

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 293

5 By: Senator B. Sample
6

For An Act To Be Entitled

8 AN ACT CONCERNING SALES AND USE TAX CREDITS, REFUNDS,
9 AND REBATES; TO AMEND THE CONFIDENTIALITY OF TAX
10 RECORDS UNDER THE ARKANSAS TAX PROCEDURE ACT; TO
11 ALLOW FOR THE DISCLOSURE OF INFORMATION CONCERNING
12 SALES AND USE TAX CREDITS, REFUNDS, AND REBATES TO
13 LOCAL GOVERNMENTS; TO REQUIRE TAXPAYERS CLAIMING
14 CERTAIN SALES AND USE TAX CREDITS, REFUNDS, AND
15 REBATES TO PROVIDE NOTIFICATION TO LOCAL GOVERNMENTS;
16 AND FOR OTHER PURPOSES.
17

Subtitle

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20 TO ALLOW FOR THE DISCLOSURE OF
21 INFORMATION CONCERNING SALES AND USE TAX
22 CREDITS, REFUNDS, AND REBATES TO LOCAL
23 GOVERNMENTS; AND TO REQUIRE TAXPAYERS TO
24 PROVIDE NOTIFICATION TO LOCAL GOVERNMENTS
25 IN CERTAIN CIRCUMSTANCES.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

30 SECTION 1. Arkansas Code § 26-18-303(b), as amended by Acts 2019, No.
31 866, § 3 and effective on and after May 1, 2021, concerning allowable
32 disclosures of tax records maintained by the Department of Finance and
33 Administration, is amended to add an additional subdivision to read as
34 follows:

35 (26) Disclosure to an official of a city government or county
36 government of information concerning a sales and use tax credit, refund, or



1 rebate obtained by a taxpayer under the following provisions for sales and
2 use taxes paid to the relevant municipality or county:

- 3 (A) Section 26-52-427;
- 4 (B) Section 26-52-447;
- 5 (C) Section 26-52-523;
- 6 (D) Section 26-53-138; and
- 7 (E) Section 26-53-149.

8
9 SECTION 2. Arkansas Code § 26-52-427(f), concerning the sales tax
10 exemption for property purchased for use in the performance of a construction
11 contract, is amended to read as follows:

12 (f)(1) The Secretary of the Department of Finance and Administration
13 shall promulgate rules and prescribe forms for claiming a rebate as provided
14 by this section.

15 (2) The forms required to be prescribed under subdivision (f)(1)
16 of this section shall include a statement notifying taxpayers filing a claim
17 for a rebate under this section that a taxpayer seeking a rebate under this
18 section is required to provide a duplicate copy of the taxpayer's claim for a
19 rebate under this section to the executive head of each municipality and
20 county that levied a tax that is subject to rebate under this section.

21
22 SECTION 3. Arkansas Code § 26-52-447(f), concerning the sales tax
23 exemption for partial replacement and repair of certain machinery and
24 equipment, is amended to read as follows:

25 (f) A taxpayer may claim the benefit of the tax refund under this
26 section only by using one (1) of the following methods:

27 (1)(A) Both:

28 (i) Obtaining a direct pay or a limited direct pay
29 sales and use tax permit from the Department of Finance and Administration;
30 and

31 (ii) Self-refunding:

32 (a) At the time the taxpayer files his or her
33 original sales and use tax report; or

34 (b) By later filing an amended sales or use
35 tax report with the department.

36 (B) The statutes of limitation stated in § 26-18-306 apply

1 to claims made under this subdivision (f)(1).

2 (C) Interest shall not accrue or be paid on a refund
3 claimed under this subdivision (f)(1).

4 (D)(i) At the time of claiming a refund under this
5 subdivision (f)(1), the taxpayer shall provide notification of the refund,
6 including without limitation the amount of the refund, to the executive head
7 of each municipality and county that levied a tax that is subject to refund
8 under this section.

9 (ii) The taxpayer shall provide the notification
10 required under subdivision (f)(1)(D)(i) of this section on a form prescribed
11 by the department; or

12 (2)(A) ~~Beginning July 1, 2018, for~~ For a taxpayer that does not
13 hold a direct pay or limited direct pay permit, holds an active Arkansas
14 sales and use tax permit, and files sales and use tax reports with the
15 department, filing a claim for a credit or rebate with the department.

16 (B)(i) The credit or rebate authorized under this
17 subdivision (f)(2) shall be obtained only by offsetting the amount of the
18 claimed credit or rebate against the state tax to be remitted with the
19 taxpayer's sales and use tax reports.

20 (ii) If the total amount of the credit or rebate
21 authorized under this subdivision (f)(2) is greater than the amount of the
22 state tax to be remitted with the taxpayer's sales and use tax reports, the
23 taxpayer is entitled to a refund of the difference between the amount of the
24 tax owed and the amount of the credit or rebate authorized under this
25 subdivision (f)(2).

26 (C) A taxpayer claiming a credit or rebate under this
27 subdivision (f)(2) shall electronically file all sales and use tax reports.

28 (D) A claim for credit or rebate under this subdivision
29 (f)(2) shall not be paid for a claim filed more than one (1) year following
30 the date of the qualifying sale or more than one (1) year following the date
31 of payment, whichever is later.

32 (E) Interest shall not accrue or be paid on an amount
33 subject to a claim for a credit or rebate under this subdivision (f)(2).

34 (F)(i) At the time of claiming a credit or rebate under
35 this subdivision (f)(2), the taxpayer shall provide notification of the
36 credit or rebate, including without limitation the amount of the credit or

1 rebate, to the executive head of each municipality and county that levied a
2 tax that is subject to credit or rebate under this section.

3 (ii) The taxpayer shall provide the notification
4 required under subdivision (f)(2)(F)(i) of this section on a form prescribed
5 by the department.

6
7 SECTION 4. Arkansas Code § 26-52-523(g), concerning the credit or
8 rebate on local sales and use tax, is amended to read as follows:

9 (g)(1) The secretary may promulgate rules to administer this section,
10 including without limitation providing an administratively feasible method
11 for filing a claim for a credit or rebate and any necessary forms.

12 (2)(A) The secretary shall prescribe forms necessary to claim a
13 credit or rebate under this section.

14 (B) The forms required to be prescribed under subdivision
15 (g)(2)(A) of this section shall include a statement notifying taxpayers
16 filing a claim for a credit or rebate under this section that a taxpayer
17 seeking a credit or rebate under this section is required to provide a
18 duplicate copy of the taxpayer’s claim for a credit or rebate under this
19 section to the executive head of each municipality and county that levied a
20 tax that is subject to credit or rebate under this section.

21
22 SECTION 5. Arkansas Code Title 26, Chapter 52, Subchapter 5, is
23 amended to add an additional section to read as follows:

24 26-52-524. Notification to local governments.

25 (a) A taxpayer seeking to claim a tax credit, refund, or rebate under
26 § 26-52-427, § 26-52-447, § 26-52-523, § 26-53-138, or § 26-53-149 shall
27 provide notification of the tax credit, refund, or rebate to each
28 municipality and county that levied a tax that is subject to credit, refund,
29 or rebate as required in § 26-52-427(f), § 26-52-447(f), § 26-52-523(g), §
30 26-53-138(f), and § 26-53-149(f).

31 (b)(1)(A) The first time the taxpayer fails to comply with the
32 requirement stated under subsection (a) of this section, the taxpayer is
33 subject to a penalty in an amount equal to thirty-three percent (33%) of the
34 amount of the tax credit, refund, or rebate that the taxpayer claimed and
35 failed to report under subsection (a) of this section.

36 (B) The second time the taxpayer fails to comply with the

1 requirement stated under subsection (a) of this section, the taxpayer is
2 subject to a penalty in an amount equal to fifty percent (50%) of the amount
3 of the tax credit, refund, or rebate that the taxpayer claimed and failed to
4 report under subsection (a) of this section.

5 (C) The third time the taxpayer fails to comply with the
6 requirement stated under subsection (a) of this section, the taxpayer is:

7 (i) Subject to a penalty in an amount equal to one
8 hundred percent (100%) of the tax credit, refund, or rebate that the taxpayer
9 claimed and failed to report under subsection (a) of this section; and

10 (ii) Ineligible to claim a tax credit, refund, or
11 rebate under § 26-52-427, § 26-52-447, § 26-52-523, § 26-53-138, or § 26-53-
12 149 for three (3) years.

13 (2) The penalties provided in subdivision (b)(1) of this section
14 shall be levied by and paid to the municipalities and counties that were not
15 notified as required in subsection (a) of this section, in the proportion in
16 which the tax credit, refund, or rebate applied to the municipalities and
17 counties.

18
19 SECTION 6. Arkansas Code § 26-53-138(f), concerning the use tax
20 exemption for property purchased for use in the performance of a construction
21 contract, is amended to read as follows:

22 (f)(1) The Secretary of the Department of Finance and Administration
23 shall promulgate rules and prescribe forms for claiming a rebate as provided
24 by this section.

25 (2) The forms required to be prescribed under subdivision (f)(1)
26 of this section shall include a statement notifying taxpayers filing a claim
27 for a rebate under this section that a taxpayer seeking a rebate under this
28 section is required to provide a duplicate copy of the taxpayer's claim for a
29 rebate under this section to the executive head of each municipality and
30 county that levied a tax that is subject to rebate under this section.

31
32 SECTION 7. Arkansas Code § 26-53-149(f), concerning the use tax
33 exemption for partial replacement and repair of certain machinery and
34 equipment, is amended to read as follows:

35 (f) A taxpayer may claim the benefit of the tax refund under this
36 section only by using one (1) of the following methods:

1 (1)(A) Both:

2 (i) Obtaining a direct pay or a limited direct pay
3 sales and use tax permit from the Department of Finance and Administration;
4 and

5 (ii) Self-refunding:

6 (a) At the time the taxpayer files his or her
7 original sales and use tax report; or

8 (b) By later filing an amended sales or use
9 tax report with the department.

10 (B) The statutes of limitation stated in § 26-18-306 apply
11 to claims made under this subdivision (f)(1).

12 (C) Interest shall not accrue or be paid on a refund
13 claimed under this subdivision (f)(1).

14 (D)(i) At the time of claiming a refund under this
15 subdivision (f)(1), the taxpayer shall provide notification of the refund,
16 including without limitation the amount of the refund, to the executive head
17 of each municipality and county that levied a tax that is subject to refund
18 under this section.

19 (ii) The taxpayer shall provide the notification
20 required under subdivision (f)(1)(D)(i) of this section on a form prescribed
21 by the department; or

22 (2)(A) ~~Beginning July 1, 2018, for~~ For a taxpayer that does not
23 hold a direct pay or limited direct pay permit, holds an active Arkansas
24 sales and use tax permit, and files sales and use tax reports with the
25 department, filing a claim for the credit or rebate with the department.

26 (B)(i) The credit or rebate authorized under this
27 subdivision (f)(2) shall be obtained only by offsetting the amount of the
28 claimed credit or rebate against the state tax to be remitted with the
29 taxpayer's sales and use tax reports.

30 (ii) If the total amount of the credit or rebate
31 authorized under this subdivision (f)(2) is greater than the amount of the
32 state tax to be remitted with the taxpayer's sales and use tax reports, the
33 taxpayer is entitled to a refund of the difference between the amount of the
34 tax owed and the amount of the credit or rebate authorized under this
35 subdivision (f)(2).

36 (C) A taxpayer claiming a credit or rebate under this

1 subdivision (f)(2) shall electronically file all sales and use tax reports.

2 (D) A claim for credit or rebate under this subdivision
3 (f)(2) shall not be paid for a claim filed more than one (1) year following
4 the date of the qualifying purchase or more than one (1) year following the
5 date of payment, whichever is later.

6 (E) Interest shall not accrue or be paid on an amount
7 subject to a claim for a credit or rebate under this subdivision (f)(2).

8 (F)(i) At the time of claiming a credit or rebate under
9 this subdivision (f)(2), the taxpayer shall provide notification of the
10 credit or rebate, including without limitation the amount of the credit or
11 rebate, to the executive head of each municipality and county that levied a
12 tax that is subject to credit or rebate under this section.

13 (ii) The taxpayer shall provide the notification
14 required under subdivision (f)(2)(F)(i) of this section on a form prescribed
15 by the department.

16
17 SECTION 8. DO NOT CODIFY. Rules.

18 (a) When adopting the initial rules required under this act, the
19 Department of Finance and Administration shall file the final rules with the
20 Secretary of State for adoption under § 25-15-204(f):

21 (1) On or before October 1, 2021; or

22 (2) If approval under § 10-3-309 has not occurred by October 1,
23 2021, as soon as practicable after approval under § 10-3-309.

24 (b) The department shall file the proposed rules with the Legislative
25 Council under § 10-3-309(c) sufficiently in advance of October 1, 2021, so
26 that the Legislative Council may consider the rules for approval before
27 October 1, 2021.

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29 SECTION 9. EFFECTIVE DATE. Sections 1-7 of this act are effective on
30 the first day of the calendar quarter following the effective date of this
31 act.