

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.

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

A Bill

SENATE BILL 814

4
5 By: Senator T. Smith
6 By: Representative Petrus

For An Act To Be Entitled

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10 AN ACT TO PROVIDE THAT IF FEDERAL LAW AUTHORIZES
11 THE STATE TO COLLECT SALES AND USE TAX FROM
12 SELLERS WHO HAVE NO PHYSICAL PRESENCE IN THE
13 STATE THEN THE TAXES COLLECTED FROM THOSE SELLERS
14 SHALL BE DISTRIBUTED PURSUANT TO THIS ACT; AND
15 FOR OTHER PURPOSES.

Subtitle

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18 AN ACT TO PROVIDE THAT IF FEDERAL LAW
19 AUTHORIZES THE STATE TO COLLECT SALES
20 AND USE TAX FROM SELLERS WHO HAVE NO
21 PHYSICAL PRESENCE IN THE STATE THEN THE
22 TAXES COLLECTED SHALL BE DISTRIBUTED
23 PURSUANT TO THIS ACT.

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

27
28 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 1 is amended
29 to add an additional section to read as follows:

30 26-52-109. Collections from certain sellers pursuant to federal
31 authorization.

32 (a) Notwithstanding any law to the contrary, when the Director of the
33 Department of Finance and Administration determines that federal law
34 authorizes the state to collect the gross receipts tax levied by the Arkansas
35 Gross Receipts Act of 1941, § 26-52-101 et seq., and the compensating use tax
36 levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.,



1 from some or all of the sellers that have no physical presence in the State
 2 of Arkansas and that make sales of taxable goods and services to Arkansas
 3 purchasers, then the gross receipts tax levied by the Arkansas Gross Receipts
 4 Act of 1941, § 26-52-101 et seq., and the compensating use tax levied by the
 5 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and collected
 6 from those sellers shall be deposited into the State Treasury as special
 7 revenues and credited to the State Highway and Transportation Department Fund
 8 for the construction, reconstruction, surfacing, resurfacing, and maintenance
 9 of the state highway system beginning on the first day of the second calendar
 10 month following the determination of the director and continuing until the
 11 conditions in subsection (b) of this section have occurred.

12 (b) If the director determines that additional revenue is needed in
 13 order to maintain the established levels of services provided by general
 14 revenues and that the general revenues of this state have been less than
 15 forecast by the director for three (3) consecutive quarters, then the
 16 revenues deposited into the State Treasury as special revenues and credited
 17 to the State Highway and Transportation Department Fund under subsection (a)
 18 of this section shall cease beginning on the first day of the second calendar
 19 month following the determination of the director and those revenues shall
 20 then be general revenues and shall be deposited into the State Treasury to
 21 the credit of the State Apportionment Fund.

22 (c)(1) This section does not apply to the portion of the collections
 23 that is attributable to the excise tax levied under Arkansas Constitution,
 24 Amendment 75, § 2.

25 (2) This section does not apply to the portion of the
 26 collections that is attributable to municipal or county sales and use taxes.

27
 28 SECTION 2. Arkansas Code § 26-52-317(a), as amended by Act 110 of
 29 2007, is repealed.

30 ~~(a)(1) The Director of the Department of Finance and Administration~~
 31 ~~shall determine the following conditions:~~

32 ~~(A) That federal law authorizes the state to collect sales~~
 33 ~~and use tax from some or all of the sellers who have no physical presence in~~
 34 ~~the State of Arkansas and who make sales of taxable goods and services to~~
 35 ~~Arkansas purchasers;~~

36 ~~(B) That initiating the collection of sales and use tax~~

1 from these sellers would increase the net available general revenues needed
2 to fund state agencies, services, and programs; and

3 ~~(C)(i) That during a six month consecutive period, the~~
4 ~~amount of net available general revenues attributable to the collection of~~
5 ~~sales and use tax from sellers who have no physical presence in the State of~~
6 ~~Arkansas is equal to or greater than one hundred fifty percent (150%) of~~
7 ~~sales and use tax collected under subsection (c) of this section and § 26-53-~~
8 ~~145 on food and food ingredients;~~

9 ~~(ii) The director shall make the determination under~~
10 ~~subdivision (a)(1)(C)(i) of this section on a monthly basis following the~~
11 ~~determination that the conditions under subdivision (a)(1)(A) of this section~~
12 ~~have been met.~~

13 ~~(2) When the director finds that all of the conditions in~~
14 ~~subdivision (a)(1) of this section have been met, then the gross receipts or~~
15 ~~gross proceeds taxes levied under subsection (c) of this section shall be~~
16 ~~levied at the rate of zero percent (0%) on the sale of food and food~~
17 ~~ingredients beginning on the first day of the second calendar month following~~
18 ~~the determination of the director.~~

19
20 SECTION 3. Arkansas Code § 26-53-145(a), as amended by Act 110 of
21 2007, is repealed.

22 ~~(a)(1) The Director of the Department of Finance and Administration~~
23 ~~shall determine the following conditions:~~

24 ~~(A) That federal law authorizes the state to collect sales~~
25 ~~and use tax from some or all of the sellers who have no physical presence in~~
26 ~~the State of Arkansas and who make sales of taxable goods and services to~~
27 ~~Arkansas purchasers;~~

28 ~~(B) That initiating the collection of sales and use tax~~
29 ~~from these sellers would increase the net available general revenues needed~~
30 ~~to fund state agencies, services, and programs; and~~

31 ~~(C)(i) That during a six month consecutive period, the~~
32 ~~amount of net available general revenues attributable to the collection of~~
33 ~~sales and use tax from sellers who have no physical presence in the State of~~
34 ~~Arkansas is equal to or greater than one hundred fifty percent (150%) of~~
35 ~~sales and use tax collected under subsection (c) of this section and § 26-52-~~
36 ~~317 on food and food ingredients.~~

1 ~~(ii) The director shall make the determination under~~
2 ~~subdivision (a)(1)(C)(i) of this section on a monthly basis following the~~
3 ~~determination that the conditions under subdivision (a)(1)(A) of this section~~
4 ~~have been met.~~

5 ~~(2) When the director finds that all of the conditions in~~
6 ~~subdivision (a)(1) of this section have been met, then the compensating use~~
7 ~~taxes levied under subsection (c) of this section shall be levied at the rate~~
8 ~~of zero percent (0%) on the sale of food and food ingredients beginning on~~
9 ~~the first day of the second calendar month following the determination of the~~
10 ~~director.~~

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