

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S3/21/13

A Bill

SENATE BILL 192

5 By: Senator D. Johnson
6 By: Representatives Vines, Williams
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 26 OF
10 THE ARKANSAS CODE CONCERNING TAXATION; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 26
16 OF THE ARKANSAS CODE CONCERNING TAXATION.
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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 § 26-18-405(d)(1)(C), concerning hearings on
22 proposed tax assessments, is amended to read as follows to clarify a term:

23 (C) If it is not possible for the hearing officer to hold
24 a hearing and issue a decision on a protest of a proposed assessment within
25 one hundred eighty (180) days after the taxpayer files a written protest for
26 reasons that the hearing officer determines are beyond the taxpayer's
27 control, the director shall waive the interest for the period from the time
28 the written protest is filed until the final assessment is issued.
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31 SECTION 2. Arkansas Code § 26-26-1907, concerning the Arkansas Real
32 Property Reappraisal Fund, is amended to add a new subsection to read as
33 follows to make it consistent with Arkansas Code § 26-80-101:

34 (f) Reappraisal funding under this section may be withheld and
35 forfeited under § 26-80-101(b)(4)(A).
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1 SECTION 3. Arkansas Code § 26-35-201(b), concerning distraint when a
2 taxpayer is about to move, is amended to read as follows to make it
3 consistent with Arkansas Code § 26-34-101:

4 (b) A county collector may levy and collect the charged taxes with
5 costs by distress and sale if the delinquent taxes are not satisfied or paid
6 in full following the sale of a business or the sale of the assets, goods,
7 chattels, inventory, or equipment of a business not in the ordinary course of
8 business.

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10 SECTION 4. Arkansas Code § 26-36-206(a), concerning the distraint of
11 goods to pay delinquent personal property taxes, is amended to read as
12 follows to clarify its application and to make stylistic changes:

13 (a)(1) At any time after October 15 ~~in each year, after taxes may be~~
14 ~~due~~, the county collector shall distraint sufficient goods and chattels
15 belonging to the a person charged with taxes levied upon the personal
16 property who owes taxes upon the person's personal property to pay the taxes
17 due upon the personal property ~~of the person~~ and a penalty of twenty-five
18 percent (25%) on the taxes due, ~~which shall be collected by the county~~
19 ~~collector and paid into the county school fund, and the costs that may accrue~~
20 ~~and shall immediately proceed to advertise the sale of the goods and chattels~~
21 ~~in three (3) public places in the county, stating the time when and the place~~
22 ~~where the goods and chattels shall be sold.~~

23 (2) If the county collector distrains goods and chattels under
24 subdivision (a)(1) of this section, the county collector shall immediately
25 proceed to advertise the sale of the goods and chattels in three (3) public
26 places in the county, stating the time when and the place where the goods and
27 chattels will be sold.

28 (3) The county collector shall collect taxes and penalties under
29 this subsection and deposit the taxes and penalties under this subsection
30 into the county school fund.

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32 SECTION 5. Arkansas Code § 26-37-203(b)(2) and (3), concerning the
33 contest of a conveyance of tax-delinquent land, is amended to read as follows
34 to clarify its application and to clarify a term:

35 (2) A cause of action by a person suffering a mental incapacity,
36 a minor, or a person serving in active duty with the United States armed

1 forces during time of war during the one-year period under subdivision (b)(1)
2 of this section is barred if not commenced within two (2) years after the
3 disability is removed, the minor reaches majority, or the person is released
4 from active duty with the United States armed forces during time of war ~~with~~
5 ~~the United States armed forces~~.

6 (3) An action to challenge the validity of a conveyance to a
7 purchaser of tax-delinquent land that was sold at a negotiated sale under §
8 26-37-101 is barred if not commenced within ninety (90) days after the date
9 of the conveyance.

10
11 SECTION 6. Arkansas Code § 26-38-201(b), concerning suits to confirm
12 title in land, is amended to read as follows to clarify its application:

13 (b)(1) ~~Suit~~ A suit to confirm title in the State of Arkansas or in a
14 purchaser, donee, or redeмпtor may be filed at any time after the conveyance
15 by certification.

16 (2) The state may elect to file a suit for confirmation after
17 conveyance from the state to a purchaser, donee, or redeмпtor.

18 (3) If a suit for confirmation is filed after a conveyance from
19 the state, the decree of confirmation inures to the benefit of the purchaser,
20 donee, or redeмпtor of the real property.

21
22 SECTION 7. Arkansas Code § 26-38-208(a)(2), concerning severed mineral
23 rights, is amended to read as follows to make stylistic changes:

24 (2) ~~For purposes of this subchapter, wherever the terms~~ As used
25 in this subchapter, “real property”, “parcel(s)”, or “parcel of real
26 property” ~~appear, the terms also shall mean~~ includes without limitation a
27 severed mineral ~~interests~~ interest.

28
29 SECTION 8. Arkansas Code § 26-51-1004(c), concerning the applicability
30 of the tax credits provided under the Water Resource Conservation and
31 Development Incentives Act, is amended to read as follows to clarify a term:

32 (c) Any tax credit issued to an approved applicant that is a
33 partnership, a limited liability company taxed as a partnership, a Subchapter
34 S corporation, or a fiduciary shall be passed through to the partners,
35 members, or owners, respectively, on a pro rata basis or pursuant to an
36 executed agreement between or among the partners, members, or owners

1 documenting an alternative method for the distribution of the tax credit.

2
3 SECTION 9. Arkansas Code § 26-51-1010(c)(1), concerning the
4 application and approval procedure under the Water Resource Conservation and
5 Development Incentives Act, is amended to read as follows to clarify a term:

6 (c)(1) The commission may issue a tax credit approval certificate for
7 those applications proposing projects that meet the requirements of this
8 subchapter and rules promulgated ~~thereunder~~ under this subchapter.

9
10 SECTION 10. Arkansas Code § 26-51-1010(e), concerning the application
11 and approval procedure under the Water Resource Conservation and Development
12 Incentives Act, is amended to read as follows to remove an incorrect
13 reference:

14 (e) The department shall promulgate such rules ~~and regulations~~ as may
15 be deemed necessary to carry out the tax credit provisions of this
16 subchapter.

17
18 SECTION 11. Arkansas Code § 26-51-1012(a), concerning the deduction
19 for project costs above the tax credit provided under the Water Resource
20 Conservation and Development Incentives Act, is amended to read as follows to
21 clarify a term and to make stylistic changes:

22 (a) In determining net income for Arkansas income tax purposes, any
23 approved applicant qualifying for the tax credits provided in this subchapter
24 ~~shall also be~~ is also entitled to a deduction in an amount equal to the
25 project cost less the total amount of tax credits to which the approved
26 applicant is entitled under this subchapter.

27
28 SECTION 12. Arkansas Code § 26-52-117(e)(2), concerning the gross
29 receipts tax imposed on sellers and affiliated persons, is amended to read as
30 follows to make it consistent with Arkansas Code § 26-52-117(e)(1):

31 (2) Proof provided under subdivision (e)(1) of this section may
32 consist of written statements from all of the residents with whom the seller
33 has an agreement stating that they did not engage in any solicitation in the
34 state on behalf of the seller during the preceding ~~year~~ twelve (12) months if
35 the statements were provided and obtained in good faith.

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SECTION 13. Arkansas Code § 26-52-445 is amended to read as follows to add clarifying language:

26-52-445. Kegs used by wholesale manufacturer of beer.

~~The purpose of this act is to exempt a wholesale manufacturer of beer from paying sales and use tax on kegs used to sell beer wholesale~~ gross receipts or gross proceeds derived from the sale of a keg that is used to sell beer wholesale by a wholesale manufacturer of beer are exempt from the gross receipts tax levied by this chapter and the compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

SECTION 14. Arkansas Code § 26-52-517(d)(2), concerning sales tax exemption certificates, is amended to read as follows to clarify a term:

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

SECTION 15. Arkansas Code § 26-52-517(g)(2)(B), concerning sales tax exemption certificates, is amended to read as follows to clarify a term:

(B) ~~“Good faith”~~ As used in this subsection, “good faith” means that the seller obtains a certificate that claims an exemption that:

SECTION 16. Arkansas Code § 26-52-902(c), concerning the certification required for steel mill tax incentives, is amended to read as follows to incorporate language from Acts 1987, No. 48, that was omitted from the codification of § 26-52-902:

(c) To claim the benefits of § 26-52-903, a taxpayer must be certified before July 1, 1989, pursuant to subsection (a) of this section or obtain a certification before July 1, 1989, from the Director of the Arkansas Economic Development Commission certifying to the division that the taxpayer meets the definition of “qualified manufacturer of steel” contained in § 26-52-901.

SECTION 17. Arkansas Code § 26-82-102(4)(A), concerning the definition of “economic development project” under the Local Sales and Use Tax Economic Development Project Funding Act, is amended to read as follows to clarify a

1 term:

2 (A) The sponsor makes an investment of at least ten
3 million dollars (\$10,000,000) in the economic development project;

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5 SECTION 18. Arkansas Code § 26-82-109(a), concerning the
6 administration of a local sales and use tax imposed under the Local Sales and
7 Use Tax Economic Development Project Funding Act, is amended to read as
8 follows to clarify a term:

9 (a) On and after the effective date of a local sales and use tax
10 imposed under this chapter, the Director of the Department of Finance and
11 Administration shall perform all functions incidental to the administration,
12 collection, enforcement, and operation of the local sales and use tax.

13

14 SECTION 19. Arkansas Code § 26-82-112(b)(1), concerning penalties
15 under the Local Sales and Use Tax Economic Development Project Funding Act,
16 is amended to read as follows to clarify terms:

17 (b)(1) When property is seized by the director under any statute
18 authorizing seizure of property of a taxpayer who is delinquent in payment of
19 the taxes imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et
20 seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and
21 when the taxpayer is also delinquent in payment of any local sales and use
22 tax imposed under this chapter, the director shall sell sufficient property
23 to pay the delinquent local sales and use taxes and penalties due to any
24 levying entity under this chapter in addition to the amount required to pay
25 any taxes due to the state under the Arkansas Gross Receipts Act of 1941, §
26 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101
27 et seq.

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29 SECTION 20. Arkansas Code § 26-82-113(a)(1)(A), concerning the
30 administration of funds received under the Local Sales and Use Tax Economic
31 Development Project Funding Act, is amended to read as follows to clarify a
32 term and to make stylistic changes:

33 (a)(1)(A) Money reported as local sales and use taxes that was
34 collected in local taxing jurisdictions that is not immediately identifiable
35 and money collected in local jurisdictions that ~~have no~~ do not have a local
36 sales and use tax shall be deposited into the Identification Pending Trust

1 Fund for Local Sales and Use Taxes.

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3 SECTION 21. Arkansas Code § 26-82-115(b)(1)(A), concerning the maximum
4 tax that can be imposed under the Local Sales and Use Tax Economic
5 Development Project Funding Act, is amended to read as follows to clarify
6 terms:

7 (b)(1)(A) For a taxpayer not subject to the levy of a use tax on
8 taxable services or tangible personal property brought into the state for
9 storage until the tangible personal property is subsequently initially used
10 in the state, the use tax portion of the local sales and use tax authorized
11 under this chapter shall be computed on each purchase of the tangible
12 personal property by the taxpayer as if all the tangible personal property
13 was subject upon purchase to the use tax portion of the local sales and use
14 tax.

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16 SECTION 22. Arkansas Code § 26-82-115(b)(2), concerning the maximum
17 tax that can be imposed under the Local Sales and Use Tax Economic
18 Development Project Funding Act, is amended to read as follows to clarify
19 terms and to make stylistic changes:

20 (2) The ~~taxes~~ use tax portion of the local sales and use tax
21 computed under subdivision (b)(1) of this section shall be aggregated on a
22 monthly basis, and the aggregate monthly amount shall be divided by the sum
23 of the total purchases of the tangible personal property on which the ~~taxes~~
24 ~~are~~ use tax portion of the local sales and use tax is computed, and the
25 quotient shall be multiplied by the amount of the taxpayer's tangible
26 personal property subsequently initially used and subject to levy of the use
27 tax portion of the local sales and use tax within the city or county during
28 the month for which the monthly aggregate tax figure was computed, and the
29 product shall be the amount of the use tax portion of the local sales and use
30 tax liability for the taxpayer for the month computed.

31

32 SECTION 23. Arkansas Code § 26-82-116 is amended to read as follows to
33 clarify terms and to make stylistic changes:

34 26-82-116. Reporting.

35 Vendors collecting, reporting, and remitting a local sales and use
36 ~~taxes~~ tax levied under this chapter shall collect, report, and pay the local

1 sales and use ~~taxes~~ tax in the same manner and at the same time as is
2 prescribed by law for the collection, reporting, and payment of other local
3 sales and use taxes.

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5 SECTION 24. Arkansas Code § 26-82-119 is amended to read as follows to
6 clarify a term and to make a stylistic change:

7 26-82-119. Rules.

8 The Director of the Department of Finance and Administration may
9 promulgate reasonable rules to implement the enforcement, administration, and
10 collection of ~~the taxes~~ a local sales and use tax authorized in this chapter.

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12 SECTION 25. DO NOT CODIFY. The enactment and adoption of this act
13 shall not repeal, expressly or impliedly, the acts passed at the regular
14 session of the Eighty-Ninth General Assembly. All such acts shall have the
15 full force and effect and, so far as those acts intentionally vary from or
16 conflict with any provision contained in this act, those acts shall have the
17 effect of subsequent acts and as amending or repealing the appropriate parts
18 of the Arkansas Code of 1987.

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20 /s/D. Johnson
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