

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H3/26/97

A Bill

HOUSE BILL 2198

4
5 By: Representatives Hausam and Sheppard

For An Act To Be Entitled

9 "AN ACT TO REQUIRE THE DEPARTMENT OF FINANCE AND
10 ADMINISTRATION TO COLLECT THE ADVERTISING AND PROMOTION
11 TAX UPON A REQUEST BY THE ADVERTISING AND PROMOTION
12 COMMISSION; AND FOR OTHER PURPOSES."

Subtitle

15 "TO REQUIRE THE DEPARTMENT OF FINANCE
16 AND ADMINISTRATION TO COLLECT THE
17 ADVERTISING AND PROMOTION TAX UPON A
18 REQUEST BY THE ADVERTISING AND PROMOTION
19 COMMISSION."

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

23 SECTION 1. Arkansas Code § 26-75-603 is amended to read as follows:

24 "§ 26-75-603. Collection of tax.

25 (a) From the effective date of the levying ordinance, the tax so levied
26 shall be paid by the persons, firms, and corporations liable therefor and
27 shall be collected by the advertising and promotion commission of the levying
28 city or by a designated agent of the commission in the same manner and at the
29 same time as the tax levied by the Arkansas Gross Receipts Act of 1941, § 26-
30 52-101 et seq.

31 (b) The person paying the tax shall report and remit it upon forms
32 provided by the commission, and as directed by the commission. The rules,
33 regulations, forms of notice, assessment procedures, and the enforcement and
34 collection of the tax under the Arkansas Gross Receipts Act of 1941, § 26-52-
35 101 et seq., shall, so far as practicable, be applicable with respect to the
36 enforcement and collection of the tax levied pursuant to the authority of this

1 subchapter. However, the administration and enforcement, and all actions,
2 shall be by, and in the name of, the commission through the proper commission
3 officials or agents.

4 (c) Upon the request of the advertising and promotion commission of the
5 levying city, the Department of Finance and Administration shall collect and
6 administer the tax in the same manner and at the same time as the tax levied
7 by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. The taxes
8 collected by the Director under this section shall be remitted to the State
9 Treasurer for distribution in accordance with §§ 26-75-619 and 26-75-620. The
10 Director and the commission shall enter into an agreement establishing the
11 month in which the Director will begin collection; however, in no event shall
12 the Director be required to collect or refund any taxes for reporting periods
13 prior to the effective date of the agreement."

14

15 SECTION 2. Ark. Code Ann. § 14-20-112 is amended to add a new
16 subsection (d) to read as follows:

17 "(d) Upon the request of the levying county, the Director of the
18 Department of Finance and Administration shall collect and administer tax in
19 the same manner and at the same time as the tax levied by the Arkansas Gross
20 Receipts Act of 1941, § 26-51-101 et seq. The taxes collected by the Director
21 under this section shall be remitted to the State Treasurer for distribution
22 in accordance with §§ 26-75-619 and 26-75-620. The Director and the county
23 shall enter into an agreement establishing the month in which the Director
24 will begin collection; however, in no event shall the Director be required to
25 collect or refund any taxes for reporting periods prior to the effective date
26 of the agreement."

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28 SECTION 3. Ark. Code Ann. § 26-74-503 is amended to add a new
29 subsection (e) to read as follows:

30 "(e) Upon the request of the advertising and promotion commission of
31 the levying county, the Director of the Department of Finance and
32 Administration shall collect and administer the tax in the same manner and at
33 the same time as the tax levied by the Arkansas Gross Receipts Act of 1941, §
34 26-51-101 et seq. The taxes collected by the Director under this section shall
35 be remitted to the State Treasurer for distribution in accordance with §§ 26-
36 75-619 and 26-75-620. The Director and the commission shall enter into an

1 agreement establishing the month in which the Director will begin collection;
2 however, in no event shall the Director be required to collect or refund any
3 taxes for reporting periods prior to the effective date of the agreement."

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5 SECTION 4. Ark. Code Ann. § 26-75-704 is amended to add a new
6 subsection (c) to read as follows:

7 "(c) Upon the request of the advertising and promotion commission of
8 the levying city, the Director of the Department of Finance and Administration
9 shall collect and administer the tax in the same manner and at the same time
10 as the tax levied by the Arkansas Gross Receipts Act of 1941, § 26-51-101 et
11 seq. The taxes collected by the Director under this section shall be remitted
12 to the State Treasurer for distribution in accordance with §§ 26-75-619 and
13 26-75-620. The Director and the commission shall enter into an agreement
14 establishing the month in which the Director will begin collection; however,
15 in no event shall the Director be required to collect or refund any taxes for
16 reporting periods prior to the effective date of the agreement."

17
18 SECTION 5. Title 26, Chapter 75, Subchapter 6 is amended to add a new
19 section to read as follows:

20 "26-75-619. Advertising and Promotion Tax Trust Funds.

21 (a)(1) There is created a trust fund on the books and records of the
22 State Treasurer for the remittance of local advertising and promotion taxes
23 which shall be known as the Local Advertising and Promotion Tax Trust Fund.

24 (2)(A) There is also created a trust fund on the books and records
25 of the State Treasurer which shall be known as the Identification Pending
26 Trust Fund for Local Advertising and Promotion Taxes.

27 (B)(i) Money reported as local advertising and promotion
28 taxes which was collected in local taxing jurisdictions which are not
29 immediately identifiable and money collected in local jurisdictions which have
30 no tax shall be deposited in the Identification Pending Trust Fund for Local
31 Advertising and Promotion Taxes.

32 (ii) When a local tax jurisdiction is identified for
33 money which has been deposited in the Identification Pending Trust Fund for
34 Local Advertising and Promotion Taxes, the money shall be transferred to the
35 Local Advertising and Promotion Tax Trust Fund.

36 (iii) When the total amount in the Identification

1 Pending Trust Fund for Local Advertising and Promotion Taxes exceeds fifty
2 thousand dollars (\$50,000), the State Treasurer shall transfer any amount in
3 excess of fifty thousand dollars (\$50,000) to general revenues.

4 (b)(1) The State Treasurer, as the administrator of the Local
5 Advertising and Promotion Tax Trust Fund, shall review the flow of moneys
6 through the trust fund in the State Treasury for the purpose of estimating the
7 amount of the moneys as may be surplus to the immediate requirements of the
8 fund.

9 (2) After making the estimate, the administrator shall invest the
10 estimated surplus amount in certificates of deposit issued by any financial
11 institution located in the State of Arkansas. All interest income derived from
12 the certificates of deposit shall be credited, as trust fund income, to the
13 Local Advertising and Promotion Tax Trust Fund.

14 (3) The State Treasurer shall monthly transmit to the county and
15 city advertising and promotion commissions or other financial officer their
16 proportionate share of the interest derived from investment of the Local
17 Advertising and Promotion Tax Trust Fund.

18 (c) For purposes of this section, the term local advertising and
19 promotion taxes means taxes levied by a city or county pursuant to §§ 14-20-
20 112, 26-74-501 et seq., 26-75-601 et seq., and 26-75-701 et seq."

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23 SECTION 6. Title 26, Chapter 75, Subchapter 6 is amended to add a new
24 section to read as follows:

25 "26-75-620. Disposition of Funds.

26 (a) From the Local Advertising and Promotion Tax Trust Fund, the State
27 Treasurer shall transmit to the advertising and promotion commission or
28 financial officer of each city or county that city's or county's share of
29 local advertising and promotion taxes collected by the Director periodically
30 as promptly as feasible. Transmittals required under this subchapter shall be
31 made at least monthly in each state fiscal year. Before transmitting such
32 funds, the State Treasurer shall deduct three percent (3%) of the sum
33 collected from each such city or county during such period as a charge by the
34 state for its services, and the amount so deducted shall be deposited by the
35 State Treasurer to the credit of the account of the Constitutional and Fiscal
36 Agencies Fund.

1 (b) The State Treasurer is authorized to retain in the suspense account
2 of any city or county a portion of the city's or county's share of the
3 advertising and promotion tax collected by the Director. Such balance so
4 retained in the suspense account shall not exceed five percent (5%) of the
5 amount remitted to the city or county. The State Treasurer is authorized to
6 make refunds from the suspense account of any city or county for overpayments
7 made to such accounts, after such refunds have been approved by the director,
8 and to redeem dishonored checks and drafts deposited to the credit of the
9 suspense account of such cities or counties.

10 (c) When any city or county shall adopt the local advertising and
11 promotion tax and shall thereafter abolish such tax, the State Treasurer shall
12 retain in the suspense account of such city or county for a period of one (1)
13 year five percent (5%) of the final remittance to such city or county at the
14 time of termination of collection of such tax in the city or county to cover
15 possible refunds for overpayment of the tax and to redeem dishonored checks
16 and drafts deposited to the credit of such accounts. After one (1) year has
17 elapsed after the effective date of abolishment of such tax, the State
18 Treasurer shall remit the balance of such account to the city or county and
19 close the account. After this one-year period has lapsed and the account is
20 closed, no refund will be allowed.

21 (d) Any moneys collected which, as indicated by a certified copy of an
22 ordinance of the city or county previously filed with the director and the
23 State Treasurer, are pledged to secure lease rentals or the payment of bonds
24 authorized by this subchapter shall not be deposited in the State Treasury but
25 shall be deposited by the director, in banks designated by the city or county,
26 as cash funds and transmitted to the city or county subject to the charges
27 payable and retainage authorized in this section. Charges deducted shall be
28 transmitted to the State Treasurer, and amounts retained shall be retained by
29 the director as cash funds.

30 (e) For purposes of this section, the term local advertising and
31 promotion taxes means taxes levied by a city or county pursuant to §§ 14-20-
32 112, 26-74-501 et seq., 26-75-601 et seq., and 26-75-701 et seq."

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34 SECTION 7. Title 26, Chapter 75, Subchapter 6 is amended to add a new
35 section to read as follows:

36 "26-75-621. Combining City and County Taxes.

1 Each vendor who is liable for one or more city or county advertising and
2 promotion taxes shall report a combined city and combined county advertising
3 and promotion tax on his sales and use tax report. The combined city
4 advertising and promotion tax is equal to the sum of all city advertising and
5 promotion taxes levied under §§ 26-75-601 et seq. and 26-75-701 et seq. The
6 combined county advertising and promotion tax is equal to the sum of all
7 county advertising and promotion taxes levied by a county under §§ 14-20-112
8 and 26-74-501 et seq."

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10 SECTION 8. All provisions of this act of a general and permanent nature
11 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
12 Revision Commission shall incorporate the same in the Code.

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14 SECTION 9. If any provision of this act or the application thereof to
15 any person or circumstance is held invalid, such invalidity shall not affect
16 other provisions or applications of the act which can be given effect without
17 the invalid provision or application, and to this end the provisions of this
18 act are declared to be severable.

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20 SECTION 10. All laws and parts of laws in conflict with this act are
21 hereby repealed.

22
23 /s/Rep. Hausam, et al

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