

1 **State of Arkansas**
2 **78th General Assembly**
3 **Second Extraordinary Session, 1992**
4 **By: Senator C. Bell**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO LEVY AN ADDITIONAL ONE-HALF OF ONE PERCENT
9 (1/2%) SALES AND USE TAX; TO EXEMPT USED MOTOR VEHICLES,
10 USED AIRCRAFT AND USED MOBILE HOMES FROM THE SALES AND USE
11 TAX; AND FOR OTHER PURPOSES."

Subtitle

14 "AN ACT TO LEVY AN ADDITIONAL ONE-HALF OF ONE PERCENT
15 (1/2%) SALES AND USE TAX; TO EXEMPT USED MOTOR VEHICLES,
16 USED AIRCRAFT AND USED MOBILE HOMES FROM THE SALES AND USE
17 TAX."

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. In addition to the excise tax levied upon the gross proceeds
22 or gross receipts derived from all sales by the Arkansas Gross Receipts Act
23 (Arkansas Code of 1987 Annotated §26-52-101 et seq.), there is hereby levied
24 an excise tax of one-half of one percent (1/2%) upon all taxable sales of
25 property and services subject to the tax levied in that act, and such tax
26 shall be collected, reported, and paid in the same manner and at the same time
27 as is prescribed by law for the collection, reporting and payment of all other
28 Arkansas gross receipts taxes.

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30 SECTION 2. In addition to the excise tax levied upon the privilege of
31 storing, using, distributing or consuming tangible personal property within
32 the state by the Arkansas Compensating Tax Act (Arkansas Code of 1987
33 Annotated §26-53-101 et seq.), there is hereby levied an excise tax of one-
34 half of one percent (1/2%) upon all tangible personal property subject to the
35 tax levied in that act, and such tax shall be collected, reported, and paid in

1 the same manner and at the same time as is prescribed by law for the
2 collection, reporting and payment of Arkansas compensating taxes.

3

4 SECTION 3. Arkansas Code 26-52-504 is amended to read as follows:

5 "26-52-504. Sale of house trailers or mobile homes.

6 (a) Every person selling house trailers or mobile homes in this state,
7 whether from an established business, under a dealership, or otherwise, shall
8 obtain and hold a permit as provided by § 26-52-202 and shall make a monthly
9 report and remittance to the Director of the Department of Finance and
10 Administration as provided in the Arkansas Gross Receipts Act, § 26-52-101 et
11 seq., together with a copy or copies of invoices, salestickets, or bills of
12 sale reflecting the date of all sales of such house trailers or mobile homes,
13 the purchaser's name and address, the make, year, model, serial number, and
14 gross sales price of each house trailer or mobile home, and the amount of tax
15 collected from the purchaser.

16 (b) This section shall apply equally to used house trailers or mobile
17 homes except in instances where the used house trailer or mobile home has once
18 been subjected to the gross receipts tax on a previous sale and reported by
19 the seller or dealer and in instances where the original purchaser has paid
20 the Arkansas compensating tax to a registered out-of-state dealer or directly
21 to the director as provided under the Arkansas Compensating Tax Act, §26-53-
22 101 et seq.

23 (c) It is the intent of this section that used house trailers or mobile
24 homes once having been subjected to either the gross receipts or compensating
25 tax shall on subsequent sale be exempted.

26 (d) Any permittee who fraudulently attempts to evade any provision of
27 this section or of the Arkansas Gross Receipts Act, § 26-52-101 et seq., shall
28 be subject to having his permit revoked after notice and hearing as provided
29 by § 26-52-208, as amended."

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31 SECTION 4. Arkansas Code 26-52-505 is amended to read as follows:

32 "26-52-505. Sales of aircraft.

33 (a) Every person selling aircraft in this state, whether from an
34 established business, under a dealership, as a flying service, or as a private
35 individual, shall obtain and hold a permit as provided in § 26-52-202 and

1 shall make a monthly report and remittance to the Director of the Department
2 of Finance and Administration as provided in the Arkansas Gross Receipts Act,
3 § 26-52-101 et seq., together with copies of invoices, sales tickets, or bills
4 of sale reflecting the date of all sales of aircraft, the purchaser's name and
5 address, the make, year, model, serial number, and gross sales price of each
6 aircraft, and the amount of tax collected from the purchaser.

7 (b) (1) This section shall apply equally to used aircraft, except in
8 instances where the used aircraft has once been subjected to the gross
9 receipts tax on a previous sale and reported by the seller or dealer and in
10 instances where the original purchaser has paid the Arkansas compensating tax
11 to a registered out-of-state dealer or directly to the director as provided
12 under the Arkansas Compensating Tax Act, §26-53-101 et seq.

13 (2) It is the intent of this section that used aircraft once
14 having been subjected to either the gross receipts or compensating tax, on
15 subsequent sale shall be exempted.

16 (c) However, the gross receipts or gross proceeds derived from the sale
17 of new aircraft manufactured or substantially completed within the State of
18 Arkansas shall not be subject to the gross receipts tax when sold by the
19 manufacturer or substantial completer to a purchaser for use exclusively
20 outside this state, notwithstanding the fact that possession may be taken in
21 the state for the sole purpose of removing the aircraft from this state under
22 its own power."

23

24 SECTION 5. Arkansas Code 26-52-510 is amended to read as follows:

25 "26-52-510. Direct payment of tax by consumer-user - New and used cars.

26 (a) The tax levied by this chapter and all other gross receipts taxes
27 levied by the state in respect to the sale of new automobiles shall be paid by
28 the consumer to the Director of the Department of Finance and Administration
29 instead of being collected by the dealer, and it is the mandatory duty of the
30 director to require the payment of such tax before issuing licenses for new
31 automobiles.

32 However, when a consumer purchases a new automobile which is so
33 defective that the dealer or manufacturer agrees either to grant the consumer
34 a full cash refund or to replace the original automobile with another new
35 automobile, then the amount of gross receipts tax paid on the defective

1 vehicle shall be applied as a credit upon the gross receipts tax due from the
2 purchase or receipt of a new automobile which is a replacement vehicle for the
3 original vehicle.

4 (b) (1) The tax levied by this chapter and all other gross receipts
5 taxes levied by the state in respect to sale of used automobiles shall be paid
6 to the director instead of being collected by the dealer, and it shall be the
7 mandatory duty of the director to collect the tax before issuing licenses for
8 used automobiles except those automobiles on which the tax levied has once
9 been paid by the original purchaser or subsequent purchaser.

10 (2) It is the intent of this subsection to exempt those used
11 automobiles which have once been subjected to the tax levied under this act as
12 evidenced by previous registration in the state of Arkansas.

13 (3) (A) Used car dealers shall be deemed to be consumer-users of all
14 parts and accessories used by them for the reconditioning or rebuilding of
15 used automobiles and shall be required to report as a sale all parts and
16 accessories withdrawn or used from the stock in trade.

17 (B) In instances where dealers are not engaged in the sale of parts and
18 accessories in connection with the sale of used cars, the tax shall be paid to
19 the seller at the time purchases of parts and accessories are made.

20 (c) The provisions of this section shall apply equally to all motor
21 vehicles, trailers, and semitrailers required to be licensed under the laws of
22 the state of Arkansas.

23 (d) Nothing in this section shall be construed to repeal any exemption
24 from the Arkansas Gross Receipts Act, § 26-52-101 et seq."

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26 SECTION 6. Arkansas Code 26-53-126 is amended to read as follows:

27 "26-53-126. Tax on used cars - Payment and collection.

28 (a) All used cars shall, upon being registered in this state for the
29 first time, be subject to the tax levied herein irrespective of whether such
30 car was purchased from a dealer or an individual.

31 (b) (1) The tax levied upon used cars shall be paid by the person making
32 application to register the car to the director instead of being collected by
33 the dealer or individual seller.

34 (2) It shall be the mandatory duty of the director to collect the
35 tax before issuing a license for any such used car, except those cars upon

1 which the tax levied under this subchapter or the Arkansas Gross Receipts Act,
2 §26-52-101 et seq., has once been paid by the original purchaser or subsequent
3 purchaser.

4 (3) It is the intention of this section to exempt those used cars
5 which have once been subjected to the tax herein levied or the tax levied by
6 the Arkansas Gross Receipts Act, §26-52-101 et seq., as evidenced by previous
7 registration in this state.

8 (c) However, the tax created by this subchapter shall not apply to a
9 motor vehicle to be registered by a bona fide nonresident of this state.

10 (d) The terms used car or car as used in this section means any
11 motor vehicle, trailer, or semitrailer required to be licensed under the laws
12 of this state.

13 (e)(1) It is the intent and purpose of this section to require that
14 either the gross receipts tax levied by the Arkansas Gross Receipts Act, §26-
15 52-101 et seq., or the compensating tax levied by the Arkansas Compensating
16 Tax Act, §26-53-101 et seq., be paid upon every used car, except those cars
17 upon which either the state gross receipts tax or the state compensating tax
18 has once been paid as evidenced by previous registration in this state,
19 irrespective of whether the car was purchased from a dealer or from an
20 individual.

21 (2) It is further intended that the tax shall be paid by the person
22 making application to register such car to the director at the time of making
23 application for registration of the car in this state for the first time.

24 (f) Nothing in this section shall be construed to repeal any exemption
25 from the Arkansas Compensating Tax Act."

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27 SECTION 7. All provisions of this act of a general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.

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31 SECTION 8. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

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2 SECTION 9. All laws and parts of laws in conflict with this act are
3 hereby repealed.

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5 SECTION 10. EMERGENCY. It is hereby found and determined by the
6 General Assembly that the state is in immediate need of additional revenues to
7 address the medicaid funding crisis; that this act generates those revenues;
8 and that this act should go into effect as soon as possible in order to
9 provide additional funding to the medicaid program as soon as possible.
10 Therefore, an emergency is hereby declared to exist and this act being
11 necessary for the preservation of the public peace, health and safety shall be
12 in full force and effect from and after February 1, 1993.

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