

Hall of the House of Representatives

86th General Assembly - Regular Session, 2007

Amendment Form

Subtitle of House Bill No. 1417

"TO REDUCE THE SALES AND USE TAX ON UTILITIES THAT ARE USED BY
QUALIFYING AGRICULTURAL STRUCTURES AND QUALIFYING AGRICULTURE,
HORTICULTURE, AND AQUACULTURE EQUIPMENT."

Amendment No. 1 to House Bill No. 1417.

Amend House Bill No. 1417 as originally introduced:

Page 1, delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended to add an additional section to read as follows:

26-52-319. Reduced sales tax rate for utilities used by qualifying agricultural structures and by qualifying agriculture, horticulture, and aquaculture equipment.

(a) As used in this section:

(1) "Qualifying agriculture, horticulture, or aquaculture equipment" means:

(A) A cooling unit, a collection unit, or irrigation equipment used in a commercial horticulture operation;

(B) Equipment used to pump and aerate a pond used in a commercial aquaculture operation;

(C) A holding and sorting tank used in a commercial aquaculture operation; and

(D) An on-farm grain dryer and agricultural irrigation used for a commercial purpose;

(2) "Qualifying agricultural structure" means:

(A) Confinement housing for poultry or livestock used for commercial production, including without limitation, a broiler or turkey grow-out house, laying house, hatching unit, nursery unit, breeding house, farrowing unit, and feed-out house; and

(B) A commercial milking facility, including without limitation, a milking parlor, a milk collection unit, and a refrigeration unit; and

(3) "Utility" means:

(A) Liquefied-petroleum gas;

(B) Natural gas; or



(C) Electricity.

(b)(1) Beginning July 1, 2007, in lieu of the gross receipts or gross proceeds tax levied in §§ 26-52-301 and 26-52-302(a), (b), (c), and (d), there is levied an excise tax on the gross receipts or gross proceeds derived from the sale of a utility used by a qualifying agricultural structure for a commercial purpose or a qualifying agriculture, horticulture, or aquaculture equipment for a commercial purpose at the rate of four and seven-eighths percent (4.875%).

(2) Beginning July 1, 2008, and ending on June 30, 2009, the excise tax rate levied in subdivision (b)(1) of this section shall be imposed at the rate of three and seven-eighths percent (3.875%).

(3) Beginning July 1, 2009, the excise tax rate levied in subdivision (b)(1) of this section shall be imposed at the rate of two and seven-eighths percent (2.875%).

(4) The excise tax levied in this subsection (b) shall be distributed as follows:

(A) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received by the Director of the Department of Finance and Administration shall be deposited as general revenues;

(B) Eight and one-half percent (8.5%) of the tax, interest, penalties, and costs received by the director shall be deposited into the Property Tax Relief Trust Fund; and

(C) Fourteen and nine-tenths percent (14.9%) of the tax, interest, penalties, and costs received by the director shall be deposited into the Educational Adequacy Fund.

(5)(A) The excise tax levied in this section shall apply only to a utility sold for use by a qualifying agricultural structure operated for commercial purposes or a qualifying agriculture, horticulture, or aquaculture equipment operated for commercial purposes.

(B) A utility sold for any other purpose shall be subject to the full gross receipts or gross proceeds tax levied under §§ 26-52-301 and 26-52-302(a), (b), (c), and (d).

(6) The excise tax levied in this section shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of all other Arkansas gross receipts taxes.

(c) A utility subject to the reduced excise tax rate levied in this section shall be separately metered from a utility used for any other purpose by the taxpayer, or as otherwise established by the rules issued under subsection (e) of this section.

(d) Before the purchase of a utility at the reduced excise tax rate levied in this section, the director may require any seller of a utility to obtain a certificate from the taxpayer, in the form prescribed by the director, certifying that the taxpayer is eligible to purchase the utility at the reduced excise tax rate.

(e) The director shall promulgate rules for the proper administration of this section.

(f) The gross receipts or gross proceeds derived from the sale of a utility to a taxpayer for use by a qualifying agricultural structure or qualifying agriculture, horticulture, or aquaculture equipment shall continue to be subject to:

(1) The excise tax levied under the Arkansas Constitution,

Amendment 75, § 2; and

(2) All municipal and county gross receipts taxes.

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

26-53-148. Reduced sales tax rate for utilities used by qualifying agricultural structures and by qualifying agriculture, horticulture, and aquaculture equipment.

(a) As used in this section:

(1) "Qualifying agriculture, horticulture, or aquaculture equipment" means:

(A) A cooling unit, a collection unit, or irrigation equipment used in a commercial horticulture operation;

(B) Equipment used to pump and aerate a pond used in a commercial aquaculture operation;

(C) A holding and sorting tank used in a commercial aquaculture operation; and

(D) An on-farm grain dryer and agricultural irrigation used for a commercial purpose;

(2) "Qualifying agricultural structure" means:

(A) Confinement housing for poultry or livestock used for commercial production, including without limitation, a broiler or turkey grow-out house, laying house, hatching unit, nursery unit, breeding house, farrowing unit, and feed-out house; and

(B) A commercial milking facility, including without limitation, a milking parlor, a milk collection unit, and a refrigeration unit; and

(3) "Utility" means:

(A) Liquified-petroleum gas;

(B) Natural gas; or

(C) Electricity.

(b)(1) Beginning July 1, 2007, in lieu of the compensating use tax levied in §§ 26-53-106 and 26-53-107(a), (b), (c), and (d), there is levied an excise tax on the sales price of a utility purchased for use by a qualifying agricultural structure or by qualifying agriculture, horticulture, or aquaculture equipment at the rate of four and seven-eighths percent (4.875%).

(2) Beginning July 1, 2008 and ending on June 30, 2009, the excise tax rate levied in subdivision (b)(1) of this section shall be imposed at the rate of three and seven-eighths percent (3.875%).

(3) Beginning July 1, 2009, the excise tax rate levied in subdivision (b)(1) of this section shall be imposed at the rate of two and seven-eighths percent (2.875%).

(4) The excise taxes levied in this subsection (b) shall be distributed as follows:

(A) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received by the Director of the Department of Finance and Administration shall be deposited as general revenues;

(B) Eight and one-half percent (8.5%) of the tax, interest, penalties, and costs received by the director shall be deposited into the Property Tax Relief Trust Fund; and

(C) Fourteen and nine-tenths percent (14.9%) of the tax,

interest, penalties, and costs received by the director shall be deposited into the Educational Adequacy Fund.

(5)(A) The excise tax levied in this section shall apply only to a utility purchased for use by a qualifying agricultural structure operated for commercial purposes or a qualifying agriculture, horticulture, or aquaculture equipment operated for commercial purposes.

(B) A utility purchased for any other purpose shall be subject to the full compensating use tax levied under §§ 26-53-106 and 26-53-107(a), (b), (c), and (d).

(6) The excise tax levied in this section shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of all other Arkansas compensating use taxes.

(c) A utility subject to the reduced excise tax rate levied in this section shall be separately metered from a utility used for any other purpose by the taxpayer, or as otherwise established by the rules issued under subsection (e) of this section.

(d) Prior to the purchase of a utility at the reduced excise tax rate levied in this section, the director may require any seller of a utility to obtain a certificate from the consumer, in the form prescribed by the director, certifying that the taxpayer is eligible to purchase the utility at the reduced excise tax rate.

(e) The director shall promulgate rules for the proper administration of this section.

(f) The purchase of a utility that qualifies for the reduced excise tax rate levied in this section shall continue to be subject to:

(1) The excise tax levied under the Arkansas Constitution, Amendment 75, § 2; and

(2) All municipal and county compensating use taxes.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that agricultural, horticultural, and aquacultural businesses in this state have suffered losses due to sharp increases in energy costs; that these businesses are unable to set the price for the products they produce and are particularly vulnerable to price volatility; that the current sales and use tax on utilities consumed by these businesses located within this state creates a competitive disadvantage; that this act is intended to address that problem by providing a reduced tax rate on utilities consumed by agricultural, horticultural, and aquacultural businesses located in this state; and that this act is necessary to prevent the loss of agricultural, horticultural, and aquacultural jobs. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of public peace, health, and safety shall become effective on July 1, 2007."

The Amendment was read _____
By: Representative Sullivan
MMC/RCK - 02-26-2007 14:10 _____
MMC103 Chief Clerk