

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S2/17/15 S3/17/15

A Bill

SENATE BILL 332

5 By: Senator Files
6 *By: Representative Jett*
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS CONCERNING THE SALES AND USE
10 TAX APPLICABLE TO THE PARTIAL REPLACEMENT AND REPAIR
11 OF CERTAIN MACHINERY AND EQUIPMENT USED IN
12 MANUFACTURING; TO REDUCE THE SALES AND USE TAX
13 APPLICABLE TO THE PARTIAL REPLACEMENT AND REPAIR OF
14 CERTAIN MACHINERY AND EQUIPMENT USED IN
15 MANUFACTURING; TO DECLARE AN EMERGENCY; AND FOR OTHER
16 PURPOSES.
17
18

Subtitle

19 TO REDUCE THE SALES AND USE TAX ON THE
20 PARTIAL REPLACEMENT AND REPAIR OF CERTAIN
21 MACHINERY AND EQUIPMENT USED IN
22 MANUFACTURING; AND TO DECLARE AN
23 EMERGENCY.
24
25
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code § 26-52-447(b), concerning the sales tax on
30 partial replacement and repair of certain machinery and equipment that is
31 subject to refund, is amended to read as follows:

32 (b)(1) Beginning July 1, 2014, the taxes levied under §§ 26-52-301 and
33 26-52-302 that are subject to a refund under this section are the taxes in
34 excess of four and seven-eighths percent (4.875%).

35 (2) Beginning July 1, 2015, the taxes levied under §§ 26-52-301
36 and 26-52-302 that are subject to a refund under this section are the taxes



1 in excess of two and five-tenths percent (2.5%).

2 (3) Beginning July 1, 2016, all taxes levied under §§ 26-52-301
3 and 26-52-302 are subject to a refund under this section.

4
5 SECTION 2. Arkansas Code § 26-52-447(f), concerning the sales tax on
6 partial replacement and repair of certain machinery and equipment that is
7 subject to refund, is amended to read as follows:

8 (f) To claim the benefit of the tax refund under this section, a
9 taxpayer shall hold a direct pay or a limited direct pay sales and use tax
10 permit from the Department of Finance and Administration and shall claim the
11 tax refund under the direct pay or limited direct pay permit.

12
13 SECTION 3. Arkansas Code § 26-52-509(a), concerning the direct payment
14 of sales and use tax by a consumer or user, is amended to read as follows:

15 (a)(1) ~~In the exercise of his or her discretion, the~~ The Director of
16 the Department of Finance and Administration by agreement with any consumer
17 or user may ~~permit~~:

18 (A) Permit a consumer or user under the agreement to
19 accrue and remit gross receipts taxes directly to the Department of Finance
20 and Administration, instead of the taxes being collected and paid by the
21 seller ~~as provided in~~ under § 26-52-508; and

22 (B)(i) Issue limited direct pay authority to permit a user
23 or consumer to accrue and remit gross receipts and compensating use taxes on
24 purchases that include eligible purchases.

25 (ii)(a) A limited direct pay agreement permits a
26 consumer or user to accrue and remit gross receipts and compensating use
27 taxes on purchases that include eligible purchases.

28 (b) As used in this section, "eligible
29 purchases" means property or services subject to a refund of tax under §§ 26-
30 52-447 and 26-53-149.

31 (iii)(a) A limited direct pay agreement is available
32 only to a person eligible for a refund of tax under §§ 26-52-447 and 26-53-
33 149.

34 (b) A person holding a limited direct pay
35 permit shall use the permit only to make purchases that include eligible
36 purchases.

1 (2)(A) A seller that receives a claim for exemption from a
2 customer based on a limited direct pay permit shall not collect and remit
3 gross receipts or compensating use taxes on purchases that include eligible
4 purchases made by a person holding a limited direct pay permit.

5 (B) However, if a seller collects and remits gross
6 receipts or compensating use taxes on eligible purchases from a person
7 holding a limited direct pay permit, a refund may be obtained under § 26-18-
8 507.

9 (3) A person who has entered into a limited direct pay agreement
10 under this section and makes purchases of property or services under the
11 authority of that agreement without paying the gross receipts or compensating
12 use taxes due on those purchases is responsible for remitting the proper
13 amount of tax due to the director as required by law.

14 (4)(A) A seller shall collect and remit gross receipts and
15 compensating use taxes on purchases made by a person holding a limited direct
16 pay permit that are not eligible purchases.

17 (B) If a seller relies on the limited direct pay permit
18 and fails to properly collect tax on sales other than eligible purchases, the
19 limited direct pay permit holder shall remit the proper amount of tax to the
20 state as required under subsection (a)(3) of this section.

21 (5) This section does not eliminate the requirement that a
22 consumer or user self-assess and remit compensating use tax under §§ 26-53-
23 123 – 26-53-125.

24
25 SECTION 4. Arkansas Code § 26-53-149(b), concerning the use tax on
26 partial replacement and repair of certain machinery and equipment that is
27 subject to refund, is amended to read as follows:

28 (b)(1) Beginning July 1, 2014, the taxes levied under §§ 26-53-106 and
29 26-53-107 that are subject to a refund under this section are the taxes in
30 excess of four and seven-eighths percent (4.875%).

31 (2) Beginning July 1, 2015, the taxes levied under §§ 26-53-106
32 and 26-53-107 that are subject to a refund under this section are the taxes
33 in excess of two and five-tenths percent (2.5%).

34 (3) Beginning July 1, 2016, all taxes levied under §§ 26-53-106
35 and 26-53-107 are subject to a refund under this section.

36

1 SECTION 5. Arkansas Code § 26-53-149(f), concerning the use tax on
2 partial replacement and repair of certain machinery and equipment that is
3 subject to refund, is *amended to read as follows*:

4 (f) *To claim the benefit of the tax refund under this section, a*
5 *taxpayer shall hold a direct pay or a limited direct pay sales and use tax*
6 *permit from the Department of Finance and Administration and shall claim the*
7 *tax refund under the direct pay or limited direct pay permit.*

8
9 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
10 General Assembly of the State of Arkansas that most states exempt
11 modifications, partial replacements, and repairs of manufacturing machinery
12 and equipment from sales and use tax; that other states apply a reduced rate
13 to modifications, partial replacements, and repairs; that Arkansas recognized
14 this discrepancy and reduced, but did not eliminate, the tax rate on most
15 modifications, partial replacements, and repairs in 2014; that Arkansas has
16 been classified as the worst of the twelve (12) states in the southeast
17 region on the taxation of industrial materials used in manufacturing; that
18 Alabama, Mississippi, North Carolina, and other states have phased in
19 exemptions for modifications, partial replacements, and repairs of
20 manufacturing machinery and equipment over time; and that this act is
21 immediately necessary because Arkansas is not competitive with surrounding
22 states and states in the southeast region in imposing taxes on many types of
23 manufacturing modifications, partial replacements, and repairs, which is
24 costing the state present and future jobs. Therefore, an emergency is
25 declared to exist, and this act being immediately necessary for the
26 preservation of the public peace, health, and safety shall become effective
27 on:

28 (1) The date of its approval by the Governor;

29 (2) If the bill is neither approved nor vetoed by the Governor,
30 the expiration of the period of time during which the Governor may veto the
31 bill; or

32 (3) If the bill is vetoed by the Governor and the veto is
33 overridden, the date the last house overrides the veto.

34
35 /s/Files
36