

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H3/2/11
A Bill

HOUSE BILL 1547

5 By: Representative Lovell
6 *By: Senator Teague*
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE SALES AND USE TAX LAWS TO BE
10 CONSISTENT WITH THE STREAMLINED SALES AND USE TAX
11 AGREEMENT; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 AN ACT TO AMEND THE SALES AND USE TAX
16 LAWS TO BE CONSISTENT WITH THE
17 STREAMLINED SALES AND USE TAX AGREEMENT.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 26-19-105(c), concerning electronic
23 payments by sellers, is amended to add an additional subdivision as follows:

24 (5)(A) If the Federal Reserve Bank is closed on a due date that
25 prohibits a taxpayer from being able to make a payment through electronic
26 funds transfer, the payment shall be accepted as timely if made on the next
27 day the Federal Reserve Bank is open.

28 (B) A return filed in conjunction with a remittance that
29 cannot be made due to the closure of the Federal Reserve Bank shall be
30 accepted as timely if filed in conjunction with the payment on the next day
31 the Federal Reserve Bank is open.
32

33 SECTION 2. Arkansas Code § 26-21-103 is amended to read as follows:
34 26-21-103. Definitions.

35 As used in this chapter:

36 (1) "Agent" means a person appointed by a seller to represent



1 the seller before the State of Arkansas and the other states in the
2 agreement;

3 (2) "Agreement" means the multistate agreement to simplify and
4 modernize sales and use tax administration known as the "Streamlined Sales
5 and Use Tax Agreement";

6 (3) "Certified automated system" means software that is
7 certified under the agreement to calculate the tax imposed by each
8 jurisdiction on a transaction, determine the amount of tax to remit to the
9 appropriate state, and maintain a record of the transaction;

10 (4) "Certified service provider" means an agent certified under
11 the agreement to perform all the seller's sales and use tax functions, other
12 than the seller's obligation to remit tax on its own purchases;

13 (5)(A) "Entity-based exemption" means an exemption based on who
14 purchases the product or who sells the product.

15 (B) An exemption that is available to all individuals
16 shall not be considered an entity-based exemption;

17 (6) "Model 1 seller" means a seller registered under the
18 agreement that has selected a certified service provider as its agent to
19 perform all the seller's sales and use tax functions, other than the seller's
20 obligation to remit tax on its own purchases;

21 (7) "Model 2 seller" means a seller registered under the
22 agreement that has selected a certified automated system to perform part of
23 its sales and use tax functions, but retains responsibility for remitting the
24 tax;

25 (8)(A) "Model 3 seller" means a seller registered under the
26 agreement that has:

27 (i) Sales in at least five (5) member states;

28 (ii) Total annual sales revenue of at least five
29 hundred million dollars (\$500,000,000);

30 (iii) A proprietary system that calculates the
31 amount of tax due each jurisdiction; and

32 (iv) Entered into a performance agreement with the
33 member states that establishes a tax performance standard for the seller.

34 (B) As used in subdivision (8)(A) of this section,
35 "seller" includes an affiliated group of sellers using the same proprietary
36 system;

1 (9) “Model 4 seller” means a seller that is registered under the
2 agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

3 ~~(9)~~(10) “Person” means an individual, trust, estate, fiduciary,
4 partnership, limited liability company, limited liability partnership,
5 corporation, or any other legal entity;

6 ~~(10)~~(11) “Purchaser” means a person to which a sale of personal
7 property is made or to which a service is furnished;

8 ~~(11)~~(12) “Seller” means a person making sales, leases, or
9 rentals of personal property or services;

10 ~~(12)~~(13) “State” means any state of the United States, the
11 District of Columbia, and the Commonwealth of Puerto Rico; and

12 ~~(13)~~(14) “Use-based exemption” means an exemption based on a
13 specified use of the product by the purchaser.

14
15 SECTION 3. Arkansas Code § 26-21-104, concerning seller registration
16 and methods of remittance, is amended to add an additional subsection to read
17 as follows:

18 (c) When registering, a seller may select one (1) of the following
19 models:

20 (1) Model 1 seller;

21 (2) Model 2 seller;

22 (3) Model 3 seller; or

23 (4) Model 4 seller.

24
25 SECTION 4. Arkansas Code § 26-21-106, concerning liability relief, is
26 amended to add a new subsection to read as follows:

27 (d)(1) If the effective date of a state sales or use tax rate change
28 is less than thirty (30) days from the enactment of the statute providing the
29 rate change, a seller is relieved of liability for failing to collect sales
30 or use tax at the new rate if:

31 (A) The seller collected sales or use tax at the effective
32 rate immediately preceding the change; and

33 (B) The seller’s failure to collect at the newly effective
34 sales or use tax rate does not extend beyond thirty (30) days after the date
35 of enactment of the new sales or use tax rate.

36 (2) The seller is not relieved of liability if the seller

1 fraudulently failed to collect at the new sales or use tax rate or solicited
2 purchasers based on the immediately preceding effective sales or use tax
3 rate.

4
5 SECTION 5. Arkansas Code § 26-21-107(b)(4) concerning exemption
6 certificates, is amended to read as follows:

7 (4)(A) A seller may obtain a fully completed exemption
8 certificate or capture the relevant data elements required by the department
9 within ninety (90) days after the date of sale.

10 (B)(i) If the seller has not obtained an exemption
11 certificate or all relevant data elements and the department makes a request
12 for substantiation of the exemption, the seller has one hundred twenty (120)
13 days from the date of the request to prove by other means that the
14 transaction was not subject to sales or use tax or to obtain in good faith a
15 fully completed exemption certificate from the purchaser.

16 (ii) As used in subdivision (b)(4)(B)(i) of this
17 section, "good faith" means that the seller obtains a certificate that claims
18 an exemption that:

19 (a) Was statutorily available on the date of
20 the transaction in the jurisdiction where the transaction is sourced;

21 (b) Could be applicable to the item being
22 purchased; and

23 (c) Is reasonable for the purchaser's type of
24 business.

25
26 SECTION 6. Arkansas Code § 26-21-108 is amended to read as follows:

27 26-21-108. Returns and remittance of funds.

28 (a) The Director of the Department of Finance and Administration shall
29 promulgate rules to provide:

30 (1) An alternative method for making payments if an electronic
31 funds transfer fails on its due date; and

32 (2) A rounding algorithm for sales or use tax computation.

33 (b)(1) The Department of Finance and Administration shall develop a
34 ~~simplified tax reporting form~~ simplified electronic return to be used for all
35 state and local sales and use taxes levied by the Arkansas Gross Receipts Act
36 of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949,

1 § 26-53-101 et seq.

2 (2) The department shall provide a separate reporting form for
3 any other special or miscellaneous excise taxes so as not to violate the
4 agreement.

5 ~~(3) The department may require additional information returns to~~
6 ~~be submitted not more frequently than every six (6) months.~~

7 ~~(4) The department shall allow a Model 1, Model 2, or Model 3~~
8 ~~seller to submit its sales and use tax return in a simplified format all~~
9 ~~sellers, whether or not the seller is registered under the agreement, to file~~
10 ~~a simplified electronic return.~~

11 (4) A model 4 seller that does not have a legal requirement to
12 register in Arkansas is not required to submit information relating to exempt
13 sales on the simplified electronic return.

14 (5) A seller that elects to file a simplified electronic return
15 shall give at least a three-month notice of the seller's intent to
16 discontinue filing a simplified electronic return.

17 (c) The department shall allow a seller to elect to compute the sales
18 or use tax due on a transaction on an item or an invoice basis and shall
19 allow the rounding rule to be applied to the aggregated state and local sales
20 or use taxes.

21 (d)(1) A seller that is registered under the agreement and indicated
22 at the time of registration that it does not anticipate making a sale that
23 would be sourced to Arkansas is not required to file a return.

24 (2) If the seller makes a taxable sale sourced to Arkansas, the
25 seller shall file a return on or before the twentieth (20th) day of the month
26 following the sale.

27 (e)(1) A seller registered under the agreement that does not have a
28 legal requirement to register in Arkansas shall be given a minimum of thirty
29 (30) days' notice before the department establishes a tax liability based
30 solely on the seller's failure to timely file.

31 (2) However, the department may establish a tax liability based
32 solely on a seller's failure to timely file if the seller has a history of
33 non-filing or late filing.

34

35 SECTION 7. Arkansas Code § 26-21-111, is amended to read as follows:

36 26-21-111. Certification and payment of service providers and automated

1 systems.

2 (a) The Director of the Department of Finance and Administration may:

3 (1) Certify service providers and automated systems to aid in
4 the administration of sales and use tax collections; and

5 (2) Provide a monetary allowance to the certified service
6 providers, certified automated systems, and to sellers that do not have a
7 requirement to register to collect the gross receipts tax levied by the
8 Arkansas Gross Receipts Tax Act of 1941, § 26-52-101 et seq., or the
9 compensating use tax levied by the Arkansas Compensating Tax Act of 1949, §
10 26-53-101 et seq., ~~and.~~

11 ~~(3) (b)(1) Promulgate rules concerning the review and approval of~~
12 ~~certified automated system software and the relief from liability for~~
13 ~~certified service providers and certified automated systems that were relying~~
14 ~~on the certification provided by the Department of Finance and~~
15 ~~Administration. A certified service provider or model 2 seller using a~~
16 ~~certified automated system is not liable to the State of Arkansas or its~~
17 ~~local jurisdictions for charging and collecting the incorrect amount of sales~~
18 ~~or use tax.~~

19 (2) The relief from liability provided in this section is not
20 available to a certified service provider or model 2 seller that has
21 incorrectly classified an item or transaction into a product category
22 certified by the state.

23 (3)(A) If the Department of Finance and Administration
24 determines that an item or transaction is incorrectly classified as to its
25 taxability, it shall notify the certified service provider or model 2 seller
26 of the incorrect classification.

27 (B) The certified service provider or model 2 seller shall
28 have ten (10) days to revise the classification after receipt of the notice.

29 (C) Upon the expiration of ten (10) days, the certified
30 service provider or model 2 seller is liable for the failure to collect the
31 correct amount of sales or use tax due.

32 (c) A certified service provider has the same relief from liability as
33 sellers provided in § 26-21-107.

34

35 SECTION 8. Arkansas Code Title 26, Chapter 21 is amended to add an
36 additional section to read as follows:

1 26-21-115. Confidentiality and privacy protections with respect to
2 Model 1 sellers.

3 (a) The purpose of this section is to set forth a policy to protect
4 the confidentiality rights of all participants in the agreement system and
5 the privacy interests of consumers who deal with model 1 sellers.

6 (b) As used in this section:

7 (1) "Confidential taxpayer information" means all information
8 that is protected under Arkansas's laws, rules, regulations, and privileges;

9 (2) "Personally identifiable information" means information that
10 identifies a person; and

11 (3) "Anonymous data" means information that does not identify a
12 person.

13 (c) With very limited exceptions, a certified service provider shall
14 perform its tax calculation, remittance, and reporting functions without
15 retaining the personally identifiable information of consumers.

16 (d) When any personally identifiable information that has been
17 collected and retained is no longer required for the purposes of verifying
18 the validity of an exemption, the personally identifiable information shall
19 no longer be retained by the Department of Finance and Administration.

20 (e) When personally identifiable information regarding an individual
21 is retained, the department shall provide reasonable access by such
22 individual to his or her own information in the state's possession and a
23 right to correct any inaccurately recorded information.

24 (f) If anyone other than the state or a person authorized by this
25 state's law or the agreement seeks to discover personally identifiable
26 information, a reasonable and timely effort to notify the individual
27 identified in the personally identifiable information of the request shall
28 be made.

29 (g) The privacy policy in this section is subject to enforcement in
30 the same manner as set out in § 26-18-303.

31 (h) All laws and rules regarding the collection, use, and maintenance
32 of confidential taxpayer information remain fully applicable and binding.

33
34 SECTION 9. Arkansas Code § 26-52-301(3)(C) concerning the taxability
35 of television and radio is amended to add a subdivision to read as follows:

36 (C)(i) Service of cable television, community antenna

1 television, and any and all other distribution of television, video, or radio
2 services with or without the use of wires provided to subscribers or paying
3 customers or users, including all service charges and rental charges, whether
4 for basic service, premium channels, or other special service, and including
5 installation and repair service charges and any other charges having any
6 connection with the providing of these services.

7 (ii) The tax levied by this section does not apply
8 to services purchased by a radio or television company for use in providing
9 its services; ~~and.~~

10 (iii)(a) The tax levied by this section applies to
11 the sale of a subscription for digital audio-visual work and digital audio
12 work to an end user that does not have the right of permanent use granted by
13 the seller and the use is contingent on continued payments by the purchaser.

14 (b) As used in this subdivision (3)(C)(iii):

15 (1) "Digital audio-visual work" means an
16 electronically transferred series of related images that when shown in
17 succession, impart an impression of motion, together with accompanying
18 sounds, if any; and

19 (2) "Digital audio work" means an
20 electronically transferred work that results from the fixation of a series of
21 musical, spoken, or other sounds, including ringtones; and

22
23 SECTION 10. Arkansas Code § 26-52-304 is amended to read as follows:

24 26-52-304. Tax levied on sales of computer software and maintenance of
25 computer hardware.

26 (a) The excise tax levied by this chapter and by any act supplemental
27 thereto, is levied on gross receipts or gross proceeds received from the
28 following:

29 (1)(A) Sales of computer software, including prewritten computer
30 software, which shall be taxed as sales of tangible personal property.

31 (B) As used in this section:

32 (i) "Computer" means an electronic device that
33 accepts information in digital or similar form and manipulates it for a
34 result based on a sequence of instructions;

35 (ii)(a) "Computer software" means a set of coded
36 instructions designed to cause a computer or automatic data processing

1 equipment to perform a task.

2 (b) "Computer software" does not include
3 software that is delivered electronically or by load and leave;

4 (iii) "Computer software maintenance contract" means
5 a contract that obligates a vendor of computer software to provide a customer
6 with future updates or upgrades to computer software or support services with
7 respect to computer software, or both;

8 ~~(iii)~~(iv) "Delivered electronically" means delivered
9 to the purchaser by means other than tangible storage media;

10 ~~(iv)~~(v) "Electronic" means relating to technology
11 having electrical, digital, magnetic, wireless, optical, electromagnetic, or
12 similar capabilities;

13 ~~(v)~~(vi) "Load and leave" means delivery to the
14 purchaser by use of a tangible storage media in which the tangible storage
15 media is not physically transferred to the purchaser; and

16 ~~(vi)~~(vii) "Prewritten computer software" means
17 computer software, including prewritten upgrades, that is not designed and
18 developed by the author or other creator to the specifications of a specific
19 purchaser; and

20 (2) Service of repairing or maintaining computer equipment or
21 hardware in any form.

22 (b) [Repealed.]

23 (c) [Repealed.]

24 (d) The gross receipts or gross proceeds derived from the sale of a
25 computer software maintenance contract are not taxable.

26

27 SECTION 11. Arkansas Code § 26-52-512(c), concerning tax payments by
28 retailers, is amended to add an additional subdivision as follows:

29 (c)(1) For any electronic funds transfer or report required under
30 subsection (a) of this section, the due date of which falls on a Saturday,
31 Sunday, or legal holiday, the electronic funds transfer or report shall be
32 made on the next succeeding business day ~~which~~ that is not a Saturday,
33 Sunday, or legal holiday.

34 (2) If the Federal Reserve Bank is closed on a due date that
35 prohibits a taxpayer from being able to make a payment through electronic
36 funds transfer, the payment shall be accepted as timely if made on the next

1 day the Federal Reserve Bank is open.

2 (3) A report filed in conjunction with a remittance that cannot
3 be made due to the closure of the Federal Reserve Bank shall be accepted as
4 timely if filed in conjunction with the payment on the next day the Federal
5 Reserve Bank is open.

6
7 SECTION 12. Arkansas Code § 26-52-517(d) concerning exemption
8 certificates, is amended to read as follows:

9 (d)(1) Any person repeatedly selling the same type of property to the
10 same purchaser for resale may accept a blanket certificate covering more than
11 one (1) transaction. A seller may accept a blanket exemption certificate from
12 a purchaser with which the seller has a recurring business relationship.

13 (2) A seller is not required to renew blanket certificates or
14 update exemption certificate information or data elements when there is a
15 recurring business relationship between the purchaser and seller.

16 (3) A recurring business relationship exists when a period of no
17 more than twelve (12) months elapses between sales transactions.

18
19 SECTION 13. Arkansas Code § 26-52-517(g) concerning exemption
20 certificates, is amended to read as follows:

21 (g)(1) A seller may obtain a fully completed exemption certificate or
22 capture the relevant data elements required by the department within ninety
23 (90) days after the date of sale.

24 (2)(A) If the seller has not obtained an exemption certificate
25 or all relevant data elements and the department makes a request for
26 substantiation of the exemption, the seller has one hundred twenty (120) days
27 from the date of the request to prove by other means that the transaction was
28 not subject to sales or use tax or to obtain in good faith a fully completed
29 exemption certificate from the purchaser.

30 (B) Good faith means that the seller obtains a certificate
31 that claims an exemption that:

32 (i) Was statutorily available on the date of the
33 transaction in the jurisdiction where the transaction is sourced;

34 (ii) Could be applicable to the item being
35 purchased; and

36 (iii) Is reasonable for the purchaser's type of

1 business.

2

3 SECTION 14. Arkansas Code § 26-52-522, concerning the sourcing of
4 direct mail, is amended to read as follows:

5 26-52-522. Direct Mail Sourcing.

6 ~~(a)(1) Notwithstanding § 26-52-521, a purchaser of direct mail that is~~
7 ~~not a holder of a direct pay permit shall provide to the seller in~~
8 ~~conjunction with the purchase either a direct mail form or information to~~
9 ~~show the state and local jurisdictions to which the direct mail is delivered~~
10 ~~to recipients.~~

11 ~~(2)(A) Upon receipt of the direct mail form, the seller is~~
12 ~~relieved of all obligations to collect, pay, or remit the applicable tax, and~~
13 ~~the purchaser is obligated to pay or remit the applicable tax on a direct pay~~
14 ~~basis.~~

15 ~~(B) A direct mail form shall remain in effect for all~~
16 ~~future sales of direct mail by the seller to the purchaser until it is~~
17 ~~revoked in writing.~~

18 ~~(3)(A) Upon receipt of information from the purchaser showing~~
19 ~~the jurisdictions to which the direct mail is delivered to recipients, the~~
20 ~~seller shall collect the tax according to the delivery information provided~~
21 ~~by the purchaser.~~

22 ~~(B) In the absence of bad faith, the seller is relieved of~~
23 ~~any further obligation to collect tax on any transaction if the seller has~~
24 ~~collected tax pursuant to the delivery information provided by the purchaser.~~

25 ~~(b)(1) If the purchaser of direct mail does not have a direct pay~~
26 ~~permit and does not provide the seller with either a direct mail form or~~
27 ~~delivery information as required by subsection (a) of this section, the~~
28 ~~seller shall collect the tax according to § 26-52-521(b)(5).~~

29 ~~(2) Nothing in this subsection shall limit a purchaser's~~
30 ~~obligation for sales or use tax to any state to which the direct mail is~~
31 ~~delivered.~~

32 ~~(c) If a purchaser of direct mail provides the seller with~~
33 ~~documentation of direct pay authority, the purchaser shall not be required to~~
34 ~~provide a direct mail form or delivery information to the seller.~~

35 ~~—— (d) The direct mail form must:~~

36 ~~(1) Contain the purchaser's name and sales tax permit number;~~

1 ~~(2) State that the purchaser will be remitting sales and use tax~~
2 ~~to the state; and~~

3 ~~(3) Contain any additional information that the Director of the~~
4 ~~Department of Finance and Administration may require.~~

5 (a) As used in this section:

6 (1) "Advertising and promotional direct mail" means direct mail
7 in which the primary purpose is to attract attention to a product, person,
8 business, or organization, or to attempt to sell, popularize, or secure
9 financial support for a product, person, business, or organization;

10 (2) "Direct mail form" means:

11 (A) A Streamlined Sales and Use Tax Agreement certificate
12 of exemption claiming direct mail, as in effect on January 1, 2011; or

13 (B) A written statement approved, authorized, or accepted
14 by the state;

15 (3)(A) "Jurisdictional information" means information sufficient
16 for the seller to source the sale of taxable printing services resulting in
17 advertising and promotional direct mail to the state and local jurisdictions
18 in which the printed materials are delivered or distributed to recipients.

19 (B) Jurisdictional information must be in a form in which
20 such information can be retained and retrieved by the seller for the purpose
21 of sales and use tax reporting.

22 (C) Access to a database that contains address information
23 or a mailing list provided by the purchaser or a third party that does not
24 allow the seller to retain and retrieve the jurisdictional information
25 identifying jurisdictions where the advertising and promotional direct mail
26 was delivered does not constitute receiving information showing the
27 jurisdictions to which the advertising and promotional direct mail is
28 delivered;

29 (4)(A) "Other direct mail" means any direct mail that is not
30 advertising and promotional direct mail regardless of whether advertising and
31 promotional direct mail is included in the same mailing, and includes without
32 limitation:

33 (i) Transactional direct mail that contains personal
34 information specific to the addressee including, without limitation invoices,
35 bills, statements of account, and payroll advices;

36 (ii) Any legally required mailings, including

1 without limitation privacy notices, tax reports, and stockholder reports; and
2 (iii) Other non-promotional direct mail delivered to
3 existing or former shareholders, customers, employees, or agents including,
4 without limitation newsletters and informational pieces.

5 (B) "Other direct mail" does not include the development
6 of billing information or the provision of any data processing service that
7 is more than incidental; and

8 (5) "Product" means tangible personal property, a product
9 transferred electronically, or a service.

10 (b) The sale of a taxable printing service resulting in the production
11 and distribution of advertising and promotional direct mail or other direct
12 mail shall be sourced in accordance with this section.

13 (c)(1) The seller shall source the sale of taxable printing service
14 resulting in the production and distribution of advertising and promotional
15 direct mail according to § 26-52-521(b)(5), unless the purchaser provides the
16 seller with a direct pay permit, direct pay form, exemption certificate, or
17 jurisdictional information.

18 (2) If the purchaser provides jurisdictional information to the
19 seller, then the seller shall source the sale of the taxable printing service
20 to the jurisdictions to which the advertising and promotional direct mail is
21 to be delivered.

22 (d) The seller shall source the sale of taxable printing services
23 resulting in the production and distribution of other direct mail according
24 to § 26-52-521(b)(3), unless the purchaser provides the seller with a direct
25 pay permit, direct pay form, or exemption certificate.

26 (e) When both advertising and promotional direct mail and other direct
27 mail are combined in a single mailing, the sale is sourced as other direct
28 mail.

29 (f) If a bundled transaction includes advertising and promotional
30 direct mail, this section applies only if the primary purpose of the
31 transaction is the sale of products or services that meet the definition of
32 advertising and promotional direct mail.

33 (g)(1) In the absence of bad faith, the seller is relieved of any
34 further obligation to collect any additional sales or use tax on the sale of
35 advertising and promotional direct mail where the seller has sourced the sale
36 according to the jurisdictional information provided by the purchaser.

1 (2) In the absence of bad faith, the seller is relieved of all
2 obligations to collect, pay, or remit sales or use tax if the purchaser
3 provides the seller with a direct pay permit, direct pay form, or exemption
4 certificate.

5 (h)(1) If the purchaser provides the seller with a direct pay permit,
6 direct pay form, or exemption certificate, then the purchaser shall source
7 the sale to the jurisdictions to which the advertising and promotional direct
8 mail or other direct mail is to be delivered to the recipients and shall
9 report and pay any applicable sales or use tax due.

10 (2) Purchasers may use a reasonable summary or allocation of the
11 distribution to the jurisdictions to which the advertising and promotional
12 direct mail or other direct mail is delivered for the purposes of self
13 assessing and directly paying sales or use tax.

14 (3) This section does not limit any purchaser's:

15 (A) Obligation for sales or use tax to any state to which
16 the direct mail is delivered;

17 (B) Right under local, state, federal, or constitutional
18 law to a credit for sales or use taxes legally due and paid to other
19 jurisdictions; or

20 (C) Right to a refund of sales or use taxes overpaid to
21 any jurisdiction.

22
23 SECTION 15. Arkansas Code § 26-53-125(e), concerning the return and
24 payment of use tax, is amended as follows:

25 (e)(1) Any report or remittance required under this section of which
26 the due date falls on a Saturday, Sunday, or legal holiday shall be
27 postmarked or transmitted on the next succeeding business day that is not a
28 Saturday, Sunday, or legal holiday.

29 (2) If the Federal Reserve Bank is closed on a due date that
30 prohibits a vendor from being able to make a remittance through electronic
31 funds transfer, the remittance shall be accepted as timely if made on the
32 next day the Federal Reserve Bank is open.

33 (3) A report filed in conjunction with a remittance that cannot
34 be made due to the closure of the Federal Reserve Bank shall be accepted as
35 timely if filed in conjunction with the payment on the next day the Federal
36 Reserve Bank is open.

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/s/Lovell