

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **First Extraordinary Session, 1992**  
4 **By: Senator Yates**

# A Bill

Call Item

**SENATE BILL 21**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §26-74-212 AND §26-75-216  
9 TO PROVIDE FOR THE PAYMENT OF COUNTY AND CITY LOCAL SALES  
10 TAXES BY DIRECT PAY PERMIT HOLDERS; AND FOR OTHER  
11 PURPOSES."

12  
13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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15 SECTION 1. Arkansas Code 26-74-212 as amended by Act 765 of 1991 and  
16 found on page 108 of the 1991 Cumulative Supplement to the Arkansas Code is  
17 hereby repealed.

18  
19 SECTION 2. Arkansas Code 26-74-212 as amended by Act 536 of 1991 and  
20 found on page 107 of the 1991 Cumulative Supplement to the Arkansas Code is  
21 hereby amended to read as follows:

22 "26-74-212. Applicability of tax.

23 (a) (1) A county sales tax levied pursuant to the authority granted in  
24 this subchapter or in § 26-74-301 et seq., shall be applicable to sales of  
25 items and services sold by a business located in the levying county to a  
26 resident or nonresident of the levying county but shall not be applicable to  
27 the sale of motor vehicles to non-residents of the county; provided, however,  
28 the tax shall not be applicable to the sale of items and services sold to a  
29 nonresident of the levying county if the sale is made for delivery to an  
30 address which is in a city or county that does not impose a city or county  
31 sales tax, and the sale is of an item that is primarily sold through meter and  
32 by route delivery, if the sale is documented by a sales invoice indicating  
33 that the sale was made for delivery, and that delivery was actually made to  
34 the person at the place noted thereon located outside a county or city in  
35 which a sales tax is levied.

1           (2) When a motor vehicle is sold to a person who resides in Arkansas  
2 but outside the county where the sale was made, and the city and/or county of  
3 residence of the purchaser levies a sales and use tax, a use tax shall be  
4 collected at the rate levied in the city and/or county of residence of the  
5 purchaser, and in that event the tax shall be transmitted to the city and/or  
6 county of residence.

7           (b) The tax shall not be applicable to the sale of the following  
8 items, if the sale is made to a nonresident of the levying county and the  
9 sales invoice indicates that the sale was made for delivery to, and delivery  
10 was actually made to, an address which is located in a city or county that  
11 does not impose a city or county sales tax:

- 12           (1) Aviation fuel;
- 13           (2) Distillate special fuel used for agricultural purposes;
- 14           (3) Agricultural machinery, parts, repairs, and supplies therefor;
- 15           (4) Water wells and water well supplies;
- 16           (5) Agricultural feed, seed, and fertilizer; and
- 17           (6) Agricultural chemicals.

18           (c) When a direct pay permit holder purchases tangible personal  
19 property either from an Arkansas or out of state vendor for use, storage,  
20 consumption or distribution in Arkansas, the permit holder shall accrue and  
21 remit the county sales or use tax, if any, of the county where the property is  
22 first used, stored, consumed or distributed. When a direct pay permit holder  
23 purchases taxable services, the permit holder shall accrue and remit the sales  
24 tax, if any, of the county where the services are performed."

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26           SECTION 3. Arkansas Code 26-75-216 is hereby amended to read as  
27 follows:

28           "26-75-216. Applicability of tax.

29           (a) (1) A city sales tax levied pursuant to the authority granted in  
30 this subchapter or in § 26-75-301 et seq. shall be applicable to sales of  
31 items and services sold by a business located in a levying city to a resident  
32 or nonresident of the levying city but shall not be applicable to motor  
33 vehicles sold to non residents of the levying city; provided, however, the tax  
34 shall not be applicable to the sale of items and services sold to a  
35 nonresident of the levying city if the sale is made for delivery to an address

1 which is in a city or county that does not impose a city or county sales tax,  
2 and the sale is of an item that is primarily sold through meter and by route  
3 delivery, if such sale is documented by a sales invoice indicating that the  
4 sale was made for delivery and that delivery was actually made to the person  
5 at the place noted thereon located outside a city or county in which a sales  
6 tax is levied.

7       (2) When a motor vehicle is sold to a person who resides in Arkansas  
8 but outside the city where the sale was made, and the city or county of  
9 residence of the purchaser levies a sales and use tax, a use tax shall be  
10 collected at the rate levied in the city or county of residence of the  
11 purchaser and in that event the tax shall be transmitted to the city or county  
12 of residence.

13       (b) The tax shall not be applicable to the sale of the following  
14 items, if the sale is made to a nonresident of the levying city and the sales  
15 invoice indicates that the sale was made for delivery to, and delivery was  
16 actually made to, an address which is located in a city or county that does  
17 not impose a city or county sales tax:

- 18       (1) Aviation fuel;
- 19       (2) Distillate special fuel used for agricultural purposes;
- 20       (3) Agricultural machinery, parts, repairs and supplies therefor;
- 21       (4) Water wells and water well supplies;
- 22       (5) Agricultural feed, seed, and fertilizer; and
- 23       (6) Agricultural chemicals.

24       (c) When a direct pay permit holder purchases tangible personal  
25 property either from an Arkansas or out of state vendor for use, storage,  
26 consumption or distribution in Arkansas, the permit holder shall accrue and  
27 remit the city sales and use tax, if any, of the city where the property is  
28 first used, stored, consumed or distributed. When a direct pay permit holder  
29 purchases taxable services, the permit holder shall accrue and remit the sales  
30 tax, if any, of the city where the services are performed."

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32       SECTION 4. All provisions of this act of a general and permanent nature  
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
34 Revision Commission shall incorporate the same in the Code.

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1 SECTION 5. If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

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7 SECTION 6. All laws and parts of laws in conflict with this act are  
8 hereby repealed.

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10 SECTION 7. EMERGENCY. It is hereby found and determined by the General  
11 Assembly that cities and counties are faced with financial crises with  
12 reference to having sufficient tax resources to fund capital improvements and  
13 to provide services to their inhabitants; that the citizens in most cities and  
14 counties have opted to levy an additional gross receipts tax on themselves,  
15 making over ninety percent (90%) of all sales in Arkansas subject to local  
16 gross receipts taxation; that the present method of collection of the tax on  
17 sales of items and services sold by a levying city or county has created an  
18 undue hardship on holders of direct pay permits; that the provisions of this  
19 act will relieve that hardship and provide additional revenues for cities and  
20 counties; and that the hardship constitutes such an emergency that the  
21 immediate passage of this act is necessary in order to provide relief to them.  
22 Therefore, an emergency is declared to exist and this act being necessary for  
23 the preservation of the public peace, health, and safety shall take effect and  
24 be in full force and effect for purchases made on and after *April 1, 1992*.

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*/s/Sen. Yates*

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