

SUMMARY OF PROPOSAL #30
for consideration by the
ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE

TOPIC: Sales Tax Exemption on the Sale of the First 500 Kilowatt Hours to Low Income Households

Summary of Proposal for Consideration

To repeal the sales tax exemption for the sale of the first five hundred (500) kilowatt hours of electricity per month to each residential customer whose household income does not exceed twelve thousand dollars (\$12,000) per year under Arkansas Code § 26-52-416, effective for tax years beginning on or after January 1, 2019.

Fiscal Analysis

Repeal of the exemption may result in an estimated \$960,400 per year increase to General Revenue based upon FY17, as provided by the Department of Finance and Administration's "Sales and Use Tax Revenue Impact of Exemptions" presentation to the Arkansas Tax Reform and Relief Legislative Task Force on March 19, 2018.

Legal Analysis

Background

Arkansas currently exempts sales tax from the sale of the first five hundred (500) kilowatt hours of electricity per month to each residential customer whose household income does not exceed twelve thousand dollars (\$12,000) per year.

ACT 120 of 1983 (1st Ex. Sess.) created the sales tax exemption on the sale of the first five hundred (500) kilowatt hours of electricity per month to each residential customer whose household income does not exceed twelve thousand dollars (\$12,000) per year.

ACT 304 of 1991 created a requirement that recipients of the sales tax exemption file yearly applications.

ACT 655 of 2009 expanded the definition of household income to include alimony, support money, cash public assistance and relief, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including without limitation railroad retirement benefits, all payments received under the Social Security Act, 42 U.S.C. 301 et seq., and veterans' disability pensions, all dividends and interest from whatever source derived not included in gross income, workers' compensation benefits, and the gross amount of "loss of time insurance," and has not been amended since.

Potential Legal Issues

None.

Other States

- Iowa: Sales tax exemption on sales of metered electricity, metered natural gas, fuels, and heating oils for residential customers. (IA St. § 423.3)
- Louisiana: Sales tax exemption on the sale of electricity, natural gas, and water for residential use. (La. Const. art. VII, § 2.2).
- Mississippi: Sales tax exemption on the sales of electricity, gas or other fuel, and potable water for residential consumption. (MS St. § 27-19-101)
- Missouri: Sales tax exemption on sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use, local sales taxes may be imposed. (MO St. § 144.030.2)
- Oklahoma: Sales tax exemption on the sale of natural or artificial gas and electricity, when sold exclusively for residential uses, but remains subject to any applicable municipal and county sales taxes in effect at the time of sale. (OK St. 68 § 1354)
- Tennessee: Sales tax exemption on sale of gas, electricity or other energy fuels sold directly to consumers for residential use. (TN St. § 67-6-334)
- Texas: Sales tax exemption on sale of gas and electricity for residences. However, cities have the option of taxing the residential use of gas and electricity. (TX St. § 151.317)