

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

HOUSE BILL 1535

By: Representative K. Hendren

## For An Act To Be Entitled

AN ACT TO AMEND THE DISTRIBUTION AND USE OF SALES AND  
USE TAX REVENUES; TO AMEND THE INCOME TAX IMPOSED ON  
INDIVIDUALS, TRUSTS, AND ESTATES BASED ON THE USE OF  
SALES AND USE TAX COLLECTED FROM SELLERS THAT DO NOT  
HAVE A PHYSICAL PRESENCE IN THE STATE; TO USE A  
PORTION OF THE SALES AND USE TAX COLLECTED FROM  
SELLERS THAT DO NOT HAVE A PHYSICAL PRESENCE IN THE  
STATE TO REDUCE SALES AND USE TAX RATES; AND FOR  
OTHER PURPOSES.

## Subtitle

TO AMEND THE DISTRIBUTION AND USE OF  
SALES AND USE TAX REVENUES.

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

SECTION 1. Arkansas Code § 26-51-201(e), concerning the income tax  
imposed on individuals, trusts, and estates, is amended to read as follows:

(e) If the director determines that federal law authorizes the state  
to collect sales and use tax from sellers that do not have a physical  
presence in the state, then after the first twelve (12) months of collecting  
sales and use tax from sellers that do not have a physical presence in the  
state, the director shall:

(1) ~~After making the deductions required under § 19-5-~~  
~~202(b)(2)(B)(i), certify to the Governor and the Office of Economic and Tax~~  
~~Policy the amount of available net general revenues attributable to the~~  
~~collection of sales and use tax from sellers that do not have a physical~~



~~presence in the state during the first twelve (12) months of collections;~~

~~(2) Use any amount under subdivision (e)(1) of this section that exceeds seventy million dollars (\$70,000,000) § 26-52-107(b)(2)(B)(iii)(b) to reduce the rate of four and five-tenths percent (4.5%) in the table contained in subdivision (a)(7) of this section equally for all taxpayers subject to the rate of four and five-tenths percent (4.5%);~~

~~(3) (2) Certify the amount of the reduction of the income tax rate under this subsection to the Governor and the Office of Economic and Tax Policy; and~~

~~(4) (3) Incorporate the reduced income tax rate into the table prescribed under subsection (d) of this section, which shall be applicable for each tax year thereafter.~~

SECTION 2. Arkansas Code § 26-52-107 is amended to read as follows:

26-52-107. Disposition of taxes, interest, and penalties.

(a) All Except as provided in subsection (b) of this section, the taxes, interest, penalties, and costs received by the Director of the Department of Finance and Administration under the provisions of this chapter and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., shall be general revenues and shall be deposited into the State Treasury to the credit of the State Apportionment Fund. The Treasurer of State shall allocate and transfer the same to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by, and to be used for the respective purposes set forth in, the Revenue Stabilization Law, § 19-5-101 et seq.

(b)(1)(A) After making the deductions required under § 19-5-202(b)(2)(B)(i), the director shall certify to the Governor and the Office of Economic and Tax Policy the amount of available net general revenues attributable to the collection of sales and use tax from sellers that do not have a physical presence in the state during the first twelve (12) months of collections.

(B) After making the certification required under subdivision (b)(1)(A) of this section, the director shall:

(i) Use the amount certified under subdivision (b)(1)(A) of this section to reduce the sales and use tax rates under this chapter and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.,

1 in an amount that will cause a reduction in net general revenues equal to the  
2 amount certified under subdivision (b)(1)(A) of this section;

3 (ii) Certify the amount of the reduction of the  
4 sales and use tax under subdivision (b)(1)(B)(i) of this section to the  
5 Governor and the Office of Economic and Tax Policy; and

6 (iii) Provide written notice to each gross receipts  
7 tax permit holder under § 26-52-201 of the new sales and use tax rates  
8 certified under subdivision (b)(1)(B)(ii) of this section and the effective  
9 dates of the new sales and use tax rates.

10 (C) A reduced sales and use tax rate certified under this  
11 subdivision (b)(1) shall be effective on the first day of the calendar  
12 quarter following the notice provided under subdivision (b)(1)(B)(iii) of  
13 this section.

14 (2) However, if the director determines that federal law  
15 authorizes the state to collect sales and use taxes from sellers that do not  
16 have a physical presence in the state:

17 (A) After making the deductions required under § 19-5-  
18 202(b)(2)(B)(i), the director shall certify to the Governor and the Office of  
19 Economic and Tax Policy the amount of available net general revenues  
20 attributable to the collection of sales and use tax from sellers that do not  
21 have a physical presence in the state; and

22 (B) The amount certified under subdivision (b)(2)(A) of  
23 this section shall be distributed as follows:

24 (i) The first eighty-five million dollars  
25 (\$85,000,000) shall be deposited as general revenues into the State  
26 Apportionment Fund;

27 (ii) During the first twelve (12) months after the  
28 director makes the determination certified in subdivision (b)(2)(A) of this  
29 section, the remainder shall be used to reduce sales and use tax rates as  
30 described in subdivision (b)(1) of this section; and

31 (iii) Beginning the thirteenth month after the  
32 director makes the determination certified in subdivision (b)(2)(A) of this  
33 section, the remainder shall be distributed as follows:

34 (a) Fifty percent (50%) shall be used to  
35 reduce sales and use tax rates as described in subdivision (b)(1) of this  
36 section; and

1                                    (b) Fifty percent (50%) shall be used as  
2 described in § 26-51-201(e).

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4            SECTION 3. EFFECTIVE DATE. Sections 1 and 2 of this act are effective  
5 on the first day of the calendar quarter following the effective date of this  
6 act.