

1 State of Arkansas As Engrossed: S2/17/15 S3/17/15 S3/24/15

2 90th General Assembly

A Bill

3 Regular Session, 2015

SENATE BILL 332

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5 By: Senator Files

6 By: Representative Jett

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For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS CONCERNING THE SALES AND USE
10 TAX APPLICABLE TO THE PARTIAL REPLACEMENT AND REPAIR
11 OF CERTAIN MACHINERY AND EQUIPMENT USED IN
12 *MANUFACTURING; TO DECLARE AN EMERGENCY; AND FOR OTHER*
13 *PURPOSES.*

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Subtitle

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*TO AMEND THE LAWS CONCERNING THE SALES
18 AND USE TAX APPLICABLE TO THE PARTIAL
19 REPLACEMENT AND REPAIR OF CERTAIN
20 MACHINERY AND EQUIPMENT USED IN
21 MANUFACTURING; AND TO DECLARE AN
22 EMERGENCY.*

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

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27 SECTION 1 Arkansas Code § 26-52-447(f), concerning the sales tax on
28 partial replacement and repair of certain machinery and equipment that is
29 subject to refund, is amended to read as follows:

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*(f) To claim the benefit of the tax refund under this section, a
taxpayer shall hold a direct pay or a limited direct pay sales and use tax
permit from the Department of Finance and Administration and shall claim the
tax refund under the direct pay or limited direct pay permit.*

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*SECTION 2. Arkansas Code § 26-52-509(a), concerning the direct payment
of sales and use tax by a consumer or user, is amended to read as follows:*



1 (a)(1) ~~In the exercise of his or her discretion, the~~ The Director of
2 the Department of Finance and Administration by agreement with any consumer
3 or user may permit:

4 (A) Permit a consumer or user under the agreement to
5 accrue and remit gross receipts taxes directly to the Department of Finance
6 and Administration, instead of the taxes being collected and paid by the
7 seller as provided in under § 26-52-508; and

8 (B)(i) Issue limited direct pay authority to permit a user
9 or consumer to accrue and remit gross receipts and compensating use taxes on
10 purchases that include eligible purchases.

11 (ii)(a) A limited direct pay agreement permits a
12 consumer or user to accrue and remit gross receipts and compensating use
13 taxes on purchases that include eligible purchases.

14 (b) As used in this section, "eligible
15 purchases" means property or services subject to a refund of tax under §§ 26-
16 52-447 and 26-53-149.

17 (iii)(a) A limited direct pay agreement is available
18 only to a person eligible for a refund of tax under §§ 26-52-447 and 26-53-
19 149.

20 (b) A person holding a limited direct pay
21 permit shall use the permit only to make purchases that include eligible
22 purchases.

23 (2)(A) A seller that receives a claim for exemption from a
24 customer based on a limited direct pay permit shall not collect and remit
25 gross receipts or compensating use taxes on purchases that include eligible
26 purchases made by a person holding a limited direct pay permit.

27 (B) However, if a seller collects and remits gross
28 receipts or compensating use taxes on eligible purchases from a person
29 holding a limited direct pay permit, a refund may be obtained under § 26-18-
30 507.

31 (3) A person who has entered into a limited direct pay agreement
32 under this section and makes purchases of property or services under the
33 authority of that agreement without paying the gross receipts or compensating
34 use taxes due on those purchases is responsible for remitting the proper
35 amount of tax due to the director as required by law.

36 (4)(A) A seller shall collect and remit gross receipts and

1 compensating use taxes on purchases made by a person holding a limited direct
2 pay permit that are not eligible purchases.

3 (B) If a seller relies on the limited direct pay permit
4 and fails to properly collect tax on sales other than eligible purchases, the
5 limited direct pay permit holder shall remit the proper amount of tax to the
6 state as required under subsection (a)(3) of this section.

7 (5) This section does not eliminate the requirement that a
8 consumer or user self-assess and remit compensating use tax under §§ 26-53-
9 123 – 26-53-125.

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11 SECTION 3. Arkansas Code § 26-53-149(f), concerning the use tax on
12 partial replacement and repair of certain machinery and equipment that is
13 subject to refund, is amended to read as follows:

14 (f) To claim the benefit of the tax refund under this section, a
15 taxpayer shall hold a direct pay or a limited direct pay sales and use tax
16 permit from the Department of Finance and Administration and shall claim the
17 tax refund under the direct pay or limited direct pay permit.

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19 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
20 General Assembly of the State of Arkansas that most states exempt
21 modifications, partial replacements, and repairs of manufacturing machinery
22 and equipment from sales and use tax; that other states apply a reduced rate
23 to modifications, partial replacements, and repairs; that Arkansas recognized
24 this discrepancy and reduced, but did not eliminate, the tax rate on most
25 modifications, partial replacements, and repairs in 2014; that Arkansas has
26 been classified as the worst of the twelve (12) states in the southeast
27 region on the taxation of industrial materials used in manufacturing; that
28 Alabama, Mississippi, North Carolina, and other states have phased in
29 exemptions for modifications, partial replacements, and repairs of
30 manufacturing machinery and equipment over time; and that this act is
31 immediately necessary because Arkansas is not competitive with surrounding
32 states and states in the southeast region in imposing taxes on many types of
33 manufacturing modifications, partial replacements, and repairs, which is
34 costing the state present and future jobs. Therefore, an emergency is
35 declared to exist, and this act being immediately necessary for the
36 preservation of the public peace, health, and safety shall become effective

1 on:

2 (1) The date of its approval by the Governor;

3 (2) If the bill is neither approved nor vetoed by the Governor,
4 the expiration of the period of time during which the Governor may veto the
5 bill; or

6 (3) If the bill is vetoed by the Governor and the veto is
7 overridden, the date the last house overrides the veto.

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/s/Files

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