

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.

Act 181 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 281

4
5 By: Senator Hill
6 By: Representative Maloch

For An Act To Be Entitled

7
8
9
10 AN ACT TO PROVIDE CONSISTENCY WITH THE
11 STREAMLINED SALES AND USE TAX AGREEMENT; TO ALLOW
12 A REFUND REQUEST WHEN THE BAD DEBT DEDUCTION
13 EXCEEDS THE SALES TAX DUE; TO REPEAL THE SALES
14 TAX SOURCING RULES FOR FLORISTS; TO PROVIDE
15 RELIEF FOR SELLERS THAT FOLLOW THE REQUIREMENTS
16 OF THE DIRECTOR IN COLLECTING SALES AND USE TAX;
17 AND FOR OTHER PURPOSES.

Subtitle

18
19
20 TO PROVIDE CONSISTENCY WITH THE
21 STREAMLINED SALES AND USE TAX AGREEMENT;
22 TO ALLOW A REFUND REQUEST ON BAD DEBTS;
23 TO REPEAL THE SALES TAX SOURCING RULES
24 FOR FLORISTS; AND TO PROVIDE SALES TAX
25 COLLECTION RELIEF TO SELLERS.

26
27
28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

29
30 SECTION 1. Arkansas Code § 26-21-103(5), concerning the definitions
31 for the Streamlined Sales Tax Administrative Act, is amended as follows:

32 (5) (A) "Entity-based exemption" means an exemption based on who
33 purchases the product or who sells the product;

34 (B) An exemption that is available to all individuals
35 shall not be considered an entity-based exemption.



1
2 SECTION 2. Arkansas Code § 26-21-103(12) and (13), concerning the
3 definitions for the Streamlined Sales Tax Administrative Act, are amended as
4 follows:

5 (12) "State" means any state of the United States, ~~and the~~
6 District of Columbia, and the Commonwealth of Puerto Rico; and

7 (13) "Use-based exemption" means an exemption based on a
8 specified use of the product by the purchaser ~~the purchaser's use of the~~
9 ~~product.~~

10
11 SECTION 3. Arkansas Code § 26-21-104 is amended to read as follows:
12 26-21-104. Seller registration.

13 (a) The Department of Finance and Administration shall participate in
14 an online sales and use tax registration system in cooperation with the
15 states that are members of the agreement.

16 (b) The Department of Finance and Administration shall not use a
17 seller's registration with the online sales and use tax registration system
18 as provided in subsection (a) of this section and any subsequent collection
19 of a sales or use tax in determining whether the seller has nexus with the
20 state for any tax at any time.

21
22 SECTION 4. Arkansas Code § 26-21-105 is amended as follows:
23 26-21-105. Taxing jurisdictions.

24 The Department of Finance and Administration shall ~~participate with the~~
25 ~~states that are members of the agreement in the development of an address-~~
26 ~~based system for assigning taxing jurisdictions.~~ develop a downloadable on-
27 line database system to assign state and local taxing jurisdictions,
28 boundaries, and sales and use tax rates.

29
30 SECTION 5. Arkansas Code § 26-21-106 is amended to read as follows:
31 26-21-106. Relief from certain liability.

32 (a) A Except as provided in subsection (c) of this section, a seller
33 or certified service provider using a database provided by the Department of
34 Finance and Administration shall not be liable to the State of Arkansas or
35 its local jurisdictions for charging and collecting the incorrect amount of
36 sales or use tax if the seller or the certified service provider relied on

1 erroneous data provided by the Department of Finance and Administration on
 2 sales or use tax rates, boundaries, ~~or~~ taxing jurisdiction assignments, or
 3 the taxability matrix.

4 (b) The Department of Finance and Administration shall promulgate
 5 rules to provide a purchaser relief from a sales or use tax, penalties, and
 6 interest for failing to pay the correct amount of sales or use tax if
 7 erroneous information on sales or use tax rates, boundaries, or taxing
 8 jurisdiction assignments or in the taxability matrix provided by the
 9 department has been relied on by the purchaser, the purchaser's seller, or
 10 the purchaser's certified service provider.

11 (c)(1) If the Department of Finance and Administration provides an
 12 address-based boundary database for assigning taxing jurisdictions and their
 13 associated sales or use tax rates, the department may cease providing the
 14 relief from liability provided in subsections (a) and (b) of this section if
 15 the department gave the seller or the certified service provider adequate
 16 notice.

17 (2) If a seller demonstrates that requiring the use of the
 18 address-based database would create an undue hardship, the Department of
 19 Finance and Administration may extend the relief from liability to the seller
 20 for a designated period of time.

21
 22 SECTION 6. Arkansas Code § 26-21-107(b)(3), concerning the
 23 administration of sales and use tax exemptions, is amended to read as
 24 follows:

25 (3) The relief from liability provided in subdivision (b)(1) of
 26 this section does not apply to a seller that:

27 (A) ~~fraudulently~~ Fraudulently fails to collect the sales
 28 or use tax; ~~or~~

29 (B) ~~solicits~~ Solicits a purchaser to participate in the
 30 unlawful claim of an exemption; or

31 (C) Accepts an exemption certificate from a purchaser
 32 claiming an entity-based exemption when:

33 (i) The subject of the transaction sought to be
 34 covered by the exemption certificate is actually received by the purchaser at
 35 a location operated by the seller; and

36 (ii) The state where that location resides provides

1 an exemption certificate that clearly and affirmatively indicates that the
 2 claimed exemption is not available in that state.

3 (4)(A) A seller may obtain a fully completed exemption
 4 certificate or capture the relevant data elements required by the Department
 5 of Finance and Administration within ninety (90) days after the date of sale.

6 (B) If the seller has not obtained an exemption
 7 certificate or all relevant data elements and the Department of Finance and
 8 Administration makes a request for substantiation of the exemption, the
 9 seller has one-hundred twenty (120) days from the date of the request to
 10 prove by other means that the transaction was not subject to sales or use tax
 11 or to obtain in good faith a fully completed exemption certificate from the
 12 purchaser.

13 (c) A third party vendor may claim a resale exemption based on an
 14 exemption certificate provided by its customer or any other acceptable
 15 information available to the third party vendor evidencing qualification for
 16 a resale exemption regardless of whether the customer is registered with the
 17 Department of Finance and Administration to collect and remit sales or use
 18 tax.

19
 20 SECTION 7. Arkansas Code § 26-21-108 is amended to read as follows:

21 26-21-108. Returns and remittance of funds.

22 (a) The Director of the Department of Finance and Administration shall
 23 promulgate rules to provide:

24 (1) an An alternative method for making payments if an electronic
 25 funds transfer fails on its due date; and

26 (2) A rounding algorithm for sales or use tax computation.

27 (b)(1) The Department of Finance and Administration shall develop a
 28 simplified tax reporting form to be used for all state and local sales and
 29 use taxes levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et
 30 seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

31 (2) The department shall provide a separate reporting form for
 32 any other special or miscellaneous excise taxes so as not to violate the
 33 agreement.

34 (3) The department may require additional information returns to
 35 be submitted not more frequently than every six (6) months.

36 (4) The department shall allow a Model 1, Model 2, or Model 3

1 seller to submit its sales and use tax return in a simplified format.

2 (c) The Department of Finance and Administration shall allow a seller
 3 to elect to compute the sales or use tax due on a transaction on an item or
 4 an invoice basis and shall allow the rounding rule to be applied to the
 5 aggregated state and local sales or use taxes.

6
 7 SECTION 8. Arkansas Code § 26-21-110, concerning amnesty for
 8 registration, is amended to add a new subsection as follows:

9 (g) The director shall also provide amnesty to a seller for
 10 uncollected or unpaid sales or use tax if:

11 (1) The seller was already registered with the agreement at the
 12 time Arkansas became a full member of the agreement; and

13 (2) The seller was not registered to collect sales and use tax
 14 in Arkansas in the twelve-month period preceding the effective date of
 15 Arkansas' full membership in the agreement.

16
 17 SECTION 9. Arkansas Code § 26-21-111 is amended to read as follows:

18 26-21-111. Certification and payment of service providers and automated
 19 systems.

20 The Director of the Department of Finance and Administration may:

21 (1) Certify service providers and automated systems to aid in
 22 the administration of sales and use tax collections; ~~and~~

23 (2) Provide a monetary allowance to the certified service
 24 providers, ~~and the~~ certified automated systems, and to sellers that do not
 25 have a requirement to register to collect the gross receipts tax levied by
 26 the Arkansas Gross Receipts Tax Act of 1941, § 26-52-101 et seq. or the
 27 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §
 28 26-53-101 et seq.; and

29 (3) Promulgate rules concerning the review and approval of
 30 certified automated system software and the relief from liability for
 31 certified service providers and certified automated systems that were relying
 32 on the certification provided by the department.

33
 34 SECTION 10. Arkansas Code § 26-25-107(a), concerning local ordinances,
 35 is amended to read as follows:

36 (a)(1) Every city or county that adopts an ordinance levying a local

1 sales and use tax which is collected by the Director of the Department of
 2 Finance and Administration shall submit the ordinance to the director at
 3 least forty-five (45) days prior to the election on the levy.

4 (2) The director shall review the ordinance to determine if the
 5 proposed levy complies with all statutory requirements and limitations,
 6 including ~~the existence of a single transaction definition~~, a separate levy
 7 of the sales and use tax, and an authorized sales or use tax rate.

8
 9 SECTION 11. Arkansas Code § 26-52-103 [Effective July 1, 2007], is
 10 amended to read as follows:

11 26-52-103. Definitions. [Effective ~~July 1, 2007~~ January 1, 2008.]

12 As used in this chapter:

13 (1) "Alcoholic beverage" means a beverage that is suitable for
 14 human consumption and contains one-half of one percent (0.5%) or more of
 15 alcohol by volume;

16 (2)(A) "Bundled transaction" means a retail sale of two (2) or
 17 more products, except real property and services to real property, in which:

18 (i) The products are otherwise distinct and
 19 identifiable; and

20 (ii) The products are sold for one (1) non-itemized
 21 price.

22 (B) "Bundled transaction" does not include the sale of any
 23 product in which the sales price varies or is negotiable based on the
 24 selection by the purchaser of the products included in the transaction.

25 (C) The Department of Finance and Administration shall
 26 promulgate rules to implement this subdivision (2);

27 ~~(1)(A)~~(3)(A) "Consumer", "purchaser" or "user" means the person
 28 to whom the taxable sale is made or to whom taxable services are furnished.

29 (B) All contractors are deemed to be consumers or users of
 30 all tangible personal property, including materials, supplies, and equipment
 31 used or consumed by them in performing any contract.

32 (C) The sales of all such tangible personal property to
 33 contractors are taxable sales within the meaning of this chapter;

34 ~~(2)~~(4) "Contract" means any agreement or undertaking to
 35 construct, manage, or supervise the construction, erection, alteration, or
 36 repair of any building or other improvement or structure affixed to real

1 estate, including any of their component parts;

2 ~~(3)~~(5) "Contractor" means any person who contracts or undertakes
 3 to construct, manage, or supervise the construction, erection, alteration, or
 4 repair of any building or other improvement or structure affixed to real
 5 estate, including any of their component parts;

6 (6)(A) "Delivery Charge" means a charge by a seller of tangible
 7 personal property or services for preparation and delivery to a location
 8 designated by the purchaser of the tangible personal property or services,
 9 including without limitation transportation, shipping, postage, handling,
 10 crating, and packing.

11 (B) If a shipment includes tax-exempt property and taxable
 12 property, the seller shall pay the tax imposed by this chapter only on the
 13 percentage of the delivery charge allocated to the taxable property by using:

14 (i) A percentage based on the total sales price of
 15 the taxable property compared to the total sales price of all property in the
 16 shipment; or

17 (ii) A percentage based on the total weight of the
 18 taxable property compared to the total weight of all property in the
 19 shipment;

20 ~~(4)(A)~~(7)(A) "Direct mail" means printed material delivered or
 21 distributed by United States mail or other delivery service to a mass
 22 audience or to addressees on a mailing list provided by the purchaser or at
 23 the direction of the purchaser when the cost of the items is not billed
 24 directly to the recipients.

25 (B) "Direct mail" includes tangible personal property
 26 supplied directly or indirectly by the purchaser to the direct mail seller
 27 for inclusion in the package containing the printed material.

28 (C) "Direct mail" does not include multiple items of
 29 printed material delivered to a single address;

30 ~~(5)~~(8) "Director" means the Director of the Department of
 31 Finance and Administration or any of his or her authorized agents;

32 ~~(6)(A)~~(9)(A) "Doing business" or "engaging in business" includes
 33 any and all local activity regularly and persistently pursued by any seller
 34 or vendor through agents, employees, or representatives with the object of
 35 gain, profit, or advantage and that results in a sale, delivery, or the
 36 transfer of the physical position of any tangible personal property by the

1 vendor to the vendee at or from any point within Arkansas, whether from
 2 warehouse, store, office, storage point, rolling store, motor vehicle,
 3 delivery conveyance, or by any method or device under the control of the
 4 seller effecting such a local delivery without regard to the terms of sale
 5 with respect to point of acceptance of the order, point of payment, or any
 6 other condition.

7 (B) As set out in this subdivision ~~(6)(9)~~, "doing
 8 business" or "engaging in business" is equally applicable to sellers of
 9 services as are made the subject matter of the tax imposed by this chapter.

10 (C)(i) The provisions of this subdivision ~~(6)(9)~~ shall be
 11 cumulative to the gross receipts tax law and shall not be construed as
 12 levying a tax on any receipts derived from personal or professional services
 13 not before made the subject matter and within the scope of the present gross
 14 receipts tax law, as amended.

15 (ii) The provisions of this subdivision ~~(6)(C)(9)(C)~~
 16 shall not be construed as repealing or modifying any of the provisions
 17 therein;

18 (10) "Dietary supplement" means any product, other than tobacco,
 19 intended to supplement the diet that:

20 (A) Contains one (1) or more of the following dietary
 21 ingredients:

22 (i) A vitamin;

23 (ii) A mineral;

24 (iii) An herb or other botanical;

25 (iv) An amino acid;

26 (v) A dietary substance for use by humans to

27 supplement the diet by increasing the total dietary intake; or

28 (vi) A concentrate, metabolite, constituent,

29 extract, or combination of any ingredient described in this subdivision

30 (10)(A) and is intended for ingestion in tablet, capsule, powder, softgel,

31 gelcap, or liquid form, or if not intended for ingestion in such a form, is

32 not represented as conventional food and is not represented for use as a sole

33 item of a meal or of the diet; and

34 (B) Is required to be labeled as a dietary supplement,

35 identifiable by the "Supplemental Facts" box found on the label and as

36 required pursuant to 21 C.F.R. § 101.36, as in effect on January 1, 2007;

1 ~~(7)~~(11) "Established business" means any business operated or
 2 conducted by any person in a continuous manner for any length of time from an
 3 established place or in an established manner;

4 (12)(A) "Food and food ingredients" means substances, whether in
 5 liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold
 6 for ingestion or chewing by humans and are consumed for their taste or
 7 nutritional value.

8 (B) "Food and food ingredients" does not include an
 9 alcoholic beverage, tobacco, or a dietary supplement;

10 ~~(8)(A)~~(13)(A) "Gross receipts", ~~or~~ "gross proceeds", or "sales
 11 price" means ~~the total amount of consideration for the sale of tangible~~
 12 ~~personal property and such services as are specifically provided for in this~~
 13 ~~section, whether the consideration is in money or otherwise, without any~~
 14 ~~deduction on account of the cost of the properties sold, all taxes imposed on~~
 15 ~~the seller, all costs of transportation to the seller, labor service~~
 16 ~~performed, interest paid, losses, or any expenses whatsoever.~~

17 ~~(B) "Gross receipts" or "gross proceeds" includes the~~
 18 ~~value of any goods, wares, merchandise, or property withdrawn or used from~~
 19 ~~the established business or from the stock in trade of the established~~
 20 ~~reserves for consumption or use in the business or by any other person.~~

21 ~~(C) "Gross receipts" or "gross proceeds" does not include:~~

22 ~~(i) The value of any goods, wares, merchandise, or~~
 23 ~~property withdrawn or used from the established business or from the stock in~~
 24 ~~trade of the established reserves for consumption or use in the business or~~
 25 ~~by any other person if the goods, wares, merchandise, or property withdrawn~~
 26 ~~or used is donated to National Guard members, emergency service workers, or~~
 27 ~~volunteers providing services to a county that has been declared a disaster~~
 28 ~~area by the Governor;~~

29 ~~(ii) Discounts, including cash, term, or coupons~~
 30 ~~that are not reimbursed by a third party that are allowed by a seller and~~
 31 ~~taken by a purchaser on a sale;~~

32 ~~(iii) Interest, financing, and carrying charges from~~
 33 ~~credit extended on the sale of personal property or services if the amount is~~
 34 ~~separately stated on the invoice; or~~

35 ~~(iv) Any taxes legally imposed directly on the~~
 36 ~~consumer that are separately stated on the invoice, bill of sale, or similar~~

~~document given to the purchaser;~~ the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(i) The seller's cost of the property sold;

(ii) The cost of materials used, labor or service cost, interest, any loss, any cost of transportation to the seller, any tax imposed on the seller, and any other expense of the seller;

(iii) Any charge by the seller for any service necessary to complete the sale, other than a delivery charge or an installation charge;

(iv) Delivery charge;

(v)(a) Installation charge;

(b) Installation charges will not be included in the "gross receipts", "gross proceeds", or "sales price" if they are not a specifically taxable service under the Arkansas Gross Receipts Tax Act of 1941, § 26-52-101 et seq. or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq. and the installation charges have been separately stated on the invoice, billing, or similar document given to the purchaser.

(vi) The value of exempt tangible personal property given to the purchaser if taxable and exempt tangible personal property have been bundled together and sold by the seller as a single product or piece of merchandise; and

(vii) Credit for any trade-in.

(B) "Gross receipts", "gross proceeds", or "sales price" does not include:

(i) A discount including cash, term, or a coupon that is not reimbursed by a third party and that is allowed by a seller and taken by a purchaser on a sale;

(ii) Interest, financing, or a carrying charge from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and

(iii) Any tax legally imposed directly on the consumer that is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Impact neither any existing sale-leaseback exemption nor exclusion;

~~(10)(15)~~ "Person" includes any individual, ~~company~~, partnership, limited liability company, limited liability partnership, ~~joint venture, joint agreement, association, mutual or otherwise~~, corporation, estate, trust, ~~business trust~~, fiduciary, ~~receiver, or trustee appointed by any state or federal court or otherwise~~, syndicate, ~~this state, any county, city, municipality, school district, or any other political subdivision of the state or group or combination acting as a unit~~, or any other legal entity;

(16) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Two (2) or more food ingredients mixed or combined by the seller for sale as a single item; or

(C)(i) Food sold with an eating utensil provided by the seller, including a plate, knife, fork, spoon, glass, cup, napkin, or straw.

(ii) As used in subdivision (16)(C)(i) of this section, a plate does not include a container or packaging used to transport the food;

~~(11)(17)~~ "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent;

~~(12)(A)(18)(A)~~ "Sale" means the transfer of either the title or possession except in the case of a lease or rental for a valuable consideration of tangible personal property regardless of the manner, method, instrumentality, or device by which the transfer is accomplished.

(B) "Sale" includes the:

(i) Exchange, barter, lease, or rental of tangible personal property; or

(ii) Sale, giving away, exchanging, or other disposition of admissions, dues, or fees to clubs, to places of amusement, or to recreational or athletic events or for the privilege of having access to or the use of amusement, athletic, or entertainment facilities.

(C) "Sale" does not include the:

(i) Furnishing or rendering of services except as otherwise provided in this section; or

(ii) Transfer of title to a vehicle by the vehicle owner to an insurance company as a result of the settlement of a claim for

1 damages to the vehicle+.

2 (D)(i) In the case of a lease or rental of tangible
 3 personal property, including motor vehicles and trailers for less than thirty
 4 (30) days, the tax shall be paid on the basis of rental or lease payments
 5 made to the lessor of the tangible personal property during the term of the
 6 lease or rental regardless of whether Arkansas gross receipts tax or
 7 compensating use tax was paid by the lessor at the time of the purchase of
 8 the tangible personal property.

9 (ii) In the case of a lease or rental of tangible
 10 personal property, including motor vehicles and trailers for thirty (30) days
 11 or more, the tax shall be paid on the basis of rental or lease payments made
 12 to the lessor of the tangible personal property during the term of the lease
 13 or rental unless Arkansas gross receipts tax or compensating use tax was paid
 14 by the lessor at the time of the purchase of the tangible personal property+;

15 ~~(iii) Any person engaged in the business of leasing~~
 16 ~~or renting motor vehicles shall collect, report, and remit gross receipts tax~~
 17 ~~on the lease or rental payments in lieu of paying tax at the time of~~
 18 ~~registration.~~

19 ~~(13)(19)~~ "Seller" means every person making a sale, lease, or
 20 rental of tangible personal property or services in an established business;

21 (20)(A) "Tangible personal property" means personal property
 22 that can be seen, weighed, measured, felt, or touched, or that is in any
 23 other manner perceptible to the senses.

24 (B) "Tangible personal property" includes electricity,
 25 water, gas, steam, and prewritten computer software;

26 ~~(14)(21)~~ "Tax period" or "taxable period" means either the
 27 calendar period or the taxpayer's fiscal period when a taxpayer has obtained
 28 a permit from the director or from any of his or her authorized agents to use
 29 a fiscal period in lieu of a calendar period; ~~and~~

30 ~~(15)(22)~~ "Taxpayer" means any person liable to remit a tax under
 31 this chapter or to make a report for the purpose of claiming any exemption
 32 from payment of a tax levied by this chapter+; and

33 (23) "Tobacco" means a cigarette, cigar, chewing or pipe
 34 tobacco, or any other item that contains tobacco.

35
 36 SECTION 12. Arkansas Code § 26-52-304(a), pertaining to the tax levied

1 on sales of computer software and maintenance of computer hardware, is
2 amended to read as follows:

3 (a) The excise tax levied by the Arkansas Gross Receipts Act, § 26-52-
4 101 et seq., and by any act supplemental thereto, is levied on gross receipts
5 or gross proceeds received from the following:

6 (1)(A) Sales of computer software, including prewritten computer
7 software, which shall be taxed as sales of tangible personal property.
8 ~~Software shall include tapes, disks, cards, or other devices or materials~~
9 ~~which contain instructions for a computer and dictate different operations or~~
10 ~~functions to be performed by the computer;~~

11 (B) As used in this section:

12 (i) "Computer" means an electronic device that
13 accepts information in digital or similar form and manipulates it for a
14 result based on a sequence of instructions;

15 (ii)(a) "Computer software" means a set of coded
16 instructions designed to cause a computer or automatic data processing
17 equipment to perform a task.

18 (b) "Computer software" does not include
19 software that is delivered electronically or by load and leave;

20 (iii) "Delivered electronically" means delivered to
21 the purchaser by means other than tangible storage media;

22 (iv) "Electronic" means relating to technology
23 having electrical, digital, magnetic, wireless, optical, electromagnetic, or
24 similar capabilities;

25 (v) "Load and leave" means delivery to the purchaser
26 by use of a tangible storage media in which the tangible storage media is not
27 physically transferred to the purchaser; and

28 (vi) "Prewritten computer software" means computer
29 software, including prewritten upgrades, which is designed and developed by
30 the author or other creator to the specifications of a specific purchaser;
31 and

32 (2) Service of repairing or maintaining computer equipment or
33 hardware in any form.

34

35 SECTION 13. Arkansas Code § 26-52-309 [Effective July 1, 2007], is
36 amended to read as follows:

1 26-52-309. Deduction for bad debts generally. [Effective July 1, 2007
2 January 1, 2008.]

3 ~~(a)(1) In computing the amount of tax due under the Arkansas Gross
4 Receipts Act of 1941, § 26-52-101 et seq., and any act supplemental to the
5 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., a taxpayer may
6 deduct a bad debt from the total amount upon which the tax is calculated on
7 the return for the period during which the bad debt is written off as
8 uncollectible in the taxpayer's books and records and is eligible to deduct
9 the bad debt for federal income tax purposes.~~

10 ~~(2) Any deduction taken or refund paid that is attributed to a
11 bad debt shall not include interest.~~

12 ~~(b)(1)(A) As used in this section, "bad debt" means any portion of a
13 debt for an amount that a taxpayer has reported as taxable which the taxpayer
14 legally claims as a bad debt deduction for federal income tax purposes.~~

15 ~~(B) A taxpayer who is not required to file federal income
16 tax returns may deduct a bad debt on a return filed for the period in which
17 the bad debt is written off as uncollectible in the taxpayer's books and
18 records and would be eligible for a bad debt deduction for federal income tax
19 purposes if the taxpayer was required to file a federal income tax return.~~

20 ~~(2) A bad debt includes, but is not limited to, a worthless
21 check, a worthless credit card payment, and an uncollectible credit account.~~

22 ~~(3) A bad debt does not include financing charges or interest,
23 an uncollectible amount on property that remains in the possession of the
24 taxpayer or vendor until the full purchase price is paid, an expense incurred
25 in attempting to collect any debt, a debt sold or assigned to a third party
26 for collection, and repossessed property.~~

27 ~~(c) A bad debt incurred for a sale made before November 9, 1983, shall
28 not be deducted.~~

29 ~~(d) A bad debt must be deducted within three (3) years of the date of
30 the sale for which the debt was incurred.~~

31 ~~(e) If a deduction is taken for a bad debt and the taxpayer
32 subsequently collects the debt in whole or in part, the tax on the amount so
33 collected shall be paid and reported on the return filed for the period in
34 which the collection is made.~~

35 ~~(f)(1) When the filing responsibilities have been assumed by a
36 certified service provider, as provided in the Uniform Sales and Use Tax~~

1 ~~Administration Act, § 26-20-101 et seq., the certified service provider will~~
2 ~~be allowed to claim on behalf of the taxpayer any bad debt allowance provided~~
3 ~~by this section.~~

4 ~~(2) The certified service provider must credit or refund the~~
5 ~~full amount of any bad debt allowance or refund received to the taxpayer.~~

6 (a)(1) A taxpayer is allowed a deduction from taxable sales for a bad
7 debt.

8 (2) Any deduction taken under this section that is attributed to
9 a bad debt shall not include interest.

10 (b) The federal definition of "bad debt" in 26 U.S.C. § 166, as in
11 effect on January 1, 2007, is the basis for calculating a bad debt deduction
12 under this section except that the amount calculated pursuant to 26 U.S.C. §
13 166 shall be adjusted to exclude:

14 (1) A financing charge or interest;

15 (2) A sales or use tax charged on the purchase price;

16 (3) An uncollectible amount on property that remains in the
17 possession of the taxpayer or seller, until the full purchase price is paid;
18 and

19 (4) An expense incurred in attempting to collect any debt or
20 repossessed property.

21 (c)(1) A bad debt may be deducted on the sales and use tax return of a
22 taxpayer for the tax period during which:

23 (A) The bad debt is written off as uncollectible in the
24 taxpayer's books and records; and

25 (B) The taxpayer is eligible to deduct the bad debt for
26 federal income tax purposes if the taxpayer or seller kept accounts on a cash
27 basis or could be eligible to be claimed if the taxpayer or seller kept
28 accounts on an accrual basis.

29 (2) For purposes of this subsection, a taxpayer who is not
30 required to file a federal income tax return may deduct a bad debt on a sales
31 and use tax return filed for the period in which the bad debt is written off
32 as uncollectible in the taxpayer's books and records if the taxpayer would be
33 eligible for a bad debt deduction for federal income tax purposes if the
34 taxpayer were required to file a federal income tax return.

35 (d) If a bad debt deduction under this section is taken for a bad debt
36 and the debt is subsequently collected in whole or in part, the tax imposed

1 by this chapter on the amount collected shall be paid and reported on the
 2 sales and use tax return filed for the tax period in which the collection is
 3 made.

4 (e)(1) If the amount of bad debt exceeds the amount of taxable sales
 5 for the tax period during which the bad debt is written off, the taxpayer may
 6 file a claim for a refund.

7 (2) The refund claim shall be filed within three (3) years from
 8 the due date of the sales and use tax return on which the bad debt could
 9 first be claimed.

10 (f)(1) If filing responsibilities have been assumed by a certified
 11 service provider, the certified service provider may claim, on behalf of the
 12 taxpayer, any bad debt deduction provided by this section.

13 (2) The certified service provider shall credit or refund the
 14 full amount of any bad debt deduction or refund received to the taxpayer.

15 (g) For the purposes of reporting a payment received on a previously
 16 claimed bad debt, any payment made on a debt or account is applied first
 17 proportionally to the taxable price of the tangible personal property or
 18 service and the sales tax on the tangible personal property or service, and
 19 secondly to interest, service charges, and any other charges.

20 (h) If the books and records of a taxpayer claiming a bad debt
 21 deduction under this section support an allocation of the bad debt among the
 22 states which are members of the Streamlined Sales and Use Tax Agreement, the
 23 allocation is permitted.

24 (i) Except as provided in subsection (f), the only party entitled to a
 25 bad debt deduction or refund pursuant to this section is the taxpayer that
 26 originally reported and remitted the tax in question.

27
 28 SECTION 14. Arkansas Code § 26-52-315 [Effective July 1, 2007], is
 29 amended to read as follows:

30 26-52-315. Telecommunications and related services. [Effective July
 31 1, 2007 January 1, 2008.]

32 ~~(a) As provided in this section, the~~ The gross receipts or gross
 33 proceeds derived from the sale of the following are subject to the gross
 34 receipts tax levied by this chapter:

35 (1) Any intrastate, interstate, and international taxable
 36 telecommunications services service that is sourced in this state in

1 accordance with subsection (d) of this section;

2 (2) Any ancillary service; and

3 (3) Any installation, maintenance, or repair service of
 4 telecommunication equipment.

5 ~~are subject to the Arkansas gross receipts tax levied by the Arkansas Gross~~
 6 ~~Receipts Act of 1941, § 26-52-101 et seq., and by any act supplemental to the~~
 7 ~~Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.~~

8 ~~(b) The following services are taxable telecommunications services:~~

9 ~~(1) Service by telephone, telecommunications, and telegraph~~
 10 ~~companies to subscribers or users, including transmission of messages or~~
 11 ~~images whether local or long distance;~~

12 ~~(2) Basic local service and rental charges, including all~~
 13 ~~installation and construction charges and all service and rental charges~~
 14 ~~having any connection with transmission of any message or image;~~

15 ~~(3) Except as provided in subsection (c) of this section,~~
 16 ~~taxable long distance services shall include:~~

17 ~~(A) Long distance messages that originate and terminate~~
 18 ~~within this state;~~

19 ~~(B) Interstate long distance messages that originate~~
 20 ~~within this state or terminate outside this state and are billed to a place~~
 21 ~~of primary use in this state;~~

22 ~~(C) All customer access line charges associated with or~~
 23 ~~for access to the long distance network, except that access or other~~
 24 ~~telecommunication services provided to telephone, telegraph, or~~
 25 ~~telecommunications companies that will be used to provide telecommunications~~
 26 ~~services shall not be subject to this tax; and~~

27 ~~(D) Long distance messages that originate and terminate~~
 28 ~~outside this state made by mobile telecommunications service that are charged~~
 29 ~~to a customer who maintains a place of primary use in this state; and~~

30 ~~(4) The one way or two way transmission of messages, voice~~
 31 ~~messages, images, or other real time or essentially real time communications~~
 32 ~~whether accomplished by any means including wire, cable, fiber optics, laser,~~
 33 ~~microwave, radio, satellite, voice over Internet protocol, or similar~~
 34 ~~facilities.~~

35 ~~(e)(b) The following services shall not be taxable under this section:~~

36 ~~(1) Any interstate or international private communications~~

1 service that is not accessible by the public;

2 (2) Any interstate service that allows access to private
3 telephone lines and that is not accessible by the public;

4 (3) Any interstate wide area telecommunications service or other
5 similar service that entitles the subscriber to make or receive an unlimited
6 number of communications to or from persons having telecommunications service
7 in a specified area that is outside the state in which the station provided
8 with this service is located interstate or international 800 service or 900
9 service; or

10 ~~(4)(3)(A)~~ Any prepaid calling service telephone or
11 telecommunication services paid by using a prepaid telephone calling card or
12 prepaid authorization number as provided in § 26-52-314.

13 (B) However, prepaid calling service is taxed under § 26-
14 52-314.

15 ~~(d)(1)(A)(c)(1)(A)~~ The Mobile Telecommunications Sourcing Act, Pub. L.
16 No. 106-252, 4 U.S.C. §§ 116-126, as in effect on ~~January 1, 2001~~ January 1,
17 2007, is adopted in its entirety.

18 (B) All charges for mobile telecommunications services are
19 deemed to be provided by the customer's home service provider and sourced to
20 the customer's place of primary use and are subject to gross receipts tax
21 based upon the customer's place of primary use as determined by the Mobile
22 Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. §§ 116-126, as
23 in effect on January 1, 2007.

24 (2)(A)(i) Any customer who alleges that an amount of tax,
25 charge, or fee or that the assignment of the place of primary use or taxing
26 jurisdiction included on a billing is erroneous shall notify the home service
27 provider in writing.

28 (ii) The customer must include the street address
29 for the customer's place of primary use, the account name and number for
30 which the correction of tax assignment is sought, a description of the
31 alleged error, and any other information requested by the home service
32 provider necessary to process the request.

33 (B)(i) The home service provider shall conduct a review of
34 its records and the electronic database or enhanced zip code used to
35 determine the place of primary use within sixty (60) days of receiving the
36 notice from its customer.

1 (ii) If it is determined that the amount of the tax,
2 charge, or fee or that the assignment of the place of primary use or taxing
3 jurisdiction is in error, the home service provider shall correct the error
4 and refund or credit the amount of tax, charge, or fee erroneously collected
5 from the customer for a period of up to three (3) years.

6 (iii) If it is determined that the amount of the
7 tax, charge, or fee or assignment of the place of primary use or taxing
8 jurisdiction is correct, the home service provider shall provide a written
9 explanation to the customer.

10 (C) A customer seeking correction of assignment of place
11 of primary use or taxing jurisdiction or a refund or credit of taxes,
12 charges, or fees erroneously collected by the home service provider must seek
13 to have the error corrected under subdivision ~~(d)(2)(A)(c)(2)(A)~~ of this
14 section before any cause of action arises as a result of the error.

15 (3)(A) Charges for nontaxable services that are aggregated with
16 other charges for communications services that are taxable and are not
17 separately stated on the bill or invoice shall not be subject to the gross
18 receipts tax if the seller can reasonably identify the nontaxable charges on
19 the seller's books and records kept in the regular course of business.

20 (B) If the nontaxable charges cannot reasonably be
21 identified, the gross receipts from the sales of both taxable and nontaxable
22 communications services billed on a combined basis shall be attributed to the
23 taxable communications services.

24 (C) The burden of proving nontaxable receipts or charges
25 is on the seller of the communications services.

26 ~~(e)(1)(d)(1)~~ Except for the telecommunication services in subdivision
27 ~~(e)(3)(d)(3)~~ of this section, the sale of telecommunication services sold on
28 a call-by-call basis shall be sourced to:

29 (A) Each state, county, or city jurisdiction where the
30 call originates and terminates in that jurisdiction; or

31 (B) Each state, county, or city where the call either
32 originates or terminates and in which the service address is also located.

33 (2) Except for the telecommunication services in subdivision
34 ~~(e)(3)(d)(3)~~ of this section, a sale of telecommunications services sold on a
35 basis other than a call-by-call basis is sourced to the customer's place of
36 primary use.

1 (3) The sale of the following telecommunication services shall
2 be sourced to each state, county, or city as follows:

3 (A) A sale of mobile telecommunications services other
4 than air-to-ground radiotelephone service and prepaid calling service is
5 sourced to the customer's place of primary use as required by the Mobile
6 Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. §§ 116-126, as
7 in effect on January 1, 2007;

8 (B) A sale of postpaid calling service is sourced to the
9 origination point of the telecommunications signal as first identified by
10 either:

11 (i) The seller's telecommunications system; or

12 (ii) Information received by the seller from its
13 service provider if the system used to transport the signals is not that of
14 the seller;

15 (C)(i) A sale of prepaid calling service or a sale of a
16 prepaid wireless calling service is sourced in accordance with § 26-52-
17 521(b).

18 (ii) Except for a sale of ~~mobile telecommunications~~
19 prepaid wireless calling service that is a prepaid telecommunications
20 service, the rule provided in § 26-52-521(b)(5) shall include as an option
21 the location associated with the mobile telephone number; or

22 (D) A sale of a private communication service is sourced
23 as follows:

24 (i) Service for a separate charge related to a
25 customer channel termination point is sourced to each state, county, or city
26 in which the customer channel termination point is located;

27 (ii) Service where all customer termination points
28 are located entirely within one (1) jurisdiction or levels of jurisdiction is
29 sourced in the state, county, and city in which the customer channel
30 termination points are located;

31 (iii) Service for segments of a channel between two
32 (2) customer channel termination points located in different jurisdictions
33 and which segments of a channel are separately charged is sourced fifty
34 percent (50%) in each state, county, and city in which the customer channel
35 termination points are located; or

36 (iv) Service for segments of a channel located in

1 more than one (1) jurisdiction or levels of jurisdiction and which segments
 2 are not separately billed is sourced in each jurisdiction based on the
 3 percentage determined by dividing the number of customer channel termination
 4 points in the jurisdiction by the total number of customer channel
 5 termination points.

6 (4) The sale of an ancillary service is sourced to the
 7 customer's place of primary use.

8 ~~(f)~~(e) As used in this section:

9 (1) "Air-to-ground radiotelephone service" means a radio
 10 service, as that term is defined in 47 C.F.R. 22.99, as in effect on January
 11 1, 2007, in which common carriers are authorized to offer and provide radio
 12 telecommunications service for hire to subscribers in aircraft;

13 (2) "Ancillary service" means a service that is associated with
 14 or incidental to the provision of "telecommunications services", including
 15 without limitation detailed telecommunications billing, directory assistance,
 16 vertical service, and voice mail services;

17 ~~(2)~~(3) "Call-by-call basis" means any method of charging for
 18 telecommunications services when the price is measured by individual calls;

19 ~~(3)~~(4) "Communications channel" means a physical or virtual path
 20 of communications over which signals are transmitted between or among
 21 customer channel termination points;

22 ~~(4)(A)~~(5)(A) "Customer" means the person or entity that
 23 contracts with the seller of telecommunications services.

24 (B) If the end user of telecommunications services is not
 25 the contracting party, the end user of the telecommunications service is the
 26 customer of the telecommunication service, but this subdivision

27 ~~(f)~~(4)(B)~~(e)~~(5)(B) only applies for the purpose of sourcing sales of
 28 telecommunications services under subsection ~~(e)~~(d) of this section~~.~~

29 (C) "Customer" does not include a reseller of
 30 telecommunications service or for mobile telecommunications service of a
 31 serving carrier under an agreement to serve the customer outside the home
 32 service provider's licensed service area;

33 ~~(5)~~(6) "Customer channel termination point" means the location
 34 where the customer either inputs or receives the communications;

35 ~~(6)(A)~~(7)(A) "End user" means the person who utilizes the
 36 telecommunication service.

1 (B) In the case of an entity, "end user" means the
2 individual who utilizes the service on behalf of the entity;

3 ~~(7)~~(8) "Home service provider" means the same as that term is
4 defined in the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4
5 U.S.C. § 124(5), as in effect on January 1, 2007;

6 (9)(A) "International" means a telecommunications service that
7 originates or terminates in the United States and terminates or originates
8 outside the United States respectively.

9 (B) United States includes the District of Columbia or a
10 United States territory or possession;

11 (10) "Interstate" means a telecommunications service that
12 originates in one (1) United States state, or a United States territory or
13 possession, and terminates in a different United States state or a United
14 States territory or possession;

15 (11) "Intrastate" means a telecommunications service that
16 originates in one (1) United States state or a United States territory or
17 possession and terminates in the same United States state or a United States
18 territory or possession;

19 ~~(8)~~(12) "Mobile telecommunications service" means the same as
20 that term is defined in the Mobile Telecommunications Sourcing Act, Pub. L.
21 No. 106-252, 4 U.S.C. § 124(7), as in effect on January 1, 2007;

22 ~~(9)(A)~~(13)(A) "Place of primary use" means the street address
23 representative of where the customer's use of the telecommunications service
24 primarily occurs, which must be the residential street address or the primary
25 business street address of the customer.

26 (B) In the case of mobile telecommunications services,
27 "place of primary use" must be within the licensed service area of the home
28 service provider;

29 ~~(10)(A)~~(14)(A) "Postpaid calling service" means the
30 telecommunications service obtained by making a payment on a call-by-call
31 basis either through the use of a credit card or payment mechanism such as a
32 bank card, travel card, credit card, or debit card or by charge made to which
33 a telephone number which is not associated with the origination or
34 termination of the telecommunications service.

35 (B) "Postpaid calling service" includes a
36 telecommunications service, except a prepaid wireless calling service, that

1 would be a prepaid calling service except it is not exclusively a
2 telecommunication service;

3 ~~(11)~~(15) "Prepaid calling service" means the right to access
4 exclusively telecommunications services, which must be paid for in advance
5 and which enables the origination of calls using an access number or
6 authorization code, whether manually or electronically dialed, and that is
7 sold in predetermined units or dollars of which the number declines with use
8 in a known amount;

9 (16) "Prepaid wireless calling service" means a
10 telecommunications service that provides the right to utilize mobile wireless
11 service as well as other non-telecommunications services, including the
12 downloading of digital products delivered electronically, content, and
13 ancillary services that must be paid for in advance and that is sold in
14 predetermined units or dollars of which the number declines with use in a
15 known amount;

16 ~~(12)~~(17) "Private communication service" means a
17 telecommunication service that entitles the customer to exclusive or priority
18 use of a communications channel or group of channels between or among
19 termination points regardless of the manner in which the channel or channels
20 are connected and includes switching capacity, extension lines, stations, and
21 any other associated services that are provided in connection with the use of
22 the channel or channels; ~~and~~

23 ~~(13)(A)~~(18)(A) "Service address" means the location of the
24 telecommunications equipment to which a customer's call is charged and from
25 which the call originates or terminates regardless of where the call is
26 billed or paid.

27 (B) If the location in subdivision ~~(f)~~(13)(A)(e)(18)(A) of
28 this section is not known, "service address" means the origination point of
29 the signal of the telecommunications services first identified by either the
30 seller's telecommunications system or in information received by the seller
31 from its service provider if the system used to transport the signals is not
32 that of the seller.

33 (C) If the location in subdivisions ~~(f)~~(13)(A) ~~and (B)~~
34 (e)(18)(A) and (B) of this section is not known, "service address" means the
35 location of the customer's place of primary use; ~~;~~

36 (19)(A) "Telecommunications service" means the electronic

1 transmission, conveyance, or routing of voice, data, audio, video, or any
2 other information or signals to a point, or between or among points.

3 (B) The term "telecommunications service" includes such
4 transmission, conveyance, or routing in which computer processing
5 applications are used to act on the form, code, or protocol of the content
6 for purposes of transmission, conveyance, or routing without regard to
7 whether such service is referred to as voice over Internet protocol services
8 or is classified by the Federal Communications Commission as enhanced or
9 value added.

10 (C) "Telecommunications service" does not include:

11 (i) Data processing and information services that
12 allow data to be generated, acquired, stored, processed, or retrieved and
13 delivered by an electronic transmission to a purchaser where such purchaser's
14 primary purpose for the underlying transaction is the processed data or
15 information;

16 (ii) Installation or maintenance of wiring or
17 equipment on a customer's premises;

18 (iii) Tangible personal property;

19 (iv) Advertising, including but not limited to
20 directory advertising;

21 (v) Billing and collection services provided to
22 third parties;

23 (vi) Internet access service;

24 (vii)(a) Radio and television audio and video
25 programming services, regardless of the medium, including the furnishing of
26 transmission, conveyance and routing of such services by the programming
27 service provider.

28 (b) Radio and television audio and video
29 programming services shall include but not be limited to cable service as
30 defined in 47 USC 522(6), as in effect on January 1, 2007, and audio and
31 video programming services delivered by commercial mobile radio service
32 providers, as defined in 47 CFR 20.3, as in effect on January 1, 2007;

33 (viii) Ancillary services; or

34 (ix) A digital product delivered electronically,
35 including but not limited to software, music, video, reading material, or a
36 ring tone;

1 (20) “800 service” means a telecommunications service that
 2 allows a caller to dial a toll-free number without incurring a charge for the
 3 call; and

4 (21)(A) “900 service” means an inbound toll telecommunications
 5 service purchased by a subscriber that allows the subscriber’s customers to
 6 call in to the subscriber’s prerecorded announcement or live service.

7 (B) “900 service” does not include:

8 (i) The charge for collection services provided by
 9 the seller of the telecommunications services to the subscriber; or

10 (ii) Service or product sold by the subscriber to
 11 the subscriber’s customer.

12 (f) The Department of Finance and Administration shall promulgate
 13 rules to implement this section.

14
 15 SECTION 15. Arkansas Code § 26-52-401(3), concerning the exemption for
 16 charitable organizations, is amended to read as follows:

17 (3) Gross receipts or gross proceeds derived from the sale of food or
 18 food ingredients in public, common, high school, or college cafeterias and
 19 lunch rooms operated primarily for teachers and pupils, not operated
 20 primarily for the public and not operated for profit;

21
 22 SECTION 16. Arkansas Code § 26-52-401(7), concerning the exemption for
 23 the Girl Scouts or Boy Scouts of America, is amended to read as follows:

24 (7) Gross receipts or gross proceeds derived from the sale of tangible
 25 personal property including but not limited to office supplies; office
 26 equipment; program items at camp such as bows, arrows, and rope; rifles for
 27 rifle range and other rifle items; food or food ingredients or prepared food
 28 for camp; lumber and supplies used in camp maintenance; camp equipment; first
 29 aid supplies for camp; the leasing of cars used in promoting scouting; or
 30 services to the Boy Scouts of America chartered by the United States Congress
 31 in 1916 or the Girl Scouts of the United States of America chartered by the
 32 United States Congress in 1950 or any of the scout councils in the State of
 33 Arkansas;

34
 35 SECTION 17. Arkansas Code § 26-52-401(19), concerning the exemptions
 36 for governmental agencies, is amended to read as follows:

1 (19) Gross receipts or gross proceeds derived from the sale of
 2 ~~foodstuffs~~ food or food ingredients or prepared food to governmental agencies
 3 for free distribution to any public, penal, and eleemosynary institutions or
 4 for free distribution to the poor and needy;

5
 6 SECTION 18. Arkansas Code § 26-52-401(27)(A)(iii), concerning the
 7 exemptions from sales tax for purchases made under certain food programs, is
 8 amended to read as follows:

9 (iii) Food or food ingredients purchased through
 10 bids under the Special Supplemental Food Program for Women, Infants and
 11 Children.

12
 13 SECTION 19. Arkansas Code § 26-52-401, concerning exemptions from
 14 gross receipts tax, is amended to add the following subdivision:

15 (39) Gross receipts or gross proceeds from the sale of any good,
 16 ware, merchandise, or tangible personal property withdrawn or used from an
 17 established business or from the stock in trade of the established reserves
 18 for consumption or use in an established business or by any other person if
 19 the good, ware, merchandise, or tangible personal property withdrawn or used
 20 is donated to a National Guard member, emergency service worker, or volunteer
 21 providing services to a county which has been declared a disaster area by the
 22 Governor.

23
 24 SECTION 20. Arkansas Code § 26-52-403(c), concerning the exemption
 25 claimed for farm equipment and machinery, is amended to read as follows:

26 ~~(c)(1) Each purchaser of farm equipment and machinery shall certify,~~
 27 ~~in writing, on the copy of the invoice or sales ticket to be retained by the~~
 28 ~~seller that he or she is engaged in farming and that the farm equipment and~~
 29 ~~machinery will be used only in farming.~~

30 ~~(2) The seller shall certify to the Department of Finance and~~
 31 ~~Administration that the contract price of the farm equipment and machinery~~
 32 ~~has been reduced to grant the full benefit of the exemption.~~

33 ~~(3) Violation of this subsection by the purchaser or seller~~
 34 ~~shall be a Class A misdemeanor and upon violation or conviction for a second~~
 35 ~~offense the Director of the Department of Finance and Administration shall~~
 36 ~~revoke the seller's sales tax permit.~~

1 (c) The Director of the Department of Finance and Administration shall
 2 promulgate rules and prescribe forms for claiming the exemption provided by
 3 this section.

4
 5 SECTION 21. Arkansas Code § 26-52-421 is amended to read as follows:
 6 26-52-421. Nonprofit food distribution agencies.

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

13
 14 SECTION 22. Arkansas Code § 26-52-427 is amended to read as follows:
 15 26-52-427. Property purchased for use in performance of construction
 16 contract.

17 (a) ~~Tangible~~ A contractor that purchases tangible personal property
 18 which becomes a recognizable part of a completed structure or improvement to
 19 real property and which is purchased for use or consumption in the
 20 performance of construction contracts shall be ~~exempt from~~ entitled to a
 21 rebate on any additional gross receipts tax or compensating (use) tax levied
 22 by the state or any city or county if:

23 (1) when the The construction contract for which the tangible
 24 personal property was purchased is entered into prior to the effective date
 25 of the levy of the additional state, city, or county gross receipts tax or
 26 compensating (use) tax; and

27 (2) The contractor paid the additional gross receipts or
 28 compensating use tax to the seller.

29 (b) For the purposes of this section, "construction contract" means a
 30 contract to construct, manage, or supervise the construction, erection, or
 31 substantial modification of a building or other improvement or structure
 32 affixed to real property. The term "construction contract" shall not mean
 33 contract to produce tangible personal property.

34 (c) The ~~exemption~~ rebate provided by this section shall apply to
 35 tangible personal property purchased within five (5) years from the effective
 36 date of the levy of the additional state, city, or county gross receipts tax

1 or compensating (use) tax.

2 (d) ~~The exemption~~ rebate provided by this section shall not apply to
 3 cost-plus contracts which allow the contractor to pass any additional tax on
 4 to the principal as a part of the contractor's costs.

5 (e) Interest shall not accrue or be paid on an amount subject to a
 6 claim for rebate pursuant to this section.

7 (f) The Director of the Department of Finance and Administration shall
 8 promulgate rules and prescribe forms for claiming a rebate as provided by
 9 this section.

10
 11 SECTION 23. Arkansas Code § 26-52-433 [Effective July 1, 2007], is
 12 amended as follows:

13 26-52-433. Durable medical equipment, mobility-enhancing equipment,
 14 prosthetic devices, and disposable medical supplies. [Effective ~~July 1, 2007~~
 15 January 1, 2008.]

16 (a)(1) Gross receipts or gross proceeds derived from the rental, sale,
 17 or repair of durable medical equipment prescribed by a physician, mobility-
 18 enhancing equipment prescribed by a physician, a prosthetic device prescribed
 19 by a physician, and disposable medical supplies prescribed by a physician
 20 shall be exempt from all state and local sales and use taxes.

21 (2) This exemption shall apply only to durable medical
 22 equipment, mobility-enhancing equipment, prosthetic device, and disposable
 23 medical supplies ~~prescribed~~ sold to a specific patient pursuant to a
 24 prescription written for a specific patient before the sale.

25 ~~(3) This exemption shall not apply to items purchased by~~
 26 ~~physicians, hospitals, nursing homes, or long-term care facilities for use by~~
 27 ~~their patients or residents.~~

28 (b) As used in this section:

29 ~~(1) "Durable medical equipment", "mobility-enhancing equipment",~~
 30 ~~and "disposable medical supplies" include, but are not limited to, the~~
 31 ~~following:~~

- 32 ~~(A) Wheelchairs;~~
- 33 ~~(B) Leg braces;~~
- 34 ~~(C) Wheelchair lifts;~~
- 35 ~~(D) Ostomy, urostomy, and colostomy supplies;~~
- 36 ~~(E) Raised toilet seats;~~

1 medical purpose;

2 ~~(C)(iii)~~ Generally is not useful to a person in the
3 absence of illness or injury; and

4 ~~(D)(iv)~~ Is not worn in or on the body~~;~~.

5 (B) "Durable medical equipment" does not include mobility-
6 enhancing equipment;

7 (3)(A) "Mobility-enhancing equipment" means equipment, including
8 repair and replacement parts for the equipment~~;~~, that:

9 ~~(B) "Mobility-enhancing equipment" does not include~~
10 ~~durable medical equipment that:~~

11 (i) Is primarily and customarily used to provide or
12 increase the ability to move from one (1) place to another and which is
13 appropriate for use either in a home or a motor vehicle;

14 (ii) Is not generally used by a person with normal
15 mobility; and

16 (iii) Does not include any motor vehicle or
17 equipment on a motor vehicle normally provided by a motor vehicle
18 manufacturer~~;~~.

19 (B) "Mobility-enhancing equipment" does not include
20 durable medical equipment;

21 (4) "Physician" means a person licensed under § 17-95-401 et
22 seq.; ~~and~~

23 (5) "Prescription" means an order, formula, or recipe issued in
24 any form and transmitted by an oral, written, electronic, or other means of
25 transmission by a duly licensed physician or practitioner authorized to issue
26 prescriptions under Arkansas law; and

27 ~~(5)(A)(6)(A) "Prosthetics" means~~ "Prosthetic device" means a
28 replacement, corrective, or supportive ~~devices~~ device, including repair and
29 replacement parts for ~~prosthetics~~ the device, worn on or in the body to:

30 (i) Artificially replace a missing portion of the
31 body;

32 (ii) Prevent or correct physical deformity or
33 malfunction; or

34 (iii) Support a weak or deformed portion of the
35 body.

36 (B) ~~"Prosthetics"~~ "Prosthetic device" does not include

1 corrective eyeglasses, contact lenses, and dental prostheses.

2
 3 SECTION 24. Arkansas Code § 26-52-501(b), pertaining to the
 4 preparation of returns and payment of tax, is amended as follows:

5 (b)(1) For the purpose of ascertaining the amount of tax payable under
 6 the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., it shall be the
 7 duty of all taxpayers on or before the twentieth day of each month to deliver
 8 to the director, upon forms prescribed and furnished by the director, returns
 9 ~~under oath~~ showing the total ~~combined gross receipts or gross proceeds~~ tax
 10 due derived from all taxable sales ~~and the total combined gross receipts or~~
 11 ~~gross proceeds derived from all nontaxable sales~~ during the preceding
 12 ~~ealender~~ calendar month.

13 (2) The returns shall show such further information as the
 14 director may require to enable the director to compute correctly and collect
 15 the tax levied.

16 (3) Whether an individual, corporation, partnership, limited
 17 liability company, or other entity, every taxpayer shall file a single report
 18 combining all ~~gross receipts or gross proceeds~~ taxes due derived from sales
 19 made from all Arkansas locations of the taxpayer's business which are
 20 registered and permitted with the director under the same federal employer's
 21 identification number or social security number.

22
 23 SECTION 25. Effective January 1, 2008, Arkansas Code § 26-52-507 is
 24 repealed.

25 ~~26-52-507. Florists transmitting orders.~~

26 ~~(a) The gross receipts tax levied by this state shall be due and~~
 27 ~~collected by all florists who transmit any order by telegraph, telephone, or~~
 28 ~~other means of communication for flowers, floral arrangements, potted plants,~~
 29 ~~or any other article common to the florist business for delivery to any other~~
 30 ~~place within or without this state.~~

31 ~~(b) The gross receipts tax collected by the florist transmitting the~~
 32 ~~order by telegraph, telephone, or other means of communication shall be the~~
 33 ~~only tax collected on that order regardless of whether the order originated~~
 34 ~~within or without this state.~~

35
 36 SECTION 26. Arkansas Code § 26-52-508(d) [Effective July 1, 2007],

1 concerning the issuance of tokens for the collection of tax by sellers or
2 admissions collectors, is repealed.

3 ~~(d)(1) In order to make the collections convenient, the director may~~
4 ~~issue tokens in the denominations of one tenth of one cent (1/10 of 1) and~~
5 ~~five tenths of one cent (5/10 of 1) in such quantity as he or she deems~~
6 ~~necessary.~~

7 ~~(2)(A) Tax tokens shall not be accepted by the state in payment~~
8 ~~of taxes due.~~

9 ~~(B) Tax tokens shall be redeemed at face value by the~~
10 ~~director at Little Rock, Arkansas, and at such other points as he or she may~~
11 ~~designate.~~

12

13 SECTION 27. Arkansas Code § 26-52-517 is amended to read as follows:

14 26-52-517. Resale Exemption certificates.

15 (a)~~(1)~~ The sales tax liability for all sales of tangible personal
16 property and taxable services is upon the seller unless, ~~at or before the~~
17 ~~time of sale, the seller takes in good faith a certificate of resale from the~~
18 ~~holder of a valid retailer's permit who is regularly engaged in the~~
19 ~~established business of reselling property of the type being purchased.~~

20 ~~(2) The resale certificate must:~~

21 ~~(A) Contain the purchaser's sales tax permit number;~~

22 ~~(B) State that the purchase is for resale; and~~

23 ~~(C) Contain any additional information as the director may~~

24 ~~require. the purchaser claims an exemption and the seller obtains identifying~~
25 ~~information of the purchaser and the reason the purchaser is claiming the~~
26 ~~exemption in the manner prescribed by the Director of the Department of~~
27 ~~Finance and Administration.~~

28 (b)(1) Where tangible personal property ~~is~~ or taxable services are
29 purchased tax-free pursuant to subsection (a) of this section and the
30 tangible personal property or taxable service is not resold by the purchaser,
31 the purchaser is solely liable for reporting and remitting to the director
32 any tax which should have been paid at the time of purchase.

33 (2) Use or disposition of the property other than for resale
34 shall be deemed a withdrawal from stock for all purposes, including reporting
35 and remittance of the tax due, and the tax shall be due from the purchaser at
36 the time of the withdrawal from stock.

1 (c)(1) The director may provide sale for resale certificates to assist
 2 retailers in properly accounting for nontaxable sales of tangible personal
 3 property or taxable services.

4 (2) Such certificates must be completed as to the information
 5 required in order to be valid and cannot be used to establish any other
 6 exemption from sales or use tax.

7 (d) Any person repeatedly selling the same type of property to the
 8 same purchaser for resale may accept a blanket certificate covering more than
 9 one (1) transaction.

10 (e) ~~The liability for the tax is not transferred from the seller to~~
 11 ~~the purchaser if the seller has not accepted a valid exemption certificate in~~
 12 ~~good faith.~~ A seller that follows the exemption requirements as prescribed
 13 by the Director of the Department of Finance and Administration is relieved
 14 from any tax otherwise applicable if it is determined that the purchaser
 15 improperly claimed an exemption.

16 (f) ~~If the seller has actual knowledge of information or circumstances~~
 17 ~~indicating that it is unlikely that the property will be resold, then, in~~
 18 ~~order to act in good faith, the seller must make further inquiry to determine~~
 19 ~~the facts supporting the certificate of resale.~~ The relief from liability
 20 provided in subsection (e) of this section does not apply to a seller that:

21 (1) Fraudulently fails to collect the sales tax;

22 (2) Solicits a purchaser to participate in the unlawful claim of
 23 an exemption; or

24 (3) Accepts an exemption certificate from a purchaser claiming
 25 an entity-based exemption if:

26 (A) The subject of the transaction sought to be covered by
 27 the exemption certificate is actually received by the purchaser at a location
 28 operated by the seller; and

29 (B) The Department of Finance and Administration provides
 30 an exemption certificate that clearly and affirmatively indicates that the
 31 claimed exemption is not available in Arkansas.

32 (g)(1) A seller may obtain a fully completed exemption certificate or
 33 capture the relevant data elements required by the Department of Finance and
 34 Administration within ninety (90) days after the date of sale.

35 (2) If the seller has not obtained an exemption certificate or
 36 all relevant data elements and the Department of Finance and Administration

1 makes a request for substantiation of the exemption, the seller has one
 2 hundred twenty (120) days from the date of the request to prove by other
 3 means that the transaction was not subject to sales or use tax or to obtain
 4 in good faith a fully completed exemption certificate from the purchaser.

5
 6 SECTION 28. Arkansas Code § 26-52-519 [As enacted by Acts 1997, No.
 7 391] is repealed.

8 ~~26-52-519. Liability of sellers for collection of tax—Good Faith~~
 9 ~~reliance on claim or documentation of purchaser. [As enacted by Acts 1997,~~
 10 ~~No. 391.]~~

11 ~~(a) The sales tax liability for all sales of tangible personal~~
 12 ~~property or taxable services is upon the seller unless, at or before the time~~
 13 ~~of sale, the seller relies in good faith on a claim by the purchaser or~~
 14 ~~documentation provided by the purchaser that the purchaser is entitled to a~~
 15 ~~sales tax exemption.~~

16 ~~(b) If the seller has actual knowledge of information or circumstances~~
 17 ~~indicating that it is unlikely that the purchaser is entitled to a sales tax~~
 18 ~~exemption and exempts the purchase, the seller has not acted in good faith.~~

19 ~~(c) If the seller has acted in good faith, the liability for the tax~~
 20 ~~is transferred to the purchaser who shall be liable for tax, penalty and~~
 21 ~~interest due on the purchase.~~

22
 23 SECTION 29. Arkansas Code § 26-52-605(a), concerning the border city
 24 tax, is amended to read as follows:

25 (a) The governing body of an Arkansas border city or town, as
 26 described in § 26-52-602, by ordinance, may call a special election, or, upon
 27 petition of not less than ten percent (10%) of the qualified electors of the
 28 Arkansas border city or town, as determined by the number of votes cast in
 29 the Arkansas border city or town for all candidates for election to the
 30 Office of Governor of Arkansas in the immediately preceding general election,
 31 filed with the city clerk of the city or town petitioning that a special
 32 election be called, a special election shall be called in the city or town on
 33 the question of the imposition of an additional state tax of one percent (1%)
 34 to be administered and collected as a local sales tax upon the gross receipts
 35 or gross proceeds derived from taxable sales within the border city or town
 36 under the provisions of the Arkansas Gross Receipts Act of 1941, § 26-52-101

1 et seq., and the proceeds derived therefrom shall benefit the State of
 2 Arkansas in lieu of the state income tax law applying to the net taxable
 3 income derived by individuals who are residents of the border city or town.
 4

5 SECTION 30. Arkansas Code § 26-52-607 is amended to read as follows:
 6 26-52-607. Levy of use tax.

7 In all cities in this state divided by a street state line from an
 8 incorporated city or town in an adjoining state which does not impose an
 9 income tax that have adopted a one percent (1%) state sales tax pursuant to §
 10 26-52-601, et seq., there is also levied an additional one percent (1%) state
 11 use tax which shall be administered and collected as a local tax, and
 12 enforced in accordance with § 26-53-101, et seq.
 13

14 SECTION 31. Arkansas Code § 26-53-102 [Effective July 1, 2007], is
 15 amended to read as follows:

16 26-53-102. Definitions. [Effective ~~July 1, 2007~~ January 1, 2008.]

17 As used in this subchapter:

18 (1) "Alcoholic beverage" means a beverage that is suitable for
 19 human consumption and contains one-half of one percent (0.5%) or more of
 20 alcohol by volume;

21 (2)(A) "Bundled transaction" means a retail sale of two (2) or
 22 more products, except real property and services to real property, in which:

23 (i) The products are otherwise distinct and
 24 identifiable; and

25 (ii) The products are sold for one (1) non-itemized
 26 price.

27 (B) "Bundled transaction" does not include the sale of any
 28 product in which the sales price varies or is negotiable based on the
 29 selection by the purchaser of the products included in the transaction.

30 (C) The Department of Finance and Administration shall
 31 promulgate rules to implement this subdivision (2);

32 (3) "Dietary supplement" means any product, other than tobacco,
 33 intended to supplement the diet that:

34 (A) Contains one (1) or more of the following dietary
 35 ingredients:

36 (i) A vitamin;

1 (ii) A mineral;

2 (iii) An herb or other botanical;

3 (iv) An amino acid;

4 (v) A dietary substance for use by humans to
5 supplement the diet by increasing the total dietary intake; or

6 (vi) A concentrate, metabolite, constituent,
7 extract, or combination of any ingredient described in this subdivision
8 (3)(A) and is intended for ingestion in tablet, capsule, powder, softgel,
9 gelcap, or liquid form, or if not intended for ingestion in such a form, is
10 not represented as conventional food and is not represented for use as a sole
11 item of a meal or of the diet; and

12 (B) Is required to be labeled as a dietary supplement,
13 identifiable by the "Supplemental Facts" box found on the label and as
14 required pursuant to 21 C.F.R. § 101.36, as in effect on January 1, 2007;

15 ~~(1)~~(4) "Director" means the Director of the Department of
16 Finance and Administration;

17 (5)(A) "Food and food ingredients" means substances, whether in
18 liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold
19 for ingestion or chewing by humans and are consumed for their taste or
20 nutritional value.

21 (B) "Food and food ingredients" does not include an
22 alcoholic beverage, tobacco, or a dietary supplement;

23 ~~(2)~~(6) "In this state" or "in the state" or "within this state"
24 means within the exterior limits of the State of Arkansas and includes all
25 territory within those limits owned by or ceded to the United States of
26 America;

27 ~~(3)(A)~~(7)(A) "Person" means any individual, ~~company,~~
28 partnership, limited liability company, limited liability partnership, joint
29 venture, ~~joint agreement, association, mutual or otherwise,~~ corporation,
30 estate, trust, ~~business trust,~~ fiduciary, ~~receiver, or trustee appointed by~~
31 ~~any state or federal court or otherwise, syndicate, this state, any county,~~
32 ~~city, municipality, school district, or any other political subdivision of~~
33 ~~the state, or group or combination acting as a unit,~~ or any other legal
34 entity.

35 (B) It is the purpose and intent of the General Assembly
36 in passing this subdivision ~~(3)~~ (7) to provide the same definition for the

1 word "person" in this subchapter as that word is defined in the Arkansas
 2 Gross Receipts Act of 1941, § 26-52-101 et seq., and the exclusion of any
 3 wording formerly appearing in the definition of the word "person" in this
 4 subchapter shall by no means be construed by the courts or by administrative
 5 officials as an intention of the General Assembly to grant any additional
 6 exclusion or exemption from the provisions of this subchapter;

7 (8) "Prepared food" means:

8 (A) Food sold in a heated state or heated by the seller;

9 (B) Two (2) or more food ingredients mixed or combined by
 10 the seller for sale as a single item; or

11 (C)(i) Food sold with an eating utensil provided by the
 12 seller, including a plate, knife, fork, spoon, glass, cup, napkin, or straw.

13 (ii) As used in subdivision (8)(C)(i) of this
 14 section, a plate does not include a container or packaging used to transport
 15 the food;

16 ~~(4)(A)(9)(A)~~ "Purchase" means the sale of tangible personal
 17 property or taxable services by a vendor to a person for the purpose of
 18 storage, use, distribution, or consumption in this state.

19 (B)(i) "Purchase" also includes any withdrawal of tangible
 20 personal property from a stock or reserve maintained outside of the state by
 21 any person and subsequently brought into this state and thereafter stored,
 22 consumed, distributed, or used by that person or by any other person.

23 (ii) In such an event, the tax shall be computed on
 24 the value of the tangible personal property at the time it is brought into
 25 this state.

26 (C) No tax shall be computed to the extent that a
 27 withdrawal consists of carbonaceous materials such as petroleum coke or
 28 carbon anodes that are to be directly used or consumed in the electrolytic
 29 reduction process of producing tangible personal property for ultimate sale
 30 at retail;

31 ~~(5)(10)~~ "Purchaser" means ~~any person who is the recipient of any~~
 32 ~~sale of tangible personal property or taxable services for a valuable~~
 33 ~~consideration acquired for use, storage, distribution, or consumption in this~~
 34 ~~state~~ a person to whom a sale of tangible personal property is made or to
 35 whom a taxable service is furnished;

36 ~~(6)(A)(11)(A)~~ "Sale" means any transfer, barter, or exchange of

1 the title or ownership of tangible personal property or taxable services or
 2 the right to use, store, distribute, or consume the tangible personal
 3 property or taxable services for a consideration paid or to be paid in
 4 installments or otherwise and includes any transaction whether called leases,
 5 rentals, bailments, loans, conditional sales, or otherwise, notwithstanding
 6 that the title or possession of the property, or both, is retained for
 7 security.

8 (B) For the purpose of this subchapter, the sale of
 9 tangible personal property or taxable services shall be sourced according to
 10 §§ 26-52-521, 26-52-522, and 26-52-523;

11 ~~(7)(A)(i) "Sales price" means the consideration paid or given or~~
 12 ~~contracted to be paid or given by the purchaser to the vendor for taxable~~
 13 ~~services or the article of the tangible personal property, including any~~
 14 ~~services that are a part of the sale valued in money whether paid in money or~~
 15 ~~otherwise and includes any amount for which credit is given to the purchaser~~
 16 ~~by the vendor without any deduction therefrom on account of the cost of the~~
 17 ~~property sold, the cost of materials used, labor or service cost, interest~~
 18 ~~charged, losses, or any other expenses whatsoever.~~

19 ~~(ii) However, discounts, including cash, term, or~~
 20 ~~coupons that are not reimbursed by a third party, allowed and taken on sales~~
 21 ~~shall not be included.~~

22 ~~(B) "Sales price" shall not include:~~

23 ~~(i) Any interest, financing, or carrying charges~~
 24 ~~from credit extended on the sale or any taxes legally imposed directly on the~~
 25 ~~consumer that are separately stated on the invoice, bill of sale, or similar~~
 26 ~~document given to the purchaser; or~~

27 ~~(ii) The amount charged for property returned by~~
 28 ~~customers upon rescission of the contract of sales when the entire amount~~
 29 ~~charged for the property is refunded either in cash or credit, or the amount~~
 30 ~~charged for labor or services rendered in installing or applying the property~~
 31 ~~sold, the use, storage, distribution, or consumption of which is taxable~~
 32 ~~under this subchapter.~~

33 ~~(C) In addition to the consideration paid or given or~~
 34 ~~contracted to be paid or given, "sales price" shall include the amount of any~~
 35 ~~tariff or duty paid with respect to the importation of the taxable service or~~
 36 ~~article stored, used, distributed, or consumed in this state;~~

1 (12)(A) "Sales price" or "purchase price" means the total amount
2 of consideration, including cash, credit, property, and services, for which
3 tangible personal property or services are sold, leased, or rented, valued in
4 money, whether received in money or otherwise, without any deduction for the
5 following:

6 (i) The seller's cost of the property sold;

7 (ii) The cost of materials used, labor or service
8 cost, interest, losses, all costs of transportation to the seller, all taxes
9 imposed on the seller, and any other expense of the seller;

10 (iii) A charge by the seller for any service
11 necessary to complete the sale, other than a delivery or installation charge;

12 (iv) Delivery charge;

13 (v)(a) Installation charge.

14 (b) However, installation charges will not be
15 included in the "sales price" if they are not a specifically taxable service
16 under the Arkansas Gross Receipts Tax Act of 1941, § 26-52-101 et seq. or the
17 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq. and the
18 installation charges have been separately stated on the invoice, billing, or
19 similar document given to the purchaser;

20 (vi) The value of exempt personal property given to
21 the purchaser where taxable and exempt personal property have been bundled
22 together and sold by the seller as a single product or piece of merchandise;
23 and

24 (vii) Credit for any trade-in.

25 (B) "Sales price" or "purchase price" shall not include:

26 (i) A discount, including cash, term, or a coupon
27 that is not reimbursed by a third party and that is allowed by a seller and
28 taken by a purchaser on a sale;

29 (ii) Interest, financing, and carrying charges from
30 credit extended on the sale of tangible personal property or services, if the
31 amount is separately stated on the invoice, bill of sale or similar document
32 given to the purchaser; and

33 (iii) Any tax legally imposed directly on the
34 consumer that is separately stated on the invoice, bill of sale, or similar
35 document given to the purchaser;

36 (13) "Seller" means a person making a sale, lease, or rental of

1 tangible personal property or services;

2 ~~(8)(14)~~ "Storage" means any keeping or retention in this state
3 of tangible personal property or taxable services purchased from a vendor for
4 any purpose except sale or subsequent use solely outside this state;

5 ~~(9)(A)(15)(A)~~ "Tangible personal property" means personal
6 property that may be seen, weighed, measured, felt, or touched or is in any
7 other manner perceptible to the senses.

8 (B) "Tangible personal property" includes electricity,
9 water, gas, steam, and prewritten computer software;

10 ~~(10)(16)~~ "Taxable service" means a service that is taxable under
11 this subchapter or the Arkansas Gross Receipts Act of 1941, § 26-52-101 et
12 seq.;

13 ~~(11)(17)~~ "Taxpayer" means any person remitting the tax or who
14 should remit the tax or should have remitted the tax levied by this
15 subchapter;

16 (18) "Tobacco" means a cigarette, cigar, chewing or pipe
17 tobacco, or any other item that contains tobacco;

18 ~~(12)(A)(19)(A)~~ "Use", with respect to tangible personal
19 property, means the exercise of any right or power over tangible personal
20 property incident to the ownership or control of that tangible personal
21 property except that it shall not include the sale of that tangible personal
22 property in the regular course of business.

23 (B) With respect to a taxable service, "use" means the
24 privilege of using the service, enjoyment of the service, or the first act
25 within this state by which the purchaser takes or assumes dominion or control
26 over the service or the article of tangible personal property upon which the
27 service was performed; and

28 ~~(13)(A)(i)(20)(A)(i)~~ "Vendor" means every person engaged in
29 making sales of tangible personal property or taxable services by mail order,
30 by advertising, or by agent, by peddling tangible personal property or
31 taxable services, by soliciting, or by taking orders for such sales for
32 storage, use, distribution, or consumption in this state.

33 (ii) "Vendor" includes all salespersons, solicitors,
34 hawkers, representatives, consignees, peddlers, or canvassers as agents of
35 the dealers, distributors, consignors, supervisors, principals, or employers
36 under whom they operate or from whom they obtain the tangible personal

1 property or taxable services sold by them.

2 (B) Regardless of whether a person is making sales on his
 3 or her own behalf or on behalf of dealers, distributors, consignors,
 4 supervisors, principals, or employers, the person must be regarded as a
 5 vendor, and the dealers, distributors, consignors, supervisors, principals,
 6 or employers must be regarded as vendors for purposes of this subchapter.

7
 8 SECTION 32. Arkansas Code § 26-53-109(a), pertaining to the tax on the
 9 use, storage, or distribution of computer software, is amended to read as
 10 follows:

11 (a) The excise tax levied by the Arkansas Compensating Tax Act, § 26-
 12 53-101 et seq., and by any act supplemental thereto, is levied on the
 13 privilege of storing, using, distributing, or consuming within this state any
 14 of the following:

15 (1)(A) ~~computer~~ Computer software, including prewritten computer
 16 software, which shall be treated as a use, storage, distribution, or
 17 consumption of tangible personal property for purposes of tax. ~~Computer~~
 18 ~~software shall include tapes, disks, cards, or other devices or materials~~
 19 ~~which contain instructions for a computer and dictate different operations or~~
 20 ~~functions to be performed by the computer.~~

21 (B) As used in this section:

22 (i) "Computer" means an electronic device that
 23 accepts information in digital or similar form and manipulates it for a
 24 result based on a sequence of instructions;

25 (ii)(a) "Computer software" means a set of coded
 26 instructions designed to cause a computer or automatic data processing
 27 equipment to perform a task.

28 (b) "Computer software" does not include
 29 software that is delivered electronically or by load and leave;

30 (iii) "Delivered electronically" means delivered to
 31 the purchaser by means other than tangible storage media;

32 (iv) "Electronic" means relating to technology
 33 having electrical, digital, magnetic, wireless, optical, electromagnetic, or
 34 similar capabilities;

35 (v) "Load and leave" means delivery to the purchaser
 36 by use of a tangible storage media in which the tangible storage media is not

1 physically transferred to the purchaser; and

2 (vi) "Prewritten computer software" means computer
 3 software, including prewritten upgrades, which is designed and developed by
 4 the author or other creator to the specifications of a specific purchaser;
 5 and

6 (2) Service of repairing or maintaining computer equipment or
 7 hardware in any form.

8
 9 SECTION 33. Arkansas Code 26-53-111 [Effective July 1, 2007], is
 10 amended to read as follows:

11 26-53-111. Deduction for bad debts. [Effective ~~July 1, 2007~~ January 1, 2008.]

12 ~~(a)(1) In computing the amount of tax due under this subchapter and~~
 13 ~~any act supplemental to this subchapter, a taxpayer may deduct a bad debt~~
 14 ~~from the total amount upon which the tax is calculated on the return for the~~
 15 ~~period during which the bad debt is written off as uncollectible in the~~
 16 ~~taxpayer's books and records and is eligible to be deducted for federal~~
 17 ~~income tax purposes.~~

18 ~~(2) Any deduction taken or refund paid that is attributed to a~~
 19 ~~bad debt shall not include interest.~~

20 ~~(b)(1)(A) As used in this section, "bad debt" means any portion of a~~
 21 ~~debt for an amount that a taxpayer has reported as taxable which the taxpayer~~
 22 ~~legally claims as a bad debt deduction for federal income tax purposes.~~

23 ~~(B) A taxpayer that is not required to file federal income~~
 24 ~~tax returns may deduct a bad debt on a return filed for the period in which~~
 25 ~~the bad debt is written off as uncollectible in the taxpayer's books and~~
 26 ~~records and would be eligible for a bad debt deduction for federal income tax~~
 27 ~~purposes if the taxpayer was required to file a federal income tax return.~~

28 ~~(2) A bad debt includes, but is not limited to, a worthless~~
 29 ~~check, a worthless credit card payment, and an uncollectible credit account.~~

30 ~~(3) A bad debt does not include financing charges or interest,~~
 31 ~~an uncollectible amount on property that remains in the possession of the~~
 32 ~~taxpayer or vendor until the full purchase price is paid, expenses incurred~~
 33 ~~in attempting to collect any debt, a debt sold or assigned to a third party~~
 34 ~~for collection, and repossessed property.~~

35 ~~(c) A bad debt incurred for a sale made prior to November 9, 1983,~~
 36 ~~shall not be deducted.~~

1 ~~(d) A bad debt must be deducted within three (3) years of the date of~~
 2 ~~the sale for which the debt was incurred.~~

3 ~~(e) If a deduction is taken for a bad debt and the taxpayer~~
 4 ~~subsequently collects the debt in whole or in part, the tax on the amount so~~
 5 ~~collected shall be paid and reported on the return filed for the period in~~
 6 ~~which the collection is made.~~

7 ~~(f)(1) When the filing responsibilities have been assumed by a~~
 8 ~~certified service provider, as provided in the Uniform Sales and Use Tax~~
 9 ~~Administration Act, § 26-20-101 et seq., the certified service provider will~~
 10 ~~be allowed to claim on behalf of the taxpayer any bad debt allowance provided~~
 11 ~~by this section.~~

12 ~~(2) The certified service provider must credit or refund the~~
 13 ~~full amount of any bad debt allowance or refund received to the taxpayer.~~

14 A bad debt deduction from a taxable sale under this subchapter is
 15 allowed and shall be taken in the same manner as provided in § 26-52-309.

17 SECTION 34. Arkansas Code § 26-53-121 [Effective July 1, 2007], is
 18 amended as follows:

19 26-53-121. Registration of vendors - Out-of-state vendors. [Effective
 20 ~~July 1, 2007~~ January 1, 2008.]

21 Every vendor selling tangible personal property or taxable services for
 22 storage, use, distribution, or consumption in this state shall:

23 (1) Register with the Director of the Department of Finance and
 24 Administration;

25 ~~(2) Provide the names and addresses of all agents operating in~~
 26 ~~this state;~~

27 ~~(3)~~(2) Provide the location of any and all distribution or sales
 28 houses or offices of other places of business in this state; and

29 ~~(4)~~(3) Provide such other information as the director may
 30 require.

31
 32 SECTION 35. Arkansas Code § 26-53-125(a) and (b), concerning returns
 33 and payments of use tax, is amended to read as follows:

34 (a)(1)(A) The tax imposed by this subchapter shall be due and payable
 35 to the Director of the Department of Finance and Administration monthly on or
 36 before the twentieth day of each month except as provided in this subchapter.

1 (B) When a taxpayer has become liable to file a report
 2 with the director, the taxpayer must continue to file a report, even though
 3 no tax is due, until the taxpayer notifies the director in writing that the
 4 taxpayer is no longer liable for those reports.

5 (2) Every vendor selling tangible personal property or taxable
 6 services for storage, use, distribution, or consumption in this state shall
 7 file with the director on or before the twentieth day of each month ~~are turn~~
 8 a sales and use tax return for the preceding monthly period in such form as
 9 may be prescribed by the director, showing:

10 (A) The total ~~combined sales price of~~ tax levied by this
 11 subchapter due on all tangible personal property or taxable services sold by
 12 the vendor during the preceding monthly period, the storage, use,
 13 distribution, or consumption of which is subject to the tax levied by this
 14 subchapter; and

15 (B) Such other information as the director may deem
 16 necessary for the proper administration of this subchapter.

17 (3) The return shall be accompanied by remittance of the amount
 18 of the tax required by this subchapter to be collected by the vendor during
 19 the period covered by the return.

20 (4)(A) A return shall be signed by the vendor or the vendor's
 21 duly authorized agent but need not be verified by oath.

22 (B) A return filed electronically ~~will~~ does not need to be
 23 signed.

24 (b)(1) Every person purchasing tangible personal property or taxable
 25 services of which the storage, use, distribution, or consumption is subject
 26 to the tax levied by this subchapter and who has not paid the tax due with
 27 respect to the tangible personal property or taxable services to a vendor
 28 registered in accordance with the provisions of §§ 26-53-121 and 26-53-122
 29 shall file a return with the director on or before the twentieth day of each
 30 month for the preceding monthly period in such a form as may be prescribed by
 31 the director showing:

32 (A) The total ~~sales price of~~ tax levied by this subchapter
 33 due on the tangible personal property or taxable services purchased during
 34 the preceding monthly period; and

35 (B) Such other information as the director may deem
 36 necessary for the proper administration of this subchapter.

1 (2) The return shall be accompanied by a remittance of the
 2 amount of the tax required by this subchapter to be paid by the person
 3 purchasing the tangible personal property or taxable services during the
 4 period covered by the return.

5 (3)(A) A return shall be signed by the person liable for the tax
 6 or the person's authorized agent but need not be verified by oath.

7 (B) A return filed electronically ~~will~~ does not need to be
 8 signed.

9
 10 SECTION 36. Arkansas Code § 26-53-127 is amended to read as follows:
 11 26-53-127. Refunds to governmental agencies.

12 A governmental agency may apply to the director for refund of the
 13 amount of the tax levied and paid upon sales to it for ~~foodstuffs~~ food and
 14 food ingredients used for free distribution to the poor and needy or to
 15 public penal and eleemosynary institutions, as provided by law.

16
 17 SECTION 37. Arkansas Code § 26-53-136 is amended to read as follows:
 18 26-53-136. Exemption for nonprofit food distribution agencies.

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

24
 25 SECTION 38. Arkansas Code § 26-53-138 is amended to read as follows:
 26 26-53-138. Exemption for property purchased for use in performance of
 27 construction contract.

28 (a) ~~Tangible~~ A contractor that purchases tangible personal property
 29 which becomes a recognizable part of a completed structure or improvement to
 30 real property and which is purchased for use or consumption in the
 31 performance of construction contracts shall be ~~exempt from~~ entitled to a
 32 rebate on any additional gross receipts tax or compensating (use) tax levied
 33 by the state or any city or county if:

34 (1) ~~when the~~ The construction contract for which the tangible
 35 personal property was purchased is entered into prior to the effective date
 36 of the levy of the additional state, city, or county gross receipts tax or

1 compensating (use) tax; and

2 (2) The contractor paid the additional gross receipts or
3 compensating use tax to the seller.

4 (b) For the purposes of this section, "construction contract" means a
5 contract to construct, manage, or supervise the construction, erection, or
6 substantial modification of a building or other improvement or structure
7 affixed to real property. The term "construction contract" shall not mean
8 contract to produce tangible personal property.

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

13 (d) The ~~exemption~~ rebate provided by this section shall not apply to
14 cost-plus contracts which allow the contractor to pass any additional tax on
15 to the principal as a part of the contractor's costs.

16 (e) Interest shall not accrue or be paid on an amount subject to a
17 claim for rebate pursuant to this section.

18 (f) The Director of the Department of Finance and Administration shall
19 promulgate rules and prescribe forms for claiming a rebate as provided by
20 this section.

21
22 SECTION 39. Arkansas Code § 26-53-141 [Effective July 1, 2007], is
23 amended as follows:

24 26-53-141. Durable medical equipment, mobility-enhancing equipment,
25 prosthetic devices, and disposable medical supplies. [Effective ~~July 1, 2007~~
26 January 1, 2008.]

27 (a)(1) Gross receipts or gross proceeds derived from the rental, sale,
28 or repair of durable medical equipment prescribed by a physician, mobility-
29 enhancing equipment prescribed by a physician, a prosthetic device prescribed
30 by a physician, and disposable medical supplies prescribed by a physician
31 shall be exempt from all state and local sales and use taxes.

32 (2) This exemption shall apply only to durable medical
33 equipment, mobility-enhancing equipment, prosthetic device, and disposable
34 medical supplies ~~prescribed~~ sold to a specific patient pursuant to a
35 prescription written for a specific patient before the sale.

36 ~~(3) This exemption shall not apply to items purchased by~~

1 ~~physicians, hospitals, nursing homes, or long-term care facilities for use by~~
 2 ~~their patients or residents.~~

3 (b) As used in this section:

4 ~~(1) "Durable medical equipment", "mobility-enhancing equipment",~~
 5 ~~and "disposable medical supplies" include, but are not limited to, the~~
 6 ~~following:~~

7 ~~(A) Wheelchairs;~~

8 ~~(B) Leg braces;~~

9 ~~(C) Wheelchair lifts;~~

10 ~~(D) Ostomy, urostomy, and colostomy supplies;~~

11 ~~(E) Raised toilet seats;~~

12 ~~(F) Catheters;~~

13 ~~(G) Wheelchair batteries, tires, cushions, and supplies;~~

14 ~~(H) Enemas, suppositories, and laxatives used in routine~~

15 ~~bowel care;~~

16 ~~(I) Flexor wrist splints;~~

17 ~~(J) Trapeze bars;~~

18 ~~(K) Grab bars and hand rails;~~

19 ~~(L) Wheelchair adaptive devices;~~

20 ~~(M) Hospital beds and adaptive devices;~~

21 ~~(N) Patient lifts;~~

22 ~~(O) Orthopedic shoes and devices such as shoe lifts and~~

23 ~~inserts;~~

24 ~~(P) Walkers;~~

25 ~~(Q) Crutches;~~

26 ~~(R) Automobile hand controls;~~

27 ~~(S) Shower benches and chairs;~~

28 ~~(T) Disposable undergarments and linen savers;~~

29 ~~(U) Prosthetics;~~

30 ~~(V) Braille writers, large print aids, and visual and~~

31 ~~communication aids for those who are legally blind;~~

32 ~~(W) Hearing aids;~~

33 ~~(X) Telecommunications devices and other communication~~

34 ~~devices for the deaf, hearing impaired, and others with communicative~~

35 ~~disorders; and~~

36 ~~(Y) Speech devices for those with laryngectomies;~~

1 (1) "Disposable medical supplies" includes without limitation
 2 the following:

3 (A) Ostomy, urostomy, and colostomy supplies;

4 (B) Catheters;

5 (C) Enemas, suppositories, and laxatives used in routine
 6 bowel care; and

7 (D) Disposable undergarments and linen savers;

8 (2)(A) "Durable medical equipment" means equipment including
 9 repair and replacement parts for the equipment that:

10 ~~(A)(i)~~ Can withstand repeated use;

11 ~~(B)(ii)~~ Is primarily and customarily used to serve a
 12 medical purpose;

13 ~~(C)(iii)~~ Generally is not useful to a person in the
 14 absence of illness or injury; and

15 ~~(D)(iv)~~ Is not worn in or on the body+.

16 (B) "Durable medical equipment" does not include mobility-
 17 enhancing equipment;

18 (3)(A) "Mobility-enhancing equipment" means equipment, including
 19 repair and replacement parts for the equipment+, that:

20 ~~(B) "Mobility-enhancing equipment" does not include~~
 21 ~~"durable medical equipment," that+:~~

22 (i) Is primarily and customarily used to provide or
 23 increase the ability to move from one (1) place to another and which is
 24 appropriate for use either in a home or a motor vehicle;

25 (ii) Is not generally used by a person with normal
 26 mobility; and

27 (iii) Does not include any motor vehicle or
 28 equipment on a motor vehicle normally provided by a motor vehicle
 29 manufacturer+.

30 (B) "Mobility-enhancing equipment" does not include
 31 "durable medical equipment";

32 (4) "Physician" means a person licensed under § 17-95-401 et
 33 seq.; ~~and~~

34 (5) "Prescription" means an order, formula, or recipe issued in
 35 any form and transmitted by an oral, written, electronic, or other means of
 36 transmission by a duly licensed physician or practitioner authorized to issue

1 prescriptions under Arkansas law; and

2 ~~(5)(A)(6)(A)~~ "Prosthetics" means "Prosthetic device" means a
 3 replacement, corrective, or supportive ~~devices~~ device, including repair and
 4 replacement parts for ~~prosthetics~~ the device, worn on or in the body to:

5 (i) Artificially replace a missing portion of the
 6 body;

7 (ii) Prevent or correct physical deformity or
 8 malfunction; or

9 (iii) Support a weak or deformed portion of the
 10 body.

11 (B) ~~"Prosthetics"~~ "Prosthetic device" does not include
 12 corrective eyeglasses, contact lenses, and dental prostheses.

13
 14 SECTION 40. Arkansas Code § 26-73-105(a), concerning the collection of
 15 local taxes, is amended to read as follows:

16 (a) ~~A tax levied under the authority of this subchapter may be~~
 17 ~~collected in one (1) of two (2) ways:~~

18 ~~(1) The local government may collect the tax utilizing its own~~
 19 ~~personnel or in cooperation with other local governments; or~~

20 ~~(2) The director~~ Director of the Department of Finance and
 21 Administration shall collect the tax levied under this subchapter and upon
 22 ~~request of a local government, in which event the director~~ shall perform all
 23 functions incident to the administration, collection, enforcement, and
 24 operation of the taxes in the manner and following the procedures that are
 25 prescribed for the corresponding state taxes.

26
 27 SECTION 41. Arkansas Code § 26-74-212 is amended to read as follows:
 28 26-74-212. Applicability of tax. [Effective ~~July 1, 2007~~ January 1,
 29 2008.]

30 (a) A county sales tax levied under this subchapter or in § 26-74-301
 31 et seq. shall be applicable to sales of items and services sold by a
 32 business, and the tax shall be administered under the Arkansas Gross Receipts
 33 Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of
 34 1949, § 26-53-101 et seq.

35 (b) When a direct pay permit holder purchases tangible personal
 36 property or taxable services either from an Arkansas or out-of-state vendor

1 for use, storage, consumption, or distribution in Arkansas, the permit holder
 2 shall accrue and remit the county sales or use tax, if any, ~~of the county~~
 3 ~~where the property or services are first used, stored, consumed, or~~
 4 ~~distributed pursuant to the sourcing rules in §§ 26-52-521 and 26-52-522.~~

5
 6 SECTION 42. Arkansas Code § 26-75-216 is amended to read as follows:

7 26-75-216. Applicability of tax. [Effective ~~July 1, 2007~~ January 1,
 8 2008.]

9 (a) A city sales and use tax levied pursuant to the authority granted
 10 in this subchapter or in § 26-75-301 et seq. shall be applicable to sales of
 11 items and services sold by a business and shall be administered in accordance
 12 with the Arkansas Gross Receipts Tax Act of 1941, § 26-52-101 et seq., and
 13 the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

14 (b) When a direct pay permit holder purchases tangible personal
 15 property or taxable services either from an Arkansas or out-of-state vendor
 16 for use, storage, consumption, or distribution in Arkansas, the permit holder
 17 shall accrue and remit the city sales and use tax, if any, ~~of the city where~~
 18 ~~the property or services are first used, stored, consumed, or distributed~~
 19 pursuant to the sourcing rules in §§ 26-52-521 and 26-52-522.

20
 21 SECTION 43. Arkansas Code § 26-74-608 [Effective July 1, 2007], is
 22 amended as follows:

23 26-74-608. Applicability of tax. [Effective ~~July 1, 2007~~ January 1,
 24 2008.]

25 (a)(1) A tax levied pursuant to the authority granted in this
 26 subchapter shall be applicable to sales of items and services sold by a
 27 business, and the tax shall be administered under the Arkansas Gross Receipts
 28 Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of
 29 1949, § 26-53-101 et seq.

30 (b) When a direct pay permit holder purchases tangible personal
 31 property or taxable services either from an Arkansas or out-of-state vendor
 32 for use, storage, consumption, or distribution in Arkansas, the permit holder
 33 shall accrue and remit the county sales or use tax, if any, ~~of the county~~
 34 ~~where the property or services are first used, stored, consumed, or~~
 35 ~~distributed pursuant to the sourcing rules in §§ 26-52-521 and 26-52-522.~~

1 SECTION 44. Arkansas Code § 26-52-314 is amended as follows:

2
3 26-52-314. ~~Prepaid telephone calling cards~~ service and prepaid wireless
4 calling service.

5 (a) Sales of ~~prepaid telephone calling cards or prepaid authorization~~
6 ~~numbers~~ a prepaid calling service or a prepaid wireless calling service and
7 the recharge of ~~prepaid telephone calling cards or prepaid authorization~~
8 ~~numbers~~ a prepaid calling service or a prepaid wireless calling service shall
9 be subject to the Arkansas gross receipts tax levied by the ~~Arkansas Gross~~
10 ~~Receipts Act of 1941, § 26-52-101 et seq., and by any act supplemental to the~~
11 ~~Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the~~
12 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §
13 26-53-101 et seq.

14 (b) As used in this subchapter:

15 (1) "Prepaid calling service" means the right to exclusively
16 access a telecommunication service, which must be paid for in advance and
17 which enables the origination of calls using an access number or
18 authorization code, whether manually or electronically dialed and that is
19 sold in predetermined units or dollars of which the number declines with use
20 in a known amount;

21 ~~(1)(2)~~ "Prepaid telephone calling card" or "prepaid
22 authorization number" mean the exclusive purchase of telephone or
23 telecommunications services, paid for in advance, which enables the
24 origination of calls using an access number or authorization code, whether
25 manually or electronically dialed; ~~and~~

26 (3) "Prepaid wireless calling service" means a telecommunication
27 service that provides the right to utilize a mobile wireless service as well
28 as other non-telecommunications services, including the download of a digital
29 product delivered electronically and content and ancillary services, which
30 must be paid for in advance and that is sold in predetermined units of
31 dollars of which the number declines with use in a known amount; and

32 ~~(2)(4)~~ "Recharge" means the purchase of additional telephone or
33 telecommunication services ~~without having to acquire a different prepaid~~
34 ~~telephone calling card or prepaid authorization number,~~ for a previously
35 purchased prepaid calling service or prepaid wireless calling service.

36 (c)(1) A sale of a ~~prepaid telephone calling card or a prepaid~~

1 ~~authorization number~~ calling service or a prepaid wireless calling service or
 2 the recharge of a prepaid ~~telephone calling card or prepaid authorization~~
 3 ~~number~~ calling service or a prepaid wireless calling service is subject to
 4 gross receipts tax at the point of sale by the retail vendor.

5 (2) If the sale or recharge of a prepaid ~~telephone calling card~~
 6 ~~or prepaid authorization number~~ calling service or a prepaid wireless calling
 7 service does not take place at the retail vendor's place of business, it
 8 shall be ~~conclusively determined to take place at the customer's shipping~~
 9 ~~address, or if there is no item shipped, then it shall be the customer's~~
 10 ~~billing address or the location associated with the customer's mobile~~
 11 ~~telephone number~~ sourced in accordance with § 26-52-521(b).

12 (d)(1) The gross receipts tax levied by this section on the sale of a
 13 prepaid ~~telephone calling card, prepaid authorization number,~~ calling service
 14 or a prepaid wireless calling service and the recharge of a prepaid ~~telephone~~
 15 ~~ealling card or prepaid authorization number~~ calling service or a prepaid
 16 wireless calling service shall be due on all such sales occurring on or after
 17 July 1, 1999.

18 (2) However, for the months of July and August of 1999, in
 19 addition to the tax levied by this section on the sale of a prepaid telephone
 20 calling card and a prepaid authorization number, each telephone,
 21 telecommunication, and telegraph company must continue to collect gross
 22 receipts tax on any telephone or telecommunication services provided to a
 23 customer who obtains the service through the use of a prepaid telephone
 24 calling card or prepaid authorization number.

25 (e) The Director of the Department of Finance and Administration shall
 26 promulgate rules to implement this section.

27
 28 SECTION 45. Section 1 through 43 of this act are effective on January
 29 1, 2008.

30
 31 APPROVED: 3/1/2007
 32
 33
 34
 35
 36