

State of Arkansas

76th General Assembly

First Extraordinary Session, 1987

HOUSE BILL

1015

By: Representatives Cunningham, Foster, J. Miller

"AN ACT TO REPEAL THE EXEMPTION FROM ARKANSAS GROSS RECEIPTS AND ARKANSAS COMPENSATING (USE) TAX FOR CERTAIN LEASES AND RENTALS WHERE THE ARKANSAS GROSS RECEIPTS OR COMPENSATING (USE) TAX IS PAID ON THE INITIAL PURCHASE OF THE TANGIBLE PERSONAL PROPERTY WHICH IS LEASED OR RENTED, TO EXEMPT CERTAIN LEASES AND RENTALS OF TANGIBLE PERSONAL PROPERTY FROM ARKANSAS SALES AND USE TAX; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 2 (c) of Act 386 of 1941, as amended, the same being Ark. Stat. Ann. Section 84-1902(c), is hereby amended to read as follows:

"(c) Sale: The term 'sale' is hereby declared to mean the transfer of either the title or possession, except in the case of leases or rentals, for a valuable consideration of tangible personal property, regardless of the manner, method, instrumentality, or device by which such transfer is accomplished. The term 'sale' is also declared to include the exchange, barter, lease or rental of tangible personal property. In the case of leases or rentals of tangible personal property, the tax shall be paid on the basis of rental or lease payments made to the less or of such tangible personal property during the term of the lease or rental. The term 'sale' shall also include the sale, giving away, exchanging or other disposition of admissions, dues or fees to clubs, to places of amusement, recreational, or athletic events, or for the privilege of having access to or the use of amusement, athletic or entertainment facilities. The term 'sale' shall not include the furnishing or rendering of service or services, except as herein otherwise provided."

SECTION 2. After the effective date of this Act all leases or rentals of

tangible personal property for a period of more than thirty (30) days and leases or rentals of diesel trucks rented or leased for commercial shipping regardless of the length of the lease or rental agreement shall be exempt from the Arkansas Gross Receipts Tax and all taxes supplemental thereto and the Arkansas Compensating (Use) Tax and all taxes supplemental thereto. To qualify as a lease for a commercial purpose the payments made under the lease must qualify as ordinary and necessary business expenses for Federal or Arkansas State Income Tax purposes for the person leasing the vehicle or the shareholders or partners in such person. In addition to the other requirements for any property to be exempt under this Section no lease or rental of any item shall be exempt under this Section unless the Arkansas Gross Receipts or Arkansas Compensating (Use) Tax has first been paid on the full purchase price or, in the case of a manufacturer who leases or rents property, the usual sales price of the property. Provided that after the effective date of this Act no person shall be entitled to claim the exemption for a sale for resale for property sold or purchased for subsequent lease or rental and the lease or rental of a motor vehicle shall be subject to the Arkansas Gross Receipts Tax or Compensating (Use) Tax even though the Gross Receipts Tax or Compensating (Use) Tax was paid on the initial purchase price of the motor vehicle.

SECTION 3. Where a written contract for the sale, lease or rental of any item is executed prior to the effective date of this Act then any sale, lease or rental made pursuant to the written contract shall be taxed according to law at the time of execution of the contract.

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly that the State of Arkansas is in serious need of additional revenues which are necessary to provide adequate funding for essential services required by the citizens of this State and the provisions of this Act are necessary to increase State revenues. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect July 1,

1987.