

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
2 87th General Assembly
3 Regular Session, 2009

A Bill

SENATE BILL 835

4
5 By: Senator Horn
6
7

For An Act To Be Entitled

8
9 AN ACT TO GRADUALLY REDUCE THE SALES AND USE TAX
10 ON UTILITIES THAT ARE USED BY AGRICULTURAL
11 BUSINESSES; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 TO GRADUALLY REDUCE THE SALES AND USE
15 TAX ON UTILITIES THAT ARE USED BY
16 AGRICULTURAL BUSINESSES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended to
22 add an additional section to read as follows:

23 26-52-322. Reduced sales tax rate for utilities used by agricultural
24 businesses.

25 (a) As used in this section:

26 (1) "Agricultural business" means a business that produces
27 horticulture, aquaculture, viticultural, dairy, livestock, poultry, bee, or
28 any other farm, ranch, plantation, or range products; and

29 (2) "Utility" means:

30 (A) Liquefied petroleum gas;

31 (B) Natural gas; or

32 (C) Electricity.

33 (b)(1) Beginning July 1, 2009, in lieu of the gross receipts or gross
34 proceeds tax levied in §§ 26-52-301 and 26-52-302, there is levied an excise
35 tax on the gross receipts or gross proceeds derived from the sale of a
36 utility used by an agricultural business in the production of its products at



1 the rate of two and seven-eighths percent (2.875%).

2 (2) Beginning July 1, 2010, and ending on June 30, 2011, the
3 excise tax rate levied in subdivision (b)(1) of this section shall be imposed
4 at the rate of one and seven-eighths percent (1.875%).

5 (3) Beginning July 1, 2011, and ending on June 30, 2012, the
6 excise tax rate levied in subdivision (b)(1) of this section shall be imposed
7 at the rate of seven-eighths percent (0.875%).

8 (4) Beginning July 1, 2012, the excise tax rate levied in
9 subdivision (b)(1) of this section shall be imposed at the rate of one-eighth
10 percent (0.125%).

11 (c) The excise tax levied in subsection (b) of this section shall be
12 distributed as follows:

13 (1) Seventy-six and six-tenths percent (76.6%) of the tax,
14 interest, penalties, and costs received by the Director of the Department of
15 Finance and Administration shall be deposited into the State Treasury as
16 general revenues;

17 (2) Eight and five-tenths percent (8.5%) of the tax, interest,
18 penalties, and costs received by the director shall be deposited into the
19 Property Tax Relief Trust Fund; and

20 (3) Fourteen and nine-tenths percent (14.9%) of the tax,
21 interest, penalties, and costs received by the director shall be deposited
22 into the Educational Adequacy Fund.

23 (d)(1) The excise tax levied in this section applies only to a utility
24 sold for use by an agricultural business in the production of its products.

25 (2) Unless otherwise exempted, a utility sold for any other
26 purpose is subject to the full gross receipts or gross proceeds tax levied
27 under §§ 26-52-301 and 26-52-302.

28 (e) The excise tax levied in this section shall be collected,
29 reported, and paid in the same manner and at the same time as is prescribed
30 by law for the collection, reporting, and payment of all other Arkansas gross
31 receipts taxes.

32 (f) A utility subject to the reduced excise tax rate levied in this
33 section shall be separately metered from a utility used for any other purpose
34 by the taxpayer, or as otherwise established by the rules issued under
35 subsection (h) of this section.

36 (g) Before the purchase of a utility at the reduced excise tax rate

1 levied in this section, the director may require any seller of a utility to
 2 obtain a certificate from the taxpayer in the form prescribed by the
 3 director, certifying that the taxpayer is eligible to purchase the utility at
 4 the reduced excise tax rate.

5 (h) The director shall promulgate rules for the proper administration
 6 of this section.

7 (i) The gross receipts or gross proceeds derived from the sale of a
 8 utility to a taxpayer for use by an agricultural business in the production
 9 of its products shall continue to be subject to:

10 (1) The excise tax levied under Arkansas Constitution, Amendment
 11 75, § 2; and

12 (2) All municipal and county gross receipts taxes.

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 14 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended
 15 to add an additional section to read as follows:

16 26-53-149. Reduced sales tax rate for utilities used by agricultural
 17 businesses.

18 (a) As used in this section:

19 (1) "Agricultural business" means a business that produces
 20 horticulture, aquaculture, viticultural, dairy, livestock, poultry, bee, or
 21 any other farm, ranch, plantation, or range products; and

22 (2) "Utility" means:

23 (A) Liquefied petroleum gas;

24 (B) Natural gas; or

25 (C) Electricity.

26 (b)(1) Beginning July 1, 2009, in lieu of the compensating use tax
 27 levied in §§ 26-53-106 and 26-53-107 there is levied an excise tax on the
 28 sales price of a utility purchased for use by an agricultural business and
 29 used in the production of its products at the rate of two and seven-eighths
 30 percent (2.875%).

31 (2) Beginning July 1, 2010, and ending on June 30, 2011, the
 32 excise tax rate levied in subdivision (b)(1) of this section shall be imposed
 33 at the rate of one and seven-eighths percent (1.875%).

34 (3) Beginning July 1, 2011, and ending on June 30, 2012, the
 35 excise tax rate levied in subdivision (b)(1) of this section shall be imposed
 36 at the rate of seven-eighths percent (0.875%).

1 (4) Beginning July 1, 2012, the excise tax rate levied in
2 subdivision (b)(1) of this section shall be imposed at the rate of one-eighth
3 percent (0.125%).

4 (c) The excise taxes levied in subsection (b) of this section shall be
5 distributed as follows:

6 (1) Seventy-six and six-tenths percent (76.6%) of the tax,
7 interest, penalties, and costs received by the Director of the Department of
8 Finance and Administration shall be deposited into the State Treasury as
9 general revenues;

10 (2) Eight and five-tenths percent (8.5%) of the tax, interest,
11 penalties, and costs received by the director shall be deposited into the
12 Property Tax Relief Trust Fund; and

13 (3) Fourteen and nine-tenths percent (14.9%) of the tax,
14 interest, penalties, and costs received by the director shall be deposited
15 into the Educational Adequacy Fund.

16 (d)(1) The excise tax levied in this section applies only to a utility
17 purchased for use in the production of products by an agricultural business.

18 (2) Unless otherwise exempted, a utility purchased for any other
19 purpose is subject to the full compensating use tax levied under §§ 26-53-106
20 and 26-53-107.

21 (e) The excise tax levied in this section shall be collected,
22 reported, and paid in the same manner and at the same time as is prescribed
23 by law for the collection, reporting, and payment of all other Arkansas
24 compensating use taxes.

25 (f) A utility subject to the reduced excise tax rate levied in this
26 section shall be separately metered from a utility used for any other purpose
27 by the taxpayer, or as otherwise established by the rules issued under
28 subsection (h) of this section.

29 (g) Before the purchase of a utility at the reduced excise tax rate
30 levied in this section, the director may require any seller of a utility to
31 obtain a certificate from the consumer in the form prescribed by the
32 director, certifying that the taxpayer is eligible to purchase the utility at
33 the reduced excise tax rate.

34 (h) The director shall promulgate rules for the proper administration
35 of this section.

36 (i) The purchase of a utility that qualifies for the reduced excise

1 tax rate levied in this section shall continue to be subject to:

2 (1) The excise tax levied under Arkansas Constitution, Amendment
3 75, § 2; and

4 (2) All municipal and county compensating use taxes.

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6 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
7 General Assembly of the State of Arkansas that agricultural businesses in
8 this state have suffered losses due to sharp increases in energy costs; that
9 these businesses are unable to set the price for the products they produce
10 and are particularly vulnerable to price volatility; that the current sales
11 and use tax on utilities consumed by these businesses located within this
12 state creates a competitive disadvantage; that this act is intended to
13 address that problem by providing a reduced tax rate on utilities consumed by
14 agricultural manufacturers located in this state; and that this act is
15 necessary to prevent the loss of agricultural jobs. Therefore, an emergency
16 is hereby declared to exist and this act being necessary for the preservation
17 of public peace, health, and safety shall become effective on July 1, 2009.

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