

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 87th General Assembly
3 Regular Session, 2009

A Bill

SENATE BILL 833

4
5 By: Senator Horn
6
7

For An Act To Be Entitled

9 AN ACT TO GRADUALLY REDUCE THE SALES AND USE TAX
10 ON UTILITIES THAT ARE USED BY WOOD AND
11 AGRICULTURAL MANUFACUTRERS; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14 TO GRADUALLY REDUCE THE SALES AND USE
15 TAX ON UTILITIES THAT ARE USED BY WOOD
16 AND AGRICULTURAL MANUFACTURERS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended
23 to add an additional section to read as follows:

24 26-52-322. Reduced sales tax rate for utilities used by wood and
25 agricultural manufacturers.

26 (a) As used in this section:

27 (1) "Agricultural product" means horticulture, aquaculture,
28 viticultural, dairy, livestock, poultry, bee, or any other farm, ranch,
29 plantation, or range product;

30 (2) "Utility" means:

31 (A) Liquefied petroleum gas;

32 (B) Natural gas; or

33 (C) Electricity; and

34 (3) "Wood manufacturer" means a place where wood is made into
35 lumber, paper, or other wood products.

36 (b)(1) Beginning July 1, 2009, in lieu of the gross receipts or gross



1 proceeds tax levied in §§ 26-52-301 and 26-52-302 or § 26-52-319, there is
2 levied an excise tax on the gross receipts or gross proceeds derived from the
3 sale of a utility used by a wood manufacturer or a manufacturer of
4 agricultural products in the manufacturing process at the rate of two and
5 seven-eighths percent (2.875%).

6 (2) Beginning July 1, 2010, and ending on June 30, 2011, the
7 excise tax rate levied in subdivision (b)(1) of this section shall be imposed
8 at the rate of one and seven-eighths percent (1.875%).

9 (3) Beginning July 1, 2011, and ending on June 30, 2012, the
10 excise tax rate levied in subdivision (b)(1) of this section shall be imposed
11 at the rate of seven-eighths percent (0.875%).

12 (4) Beginning July 1, 2012, the excise tax rate levied in
13 subdivision (b)(1) of this section shall be imposed at the rate of one-eighth
14 percent (0.125%).

15 (c) The excise tax levied in subsection (b) of this section shall be
16 distributed as follows:

17 (1) Seventy-six and six-tenths percent (76.6%) of the tax,
18 interest, penalties, and costs received by the Director of the Department of
19 Finance and Administration shall be deposited into the State Treasury as
20 general revenues;

21 (2) Eight and five-tenths percent (8.5%) of the tax, interest,
22 penalties, and costs received by the director shall be deposited into the
23 Property Tax Relief Trust Fund; and

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

27 (d)(1) The excise tax levied in this section applies only to a utility
28 sold for use in the manufacturing process by a wood manufacturer or a
29 manufacturer of agricultural products.

30 (2) Unless otherwise exempt, a utility sold for any other
31 purpose is subject to the full gross receipts or gross proceeds tax levied
32 under §§ 26-52-301 and 26-52-302 or § 26-52-319.

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

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

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

10 (h) The director shall promulgate rules for the proper administration
11 of this section.

12 (i) The gross receipts or gross proceeds derived from the sale of a
13 utility to a taxpayer for use by a wood manufacturer or a manufacturer of
14 agricultural products and used in the manufacturing process shall continue to
15 be subject to:

16 (1) The excise tax levied under Arkansas Constitution, Amendment
17 75, § 2; and

18 (2) All municipal and county gross receipts taxes.

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

22 26-53-149. Reduced sales tax rate for utilities used by wood and
23 agricultural manufacturers.

24 (a) As used in this section:

25 (1) "Agricultural product" means horticulture, aquaculture,
26 viticultural, dairy, livestock, poultry, bee, or any other farm, ranch,
27 plantation, or range product;

28 (2) "Utility" means:

29 (A) Liquefied petroleum gas;

30 (B) Natural gas; or

31 (C) Electricity; and

32 (3) "Wood manufacturer" means a place where wood is made into
33 lumber, paper, and other wood products.

34 (b)(1) Beginning July 1, 2009, in lieu of the compensating use tax
35 levied in §§ 26-53-106 and 26-53-107 or § 26-53-148 there is levied an excise
36 tax on the sales price of a utility purchased for use by a wood manufacturer

1 or a manufacturer of agricultural products and used in the manufacturing
2 process at the rate of two and seven-eighths percent (2.875%).

3 (2) Beginning July 1, 2010, and ending on June 30, 2011, the
4 excise tax rate levied in subdivision (b)(1) of this section shall be imposed
5 at the rate of one and seven-eighths percent (1.875%).

6 (3) Beginning July 1, 2011, and ending on June 30, 2012, the
7 excise tax rate levied in subdivision (b)(1) of this section shall be imposed
8 at the rate of seven-eighths percent (0.875%).

9 (4) Beginning July 1, 2012, the excise tax rate levied in
10 subdivision (b)(1) of this section shall be imposed at the rate of one-eighth
11 percent (0.125%).

12 (c) The excise taxes levied in subsection (b) of this section shall be
13 distributed as follows:

14 (1) Seventy-six and six-tenths percent (76.6%) of the tax,
15 interest, penalties, and costs received by the Director of the Department of
16 Finance and Administration shall be deposited into the State Treasury as
17 general revenues;

18 (2) Eight and five-tenths percent (8.5%) of the tax, interest,
19 penalties, and costs received by the director shall be deposited into the
20 Property Tax Relief Trust Fund; and

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

24 (d)(1) The excise tax levied in this section applies only to a utility
25 purchased for use in the manufacturing process by a wood manufacturer or a
26 manufacturer of agricultural products.

27 (2) Unless otherwise exempt, a utility purchased for any other
28 purpose is subject to the full compensating use tax levied under §§ 26-53-106
29 and 26-53-107 or § 26-53-148.

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

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

1 subsection (h) of this section.

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

7 (h) The director shall promulgate rules for the proper administration
8 of this section.

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

11 (1) The excise tax levied under Arkansas Constitution, Amendment
12 75, § 2; and

13 (2) All municipal and county compensating use taxes.

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15 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly of the State of Arkansas that wood and agricultural
17 manufacturers in this state have suffered losses due to sharp increases in
18 energy costs; that these manufacturers are unable to set the price for the
19 products they produce and are particularly vulnerable to price volatility;
20 that the current sales and use tax on utilities consumed by these
21 manufacturers located within this state creates a competitive disadvantage;
22 that this act is intended to address that problem by providing a reduced tax
23 rate on utilities consumed by wood and agricultural manufacturers located in
24 this state; and that this act is necessary to prevent the loss of wood and
25 agricultural manufacturing jobs. Therefore, an emergency is hereby declared
26 to exist and this act being necessary for the preservation of public peace,
27 health, and safety shall become effective on July 1, 2009.

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