

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

SENATE BILL 933

4
5 By: Senator Hill
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For An Act To Be Entitled

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9 "AN ACT TO CLARIFY THE DEFINITION OF 'SALE' FOR
10 PURPOSES OF THE GROSS RECEIPTS TAX; TO AMEND §26-52-
11 311 TO CLARIFY THE APPLICATION OF THE SHORT TERM
12 RENTAL TAX AND RENTAL VEHICLE TAX; AND FOR OTHER
13 PURPOSES."

Subtitle

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16 "CLARIFIES DEFINITION FOR SALES TAX
17 PURPOSES."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code 26-52-103(a)(3), pertaining to the definition
23 of sale, is amended to read as follows:

24 "(3)(A) 'Sale' is declared to mean the transfer of either the
25 title or possession, except in the case of leases or rentals, for a valuable
26 consideration of tangible personal property, regardless of the manner, method,
27 instrumentality, or device by which the transfer is accomplished.

28 (B) 'Sale' is also declared to include the exchange, barter,
29 lease, or rental of tangible personal property.

30 (C)(i) In the case of leases or rentals for less than thirty (30)
31 days of tangible personal property including motor vehicles and trailers, the
32 tax shall be paid on the basis of rental or lease payments made to the lessor
33 of such tangible personal property during the term of the lease or rental
34 regardless of whether Arkansas gross receipts tax or compensating use tax was
35 paid by the lessor at the time of purchase of the property.; ~~however, except~~
36 ~~for short term rentals and rentals of motor vehicles for less than thirty (30)~~

1 ~~days provided in § 26-52-310, the tax shall not apply to gross receipts or~~
 2 ~~gross proceeds derived from leases or rentals of tangible personal property~~
 3 ~~upon which either the Arkansas gross receipts tax or compensating tax was paid~~
 4 ~~at the time of purchase of the tangible personal property.~~

5 (ii) In the case of leases or rentals for thirty (30) days
 6 or more of tangible personal property including motor vehicles and trailers,
 7 the tax shall be paid on the basis of rental or lease payments made to the
 8 lessor of such tangible personal property during the term of the lease or
 9 rental unless Arkansas gross receipts tax or compensating use tax was paid by
 10 the lessor at the time of purchase of the property.

11 ~~(ii)~~ (iii) Any person engaged in the business of leasing
 12 or renting motor vehicles shall collect, report and remit gross receipts tax
 13 on the lease or rental payments in lieu of paying tax at the time of
 14 registration.

15 (D) 'Sale' shall include also the sale, giving away, exchanging,
 16 or other disposition of admissions, dues, or fees to clubs, to places of
 17 amusement, recreational, or athletic events, or for the privilege of having
 18 access to or the use of amusement, athletic, or entertainment facilities.

19 (E) 'Sale' shall not include the furnishing or rendering of
 20 services, except as otherwise provided in this section;"

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 22 SECTION 2. Arkansas Code 26-52-310 is amended to read as follows:

23 " 26-52-310. Short-term rentals of tangible personal property.

24 (a) For the purpose of this section, the following terms shall have the
 25 following meanings:

26 (1) 'Short term rental' means a rental or lease of tangible
 27 personal property for a period of less than thirty (30) days except rentals or
 28 leases of motor vehicles, trailers or diesel trucks for commercial shipping,
 29 ~~rentals of farm machinery and equipment, or rentals of motor vehicles;~~

30 (2) 'Motor vehicle' means any vehicle required to be
 31 licensed for highway use under Arkansas law.

32 (b)(1) In addition to the Arkansas gross receipts tax or compensating
 33 tax levied by Arkansas Code Title 26, there is hereby levied an additional tax
 34 of one percent (1%) on the short term rental of tangible personal property.
 35 The one percent (1%) tax levied by this section and all other gross receipts
 36 taxes or compensating taxes are applicable to short term rentals regardless of

1 whether tax was paid on the rental property at the time of purchase.

2 (2) Property purchased for short term rental may be
3 purchased tax exempt for resale pursuant to § 26-52-401(12)(A). The gross
4 receipts tax or compensating tax, except for the additional one percent (1%)
5 tax levied by this subsection, shall be collected on sales, other than rentals
6 or leases, of property held tax exempt for rental.

7 (3) Nothing in this subsection shall affect the taxability
8 of any transaction prior to the effective date of this subsection.

9 ~~(c)(1) The lease or rental of motor vehicles, other than
10 diesel trucks rented for commercial shipping, for a period of less than thirty
11 (30) days shall be subject to the gross receipts tax or compensating tax
12 regardless of whether tax was paid on the rental vehicle at the time of
13 purchase.~~

14 ~~(2) No sale for resale exemption shall be allowed for the
15 purchase of motor vehicles for rental or lease regardless of the length of the
16 rental or lease.~~

17 ~~(3) This subsection does not repeal or amend the rental
18 vehicle tax or any credits allowed thereunder. The provisions of this
19 subsection shall be read in conjunction with the rental vehicle tax, and taxes
20 due pursuant to this subsection are in addition to the rental vehicle tax.~~

21 ~~(d)~~ (c) It shall be unlawful for any person engaged in the business of
22 renting licensed motor vehicles for a period of less than thirty (30) days to
23 include a surcharge on the rental of the motor vehicles for any Arkansas gross
24 receipts or compensating use taxes paid by the person. Any person who violates
25 this section shall be subject to a fine not to exceed one thousand dollars
26 (\$1,000).

27 ~~(e)~~ (d) ~~Nothing in this section or § 26-52-311 shall~~ The tax levied by
28 this section shall not apply to the lease or rental of diesel trucks rented or
29 leased for commercial shipping or farm machinery or farm equipment rented or
30 leased for a commercial purpose.

31 ~~(f)~~ (e) The one percent (1%) tax levied by this section shall not apply
32 to short-term rentals of tangible personal property which are subject to the
33 two percent (2%) tourism gross receipts tax levied by § 26-52-1001 et seq."
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35 SECTION 3. Arkansas Code 26-52-311 is amended to read as follows:

36 " 26-52-311. Rental vehicle tax.

1 (a)(1) In addition to the ~~tax on short term rentals of tangible~~
2 ~~personal property, § 26-52-310~~ Arkansas gross receipts tax or compensating tax
3 levied by Title 26 of the Arkansas Code, there is levied a tax to be known as
4 the 'rental vehicle tax'. ~~The tax shall be levied in lieu of the taxes~~
5 ~~designated in subdivision (a)(2) of this section.~~ The rental vehicle tax
6 shall be levied on the gross receipts or gross proceeds derived from rentals
7 of licensed motor vehicles leased for a period of less than thirty (30) days.
8 The gross receipts or gross proceeds derived from the rentals shall be taxable
9 whether or not the Arkansas gross receipts tax, § 26-52-101 et seq., or
10 compensating tax, § 26-53-101 et seq., was paid at the time of registration.

11 (2) The gross receipts or gross proceeds derived from the sale of
12 a motor vehicle to a person engaged in the business of renting licensed motor
13 vehicles shall be exempt from taxation under the Arkansas gross receipts tax,
14 § 26-52-101 et seq., or compensating tax, § 26-53-101 et seq., and any
15 municipal or county sales tax, if the motor vehicle is used exclusively for
16 the purpose of rentals for a period of less than thirty (30) days.

17 (b) The rental vehicle tax shall be levied at the same rate as the
18 combined Arkansas gross receipts tax levied by §§ 26-52-301 and 26-52-302 and
19 any act supplemental thereto and the rate of any applicable municipal or
20 county tax.

21 (c) Except as provided otherwise in this section, the tax shall be
22 collected, reported, and paid in the same manner and at the same time as is
23 prescribed by law for the collection, reporting, and payment of the tax
24 imposed by the Arkansas gross receipts tax, § 26-52-101 et seq.

25 (d)(1) The rental vehicle tax shall be remitted to the Director of the
26 Department of Finance and Administration and, except for the amount equal to
27 the municipal and county tax, shall be deposited in the State Treasury as
28 general revenues.

29 (2) The amount of the tax which is based on municipal and
30 county sales taxes shall be remitted to the city or county in the same manner
31 as for municipal and county sales taxes.

32 (e)(1) It shall be unlawful for any person engaged in the business of
33 renting licensed motor vehicles for a period of less than thirty (30) days to
34 include a surcharge on the rental of the motor vehicles for any Arkansas gross
35 receipts or compensating use taxes paid by the person.

36 (2) Any person who violates this section shall be subject

1 to a fine not to exceed one thousand dollars (\$1,000).

2 (f) ~~Nothing in § 26-52-310 or this section shall~~ The tax levied by
 3 this section shall not apply to the lease or rental of diesel trucks rented or
 4 leased for commercial shipping or farm machinery or farm equipment rented or
 5 leased for a commercial purpose.

6 (g) The rental vehicle tax shall not apply to gasoline or diesel powered
 7 trucks rented or leased for residential moving or shipping.”

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

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

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

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 22 SECTION 7. EMERGENCY CLAUSE. It is hereby found and determined by the
 23 Eighty-second General Assembly that certain Code provisions affecting the
 24 lease of property are in urgent need of clarification; that previous
 25 amendments to the Code concerning the lease of motor vehicles resulted in
 26 taxpayer confusion, particularly with respect to whether the short term rental
 27 of diesel-powered trucks was subject to gross receipts tax; and, that this act
 28 is necessary to clarify that the short-term rental of all vehicles is subject
 29 to gross receipts tax. Therefore, an emergency is declared to exist and this
 30 act being necessary for the preservation of the public peace, health and
 31 safety shall become effective on the date of its approval by the Governor. If
 32 the bill is neither approved nor vetoed by the Governor, it shall become
 33 effective on the expiration of the period of time during which the Governor
 34 may veto the bill. If the bill is vetoed by the Governor and the veto is
 35 overridden, it shall become effective on the date the last house overrides the
 36 veto.