

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

As Engrossed: H12/23/03
A Bill

Call Item 6

HOUSE BILL 1029

5 By: Representative Boyd
6
7

For An Act To Be Entitled

9 AN ACT TO LEVY GROSS RECEIPTS TAX ON SERVICES;
10 AND FOR OTHER PURPOSES.

Subtitle

12 TO LEVY GROSS RECEIPTS TAX ON SERVICES.
13
14
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended
19 by adding additional sections to read as follows:

20 26-52-316. Accountants and tax preparers.

21 (a) For purposes of this section:

22 (1) "Accountant" means any person, partnership, corporation,
23 limited liability company, or other entity certified or licensed or required
24 to be licensed under § 17-12-301, § 17-12-312, or §§ 17-12-401 -- 17-12-404,
25 or any accountant certified or licensed or required to be licensed by another
26 state who performs services in the State of Arkansas;

27 (2) "Employer" means those who have a right to exercise control
28 as to how, when, and where services are to be performed;

29 (3) "Practice of public accounting" means the performance of
30 professional services as defined in this section or the performance of
31 professional services while using the title or designation of certified
32 public accountant, public accountant, CPA, PA, accountant, or auditor;

33 (4) "Services" means all acts, work, or professional services
34 rendered, furnished, or performed for a valuable consideration by any
35 accountant or tax preparer for a consumer or client other than an employer;
36 and



1 (5) "Tax preparer" means any person, partnership, corporation,
2 limited liability company, or other entity that prepares, files, or assists
3 in the preparation or filing of any state or federal tax return or related
4 document or provides any accounting or bookkeeping services.

5 (b) All fees and compensation collected by any accountant or tax
6 preparer for services performed are subject to the gross receipts tax levied
7 by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

8
9 26-52-317. Advertising agencies and services.

10 (a) The gross receipts or gross proceeds derived from the performance
11 of advertising services by advertising agencies are subject to the Arkansas
12 Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

13 (b)(1) "Advertising agency" means a person or a legal entity that
14 plans, creates and arranges for production of advertising for clients;

15 (2) "Advertising services" includes:

16 (A) Advertising space and time, including advertising
17 space in newspapers, magazines, advertising supplements, and other
18 publications;

19 (B) Television and radio advertising time;

20 (C) Billboard advertising space and time; and

21 (D) Other advertising space and time, including, but not
22 limited to, outdoor structures, displays, banners, broadcasts, devices,
23 vehicles, or airborne devices.

24
25 26-52-318. Architects.

26 (a) For purposes of this section:

27 (1) "Architect" means any person, firm, partnership,
28 corporation, limited liability company, or other entity who is an architect
29 as defined by § 17-15-102 or who engages in the practice of architecture as
30 defined by § 17-15-102 or who is registered as an architect by another state
31 who performs services in the State of Arkansas;

32 (2) "Employer" means those who have a right to exercise control
33 as to how, when, and where services are to be performed; and

34 (3) "Services" means all acts or work rendered, furnished, or
35 performed for a valuable consideration by any person engaged in the practice
36 of architecture for a consumer or client other than an employer.

1 (b) All fees and compensation collected by any architect for services
2 performed are subject to the gross receipts tax levied by the Arkansas Gross
3 Receipts Act of 1941, as amended, § 26-52-101 et seq.

4
5 26-52-319. Attorneys.

6 (a) As used in this section:

7 (1) "Attorney" means any:

8 (A) Person licensed or required to be licensed to practice
9 law in the state or federal courts in Arkansas;

10 (B) Partnership, association, or corporation of licensed
11 attorneys; and

12 (C) Attorney licensed or required to be licensed by
13 another state who provides services in the State of Arkansas;

14 (2) "Employer" means those who have a right to exercise control
15 as to how, when, and where services are to be performed;

16 (3) "Practice of law" means any service related to the legal
17 representation of clients, including, but not limited to, acts included in
18 § 16-22-501(a) that involves conduct regulated by the Arkansas Supreme Court;
19 and

20 (4) "Services" means all acts, work, or representation rendered,
21 furnished, or performed for a valuable consideration by any person engaged in
22 the practice of law for a consumer or client other than an employer.

23 (b) All fees and compensation collected by any attorney for services
24 performed are subject to the gross receipts tax levied by the Arkansas Gross
25 Receipts Act of 1941, as amended, § 26-52-101 et seq.

26 (c)(1) Any attorney required to collect and remit gross receipts tax
27 on fees collected for services under this section shall obtain a sales tax
28 permit for the purpose of identification.

29 (2) The provisions of §§ 26-52-501(a) and 26-18-206 making it
30 unlawful to operate a business without a permit shall not apply to the
31 practice of law by an attorney.

32 (3) The provisions of § 26-18-702 allowing the director to
33 enjoin the operation of a business shall not apply to the practice of law by
34 an attorney.

35
36 26-52-320. Auctioneers.

1 (a) The gross receipts or gross proceeds derived from all auction
2 sales of new or used tangible personal property by auctioneers licensed or
3 required to be licensed under the Auctioneer's Licensing Act, § 17-17-101, et
4 seq. are subject to the Arkansas Gross Receipts Act of 1941, as amended, §
5 26-52-101 et seq. unless a sale is exempt from tax under an exemption
6 provided to the purchaser of the tangible personal property.

7 (b) Auctioneers and consignees are considered the sellers of all items
8 sold and the exemption for isolated sales provided in § 26-52-401(17) shall
9 not apply to any sales by auctioneers or consignees.

10
11 26-52-321. Bail bondsmen.

12 The gross receipts tax levied by the Arkansas Gross Receipts Act of
13 1941, as amended, § 26-52-101 et seq. is levied on all fees collected by bail
14 bondsmen licensed or required to be licensed under § 17-19-101 et seq., as
15 amended.

16
17 26-52-322. Banks and financial institutions.

18 (a) The gross receipts or gross proceeds derived from service charges
19 of banks and financial institutions are subject to the Arkansas gross
20 receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
21 § 26-52-101 et seq.

22 (b) "Service charges" include fees for transferring funds from one (1)
23 account to another, stop payment charges, debit card replacement charges,
24 copy and research fees, bill payment fees, returned deposit item fees, fees
25 for issuing certified checks, and any other charges for bank or financial
26 institution services.

27
28 26-52-323. Barbers and cosmetologists.

29 (a) The gross receipts or gross proceeds from all services rendered by
30 barbers, cosmetologists, or electrologists are subject to the Arkansas Gross
31 Receipts Act of 1941, as amended, § 26-52-101 et seq.

32 (b) For purposes of this section, "barbering" means those services
33 specified in § 17-20-102 without regard to whether the services are performed
34 by a person licensed by the State Board of Barber Examiners.

35 (c) For purposes of this section, "cosmetologist" means a person who
36 practices the art of cosmetology, including electrolysis, and is licensed or

1 required to be licensed under § 17-26-101 et seq.

2
3 26-52-324. Brokerage fees.

4 The gross receipts or gross proceeds derived from fees charged by
5 brokers licensed to buy and sell stocks, bonds, or other securities are
6 subject to the Arkansas gross receipts tax levied by the Arkansas Gross
7 Receipts Act of 1941, as amended, § 26-52-101 et seq.

8
9 26-52-325. Charter services.

10 The gross receipts or gross proceeds derived from the service of
11 renting an aircraft with a pilot's service, renting a bus with a driver's
12 service, or renting a motor vehicle, including limousines, with a driver's
13 service are subject to the gross receipts tax levied by the Arkansas Gross
14 Receipts Act of 1941, as amended, § 26-52-101 et seq.

15
16 26-52-326. Commercial art and design.

17 The gross receipts or gross proceeds derived from the service of
18 creating or designing commercial art or graphic designs for a customer are
19 subject to the gross receipts tax levied by Arkansas Gross Receipts Tax Act
20 of 1941, as amended, § 26-52-101 et seq.

21
22 26-52-327. Computer consultants.

23 (a) For purposes of this section:

24 (1) "Computer consultant" means any person, firm, partnership,
25 corporation, limited liability company, or other entity who installs,
26 maintains, repairs, or updates computer hardware or software or who provides
27 technical support or assistance in the purchase, installation, maintenance,
28 repair or updating of computer hardware or software;

29 (2) "Employer" means those who have a right to exercise control
30 as to how, when, and where services are to be performed; and

31 (3) "Services" means all acts or work rendered, furnished, or
32 performed for a valuable consideration by any person engaged in computer
33 consulting for a consumer or client other than an employer.

34 (b) All fees and compensation collected by any computer consultant for
35 services performed are subject to the gross receipts tax levied by the
36 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

1
2 26-52-328. Court reporting services.

3 (a) The gross receipts or gross proceeds derived from court reporting
4 services are subject to the Arkansas gross receipts tax levied by the
5 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

6 (b)(1) "Court reporting services" means the recording or transcription
7 of proceedings, including depositions, meetings, and mediation or arbitration
8 hearings by video, audio, stenographic, or other means.

9 (2) "Court reporting services" does not include services
10 rendered, furnished, or performed for a valuable consideration by a court
11 reporter for a consumer or client other than an employer.

12
13 26-52-329. Data processing services.

14 (a) The gross receipts or gross proceeds derived from data processing
15 services are subject to the Arkansas gross receipts tax levied by the
16 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

17 (b)(1) "Data processing services" includes word processing, data
18 entry, data retrieval, data search, information compilation, payroll and
19 business accounting data production, and other computerized data and
20 information storage or manipulation.

21 (2) "Data processing service" also includes the use of a
22 computer or computer time for data processing whether the processing is
23 performed by the provider of the computer or computer time or by the
24 purchaser or other beneficiary of the service.

25
26 26-52-330. Dry cleaning and laundry.

27 (a) The gross receipts tax levied by the Arkansas Gross Receipts Act
28 of 1941, as amended, § 26-52-101 et seq., is levied on the gross receipts or
29 gross proceeds derived from laundry and dry cleaning services, including, but
30 not limited to:

31 (1) Cleaning, pressing, repairing, altering, and storing
32 clothes; and

33 (2) Carpet, drapery, upholstery, and industrial cleaning.

34 (b) "Laundry and dry cleaning services" includes services provided by
35 coin-operated facilities operated by the customer.

36

1 26-52-331. Funeral services.

2 The gross receipts or gross proceeds derived from the rendering,
3 furnishing, or performance of funeral services are subject to Arkansas gross
4 receipts tax as levied by the Arkansas Gross Receipts Act of 1941, as
5 amended, § 26-52-101 et seq.

6
7 26-52-332. Employment fees.

8 (a) All fees and compensation collected by an employment agency,
9 employment placement agency, or temporary-help firm are subject to the gross
10 receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
11 § 26-52-101 et seq.

12 (b) As used in this section:

13 (1) "Employment agency" means any person engaged in the business
14 of providing or supplying personnel, on a temporary or long-term basis, to
15 perform work or labor under the supervision or control of another, when the
16 personnel so supplied receive their wages, salary, or other compensation from
17 the provider of the service;

18 (2) "Employment placement agency" means any person engaged in
19 the business of locating or finding employment for a person or finding or
20 locating an employee to fill an available position; and

21 (3) "Temporary-help firm" means a person who employs individuals
22 for the purpose of assigning those individuals to work for the clients of the
23 temporary-help firm to support or supplement a client's workforce during
24 employee absences, temporary skill shortages, seasonal workloads, special
25 assignments and projects, and other similar work situations.

26
27 26-52-333. Engineers.

28 (a) For purposes of this section:

29 (1) "Engineer" means any person, firm, partnership, corporation,
30 limited liability company, or other entity who is a professional engineer as
31 defined by § 17-30-101 or who engages in the practice of engineering as
32 defined by § 17-30-101 or who is registered as an engineer by another state
33 who performs services in the State of Arkansas;

34 (2) "Employer" means those who have a right to exercise control
35 as to how, when, and where services are to be performed; and

36 (3) "Services" means all acts or work rendered, furnished, or

1 performed for a valuable consideration by any person engaged in the practice
2 of engineering for a consumer or client other than an employer.

3 (b) All fees and compensation collected by any engineer for services
4 performed are subject to the gross receipts tax levied by the Arkansas Gross
5 Receipts Act of 1941, as amended, § 26-52-101 et seq.

6
7 26-52-334. Environmental consultants.

8 (a) For purposes of this section:

9 (1) "Environmental consultant" means any person, firm,
10 partnership, corporation, limited liability company, or other entity who
11 provides environmental consulting services;

12 (2) "Environmental consulting services" includes services
13 provided by environmental scientists, engineers, and other experts and
14 establishments that primarily engage in providing advice and assistance to
15 businesses and other organizations on environmental issues, such as the
16 control of environmental contamination from pollutants, toxic substances, and
17 hazardous materials;

18 (3) "Employer" means those who have a right to exercise control
19 as to how, when, and where services are to be performed; and

20 (4) "Services" means all acts or work rendered, furnished, or
21 performed for a valuable consideration by any person engaged in environmental
22 consulting for a consumer or client other than an employer.

23 (b) All fees and compensation collected by any environmental
24 consultant for services performed are subject to the gross receipts tax
25 levied by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et
26 seq.

27
28 26-52-335. Interior designers.

29 (a) For purposes of this section:

30 (1) "Interior designer" means any person, firm, partnership,
31 corporation, limited liability company, or other entity who provides the
32 service of designing or decorating the interiors of houses or buildings,
33 counseling with respect to designing or decoration, or the procurement of
34 furniture, fixtures, or home or building decorations;

35 (2) "Employer" includes those who have a right to exercise
36 control as to how, when, and where services are to be performed; and

1 (3) "Services" means all acts or work rendered, furnished, or
2 performed for a valuable consideration by any person engaged in interior
3 design for a consumer or client other than an employer.

4 (b) All fees and compensation collected by any interior designer for
5 services performed are subject to the gross receipts tax levied by the
6 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

7
8 26-52-336. Investment counseling.

9 The gross receipts or gross proceeds derived from the rendering,
10 furnishing, or performance of services by persons engaged in the business of
11 counseling others relative to investments in or disposition of property
12 rights, whether real, personal, tangible or intangible are subject to
13 Arkansas gross receipts tax as levied by the Arkansas Gross Receipts Act of
14 1941, as amended, § 26-52-101 et seq.

15
16 26-53-337. Landscape architects.

17 (a) For purposes of this section:

18 (1) "Landscape architect" means any person, firm, partnership,
19 corporation, limited liability company, or other entity who is a landscape
20 architect as defined by § 17-36-102 or who engages in landscape architecture
21 as defined by § 17-36-102, or who is licensed as a landscape architect by
22 another state who performs services in the State of Arkansas;

23 (2) "Employer" means those who have a right to exercise control
24 as to how, when, and where services are to be performed; and

25 (3) "Services" means all acts or work rendered, furnished, or
26 performed for a valuable consideration by any person engaged in landscape
27 architecture for a consumer or client other than an employer.

28 (b) All fees and compensation collected by any landscape architect for
29 services performed are subject to the gross receipts tax levied by the
30 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

31
32 26-52-338. Lobbyists.

33 The gross receipts or gross proceeds derived from lobbying as defined
34 in § 21-8-402 are subject to the Arkansas gross receipts tax levied by the
35 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

36

1 26-52-339. Locksmith services.

2 (a) The gross receipts or gross proceeds derived from locksmith
3 services are subject to the Arkansas gross receipts tax levied by the
4 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

5 (b)(1) "Locksmith services" means repairing, servicing, or installing
6 locks and locking devices, whether the locks and locking devices are:

7 (A) Incorporated into real property;

8 (B) Incorporated into tangible personal property; or

9 (C) Locks separate and apart from other property.

10 (2) "Locksmith services" also includes unlocking locks or
11 locking devices for another person.

12
13 26-52-340. Management consultants.

14 (a) For purposes of this section:

15 (1) "Management consultant" means any person, firm, partnership,
16 corporation, limited liability company, or other entity who provides
17 management consulting services;

18 (2) "Management consulting" means furnishing advice and
19 assistance to businesses and other organizations on management issues, such
20 as strategic and organizational planning; financial planning and budgeting;
21 marketing objectives and policies; human resource policies, practices and
22 planning; production scheduling; and control planning;

23 (3) "Employer" means those who have a right to exercise control
24 as to how, when, and where services are to be performed; and

25 (4) "Services" means all acts or work rendered, furnished, or
26 performed for a valuable consideration by any person engaged in management
27 consulting for a consumer or client other than an employer.

28 (b) All fees and compensation collected by any management consultant
29 for services performed are subject to the gross receipts tax levied by the
30 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

31
32 26-52-341. Massage therapists.

33 The excise tax levied by Arkansas Gross Receipts Act of 1941, as
34 amended, § 26-52-101 et seq. is levied on all services performed by massage
35 therapists licensed or required to be licensed under § 17-86-102 et seq.

36

1 26-52-342. Meeting rooms.

2 The gross receipts or gross proceeds from the rental of meeting rooms
3 for meetings, conferences, conventions, social functions, and other events
4 are subject to the Arkansas gross receipts tax levied by the Arkansas Gross
5 Receipts Act of 1941, as amended, § 26-52-101 et seq.

6
7 26-52-343. Moving and storage.

8 (a)(1) The gross receipts or gross proceeds from mini-storage are
9 subject to the Arkansas gross receipts tax levied by the Arkansas Gross
10 Receipts Act of 1941, as amended, § 26-52-101 et seq.

11 (2)(A) "Mini-storage" means a commercial operation that provides
12 individual storage units of various sizes to persons for the purpose of
13 storing tangible personal property.

14 (B) "Mini-storage" includes a secured area where vehicles,
15 boats, recreational vehicles, camping trailers, and other types of tangible
16 personal property are stored.

17 (b) The gross receipts or gross proceeds from docking or storage
18 spaces for boats in boat docks or marinas are subject to the Arkansas gross
19 receipts tax levied by the Arkansas Gross Receipts Act of 1941, as amended,
20 § 26-52-101 et seq.

21 (c) The gross receipts or gross proceeds derived from the service of
22 moving, storing, and packing tangible personal property belonging to other
23 persons are subject to the Arkansas gross receipts tax levied by the Arkansas
24 Gross Receipts Tax Act of 1941, as amended, § 26-52-101 et seq.

25
26 26-52-344. Personal instruction services.

27 (a) The gross receipts or gross proceeds derived from personal
28 instruction services are subject to the Arkansas gross receipts tax levied by
29 the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

30 (b) "Personal instruction services" includes teaching an individual or
31 group of individuals:

32 (1) To play a musical instrument or to dance;

33 (2) To paint, sculpt, draw, make pottery or jewelry, or
34 otherwise engage in artistic or creative activities;

35 (3) To mime, act, or otherwise engage in dramatic activities;

36 (4) Tae kwon do, tae bo, kung fu, karate, or other martial arts;

1 (5) To play or improve skills in baseball, football, basketball,
2 soccer, volleyball, golf, tennis, or other sports;

3 (6) To drive a motor vehicle;

4 (7) To fly an airplane, glider, or other aircraft; or

5 (8) To operate a boat, jet ski, or other watercraft.

6
7 26-52-345. Pest control.

8 (a) The gross receipts or gross proceeds derived from providing pest
9 control services are subject to the Arkansas Gross Receipts Act of 1941, as
10 amended, § 26-52-101 et seq.

11 (b) For purposes of this section, “pest control services” means those
12 services enumerated in § 17-37-102(13), without regard to whether the
13 services are performed by a person licensed by the State Plant Board.

14
15 26-52-346. Private investigators.

16 The gross receipts or gross proceeds derived from all services
17 performed or rendered by private investigators licensed or required to be
18 licensed under the Private Investigators and Private Security Agencies Act, §
19 17-40-101 et seq. are subject to the Arkansas Gross Receipts Act of 1941, as
20 amended, § 26-52-101 et seq.

21
22 26-52-347. Process servers.

23 The gross receipts or gross proceeds derived from all fees collected by
24 any person serving a summons, process, or order are subject to the Arkansas
25 Gross Receipts Act of 1941, as amended, § 26-52-101, et seq.

26
27 26-52-348. Real estate fees and commissions.

28 (a) The gross receipts tax levied by the Arkansas Gross Receipts Act
29 of 1941, as amended, § 26-52-101 et seq. is levied on the gross receipts or
30 gross proceeds derived from real estate broker services, real estate
31 settlement charges and closing fees, and real estate management services
32 related to the sale, lease, exchange, management of Arkansas real property,
33 whether the services are performed by a person licensed by the Arkansas Real
34 Estate Commission or otherwise.

35 (b) As used in this section:

36 (1) “Real estate broker services” means those activities listed

1 in § 17-42-103 for which a fee is paid; and

2 (2) "Real estate settlement charges and closing fees" includes
3 all fees for services related to the sale of Arkansas real property,
4 including abstract fees, appraisal fees, title search fees, closing fees, but
5 not including title insurance premiums.

6
7 26-52-349. Secretarial and word processing services.

8 (a) The gross receipts or gross proceeds derived from secretarial and
9 word processing services are subject to the Arkansas gross receipts tax
10 levied by the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et
11 seq.

12 (b) "Secretarial and word processing services" includes:

13 (1) Document preparation, printing, or copying;

14 (2) Preparation of documents for mailing or distribution; and

15 (3) Document filing or storage, including transfer of
16 information to a hard drive, diskette, CD-Rom, or other electronic media.

17
18 26-52-350. Security services and alarm monitoring.

19 (a) The gross receipts derived from the sale of all security services,
20 security guard services, and alarm monitoring services are subject to the
21 Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act of
22 1941, as amended, § 26-52-101 et seq.

23 (b) The security services or security guard services of off-duty
24 police officers and off-duty firefighters are exempt from the tax levied by
25 subsection (a) of this section.

26
27 26-52-351. Surveying and mapping services.

28 (a) The gross receipts or gross proceeds derived from surveying and
29 mapping services are subject to the Arkansas gross receipts tax levied by the
30 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

31 (b) "Surveying and mapping services" includes the:

32 (1) Determination of the location of:

33 (A) Land boundaries and land boundary corners; or

34 (B) Boundaries of archeological sites;

35 (2) Preparation of plats or maps showing the shape and areas of
36 tracts of land and their subdivisions into smaller tracts;

1 (3) The preparation of plats or maps showing the location of
2 streets, roads, and the right-of-way of tracts to give access to smaller
3 tracts; or

4 (4) Preparation of any other plats or maps concerning land.

5
6 26-52-352. Travel services.

7 The gross receipts or gross proceeds derived from all services rendered
8 in making travel arrangements by travel agencies or other reservation
9 services are subject to the Arkansas gross receipts tax levied by the
10 Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101 et seq.

11
12 26-52-353. Tourism.

13 (a) The gross receipts or gross proceeds derived from camping fees,
14 fees charged for excursion tours, and fees charged for hunting and fishing
15 guide services are subject to the Arkansas Gross Receipts Act of 1941, as
16 amended, § 26-52-101 et seq.

17 (b) For purposes of this section:

18 (1) "Camping fees" means fees for furnishing camping spaces or
19 trailer spaces at public or privately-owned campgrounds, except for federal
20 campgrounds, on less than a month-to-month basis; and

21 (2) "Excursion tours" means river boat and lake boat cruises and
22 excursions, local sightseeing and excursion tours, helicopter tours, and
23 excursion railroads.

24
25 26-52-354. Veterinary services.

26 The gross receipts or gross proceeds derived from all services
27 performed or rendered by veterinarians licensed or required to be licensed
28 under the Arkansas Veterinary Medical Practice Act, § 17-101-101, et seq.
29 are subject to the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-
30 101 et seq.

31
32 26-52-355. Water well construction services.

33 (a) All fees and compensation collected by any water well driller or
34 water well contractor for services performed in Arkansas are subject to the
35 gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, as
36 amended, § 26-52-101 et seq.

1 (b) "Water well driller" means any person who engages for compensation
2 in well construction.

3 (c) "Water well contractor" means any person who engages in the
4 business of well construction or pump installation or repair, exclusive of
5 surveying or other acts preparatory to the construction of a water well.

6
7 SECTION 2. Arkansas Code § 26-52-301(2), establishing an excise tax on
8 *property and services and that is effective until contingency in Acts 2003,*
9 *No. 1273, § 88 is met, is amended to read as follows:*

10 (2)(A) Natural or artificial gas, electricity, water, ice, steam,
11 sewer services, sanitation services, garbage collection, and solid and liquid
12 waste collection and disposal ~~or any other utility or public service, except~~
13 ~~transportation services, sewer services, and sanitation or garbage collection~~
14 ~~services.~~

15 (B) Any other utility or public service except
16 transportation services;

17
18 SECTION 3. Arkansas Code § 26-52-301(2), establishing an excise tax on
19 *property and services and that is effective when contingency in Acts 2003,*
20 *No. 1273, § 88 is met, is amended to read as follows:*

21 (2)(A) Natural or artificial gas, electricity, water, ice,
22 *steam, sewer services, sanitation services, garbage collection, and solid and*
23 *liquid waste collection and disposal* ~~*or any other utility or public service,*~~
24 ~~*except transportation services, sewer services, and sanitation or garbage*~~
25 ~~*collection services.*~~

26 (B) Any other utility or public service except
27 transportation services;

28 SECTION 4. Arkansas Code § 26-52-301(3)(C)(i), concerning sales tax on
29 various services and which is effective until contingency in Acts 2003, No.
30 1273, § 88 is met, is amended to read as follows:

31 (3)(C)(i) Service of initial installation, inspection,
32 alteration, addition, cleaning, refinishing, replacement, and repair of motor
33 vehicles, aircraft, farm machinery and implements, motors of all kinds, tires
34 and batteries, boats, electrical appliances and devices, furniture, rugs,
35 upholstery, household appliances, televisions and radios, jewelry, watches
36 and clocks, engineering instruments, medical and surgical instruments,

1 machinery of all kinds, bicycles, office machines and equipment, shoes, tin
2 and sheetmetal, mechanical tools, guns, and shop equipment.

3

4 *SECTION 5.* Arkansas Code § 26-52-301(3)(C)(i), concerning sales tax on
5 various services and which is effective when contingency in Acts 2003, No.
6 1273, § 88 is met, is amended to read as follows:

7 (3)(C)(i) Service of initial installation, inspection,
8 alteration, addition, cleaning, refinishing, replacement, and repair of motor
9 vehicles, aircraft, farm machinery and implements, motors of all kinds, tires
10 and batteries, boats, electrical appliances and devices, furniture, rugs,
11 upholstery, household appliances, televisions and radios, jewelry, watches
12 and clocks, engineering instruments, medical and surgical instruments,
13 machinery of all kinds, bicycles, office machines and equipment, shoes, tin
14 and sheetmetal, mechanical tools, guns, and shop equipment.

15

16 *SECTION 6.* Arkansas Code § 26-52-301(3)(C)(viii), pertaining to gross
17 receipts tax on services and which is effective until contingency in Acts
18 2003, No. 1273, § 88 is met, is amended to read as follows:

19 (viii)(a) ~~Additionally, the~~ The gross receipts tax levied
20 in this section shall ~~not~~ apply to the alteration, addition, cleaning,
21 refinishing, replacement, or repair of nonmechanical, passive, or manually
22 operated components of buildings or other improvements or structures affixed
23 to real estate, including, but not limited to, the following:

- 24 (1) Walls;
25 (2) Floors;
26 (3) Ceilings;
27 (4) Doors;
28 (5) Locks;
29 (6) Windows;
30 (7) Glass;
31 (8) Heat and air ducts;
32 (9) Roofs;
33 (10) Wiring;
34 (11) Breakers;
35 (12) Breaker boxes;
36 (13) Electrical switches and receptacles;

- 1 (14) Light fixtures;
 2 (15) Pipes;
 3 (16) Plumbing fixtures;
 4 (17) Fire and security alarms;
 5 (18) Intercoms;
 6 (19) Sprinkler systems;
 7 (20) Parking lots;
 8 (21) Fences;
 9 (22) Gates;
 10 (23) Fireplaces; and
 11 (24) Similar components which become a part of
 12 real estate after installation.

13 (b) Contractors are deemed to be consumers or users
 14 of all tangible personal property used or consumed by them in providing
 15 contracting services. ~~such nontaxable services, in the same manner as when~~
 16 ~~performing any other contract.~~

17 (c) Subdivision (3)(C)(viii) of this section shall
 18 not apply to any services subject to tax pursuant to the terms of subdivision
 19 (3)(E) of this section.

20 (d) The gross receipts tax levied in this section
 21 shall apply to all labor charges incurred by a contractor or subcontractor in
 22 performance of a contract, including new construction of a building, either
 23 residential or commercial.

24
 25 *SECTION 7.* Arkansas Code § 26-52-301(3)(C)(viii), pertaining to gross
 26 receipts tax on services and which is effective when contingency in Acts
 27 2003, No. 1273, § 88 is met, is amended to read as follows:

28 (viii)(a) ~~Additionally, the~~ The gross receipts tax
 29 *levied in this section shall not apply to the alteration, addition, cleaning,*
 30 *refinishing, replacement, or repair of nonmechanical, passive, or manually*
 31 *operated components of buildings or other improvements or structures affixed*
 32 *to real estate, including, but not limited to, the following:*

- 33 (1) Walls;
 34 (2) Floors;
 35 (3) Ceilings;
 36 (4) Doors;

- 1 (5) Locks;
 2 (6) Windows;
 3 (7) Glass;
 4 (8) Heat and air ducts;
 5 (9) Roofs;
 6 (10) Wiring;
 7 (11) Breakers;
 8 (12) Breaker boxes;
 9 (13) Electrical switches and
 10 receptacles;
 11 (14) Light fixtures;
 12 (15) Pipes;
 13 (16) Plumbing fixtures;
 14 (17) Fire and security alarms;
 15 (18) Intercoms;
 16 (19) Sprinkler systems;
 17 (20) Parking lots;
 18 (21) Fences;
 19 (22) Gates;
 20 (23) Fireplaces; and
 21 (24) Similar components which become a
 22 part of real estate after installation.

23 (b) Contractors are deemed to be consumers or
 24 users of all tangible personal property used or consumed by them in providing
 25 contracting services. ~~such nontaxable services, in the same manner as when~~
 26 ~~performing any other contract.~~

27 (c) Subdivision (3)(C)(viii) of this section
 28 shall not apply to any services subject to tax pursuant to the terms of
 29 subdivision (3)(E) of this section.

30 (d) The gross receipts tax levied in this section
 31 shall apply to all labor charges incurred by a contractor or subcontractor in
 32 performance of a contract, including new construction of a building, either
 33 residential or commercial.

34
 35 SECTION 8. Arkansas Code § 26-52-301(3)(D), pertaining to the sales
 36 tax exclusion for services purchased by radio or television companies and

1 which is effective until contingency in Acts 2003, No. 1273, § 88 is met,, is
2 amended to read as follows:

3 (D)~~(i)~~ Service of cable television, community antenna
4 television, and any and all other distribution of television, video, or radio
5 services with or without the use of wires provided to subscribers or paying
6 customers or users, including all service charges and rental charges, whether
7 for basic service, premium channels, or other special service, and including
8 installation and repair service charges and any other charges having any
9 connection with the providing of the said services-; and

10 ~~(ii) The tax levied by this section does not apply to services~~
11 ~~purchased by radio or television companies for use in providing their~~
12 ~~services; and~~

13
14 *SECTION 9.* Arkansas Code § 26-52-301(3)(D), pertaining to the sales
15 tax exclusion for services purchased by radio or television companies and
16 which is effective when contingency in Acts 2003, No. 1273, § 88 is met, is
17 amended to read as follows:

18 (D)~~(i)~~ Service of cable television, community antenna
19 television, and any and all other distribution of television, video, or radio
20 services with or without the use of wires provided to subscribers or paying
21 customers or users, including all service charges and rental charges, whether
22 for basic service, premium channels, or other special service, and including
23 installation and repair service charges and any other charges having any
24 connection with the providing of the said services-; and

25 ~~(ii) The tax levied by this section does not apply~~
26 ~~to services purchased by radio or television companies for use in providing~~
27 ~~their services; and~~

28
29 *SECTION 10.* Arkansas Code § 26-52-301(3)(E), pertaining to gross
30 receipts tax on services and which is effective until contingency in Acts
31 2003, No. 1273, § 88 is met, is amended to read as follows:

32 (E)(i) Service of providing transportation or delivery of
33 money, property, or valuables by armored car; service of providing cleaning
34 or janitorial work, including cleaning the outside of a building and its
35 grounds; pet grooming and pet boarding or kennel services; taxidermy
36 services; service of providing wrecker and towing services; service of

1 boarding or training horses; service of pool cleaning and servicing; pager
 2 services; telephone answering services; lawn care and landscaping services;
 3 service of parking a motor vehicle or allowing the motor vehicle to be
 4 parked; service of storing a motor vehicle; service of storing furs; service
 5 of providing indoor tanning at a tanning salon.

6 ~~(ii) [Repealed].~~

7 ~~(iii)~~(ii) For purposes of this section:

8 (a) "Landscaping" means: ~~the installation,~~
 9 ~~preservation, or enhancement of ground covering by planting trees, bushes and~~
 10 ~~shrubbery, grass, flowers, and other types of decorative plants; and~~

11 (1) The activity of arranging or modifying
 12 areas of land and natural scenery for an improved or aesthetic effect;

13 (2) The addition, removal, or arrangement of
 14 natural forms, features, and plantings; and

15 (3) The addition, removal, or modification of
 16 retaining walls, ponds, sprinkler systems, or other landscape construction
 17 services;

18 (b) "Lawn care" means:

19 (1) the The maintenance, preservation,
 20 pruning, cutting, trimming, or enhancement of ground covering of
 21 nonresidential property, including shrubs, trees, grass, flowers, bushes, and
 22 other decorative plants, and does not include planting trees, bushes and
 23 shrubbery, grass, flowers, and other types of decorative plants; and

24 (2) Trimming of trees on residential and
 25 nonresidential property; and

26 (c) "Residential" means a single family residence
 27 used solely as the principal place of residence of the owner;

28
 29 *SECTION 11.* Arkansas Code § 26-52-301(3)(E), pertaining to gross
 30 receipts tax on services and which is effective when contingency in Acts
 31 2003, No. 1273, § 88 is met, is amended to read as follows:

32 (E)(i) Service of providing transportation or delivery of
 33 money, property, or valuables by armored car; service of providing cleaning
 34 or janitorial work, including cleaning the outside of a building and its
 35 grounds; pet grooming and pet boarding or kennel services; taxidermy
 36 services; service of providing wrecker and towing services; service of

1 boarding or training horses; service of pool cleaning and servicing; pager
 2 services; telephone answering services; lawn care and landscaping services;
 3 service of parking a motor vehicle or allowing the motor vehicle to be
 4 parked; service of storing a motor vehicle; service of storing furs; service
 5 of providing indoor tanning at a tanning salon.

6 ~~(ii) [Repealed].~~

7 ~~(iii)~~(ii) For purposes of this section:

8 (a) "Landscaping" means: ~~the installation,~~
 9 ~~preservation, or enhancement of ground covering by planting trees, bushes and~~
 10 ~~shrubbery, grass, flowers, and other types of decorative plants; and~~

11 (1) The activity of arranging or
 12 modifying areas of land and natural scenery for an improved or aesthetic
 13 effect;

14 (2) The addition, removal, or
 15 arrangement of natural forms, features, and plantings; and

16 (3) The addition, removal, or
 17 modification of retaining walls, ponds, sprinkler systems, or other
 18 landscape construction services;

19 (b) "Lawn care" means:

20 (1) the The maintenance, preservation,
 21 pruning, cutting, trimming, or enhancement of ground covering of
 22 nonresidential property, including shrubs, trees, grass, flowers, bushes, and
 23 other decorative plants, and does not include planting trees, bushes and
 24 shrubbery, grass, flowers, and other types of decorative plants.

25 (2) Trimming of trees on residential and
 26 nonresidential property; and

27 (c) "Residential" means a single family
 28 residence used solely as the principal place of residence of the owner;

29
 30 *SECTION 12.* Arkansas Code § 26-52-301(6), concerning gross receipts
 31 subject to gross receipts tax and which is effective until contingency in
 32 Acts 2003, No. 1273, § 88 is met, is amended to read as follows:

33 (6)(A) ~~Dues and membership fees to~~ Dues or fees for joining,
 34 membership, or initiation in:

35 (i) Health spas, health clubs, and fitness clubs;
 36 ~~and~~

1 (ii) Private clubs within the meaning of § 3-9-
 2 202(10) which hold any permit from the Alcoholic Beverage Control Board
 3 allowing the sale, dispensing, or serving of alcoholic beverages of any kind
 4 on the premises; and

5 (iii)(a) Private clubs that do not hold a permit
 6 from the Alcoholic Beverage Control Board.

7 (b) "Private club" includes a country club,
 8 golf club, city club, yacht club, dinner club, social club, theater club, or
 9 dance club if the club:

10 (1) Restricts access to facilities,
 11 amenities, or activities to members or guests of members;

12 (2) Is organized for social, pleasure,
 13 or recreational purposes; or

14 (3) Provides facilities for member
 15 activities.

16 (c) Semiprivate athletic or recreational clubs
 17 that do not hold a permit from the Alcoholic Beverage Control Board, if the
 18 club:

19 (1) Permits public, nonmember access to
 20 facilities for a fee;

21 (2) Offers club memberships; or

22 (3) Provides facilities for member
 23 activities.

24 (B)(i) Except as provided in subdivision (B)(ii) of this
 25 section, the gross receipts derived from services provided by or through a
 26 health spa, health club, fitness club, or private club shall not be subject
 27 to gross receipts tax unless the service is specifically enumerated as a
 28 taxable service under this chapter.

29 (ii) The gross receipts derived by a private club
 30 from the charges to members for the preparation and serving of mixed drinks
 31 or for the cooling and serving of beer and wine shall be subject to gross
 32 receipts tax as well as any supplemental taxes as provided by law.

33
 34 *SECTION 13.* Arkansas Code § 26-52-301(6), concerning gross receipts
 35 subject to gross receipts tax and which is effective when contingency in Acts
 36 2003, No. 1273, § 88 is met, is amended to read as follows:

1 (6)(A) ~~Dues and membership fees to~~ Dues or fees for joining,
2 membership, or initiation in:

3 (i) Health spas, health clubs, and fitness clubs;
4 ~~and~~

5 (ii) Private clubs within the meaning of § 3-9-
6 202(10) which hold any permit from the Alcoholic Beverage Control Board
7 allowing the sale, dispensing, or serving of alcoholic beverages of any kind
8 on the premises; and

9 (iii)(a) Private clubs that do not hold a permit
10 from the Alcoholic Beverage Control Board.

11 (b) "Private club" includes a country club,
12 golf club, city club, yacht club, dinner club, social club, theater club, or
13 dance club if the club:

14 (1) Restricts access to facilities,
15 amenities, or activities to members or guests of members;

16 (2) Is organized for social, pleasure,
17 or recreational purposes; or

18 (3) Provides facilities for member
19 activities.

20 (c) Semiprivate athletic or recreational clubs
21 that do not hold a permit from the Alcoholic Beverage Control Board, if the
22 club:

23 (1) Permits public, nonmember access to
24 facilities for a fee;

25 (2) Offers club memberships; or

26 (3) Provides facilities for member
27 activities.

28 (B)(i) Except as provided in subdivision (B)(ii) of this
29 section, the gross receipts derived from services provided by or through a
30 health spa, health club, fitness club, or private club shall not be subject
31 to gross receipts tax unless the service is specifically enumerated as a
32 taxable service under this chapter.

33 (ii) The gross receipts derived by a private club
34 from the charges to members for the preparation and serving of mixed drinks
35 or for the cooling and serving of beer and wine shall be subject to gross
36 receipts tax as well as any supplemental taxes as provided by law.

1
2 SECTION 14. Arkansas Code § 26-52-304(a), pertaining to computer
3 software and services, is amended to read as follows:

4 (a) The excise tax levied by the Arkansas Gross Receipts Act of 1941,
5 as amended, § 26-52-101, et seq., ~~and by any act supplemental thereto,~~ is
6 levied on gross receipts or gross proceeds received from the following:

7 (1) Sales of computer software or licenses to use software,
8 ~~which shall be taxed as sales of tangible personal property whether or not~~
9 the software or license is delivered in a tangible or intangible manner.

10 Software shall include ~~tapes, disks, cards, or other devices or materials~~
11 ~~which contain~~ instructions for a computer and dictate different operations or
12 functions to be performed by the computer;

13 (2) Service of repairing or maintaining computer equipment or
14 hardware in any form; and

15 (3) Service of programming, writing, creating, producing,
16 designing, modifying, installing, implementing, or maintaining computer
17 software or processing of data.

18
19 SECTION 15. Arkansas Code § 26-52-401(4), providing a sales tax
20 exemption for the sale of newspapers, is repealed.

21 ~~(4) Gross receipts or gross proceeds derived from the sale of~~
22 ~~newspapers;~~

23
24 SECTION 16. Arkansas Code § 26-52-401(13) and (14), providing a sales
25 tax exemption for advertising space and publications sold through
26 subscription, are repealed.

27 ~~(13) Gross proceeds derived from sales of advertising space in~~
28 ~~newspapers and publications and billboard advertising services;~~

29 ~~(14) Gross receipts or gross proceeds derived from sales of~~
30 ~~publications sold through regular subscription, regardless of the type or~~
31 ~~content of the publication or the place printed or published;~~

32
33 SECTION 17. Arkansas Code § 26-53-109(a), pertaining to use tax, is
34 amended to read as follows:

35 (a) The excise tax levied by the Arkansas Compensating Tax Act, § 26-
36 53-101 et seq., and by any act supplemental thereto, is levied on the

1 privilege of storing, using, distributing, or consuming within this state any
 2 computer software or license to use software which shall be treated as a use,
 3 storage, distribution, or consumption of tangible personal property for
 4 purposes of tax, whether the software or license is delivered in a tangible
 5 or intangible manner. Computer software shall include ~~tapes, disks, cards,~~
 6 ~~or other devices or materials which contain~~ instructions for a computer and
 7 dictate different operations or functions to be performed by the computer.

8
 9 *SECTION 18.* Arkansas Code § 26-57-1203(9), concerning definitions
 10 related to vending devices, is amended to read as follows:

11 (9) "Operator" means the person who (as owner, lessee, bailee or
 12 otherwise) is responsible for removing money from the vending device and who
 13 is the person ~~who would otherwise be~~ responsible for reporting and paying the
 14 applicable gross receipts (sales) taxes on sales made through the vending
 15 device.

16
 17 *SECTION 19.* Arkansas Code § 26-57-1204(a) is amended to read as
 18 follows:

19 (a)(1) *Any person who is the operator of a vending device in this*
 20 *state that is made available for use and operation by the general public*
 21 ~~*(whether the operator is the owner of such vending device, or a lessee,*~~
 22 ~~*renter, bailee, etc. of the owner of such vending device) may, in lieu of*~~
 23 ~~*paying sales taxes under the provisions of § 26-52-101, et seq., or under the*~~
 24 ~~*provisions of § 26-57-1001, et seq. elect to pay the decal fees provided by §*~~
 25 ~~*26-57-1206. If such election is not made by the operator, then the general or*~~
 26 ~~*special sales taxes that are otherwise applicable to the operation of these*~~
 27 ~~*vending devices shall be imposed upon the sale of tangible personal property*~~
 28 ~~*from such vending devices, shall:*~~

29 *(A) Pay the decal fees provided by § 26-57-1206; and*

30 *(B) Collect and remit the state gross receipts taxes*
 31 *levied under Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and*
 32 *Amendment 75 of the Arkansas Constitution, and any applicable city and county*
 33 *gross receipts taxes.*

34 *(2) The provisions of subdivision (a)(1) of this section shall*
 35 *apply whether the operator of a vending device is the owner of the vending*
 36 *device, or is the lessee, renter, or bailee of the owner of the vending*

1 device.

2
3 SECTION 20. Arkansas Code § 26-57-1204(b) is amended to read as
4 follows:

5 (b) The operator of vending devices, ~~who makes the election to pay the~~
6 ~~decals fees provided by this subchapter,~~ shall be responsible for applying to
7 the Director of the Department of Finance and Administration for the issuance
8 of an annual or special vending device decal for such vending device and
9 shall, at the same time, pay to the Director of the Department of Finance and
10 Administration the annual or special vending device decal fee provided for by
11 this subchapter, before such vending device is made available for use and
12 operation by the general public.

13
14 SECTION 21. Arkansas Code § 26-57-1204(d) is amended to read as
15 follows:

16 (d)(1) The annual or special vending device decals, and the
17 application provided for herein, shall be in such form as prescribed by the
18 Director of the Department of Finance and Administration. These decals and
19 applications shall contain on their faces such information and descriptions
20 as shall be required by regulations adopted by the Director of the Department
21 of Finance and Administration to properly and reasonably implement the
22 provisions of this subchapter.

23 (2) Any number of vending devices may be included in one (1)
24 application, but all vending devices operated by the applying operator must
25 be made subject to this ~~alternative~~ decal fee. ~~Such operator may not choose~~
26 ~~to have part of his or her vending devices covered by the decal fee provided~~
27 ~~by this subchapter, while other vending devices operated by the same operator~~
28 ~~during the decal registration year would be subject to the general or special~~
29 ~~sales taxes that would be otherwise applicable to the sale of tangible~~
30 ~~personal property from such vending devices.~~

31
32 SECTION 22. Arkansas Code § 26-57-1206 is amended to read as follows:

33 26-57-1206. Annual decal fee - Special decal - ~~In lieu of sales tax,~~
34 ~~{Effective January 1, 1998.}~~

35 (a)(1) Every person who is the operator of a vending device, ~~who~~
36 ~~elects to have the operation of such vending device covered by the provisions~~

1 ~~of this subchapter~~, and who makes available to the general public for use and
2 operation vending devices described in this subchapter, shall pay to the
3 Director of the Department of Finance and Administration (for the benefit of
4 the state and its municipalities and counties) the following annual vending
5 device decal fee for each vending device before such vending device may be
6 placed in service within the state for use by members of the public:

7 (A) For each coin-operated vending device requiring a coin
8 or thing of value of twenty-five cents (25¢) or more for a sale, seventy
9 dollars (\$70.00);

10 (B) For each coin-operated vending device requiring a coin
11 or thing of value of less than twenty-five cents (25¢) for a sale, fifteen
12 dollars (\$15.00);

13 (C) For each coin-operated bulk vending device requiring a
14 coin or thing of value of more than twenty-five cents (25¢) for a sale, seven
15 dollars and fifty cents (\$7.50);

16 (D) For each coin-operated bulk vending device requiring a
17 coin or thing of value of twenty-five cents (25¢) or less for a sale, two
18 dollars and fifty cents (\$2.50); and

19 (E) For each coin-operated manually powered vending
20 devices, coin-operated tabletop snack vending device, or other manually
21 powered coin-operated vending device requiring a coin or thing of value of
22 twenty-five cents (25¢) or more for a sale, thirty dollars (\$30.00).

23 (2) The annual vending device decal issued by the Director of
24 the Department of Finance and Administration, after payment of the
25 appropriate annual vending device decal fee, shall bear on its face the year
26 of its issue, and such annual decal must be affixed to each vending device in
27 a place that is clearly visible to the user of such device before each such
28 vending device may be placed for public use or operation in this state by the
29 operator.

30 (3) Such annual vending device decal shall not be transferred
31 from one (1) vending device to another, unless the person who is the operator
32 of such vending device shall establish to the satisfaction of the Director of
33 the Department of Finance and Administration that the vending device to which
34 the annual vending device decal is to be transferred is a vending device that
35 is replacing the vending device to which such annual decal was originally
36 affixed.

1 (b) In those instances where it is shown to the satisfaction of the
2 Director of the Department of Finance and Administration that a vending
3 device upon which an annual vending device decal fee is otherwise due will be
4 placed in service for use by members of the general public for a definite,
5 but limited, period of time that is less than one (1) year, such as where the
6 vending device shall be placed for public use in connection with fairs,
7 carnivals, and places of amusement that operate only during certain seasons
8 of the year, the Director of the Department of Finance and Administration
9 shall issue a special vending device decal and collect a special vending
10 device decal fee for such vending devices as hereinafter computed:

11 (1) Such special decal may be issued for any number of thirty-
12 day periods, less than a full year, and such special decal shall indicate on
13 its face that it is a special decal, not an annual decal, and such special
14 decal shall be for one (1) or more thirty-day periods, but such special decal
15 state on its face the precise dates for which it has been issued and such
16 special decal shall not be transferred from one (1) vending device to
17 another.

18 (2) The special vending device decal fee shall be computed and
19 paid by the person who is the operator of such vending device on the basis of
20 one-fifth (1/5) of the annual vending device decal fee charged by this
21 subchapter for the type of vending device operated, for each thirty-day
22 period for which such special decal is ~~issue~~ issued.

23 (3) In the event the vending device is made available to the
24 public for a period beyond that for which the special decal is issued, then a
25 full year's fee and penalty, as set out in § 26-57-1206, shall be due on such
26 vending device from the person who is the operator of such vending device.

27 (c)(1) The annual or special vending device decal fees required to be
28 paid by subsections (a) and (b) of this section shall be paid by the person
29 who is the operator of such vending device in ~~lieu of the~~ in addition to the
30 requirement that such person collect and remit ~~-(1) the state and local gross~~
31 receipts (sales) taxes levied pursuant to the provisions of the Arkansas
32 Gross Receipts Act of 1941, as amended, § 26-52-101 et. seq., or any
33 provision of Chapters 74 and 75 of Title 26, or any other provision of this
34 Code which provides for the levy of a local sales tax; ~~or (2) the special~~
35 ~~sales taxes levied pursuant to the provisions the Vending Devices Sales Tax~~
36 ~~Act of 1995, § 26-57-1001, et seq.~~

1 (2) Where gross receipts or gross proceeds are received by a
2 person who is the operator of a vending device from the sale of any item of
3 tangible personal property, through the vending device, where the annual or
4 special vending device decal fee has been paid and such decal is affixed to
5 the vending device, then it is the intent of the General Assembly that such
6 gross proceeds or gross receipts shall ~~not~~ be subject to ~~any~~ the state or
7 local gross receipts (sales) taxes imposed in this state.

8 (d) Any sales made by the operator of a coin-operated vending device
9 that is made without the use of a vending device, e.g., office coffee
10 service, manual hot foods lines, catering events, etc., shall be subject to
11 the state and local gross (sales) taxes levied pursuant to the provisions of
12 the Arkansas Gross Receipts Act of 1941, as amended, § 26-52-101, et seq, or
13 any provision of Chapters 74 and 75 of Title 26, or any other provision of
14 the Code that provides for the levy of a local sales tax.

15 ~~(e) For all vending devices that the operator does not elect to have~~
16 ~~covered by the decal fee provided by this section, the operator of that~~
17 ~~vending device shall acquire from the Director of the Department of Finance~~
18 ~~and Administration an identifying decal that the operator shall affix to the~~
19 ~~vending device in a prominent place so as to establish to the consuming~~
20 ~~public that such vending device is not covered by the provisions of this~~
21 ~~subchapter. The Director of the Department of Finance and Administration~~
22 ~~shall establish, by reasonable regulations, the amount to be charged for such~~
23 ~~identifying decal, which amount shall not exceed the cost of producing such~~
24 ~~decal.~~

25 ~~(f) Operators who elect to pay tax at the wholesale level and which~~
26 ~~have been issued an identification number by the Department of Finance and~~
27 ~~Administration as of March 31, 1997, shall be entitled to utilize that~~
28 ~~identification number for all vending devices owned by that operator.~~

29 SECTION 23. Arkansas Code § 26-57-1208 is repealed.

30 ~~26-57-1208. Distribution of revenue.~~

31 ~~(a) It is hereby declared to be the purpose of this subchapter to~~
32 ~~provide revenues for general governmental functions of the state, and its~~
33 ~~counties and municipalities, in lieu of the state and local gross receipts~~
34 ~~(sales) taxes or vending devices sales taxes that would otherwise be due and~~
35 ~~owing from the person who is the operator of such vending devices. For that~~
36 ~~purpose and to that end, it is expressly provided that the revenue derived by~~

1 ~~the Director of the Department of Finance and Administration from the sale of~~
2 ~~annual or special vending device decal fees, including penalties, shall be~~
3 ~~deposited by the director into the State Treasury and credited as follows.~~

4 ~~(b) The vending device decal fees imposed by § 26-57-1206, or any~~
5 ~~proportionate amount thereof, shall be divided.~~

6 ~~(1) With eighty percent (80%) of such amount being deposited to~~
7 ~~the credit of the General Revenue Fund Account of the State Apportionment~~
8 ~~Fund provided by § 19-5-202; and~~

9 ~~(2) With twenty percent (20%) of such amount being deposited by~~
10 ~~the Treasurer of the State in the Identification Pending Trust Fund for Local~~
11 ~~Sales and Use Taxes in accordance with the provisions of §§ 26-74-221 and 26-~~
12 ~~75-223, and all revenues deposited into that fund shall be distributed to the~~
13 ~~cities and counties of this state in accordance with the provisions of §§ 26-~~
14 ~~74-221(a)(2)(C)(ii) and 26-75-223(a)(2)(C)(ii).~~

15
16 SECTION 24. Arkansas Code § 26-57-1217 is repealed.

17 ~~26-57-1217. Purpose. [Effective January 1, 1998.]~~

18 ~~The purpose for the enactment of this "Vending Devices Decal Act of~~
19 ~~1997" is to provide a simplified method for the operators of such vending~~
20 ~~devices to be able to pay their proportionate amount of state and local~~
21 ~~taxes, without being required to maintain complex financial records that~~
22 ~~would otherwise be required of such operators (who are in the unique position~~
23 ~~among retailers in this state of not being able to pass the cost of sales~~
24 ~~taxes directly on to their customers), and to assure that the State of~~
25 ~~Arkansas and its cities and counties collect their fair share of taxes from~~
26 ~~what is almost entirely a cash business.~~

27
28 SECTION 25. Arkansas Code § 26-57-1001 through 26-57-1005 are
29 repealed.

30 ~~26-57-1001. Definitions.~~

31 ~~For the purposes of this subchapter, the following definitions shall~~
32 ~~apply:~~

33 ~~(1) "Director" shall mean the Director of the Department of~~
34 ~~Finance and Administration or his authorized agents;~~

35 ~~(2) "Person" shall mean any individual, partnership,~~
36 ~~corporation, limited liability corporation, association, organization, or~~

1 ~~nonprofit corporation, and any county or municipal subdivision of this state;~~
2 ~~(3)(A) "Vending device" shall mean any machine or manual device~~
3 ~~which dispenses tangible personal property after a coin or thing of value is~~
4 ~~inserted.~~

5 ~~(B) The term "vending device" shall not include devices~~
6 ~~used exclusively for the purpose of selling cigarettes, newspapers,~~
7 ~~magazines, or postage stamps; and~~

8 ~~(4) "Vending device operator" shall mean any person who sells~~
9 ~~tangible personal property through vending devices, and who elects to pay the~~
10 ~~taxes imposed by § 26-57-1002.~~

11
12 ~~26-57-1002. Registration—Records—Amount of tax.~~

13 ~~(a) Any person who sells tangible personal property through vending~~
14 ~~devices may elect to register with the director as a vending device operator~~
15 ~~and pay the state and local sales and use taxes as provided in this section.~~

16 ~~(b) Any person who elects to register as a vending device operator~~
17 ~~shall obtain a gross receipts tax permit from the director as provided in §~~
18 ~~26-52-201 et seq.~~

19 ~~(c)(1) All tangible personal property purchased by a vending device~~
20 ~~operator for resale through a vending device shall be purchased exempt from~~
21 ~~the Arkansas gross receipts tax, § 26-52-101 et seq., the Arkansas~~
22 ~~compensating use tax, § 26-53-101 et seq., and any local sales and use taxes~~
23 ~~pursuant to the sale for resale exemption provided for in § 26-52-401(12).~~

24 ~~(2) The vending device operator shall maintain suitable records~~
25 ~~reflecting all purchases of tangible personal property during each calendar~~
26 ~~month for resale through a vending device.~~

27 ~~(d)(1)(A) A tax of four and one half percent (4.5%) is hereby levied~~
28 ~~on the purchase price of all tangible personal property purchased or~~
29 ~~withdrawn from inventory during each calendar month by a vending device~~
30 ~~operator for resale through a vending device.~~

31 ~~(B) This tax shall be in lieu of any state gross receipts~~
32 ~~tax on the gross receipts or gross proceeds derived from the sale of the~~
33 ~~property by the vending device operator through a vending device.~~

34 ~~(2)(A) An additional tax of one percent (1%) is hereby levied on~~
35 ~~the purchase price of all tangible personal property purchased or withdrawn~~
36 ~~from inventory during each calendar month for resale through a vending~~

1 ~~device.~~

2 ~~(B) This tax shall be in lieu of any local gross receipts~~
3 ~~taxes imposed by any city or county of this state on the gross receipts or~~
4 ~~gross proceeds derived from the sale of the property by the vending device~~
5 ~~operator through a vending device.~~

6 ~~(e) The taxes levied by subsection (d) of this section shall be~~
7 ~~reported and paid in the same manner and at the same time as prescribed by~~
8 ~~law for the reporting and payment of the Arkansas gross receipts tax, § 26-~~
9 ~~52-101 et seq.~~

10 ~~(f) When calculating the taxes due under this section, a vending~~
11 ~~device operator shall be allowed to deduct any manufacturer's rebates~~
12 ~~received which lower the final purchase price paid by the vending device~~
13 ~~operator for property sold through a vending device.~~

14 ~~(g) Any vending device operator who manufactures the product which is~~
15 ~~withdrawn from stock for sale through a vending device shall calculate the~~
16 ~~tax due by multiplying the tax rate set out in subsection (d) of this section~~
17 ~~by the selling price for which the person would sell the product to another~~
18 ~~vending device operator for resale through a vending device.~~

19
20 ~~26-57-1003. Election not to register.~~

21 ~~(a) Any person selling tangible personal property through a vending~~
22 ~~device, and who elects not to register as a vending device operator, shall:~~

23 ~~(1) Surrender any gross receipts tax permits issued by the~~
24 ~~director, unless the permit is needed to report taxable sales other than~~
25 ~~sales through a vending device; and~~

26 ~~(2)(A) Pay the Arkansas gross receipts tax, § 26-52-101 et seq.,~~
27 ~~the Arkansas compensating use tax, § 26-53-101 et seq., and any applicable~~
28 ~~local sales and use taxes to their vendor on all purchases of tangible~~
29 ~~personal property purchased for resale through a vending device.~~

30 ~~(B)(i) The sale for resale exemption provided in § 26-52-~~
31 ~~401(12) shall not apply to purchases of tangible personal property for resale~~
32 ~~through vending devices unless the purchaser is registered with the director~~
33 ~~as a vending device operator.~~

34 ~~(ii) However, any person not registered as a vending~~
35 ~~device operator who maintains property in inventory for subsequent resale on~~
36 ~~which the state and local sales and use taxes have not been paid, and who~~

1 ~~subsequently withdraws that property from inventory for sale through a~~
2 ~~vending device, shall report and pay the state and local sales and use taxes~~
3 ~~on their purchase price of such property withdrawn from inventory.~~

4 ~~(b) Any person selling property through vending devices who has paid~~
5 ~~the state and local sales and use taxes in the manner provided by this~~
6 ~~section shall not be required to collect and remit state or local sales tax~~
7 ~~on sales of tangible personal property through the vending device.~~

8 ~~(c) Any person who elects to pay tax on tangible personal property~~
9 ~~sold through vending devices in accordance with the provisions of this~~
10 ~~section and who manufactures the product which is withdrawn from stock for~~
11 ~~resale through a vending device shall pay the taxes due under this section by~~
12 ~~multiplying the tax rate by the selling price for which the person would sell~~
13 ~~the product to another for resale through a vending device.~~

14
15 ~~26-57-1004. Identification of taxpayer—Presumption of nonpayment.~~

16 ~~(a) All persons who sell tangible personal property through vending~~
17 ~~devices shall affix the name and identification number, if any, of the person~~
18 ~~responsible for the payment of the taxes imposed by §§ 26-57-1002 and 26-57-~~
19 ~~1003.~~

20 ~~(b)(1)(A) If any vending device does not have the information required~~
21 ~~by subsection (a) of this section affixed thereto, there shall be a~~
22 ~~presumption that the taxes imposed by this subchapter have not been paid.~~

23 ~~(B) The director shall seal any vending device subject to~~
24 ~~this presumption in such a manner as to prevent any further sales through the~~
25 ~~device and shall assess and collect a penalty of fifty dollars (\$50.00) per~~
26 ~~vending device against the person selling tangible personal property through~~
27 ~~the device.~~

28 ~~(2) The presumption in subdivision (b)(1) of this section shall~~
29 ~~be overcome if the person selling property through the vending device affixes~~
30 ~~the information required by this section to the device and proves that the~~
31 ~~taxes imposed by §§ 26-57-1002 and 26-57-1003 have been paid.~~

32
33 ~~26-57-1005. Disposition of revenues.~~

34 ~~(a) The revenues derived from § 26-57-1002(d)(1) shall be general~~
35 ~~revenues and shall be deposited in the State Treasury in the same manner as~~
36 ~~the Arkansas gross receipts tax, § 26-52-101 et seq.~~

1 ~~(b) All revenues derived from § 26-57-1002(d)(2) shall be deposited by~~
2 ~~the Treasurer of State in the Identification Pending Trust Fund for Local~~
3 ~~Sales and Use Taxes in accordance with the provisions of §§ 26-74-221 and 26-~~
4 ~~75-223, and all revenues deposited in that fund shall be distributed to the~~
5 ~~cities and counties of this state in accordance with the provisions of §§ 26-~~
6 ~~74-221(a)(2)(C)(ii) and 26-75-223(a)(2)(C)(ii).~~

7 SECTION 26. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that as a result of the Arkansas
9 Supreme Court decision, Lakeview Sch. Dist. No. 25 v. Huckabee, 351 Ark. 31,
10 91 S.W.3d 472 (2002), additional revenue is necessary for the improvement of
11 public schools, to provide all Arkansas children an adequate education, and
12 to equalize funding for schools and teachers; that without additional
13 revenue, the state will be unable to fulfill its constitutional duty to
14 provide an adequate and equitable education to Arkansas children; and that
15 this act is immediately necessary as it will provide needed revenue for the
16 support and improvement of public schools. Therefore, an emergency is
17 declared to exist and this act being necessary for the preservation of the
18 public peace, health, and safety shall become effective on the first day of
19 the second calendar month following the effective date of this act, with the
20 exception of sections 18 through 25 pertaining to the provisions of Arkansas
21 Code § 26-57-1001 et seq., which shall become effective July 1, 2004.

22 /s/ Boyd
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