

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas *As Engrossed: H1/10/01 H2/13/01 H3/15/01*

2 83rd General Assembly

A Bill

3 Regular Session, 2001

HOUSE BILL 1005

4

5 By: Representatives Duggar, House, Holt, Eason, Files, W. Walker, Altes, Thomas, Hutchinson, Parks

6 By: Senator Baker

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8

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For An Act To Be Entitled

10 *AN ACT TO PROVIDE FOR THE PHASE-IN ON THE AMOUNT OF*
11 *GROSS RECEIPTS AND USE TAXES OWED FOR THE PURCHASE OF*
12 *A USED VEHICLE; AND FOR OTHER PURPOSES.*

13

14

Subtitle

15 *TO PROVIDE FOR THE PHASE-IN ON THE*
16 *AMOUNT OF GROSS RECEIPTS AND USE TAXES*
17 *OWED FOR THE PURCHASE OF A USED VEHICLE.*

18

19

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

21

22 SECTION 1. Arkansas Code 26-52-510 is amended to read as follows:

23 26-52-510. Direct payment of tax by consumer-user - New and used cars.

24 (a)(1)(A) The tax levied by this chapter and all other gross receipts
25 taxes levied by the state in respect to the sale of new or used motor
26 vehicles, trailers, or semi trailers required to be licensed in this state
27 shall be paid by the consumer to the Director of the Department of Finance
28 and Administration instead of being collected by the dealer or seller, and it
29 is the mandatory duty of the director to require the payment of such tax at
30 the time of registration before issuing licenses for new or used motor
31 vehicles or trailers.

32 (B)(i) The tax shall apply regardless of whether the motor
33 vehicle, trailer, or semi trailer is sold by a vehicle dealer, or an
34 individual, corporation, or partnership not licensed as a vehicle dealer.

35 (ii) The exemption provided for in § 26-52-401(17)
36 for isolated sales shall not apply to the sale of motor vehicles, trailers,

1 or semi trailers.

2 (2)(A) The tax levied by this chapter and all other gross
3 receipts taxes levied by the state in respect to the sale of new or used
4 motor vehicles, trailers, or semi trailers required to be licensed in this
5 state shall be paid by the consumer on or before the time for registration as
6 prescribed by § 27-14-903(a).

7 (B)(i) Failure to pay the tax when due shall result in the
8 assessment of a penalty equal to ten percent (10%) of the amount of tax due.

9

10 (ii) The penalty must be paid to the director along
11 with the tax before the vehicle license will be issued.

12 (b)(1)(A) Except as provided herein, when a used motor vehicle,
13 trailer, or semi trailer is taken in trade as a credit or part payment on the
14 sale of a new or used motor vehicle, trailer, or semi trailer, the tax levied
15 by this chapter and all other gross receipts taxes levied by the state shall
16 be paid on the net difference between the total consideration for the new or
17 used vehicle, trailer, or semi trailer sold and the credit for the used
18 vehicle, trailer, or semi trailer taken in trade.

19 (B) *However, if the total consideration for the sale of*
20 *the new or used motor vehicle, trailer, or semi trailer is less than two*
21 *thousand five hundred dollars (\$2,500), no tax shall be due.*

22 (C) *When a used motor vehicle, trailer, or semi trailer is*
23 *sold by a consumer, rather than traded-in as a credit or part payment on the*
24 *sale of a new or used motor vehicle, trailer, or semi trailer, and the*
25 *consumer subsequently purchases a new or used vehicle, trailer, or*
26 *semi trailer of greater value within forty-five (45) days of the sale, the tax*
27 *levied by this chapter and all other gross receipts taxes levied by the state*
28 *shall be paid on the net difference between the total consideration for the*
29 *new or used vehicle, trailer, or semi trailer purchased subsequently and the*
30 *amount received from the sale of the used vehicle, trailer, or semi trailer*
31 *sold in lieu of a trade-in.*

32 (2)(A)(i) When a motor vehicle dealer removes a vehicle from its
33 inventory and the vehicle is used by the dealership as a service vehicle, the
34 dealer shall register the vehicle, obtain a certificate of title, and pay
35 sales tax on the listed retail price of the new vehicle.

36 (ii) When the motor vehicle dealer returns the

1 service vehicle to inventory as a used vehicle and replaces it with a new
2 vehicle for dealership use as a service vehicle, the dealer shall pay sales
3 tax on the difference between the listed retail price of the new service
4 vehicle to be used by the dealership and the value of the used service
5 vehicle being returned to inventory. The value of the used service vehicle
6 shall be the highest listed wholesale price reflected in the most current
7 edition of the National Automotive Dealers' Association's Official Used Car
8 Guide.

9 (B)(i) For purposes of this subsection, the term "service
10 vehicle" means a motor vehicle driven exclusively by an employee of the
11 dealership and used either to transport dealership customers or dealership
12 parts and equipment.

13 (ii) "Service vehicle" does not include motor
14 vehicles which are rented by the dealership, used as demonstration vehicles,
15 used by dealership employees for personal use, or used to haul or pull other
16 vehicles.

17 (c) All parts and accessories purchased by motor vehicle sellers for
18 resale or used by them for the reconditioning or rebuilding of used motor
19 vehicles intended for resale are exempt from gross receipts tax, provided
20 that the motor vehicle seller meets the requirements of § 26-52-401(12)(A)
21 and applicable regulations promulgated by the director.

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

24 (e) No credit shall be allowed for sales or use taxes paid to another
25 state with respect to the purchase of motor vehicles, trailers, or
26 semi trailers which were first registered by the purchaser in Arkansas. This
27 subsection shall apply to all motor vehicles, trailers, or semi trailers
28 purchased on or after November 3, 1989.

29 (f)(1) Any motor vehicle dealer licensed pursuant to § 27-14-601(a)(6)
30 who has purchased a used motor vehicle may, upon payment of all applicable
31 registration and title fees, register the vehicle for the sole purpose of
32 obtaining a certificate of title to the vehicle without payment of gross
33 receipts tax.

34 (2) No license plate shall be provided with such registration,
35 and the used vehicle titled by a dealer under this subsection may not be
36 operated on the public highways unless there is displayed thereon a dealer's

1 license plate issued under the provisions of § 27-14-601(a)(6)(B)(ii).

2 (g)(1) For purposes of this section, the total consideration for a
3 used motor vehicle shall be presumed to be the greater of the actual sales
4 price as provided on the bill of sale, invoice, or financing agreement, or
5 the average loan value price of the vehicle as listed in the most current
6 edition of a publication which is generally accepted by the industry as
7 providing an accurate valuation of used vehicles. If the published loan value
8 exceeds the invoiced price, then the taxpayer must establish to the
9 director's satisfaction that the price reflected on the invoice or other
10 document is true and correct. If the director determines that the invoiced
11 price is not the actual selling price of the vehicle, then the total
12 consideration will be deemed to be the published loan value.

13 (2) For purposes of this section, the total consideration for a
14 new or used trailer or semitrailer shall be the actual sales price as
15 provided on a bill of sale, invoice or financing agreement. The director may
16 require additional information to conclusively establish the true selling
17 price of the trailer.

18 (h)(1) At the taxpayer's option and in lieu of the trade-in deduction
19 or refund set forth in subdivision (b)(1) of this section, the purchaser of a
20 used motor vehicle may choose to receive the following exemption from the
21 gross receipts tax for a used motor vehicle with a total consideration of:

22 (A) Between two thousand five hundred dollars (\$2,500) and
23 two thousand six hundred dollars (\$2,600), a gross receipts tax exemption of
24 the amount of the taxes due multiplied by ninety percent (90%);

25 (B) Between two thousand six hundred and one dollars
26 (\$2,601) and two thousand seven hundred dollars (\$2,700), a gross receipts
27 tax exemption of the amount of the taxes due multiplied by eighty percent
28 (80%);

29 (C) Between two thousand seven hundred and one dollars
30 (\$2,701) and two thousand eight hundred dollars (\$2,800), a gross receipts
31 tax exemption of the amount of the taxes due multiplied by seventy percent
32 (70%);

33 (D) Between two thousand eight hundred and one dollars
34 (\$2,801) and two thousand nine hundred dollars (\$2,900), a gross receipts tax
35 exemption of the amount of the taxes due multiplied by sixty percent (60%);

36 (E) Between two thousand nine hundred and one dollars

1 (\$2,901) and three thousand dollars (\$3,000), a gross receipts tax exemption
 2 of the amount of the taxes due multiplied by fifty percent (50%);

3 (F) Between three thousand and one dollars (\$3,001) and
 4 three thousand one hundred dollars (\$3,100), a gross receipts tax exemption
 5 of the amount of the taxes due multiplied by forty percent (40%);

6 (G) Between three thousand one hundred and one dollars
 7 (\$3,101) and three thousand two hundred dollars (\$3,200), a gross receipts
 8 tax exemption of the amount of the taxes due multiplied by thirty percent
 9 (30%);

10 (H) Between three thousand two hundred and one dollars
 11 (\$3,201) and three thousand three hundred dollars (\$3,300), a gross receipts
 12 tax exemption of the amount of the taxes due multiplied by twenty percent
 13 (20%); and

14 (I) Between three thousand three hundred and one dollars
 15 (\$3,301) and three thousand four hundred dollars (\$3,400), a gross receipts
 16 tax exemption of the amount of the taxes due multiplied by ten percent (10%).

17 (2) A taxpayer who claims the exemption granted by this subsection
 18 shall not be entitled to claim the trade-in deduction or refund set forth in
 19 subdivision (b)(1) of this section.

20
 21 SECTION 2. Amend Arkansas Code 26-53-126 to read as follows:

22 26-53-126. Tax on used cars - Payment and collection.

23 (a)(1)(A)(i) All new and used motor vehicles, trailers, or
 24 semi trailers required to be licensed in this state shall, upon being
 25 registered in this state, be subject to the tax levied herein and all other
 26 use taxes levied by the state irrespective of whether such motor vehicle,
 27 trailer, or semi trailer was purchased from a dealer or an individual.

28 (ii) The tax shall be paid to the director by the
 29 person making application to register the motor vehicle, trailer, or
 30 semi trailer instead of being collected by the dealer or individual seller.

31 (iii) It shall be the mandatory duty of the director
 32 to collect the tax before issuing a license for any motor vehicle, trailer,
 33 or semi trailer.

34 (B) The exemption provided for in § 26-52-401(17) for
 35 isolated sales shall not apply to the sale of motor vehicles, trailers, and
 36 semi trailers.

1 (2)(A) The tax levied herein and all other use taxes levied by
2 the state shall be paid on or before the time for registration as prescribed
3 by § 27-14-903(a).

4 (B)(i) Failure to pay the tax when due shall result in an
5 assessment of a penalty equal to ten percent (10%) of the amount of tax due.

6
7 (ii) The penalty must be paid to the director along
8 with the tax before the vehicle license will be issued.

9 (b)(1) When a used motor vehicle, trailer, or semitrailer is taken in
10 trade as a credit or part payment on the sale of a new or used vehicle,
11 trailer, or semitrailer, the tax levied herein and all other use taxes levied
12 by the state shall be paid on the net difference between the total
13 consideration for the new or used vehicle, trailer, or semitrailer sold and
14 the credit for the used vehicle, trailer, or semitrailer taken in trade.

15 (2) *However, if the total consideration for the sale of the new*
16 *or used motor vehicle, trailer, or semitrailer is less than two thousand five*
17 *hundred dollars (\$2,500), no tax shall be due.*

18 (3) *When a used motor vehicle, trailer, or semitrailer is sold*
19 *by a consumer rather than traded in as a credit or part payment on the sale*
20 *of a new or used motor vehicle, trailer, or semitrailer, and the consumer*
21 *subsequently purchases a new or used vehicle, trailer, or semitrailer of*
22 *greater value within forty-five (45) days of the sale, the tax levied by this*
23 *chapter and all other gross receipts taxes levied by the state shall be paid*
24 *on the net difference between the total consideration for the new or used*
25 *vehicle, trailer, or semitrailer purchased subsequently and the amount*
26 *received from the sale of the used vehicle, trailer, or semitrailer sold in*
27 *lieu of a trade-in.*

28 (c) The tax imposed by this subchapter shall not apply to a motor
29 vehicle, trailer, or semitrailer to be registered by a bona fide nonresident
30 of this state.

31 (d) Nothing in this section shall be construed to repeal any exemption
32 from the Arkansas Compensating Tax Act, § 26-53-101 et seq.

33 (e)(1) Any motor vehicle dealer licensed pursuant to § 27-14-601(a)(6)
34 who has purchased a used motor vehicle may, upon payment of all applicable
35 registration and title fees, register the vehicle for the sole purpose of
36 obtaining a certificate of title to the vehicle without payment of use tax.

1 (2) No license plate shall be provided with such registration,
2 and the used vehicle titled by a dealer under this subsection may not be
3 operated on the public highways unless there is displayed thereon a dealer's
4 license plate issued under the provisions of § 27-14-601(a)(6)(B)(ii).

5 (f)(1) For purposes of this section, the total consideration for a
6 used motor vehicle shall be presumed to be the greater of the actual sales
7 price as provided on a bill of sale, invoice, or financing agreement, or the
8 average loan value of the vehicle as listed in the most current edition of a
9 publication which is generally accepted by the industry as providing an
10 accurate valuation of used vehicles. If the published loan value exceeds the
11 invoiced price, then the taxpayer must establish to the director's
12 satisfaction that the price reflected on the invoice or other document is
13 true and correct. If the director determines that the invoiced price is not
14 the actual selling price of the vehicle, then the total consideration will be
15 deemed to be the published loan value.

16 (2) For purposes of this section, the total consideration for a
17 new or used trailer or semitrailer shall be the actual sales price as
18 provided on a bill of sale, invoice, or financing agreement. The director may
19 require additional information to conclusively establish the true selling
20 price of the trailer.

21 (g)(1) At the taxpayer's option and in lieu of the trade-in deduction
22 or refund set forth in subdivision (b)(1) of this section, the purchaser of a
23 used motor vehicle may choose to receive the following exemption from the
24 gross receipts tax for a used motor vehicle with a total consideration of:

25 (A) Between two thousand five hundred dollars (\$2,500) and
26 two thousand six hundred dollars (\$2,600), a gross receipts tax exemption of
27 the amount of the taxes due multiplied by ninety percent (90%);

28 (B) Between two thousand six hundred and one dollars
29 (\$2,601) and two thousand seven hundred dollars (\$2,700), a gross receipts
30 tax exemption of the amount of the taxes due multiplied by eighty percent
31 (80%);

32 (C) Between two thousand seven hundred and one dollars
33 (\$2,701) and two thousand eight hundred dollars (\$2,800), a gross receipts
34 tax exemption of the amount of the taxes due multiplied by seventy percent
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36 (D) Between two thousand eight hundred and one dollars

1 (\$2,801) and two thousand nine hundred dollars (\$2,900), a gross receipts tax
 2 exemption of the amount of the taxes due multiplied by sixty percent (60%);

3 (E) Between two thousand nine hundred and one dollars
 4 (\$2,901) and three thousand dollars (\$3,000), a gross receipts tax exemption
 5 of the amount of the taxes due multiplied by fifty percent (50%);

6 (F) Between three thousand and one dollars (\$3,001) and
 7 three thousand one hundred dollars (\$3,100), a gross receipts tax exemption
 8 of the amount of the taxes due multiplied by forty percent (40%);

9 (G) Between three thousand one hundred and one dollars
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 11 tax exemption of the amount of the taxes due multiplied by thirty percent
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13 (H) Between three thousand two hundred and one dollars
 14 (\$3,201) and three thousand three hundred dollars (\$3,300), a gross receipts
 15 tax exemption of the amount of the taxes due multiplied by twenty percent
 16 (20%); and

17 (I) Between three thousand three hundred and one dollars
 18 (\$3,301) and three thousand four hundred dollars (\$3,400), a gross receipts
 19 tax exemption of the amount of the taxes due multiplied by ten percent (10%).

20 (2) A taxpayer who claims the exemption granted by this subsection
 21 shall not be entitled to claim the trade-in deduction or refund set forth in
 22 subdivision (b)(1) of this section.

23
 24 SECTION 3. The loss in sales and use tax revenue resulting from this
 25 act shall not be taken into consideration in computing the amount of general
 26 revenue to be transferred to the Educational Excellence Trust Fund pursuant
 27 to Arkansas Code 6-5-301.

28
 29 SECTION 4. Arkansas Code 26-26-310(b)(2)(B), added by Acts 1 and 2 of
 30 the Second Extraordinary Session of 2000, pertaining to the use of excess
 31 funds in the Property Tax Relief Trust Fund, is amended to read as follows:

32 (B) Commencing December 31, 2002, and each December 31 thereafter, the
 33 Chief Fiscal Officer of the State, in cooperation with the Legislative Council
 34 and the Legislative Auditor, shall determine that portion of the balance
 35 remaining that is in excess of the required reimbursement to the counties and
 36 shall certify the same to the Treasurer of State. Such excess funds may be

1 *used to replace lost funds resulting from the tax exemption provided in § 26-*
2 *52-510(h) and § 26-53-126(g) and any excess funds not needed for those*
3 *purposes may be used in accordance with subsequent legislation to provide*
4 *additional tax relief, or financial assistance to school districts that incur a*
5 *reduction in revenue as a direct result of Amendment 79.*

6

7 *SECTION 5. Effective Date. [THE ARKANSAS CODE REVISION COMMISSION IS*
8 *NOT REQUIRED TO CODIFY THIS SECTION.] The provisions of this act shall be*
9 *effective on and after January 1, 2002.*

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/s/ Duggar, et al.

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