

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

SENATE BILL 731

5 By: Senator Teague
6

For An Act To Be Entitled

8 AN ACT TO REQUIRE PREPAYMENT OF ARKANSAS COMPENSATING
9 USE TAX ON THE SAME BASIS AS PREPAYMENT OF ARKANSAS
10 GROSS RECEIPTS TAX; TO DECLARE AN EMERGENCY; AND FOR
11 OTHER PURPOSES.
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Subtitle

14 AN ACT TO REQUIRE PREPAYMENT OF ARKANSAS
15 COMPENSATING USE TAX ON THE SAME BASIS AS
16 PREPAYMENT OF ARKANSAS GROSS RECEIPTS TAX
17 AND TO DECLARE AN EMERGENCY.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 26-53-125(a), concerning returns and
24 payment of tax, is amended to add an additional subdivision to read as
25 follows:

26 (5)(A) A vendor required to collect and remit Arkansas
27 compensating use tax that has average net sales of more than two hundred
28 thousand dollars (\$200,000) per month for the preceding calendar year shall
29 make prepayment of the compensating use tax by electronic funds transfer, as
30 defined in § 26-19-101, according to one (1) of the following payment
31 options:

32 (i)(a) Making two (2) compensating use tax payments
33 by electronic funds transfer for the current calendar month. Each payment
34 shall be equal to forty percent (40%) of the compensating use tax due on the
35 monthly average net sales on or before the twelfth and twenty-fourth of each
36 month.



1 (b) The balance of actual collections for the
2 month shall be remitted with the monthly excise tax report due by the
3 twentieth day of the following month; or

4 (ii)(a) Paying by electronic funds transfer an
5 amount equal to or exceeding eighty percent (80%) of the compensating use tax
6 liability for the current calendar month on or before the twenty-fourth of
7 each month.

8 (b) The balance of actual collections for the
9 month shall be remitted with the monthly excise tax report due by the
10 twentieth day of the following month.

11 (B)(i) Failure to pay compensating use tax prepayments
12 when due shall result in the assessment of a penalty equal to five percent
13 (5%) of the amount of each required compensating use tax prepayment.

14 (ii) If a taxpayer elects to prepay according to
15 subdivision (5)(A)(ii) of this section and fails to pay eighty percent (80%)
16 of the compensating use tax liability by the twenty-fourth of the current
17 month, a penalty shall not be assessed if the taxpayer proves that more than
18 twenty percent (20%) of the taxpayer's compensating use tax liability arose
19 from sales occurring after the twenty-fourth of the current month but before
20 the last day of the current month.

21 (C) For any electronic funds transfer or report required
22 under subdivision (5)(A) of this section, the due date of which falls on a
23 Saturday, Sunday, legal holiday, or day the Federal Reserve Bank is closed,
24 the electronic funds transfer or report shall be made on the next succeeding
25 business day which is not a Saturday, Sunday, legal holiday, or day the
26 Federal Reserve Bank is closed.

27 (D) As used in this subdivision (a)(5), "net sales" means
28 total sales price or purchase price less any deductions allowed by this
29 chapter.

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31 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
32 General Assembly of the State of Arkansas that large businesses that collect
33 and remit compensating use tax are not subject to the same requirements to
34 prepay state use tax in the same manner that large Arkansas businesses are
35 required to prepay state sales tax; and that prepayment should be required
36 for those businesses whose sales for purposes of use tax exceed \$200,000 per

1 month in the same manner that prepayment is required of businesses that
2 collect and remit sales tax. Therefore, an emergency is declared to exist
3 and this act being immediately necessary for the preservation of the public
4 peace, health, and safety, shall become effective on July 1, 2011.

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7 **APPROVED: 04/04/2011**
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