribution, or consumption in this state unless the vendor selling the tangible personal property has taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale.

(2) It is further presumed that tangible personal property shipped, mailed, expressed, transported, or brought to this state by the purchaser was purchased from a vendor for storage, use, distribution, or consumption in this state."

SECTION 2. Section 26-53-107 of the Arkansas Code of 1987 Annotated is hereby amended to read as follows:

"26-53-107. Additional one percent tax levied. In addition to the excise tax levied upon the privilege of storing, using, distributing, or consuming tangible personal property within this state by the Arkansas Compensating Tax Act, 26-53-101 et sq., there is levied an excise tax of one percent (1%) upon all tangible personal property subject to the tax levied in that act, and the tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection,

reporting, and payment of state compensating taxes."

SECTION 3. Section 26-53-109 of the Arkansas Code of 1987 Annotated is hereby amended to read as follows:

"26-53-109. Tax levied on use of computer software. (a) The excise tax levied by the Arkansas Compensating Tax Act, 26-53-101 et seq., and by any act supplemental thereto, is levied on the privilege of storing, using, distributing, or consuming within this state any computer software which shall be treated as a use, storage, distribution, or consumption of tangible personal property for purposes of tax. Computer software shall include tapes, disks, cards, or other devices or material which contain instructions for a computer and dictate different operations or functions to be performed by the computer.

(b) It is found and determined by the General Assembly that technological advances in the computer industry have created an uncertainty as to whether sales of computer software constitute a transfer of tangible personal property. This section is not intended to affect the taxability of any sales of computer software prior to February 9, 1984."

SECTION 4. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 6. EMERGENCY. It is hereby found and determined by the General Assembly that the State of Arkansas is in serious need of additional revenue for the purpose of funding critical education programs and other essential services required by the citizens of the State and the provisions of this act are necessary to raise needed revenue. Therefore, an emergency is declared to exist in this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1989.

APPROVED: March 21, 1989

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