

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.

State of Arkansas
83rd General Assembly
Regular Session, 2001

As Engrossed: H3/5/01

A Bill

SENATE BILL 304

By: Senator Miller
By: Representative Hausam

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS CODE 15-4-1704 AND
ARKANSAS CODE 15-4-1906 TO CLARIFY THAT
EXPENDITURES FOR REPLACEMENTS OF ITEMS PREVIOUSLY
PURCHASED AS PART OF AN ENTERPRISE ZONE PROJECT
OR ECONOMIC DEVELOPMENT ACT PROJECT ARE NOT
ELIGIBLE FOR REFUND OF SALES AND USE TAX; TO
AMEND ARKANSAS CODE 15-4-1704 AND ARKANSAS CODE
15-4-1906 TO CLARIFY THAT ROUTINE OPERATING
EXPENDITURES ARE NOT ELIGIBLE FOR REFUND OF SALES
AND USE TAX; TO AMEND ARKANSAS CODE 15-4-1704
AND ARKANSAS CODE 15-4-1906 TO REQUIRE CLAIMS FOR
SALES AND USE TAX REFUNDS TO BE FILED WITHIN
THREE YEARS FROM THE DATE OF QUALIFIED PURCHASES;
AND FOR OTHER PURPOSES.

Subtitle

EXPENDITURES FOR REPLACEMENTS OF ITEMS
PREVIOUSLY PURCHASED AS PART OF
ENTERPRISE ZONE/ECONOMIC DEVELOPMENT ACT
PROJECT ARE NOT ELIGIBLE FOR BENEFITS.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the General Assembly that expenditures for replacements of items previously purchased as part of a project and routine operating expenditures would not be eligible for

1 benefits under the Arkansas Enterprise Zone Act of 1993 or the Arkansas
2 Economic Development Act of 1995. These incentive program provisions are in
3 need of clarification, and the purpose of the amendments in this act is to
4 ensure that the original legislative intent is fulfilled.

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6 SECTION 2. Arkansas Code 15-4-1704(a), pertaining to eligibility for
7 sales and use tax refunds of purchases as part of an Enterprise Zone Project,
8 is amended to read as follows:

9 (a)(1) The Revenue Division of the Department of Finance and
10 Administration shall authorize a refund of sales and use taxes imposed by the
11 state and a municipality or county if the municipality or county authorized
12 the refund of its local tax on the purchases of the material used in the
13 construction of a building or buildings or any addition, modernization, or
14 improvement thereon for housing any legitimate business enterprise and
15 machinery and equipment to be located in or in connection with such building.

16 (2) A refund shall not be authorized for routine operating
17 expenditures.

18 (3) A refund shall not be authorized for the purchase of replacements
19 of items previously purchased as part of a project under this subchapter
20 unless the items previously purchased will not enable the project to function
21 as originally intended. In order to qualify for a refund under this
22 subchapter, the replacement of an item previously purchased must be necessary
23 for the implementation or completion of the project. Provided, however, that
24 a program participant may make changes in a project by amendment to the
25 project plan filed with the Department of Economic Development.

26 (4) All claims for sales and use tax refunds under this subchapter
27 shall be filed with the Revenue Division of the Department of Finance and
28 Administration within three (3) years from the date of the qualified purchase
29 or purchases. Claims filed after three (3) years from the date of the
30 qualified purchase or purchases shall be disallowed.

31 (5) The time limitation in this section for filing claims shall be
32 tolled if a program participant fails to pay sales or use tax on an item which
33 was taxable, and the applicable tax is subsequently assessed as a result of an
34 audit by the Revenue Division of the Department of Finance and Administration.
35 All claims for sales and use tax refunds relating to an audited purchase
36 shall be filed with the Revenue Division of the Department of Finance and

Administration within one (1) year after payment of the assessed tax or the date of a final administrative or judicial order, whichever is later.

(6) A program participant that files a claim for a sales or use tax refund relating to an audited purchase shall be entitled to a refund of interest paid on the amount of tax assessed on the audited purchase, if a refund is approved for the purchase.

SECTION 3. Arkansas Code 15-4-1906(a), pertaining to eligibility for sales and use tax refunds or purchases as part of an Economic Development Act Project, is amended to read as follows:

(a)(1) The Revenue Division of the Department of Finance and Administration shall authorize a refund of sales and use taxes imposed by the state and a municipality or county if the municipality or county authorized the refund of its local tax on the purchases of the material used in the construction of a building or buildings or any addition or improvement thereon, for housing any legitimate business enterprise, and machinery and equipment to be located in or in connection with such building.

(2) A refund shall not be authorized for routine operating expenditures.

(3) A refund shall not be authorized for the purchase of replacements of items previously purchased as part of a project under this subchapter unless the items previously purchased will not enable the project to function as originally intended. In order to qualify for a refund under this subchapter, the replacement of an item previously purchased must be necessary for the implementation or completion of the project. Provided, however, that a program participant may make changes in a project by amendment to the financial incentive plan entered into with the Department of Economic Development.

(4) All claims for sales and use tax refunds under this subchapter shall be filed with the Revenue Division of the Department of Finance and Administration within three (3) years from the date of the qualified purchase or purchases. Claims filed after three (3) years from the date of the qualified purchase or purchases shall be disallowed.

(5) The time limitation in this section for filing claims shall be tolled if a program participant fails to pay sales or use tax on an item which

was taxable, and the applicable tax is subsequently assessed as a result of an audit by the Revenue Division of the Department of Finance and Administration. All claims for sales and use tax refunds relating to an audited purchase shall be filed with the Revenue Division of the Department of Finance and Administration within one (1) year after payment of the assessed tax or the date of a final administrative or judicial order, whichever is later.

(6) A program participant that files a claim for a sales or use tax refund relating to an audited purchase shall be entitled to a refund of interest paid on the amount of tax assessed on the audited purchase, if a refund is approved for the purchase.

SECTION 4. Arkansas Code 15-4-1702(13), pertaining to the definition of an Enterprise Zone Project, is amended to read as follows:

"(13)(A) "Project" means:

(i) All activities and costs associated with the construction of a new plant or facility;

(ii) The expansion of an established plant or facility by adding to the building or production equipment or support infrastructure, or both; or

(iii) Modernization through the replacement of production or processing equipment or support infrastructure, or both.

(B) Expenditures for routine repair and maintenance that do not result in new construction or expansion are ineligible for benefits under this subchapter.

(C) In order to receive credit for project costs, such costs must be incurred within four (4) years from the date the endorsement resolution was received by the department.

(D) Routine operating expenditures are ineligible for benefits under this subchapter;

SECTION 5. Arkansas Code 15-4-1902(14), pertaining to the definition of an Economic Development Act Project, is amended to read as follows:

(14)(A) "Project" means the construction or expansion of an eligible business as defined in subdivision (6) of this section in Arkansas costing at least five million dollars (\$5,000,000), including the cost of the land, buildings, and equipment used in the construction or expansion, which has been approved by the department as a construction or expansion qualifying for tax benefits

1 under this subchapter.

2 (B) The project cost shall include:

3 (i) All activities and costs associated with the construction of a new
4 plant or facility;

5 (ii) All activities and costs associated with the expansion of an
6 established plant or facility by adding to the building or production
7 equipment, or support infrastructure, or both; and

8 (iii) All activities and costs associated with the replacement of
9 production or processing equipment or support infrastructure, or both;.

10 (C) The project cost shall not include routine operating expenditures;

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12 /s/ Miller
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