

Stricken language would be deleted from and underlined language would be added to present law.
Act 141 of the Regular Session

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H1/24/17

A Bill

HOUSE BILL 1162

5 By: Representatives C. Fite, Baltz, Barker, Beck, Brown, Burch, Capp, Cavanaugh, Coleman, Drown,
6 Farrer, K. Ferguson, L. Fite, Fortner, Gazaway, House, Ladyman, Leding, Lowery, McCollum, G.
7 McGill, D. Meeks, Nicks, Pilkington, Rye, B. Smith, Speaks, Wardlaw, J. Williams, Wing, Womack
8 By: Senators J. English, Bledsoe, Files, Hester, J. Hutchinson, D. Wallace, E. Williams, L. Eads, T.
9 Garner, Irvin, B. Johnson, G. Stubblefield, Flipppo, *J. Hendren*

For An Act To Be Entitled

12 AN ACT TO AMEND ARKANSAS TAX LAW AND THE USE OF TAX
13 REVENUES; TO CREATE AN INCOME TAX EXEMPTION FOR
14 MILITARY RETIREMENT AND SURVIVOR BENEFITS; TO LEVY
15 INCOME TAX ON UNEMPLOYMENT COMPENSATION BENEFITS; TO
16 AMEND THE DEFINITIONS OF THE ARKANSAS GROSS RECEIPTS
17 TAX ACT OF 1941 TO INCLUDE THE DEFINITION OF CANDY
18 AND SOFT DRINKS; TO IMPOSE THE FULL GROSS RECEIPTS
19 TAX AND COMPENSATING TAX ON THE SALE OF CANDY AND
20 SOFT DRINKS; TO LEVY THE FULL GROSS RECEIPTS TAX ON
21 THE SALE OF *SPECIFIED DIGITAL PRODUCTS AND DIGITAL*
22 *CODES*; TO AMEND THE ARKANSAS SOFT DRINK TAX *ACT, AS*
23 *AFFIRMED BY REFERRED ACT 1 OF 1994*, TO REDUCE THE
24 RATE OF TAX; TO SUPPLEMENT THE ARKANSAS MEDICAID
25 PROGRAM TRUST FUND TO OFFSET THE DECREASE IN SOFT
26 DRINK TAX REVENUES DEPOSITED INTO THE FUND; AND FOR
27 OTHER PURPOSES.

Subtitle

31 TO AMEND ARKANSAS TAX LAW CONCERNING
32 INCOME TAX, SALES AND USE TAXES, AND THE
33 SOFT DRINK TAX; AND TO SUPPLEMENT THE
34 ARKANSAS MEDICAID PROGRAM TRUST FUND TO
35 OFFSET DECREASED DEPOSITS FROM TAX
36 REVENUES.



1
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

3
4 SECTION 1. Arkansas Code § 19-5-402(a), concerning the maximum
5 allocations of general revenues in a fiscal year, is amended to add an
6 additional subdivision to read as follows:

7 (3)(A) For the fiscal year beginning July 1, 2017, two million
8 nine hundred fifty-four thousand five hundred dollars (\$2,954,500) shall be:

9 (i) Included and added to the amount distributed in
10 subdivision (a)(1) of this section; and

11 (ii) Distributed by the Treasurer of State in
12 monthly amounts to the Arkansas Medicaid Program Trust Fund under § 19-5-985.

13 (B) For fiscal years beginning on and after July 1, 2018,
14 five million nine hundred nine thousand dollars (\$5,909,000) shall be:

15 (i) Included and added to the amount distributed in
16 subdivision (a)(1) of this section; and

17 (ii) Distributed by the Treasurer of State in
18 monthly amounts to the Arkansas Medicaid Program Trust Fund under § 19-5-985.

19
20 SECTION 2. Arkansas Code § 19-5-985(b), concerning the Arkansas
21 Medicaid Program Trust Fund, is amended to read as follows:

22 (b)(1) The fund shall consist of the following:

23 (A) All revenues derived from taxes levied on soft drinks
24 sold or offered for sale in Arkansas under the Arkansas Soft Drink Tax Act, §
25 26-57-901 et seq., there to be used exclusively for the state match of
26 federal funds participation under the Arkansas Medicaid Program;

27 (B) The additional ambulance annual fees stated in § 20-
28 13-212;

29 (C) The special revenues specified in §§ 19-6-301(156) and
30 19-6-301(236); ~~and~~

31 (D) The amounts collected under §§ 26-57-604 and 26-57-605
32 above the forecasted level for insurance premium taxes set by the Chief
33 Fiscal Officer of the State under § 10-3-1404(a)(1)(A); and

34 (E) The amount provided for in § 19-5-402(a)(3).

35 (2) If the Arkansas Medicaid Program should be discontinued for
36 any reason, the revenues derived from the soft drink tax levied in the

1 Arkansas Soft Drink Tax Act, § 26-57-901 et seq., and the funds described in
2 subdivision (b)(1)(E) of this section shall be used exclusively to provide
3 services to Arkansas residents comparable to the services now provided under
4 the Arkansas Medicaid Program.

5
6 SECTION 3. Arkansas Code § 26-51-307 is amended to read as follows:

7 26-51-307. Retirement or disability benefits.

8 (a)(1) The first six thousand dollars (\$6,000) of benefits received by
9 ~~any~~ a resident of this state from an individual retirement account or the
10 first six thousand dollars (\$6,000) of retirement benefits received by ~~any~~ a
11 resident of this state from public or private employment-related retirement
12 systems, plans, or programs, regardless of the method of funding for these
13 systems, plans, or programs, ~~shall be~~ is exempt from the state income tax.

14 (2)(A) Only individual retirement account benefits received by
15 an individual retirement account participant after reaching fifty-nine and
16 one-half (59½) years of age qualify for the exemption.

17 (B) The only other distributions or withdrawals from an
18 individual retirement account that qualify for the exemption before the
19 individual retirement account participant reaches fifty-nine and one-half
20 (59½) years of age are those made on account of the participant's death or
21 disability.

22 (C) All other premature distributions or early
23 withdrawals, ~~including, but not limited to,~~ without limitation those taken
24 for medical-related expenses, higher education expenses, or a first-time home
25 purchase, do not qualify for the exemption.

26 (b)(1)(A) Except as provided in subdivision (b)(2) of this section and
27 subsection (e) of this section, the exemption provided for in subsection (a)
28 of this section for benefits received from an individual retirement account
29 or from a public or private employment-related retirement system, plan, or
30 program ~~shall be~~ is the only exemption from the state income tax allowed for
31 benefits received from an individual retirement account or from any publicly
32 or privately supported employment-related retirement system, plan, or
33 program, excepting only benefits received under systems, plans, or programs
34 which are by federal law exempt from the state income tax.

35 (B) ~~No~~ Except as provided in subsection (e) of this
36 section, a taxpayer shall not receive an exemption greater than six thousand

1 dollars (\$6,000) during any tax year under ~~the provisions of~~ this section.

2 (2) ~~The provisions of this~~ This section ~~shall~~ does not apply to
3 retirement or disability benefits received under a plan, system, or fund
4 described in § 26-51-404(b)(6).

5 (c)(1) Title 26 U.S.C. § 72, as in effect on January 1, 2009, is the
6 sole method by which a recipient of benefits from an individual retirement
7 account or from public or private employment-related retirement systems,
8 plans, or programs may deduct or recover his or her cost of contribution to
9 the plan when computing his or her income for state income tax purposes.

10 (2) A taxpayer shall not ~~be allowed to~~ deduct or recover any
11 portion of the taxpayer's cost of contribution to the plan that the taxpayer:

12 (A) Has ~~once~~ already deducted or recovered; or

13 (B) Would have been allowed to deduct or recover under any
14 provision of law or court decision.

15 (d)(1) An individual who is sixty-five (65) years of age or older and
16 who does not claim an exemption under subsection (a) of this section ~~shall be~~
17 is entitled to an additional state income tax credit of twenty dollars
18 (\$20.00).

19 (2) This credit is in addition to all other credits allowed by
20 law.

21 (e)(1) The following are exempt from the income tax imposed under this
22 chapter:

23 (A) Retirement benefits received by a member of the
24 uniformed services from any of the uniformed services identified in
25 subdivision (e)(2) of this section; and

26 (B) Survivor benefits that are funded by the retirement
27 pay of a member of the uniformed services.

28 (2) As used in this subsection, "member of the uniformed
29 services" means a retired member of any of the following:

30 (A) The United States Army, the United States Marine
31 Corps, the United States Navy, the United States Air Force, or the United
32 States Coast Guard;

33 (B) A reserve component of any of the United States Armed
34 Forces listed in subdivision (e)(2)(A) of this section;

35 (C) The National Guard of any state;

36 (D) The commissioned regular or reserve corps of the

1 United States Public Health Service; or

2 (E) The National Oceanic and Atmospheric Administration
3 Commissioned Officer Corps.

4 (f) A taxpayer claiming an exemption under subsection (e) of this
5 section is not eligible for an exemption under subsection (a) of this
6 section.

7
8 SECTION 4. Arkansas Code § 26-51-404(a)(1), concerning the definition
9 of "gross income", is amended to add additional subdivisions to read as
10 follows:

11 (G) Unemployment compensation benefits paid from federal
12 unemployment funds; and

13 (H) Unemployment insurance benefits received from
14 unemployment compensation paid under Title IV of the Social Security Act, 42
15 U.S.C. § 601 et seq., except for unemployment or sickness payments made
16 pursuant to 45 U.S.C. § 352, as it existed on January 1, 2017.

17
18 SECTION 5. Arkansas Code § 26-51-404(b)(6)(B), concerning exemptions
19 from the definition of "gross income", is amended to read as follows:

20 (B) Social Security payments, railroad retirement
21 benefits, ~~unemployment compensation benefits paid from federal unemployment~~
22 ~~trust funds, and~~ unemployment insurance benefits received from the railroad
23 retirement boards, ~~and unemployment compensation paid under Title IV of the~~
24 ~~Social Security Act, 42 U.S.C. § 601 et seq.;~~

25
26 SECTION 6. Arkansas Code § 26-52-103(12)(B), concerning the
27 definitions used under the Arkansas Gross Receipts Act of 1941, is amended to
28 read as follows:

29 (B) "Food" and "food ingredients" do not include candy, a
30 soft drink, an alcoholic beverage, tobacco, or a dietary supplement;

31
32 *SECTION 7. Arkansas Code § 26-52-103(13), concerning the definitions*
33 *to be used under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et*
34 *seq., is amended to read as follows:*

35 (13)(A) "Gross receipts", "gross proceeds", or "sales price"
36 means the total amount of consideration, including cash, credit, property,

1 and services, for which tangible personal property, specified digital
2 products, a digital code, or services are sold, leased, or rented, valued in
3 money, whether received in money or otherwise, without ~~any~~ a deduction for
4 the following:

5 (i) The seller's cost of the property sold;

6 (ii) The cost of materials used, labor or service
7 cost, interest, any loss, any cost of transportation to the seller, any tax
8 imposed on the seller, and any other expense of the seller;

9 (iii) ~~Any~~ A charge by the seller for any service
10 necessary to complete the sale, other than a delivery charge or an
11 installation charge;

12 (iv) Delivery charge;

13 (v)(a) Installation charge.

14 (b) Installation charges ~~will~~ shall not be
15 included in the "gross receipts", "gross proceeds", or "sales price" if they
16 are not a specifically taxable service under this chapter or the Arkansas
17 Compensating Tax Act of 1949, § 26-53-101 et seq., and the installation
18 charges have been separately stated on the invoice, billing, or similar
19 document given to the purchaser; or

20 (vi) Credit for any trade-in.

21 (B) "Gross receipts", "gross proceeds", or "sales price"
22 does not include:

23 (i) A discount including cash, term, or a coupon
24 that is not reimbursed by a third party and that is allowed by a seller and
25 taken by a purchaser on a sale;

26 (ii) ~~Interest~~ An interest, financing, or ~~a~~ carrying
27 charge from credit extended on the sale of tangible personal property,
28 specified digital products, a digital code, or services, if the amount is
29 separately stated on the invoice, bill of sale, or similar document given to
30 the purchaser; and

31 (iii) ~~Any~~ A tax legally imposed directly on the
32 consumer that is separately stated on the invoice, bill of sale, or similar
33 document given to the purchaser;

34
35 SECTION 8. Arkansas Code § 26-52-103(19)(A) and (B), concerning the
36 definition of "sale" to be used under the Arkansas Gross Receipts Act of

1 1941, § 26-52-101 et seq., are amended to read as follows:

2 (19)(A) "Sale" means the transfer of either the title or
3 possession, except in the case of a lease or rental for a valuable
4 consideration, of tangible personal property, specified digital products, or
5 a digital code regardless of the manner, method, instrumentality, or device
6 by which the transfer is accomplished.

7 (B) "Sale" includes the:

8 (i) Exchange, barter, lease, or rental of tangible
9 personal property, specified digital products, or a digital code; or

10 (ii) Sale, ~~exchanging~~ exchange, or other disposition
11 of admissions, dues, or fees to clubs, to places of amusement, or to
12 recreational or athletic events or for the privilege of having access to or
13 the use of amusement, athletic, or entertainment facilities.

14

15 SECTION 9. Arkansas Code § 26-52-103(20) and (21), concerning the
16 definitions to be used under the Arkansas Gross Receipts Act of 1941, § 26-
17 52-101 et seq., are amended to read as follows:

18 (20) "Seller" means ~~every~~ a person making a sale, lease, or
19 rental of tangible personal property, specified digital products, a digital
20 code, or services;

21 (21)(A) "Tangible personal property" means personal property
22 that can be seen, weighed, measured, felt, or touched or that is in any other
23 manner perceptible to the senses.

24 (B) "Tangible personal property" includes electricity,
25 water, gas, steam, and prewritten computer software~~†~~.

26 (C) "Tangible personal property" does not include
27 specified digital products or a digital code;

28

29 SECTION 10. Arkansas Code § 26-52-103, concerning the definitions to
30 be used under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,
31 is amended to add additional subdivisions to read as follows:

32 (25)(A) "Candy" means a preparation of sugar, honey, or other
33 natural or artificial sweeteners in combination with chocolate, fruits, nuts,
34 or other ingredients or flavorings in the form of bars, drops, or pieces.

35 (B) "Candy" shall not include a preparation containing
36 flour and shall require no refrigeration;

1 (26) “Digital audio works” means works that result from the
2 fixation of a series of musical, spoken, or other sounds, including
3 ringtones;

4 (27) “Digital audio-visual works” means a series of related
5 images that, when shown in succession, impart an impression of motion,
6 together with accompanying sounds, if any;

7 (28) “Digital books” means works that are generally recognized
8 in the ordinary and usual sense as “books”;

9 (29) “Digital code” means a code that:

10 (A) Provides a purchaser with a right to obtain one (1) or
11 more specified digital products; and

12 (B) May be obtained by any means, including email or
13 tangible means, regardless of its designation as a song code, video code, or
14 book code;

15 (30)(A) “End user” means a person who purchases specified
16 digital products or the code for specified digital products for his or her
17 own use or for the purpose of giving away the product or code.

18 (B) “End user” does not include a person who receives by
19 contract a product transferred electronically for further commercial
20 broadcast, rebroadcast, transmission, retransmission, licensing, relicensing,
21 distribution, redistribution, or exhibition of the product, in whole or in
22 part, to another person or persons;

23 (31) “Ringtones” means digitized sound files that:

24 (A) Are downloaded onto a device; and

25 (B) May be used to alert the customer with respect to a
26 communication;

27 (32)(A) “Soft drink” means a nonalcoholic beverage that contains
28 natural or artificial sweeteners.

29 (B) “Soft drink” does not include a beverage that contains
30 milk or milk products, soy, rice, or similar milk substitutes, or that is
31 greater than fifty percent (50%) of vegetable or fruit juice by volume;

32 (33) “Specified digital products” means the following when
33 transferred electronically:

34 (A) Digital audio works;

35 (B) Digital audio-visual works; and

36 (C) Digital books; and

1 (34) "Transferred electronically" means obtained by the
2 purchaser by means other than tangible storage media.

3
4 SECTION 11. Arkansas Code § 26-52-110(b), concerning sellers and
5 affiliated persons, is amended to read as follows:

6 (b) A seller is presumed to be engaged in the business of selling
7 tangible personal property, specified digital products, a digital code, or
8 taxable services for use in the state if an affiliated person is subject to
9 the sales and use tax jurisdiction of the state and the:

10 (1) Seller sells a similar line of products as the affiliated
11 person and sells the products under the same business name or a similar
12 business name;

13 (2) Affiliated person uses its in-state employees or in-state
14 facilities to advertise, promote, or facilitate sales by the seller to
15 consumers;

16 (3) Affiliated person maintains an office, distribution
17 facility, warehouse or storage place, or similar place of business to
18 facilitate the delivery of property, specified digital products, a digital
19 code, or services sold by the seller to the seller's business;

20 (4) Affiliated person uses trademarks, service marks, or trade
21 names in the state that are the same or substantially similar to those used
22 by the seller; or

23 (5) Affiliated person delivers, installs, assembles, or performs
24 maintenance services for the seller's purchasers within the state.

25
26 SECTION 12. Arkansas Code § 26-52-110(d), concerning sellers and
27 affiliated persons, is amended to read as follows:

28 (d)(1) If there is not an affiliated person with respect to a seller
29 in the state, the seller is presumed to be engaged in the business of selling
30 tangible personal property, specified digital products, a digital code, or
31 taxable services for use in the state if the seller enters into an agreement
32 with one (1) or more residents of the state under which the residents, for a
33 commission or other consideration, directly or indirectly refer potential
34 purchasers, whether by a link on an Internet website or otherwise, to the
35 seller.

36 (2) However, subdivision (d)(1) of this section applies only if

1 the cumulative gross receipts from sales by the seller to purchasers in the
2 state who are referred to the seller by all residents according to the type
3 of agreement described in subdivision (d)(1) of this section exceed ten
4 thousand dollars (\$10,000) during the preceding twelve (12) months.

5
6 SECTION 13. Arkansas Code § 26-52-201(e), concerning the permit
7 required to transact business in the state, is amended to read as follows:

8 (e) The director is authorized to establish types and classifications
9 of Arkansas gross receipts tax permits, including, ~~not by~~ without limitation,
10 special permits for taxpayers whose principal line of business does not
11 include the retail selling of tangible personal property, specified digital
12 products, or a digital code or the performing of taxable services.

13
14 SECTION 14. Arkansas Code § 26-52-210(a)(2), concerning the automatic
15 expiration of the permit required to transact business in the state, is
16 amended to read as follows:

17 (2) This section ~~shall~~ does not apply to a permit that is issued
18 ~~pursuant to~~ under § 26-52-201(e) to a taxpayer whose principal line of
19 business does not include the retail selling of tangible personal property,
20 specified digital products, or a digital code or the performing of taxable
21 services.

22
23 SECTION 15. Arkansas Code § 26-52-301(1), concerning the levy of the
24 gross receipts tax on sales of enumerated items and services, is amended to
25 read as follows:

26 (1) The following items:

27 (A) Tangible personal property;

28 (B) Specified digital products sold:

29 (i) To a purchaser who is an end user; and

30 (ii) With the right of permanent use or less than
31 permanent use granted by the seller regardless of whether the use is
32 conditioned on continued payment by the purchaser; and

33 (C) Digital codes;

34
35 SECTION 16. Arkansas Code § 26-52-301(3)(B)(viii)(b), concerning the
36 gross receipts tax levied on certain sales, is amended to read as follows:

1 (b) A contractor is deemed to be a consumer or
2 user of all tangible personal property, specified digital products, or
3 digital codes used or consumed by the contractor in providing the nontaxable
4 services, in the same manner as when performing any other contract.

5
6 SECTION 17. Arkansas Code § 26-52-302 is amended to read as follows:
7 26-52-302. Additional taxes levied.

8 (a)(1) In addition to the excise tax levied upon the gross proceeds or
9 gross receipts derived from all sales by this chapter, except for food and
10 food ingredients that are taxed under § 26-52-317, there is levied an excise
11 tax of one percent (1%) upon all taxable sales of property, specified digital
12 products, digital codes, and services subject to the tax levied in this
13 chapter.

14 (2) This tax shall be collected, reported, and paid in the same
15 manner and at the same time as is prescribed by law for the collection,
16 reporting, and payment of all other Arkansas gross receipts taxes.

17 (3) In computing gross receipts or gross proceeds as defined in
18 § 26-52-103, a deduction shall be allowed for bad debts resulting from the
19 sale of tangible personal property.

20 (b)(1) In addition to the excise tax levied upon the gross proceeds or
21 gross receipts derived from all sales by this chapter, except for food and
22 food ingredients that are taxed under § 26-52-317, there is hereby levied an
23 excise tax of one-half of one percent (0.5%) upon all taxable sales of
24 property, specified digital products, digital codes, and services subject to
25 the tax levied in this chapter.

26 (2) This tax shall be collected, reported, and paid in the same
27 manner and at the same time as is prescribed by law for the collection,
28 reporting, and payment of all other Arkansas gross receipts taxes.

29 (3) However, in computing gross receipts or gross proceeds as
30 defined in § 26-52-103, a deduction shall be allowed for bad debts resulting
31 from the sale of tangible personal property.

32 (c)(1) Except for food and food ingredients that are taxed under § 26-
33 52-317, there is levied an additional excise tax of one-half of one percent
34 (0.5%) upon all taxable sales of property, specified digital products,
35 digital codes, and services subject to the tax levied by this chapter.

36 (2) The tax shall be collected, reported, and paid in the same

1 manner and at the same time as is prescribed by this chapter, for the
2 collection, reporting, and payment of Arkansas gross receipts taxes.

3 (d)(1) Except for food and food ingredients that are taxed under § 26-
4 52-317, there is levied an additional excise tax of seven-eighths of one
5 percent (0.875%) upon all taxable sales of property, specified digital
6 products, digital codes, and services subject to the tax levied by this
7 chapter.

8 (2) The tax shall be collected, reported, and paid in the same
9 manner and at the same time as prescribed by this chapter, for the
10 collection, reporting, and payment of Arkansas gross receipts taxes.

11
12 SECTION 18. Arkansas Code § 26-52-305 is amended to read as follows:

13 26-52-305. Financial institutions.

14 Sales of tangible personal property, specified digital products, a
15 digital code, and services to financial institutions ~~shall be~~ are subject to
16 the Arkansas gross receipts tax levied in this chapter the same as such sales
17 to other business corporations.

18
19 SECTION 19. Arkansas Code § 26-52-307(a)(1), concerning contractors as
20 consumer users, is amended to read as follows:

21 (a)(1) Sales of services, specified digital products, digital codes,
22 and tangible personal property, including materials, supplies, and equipment,
23 made to contractors who use them in the performance of ~~any~~ a contract are
24 declared to be sales to consumers or users and not sales for resale.

25
26 SECTION 20. Arkansas Code § 26-52-315(e)(2), concerning the definition
27 of "ancillary service" to be used regarding the sales tax on
28 telecommunications and related services, is amended to read as follows:

29 (2)(A) "Ancillary service" means a service that is associated
30 with or incidental to the provision of a telecommunications service,
31 including without limitation detailed telecommunications billing, directory
32 assistance, vertical service, and voice mail services~~†.~~

33 (B) "Ancillary service" does not include specified digital
34 products or a digital code;

35
36 SECTION 21. Arkansas Code § 26-52-315(e)(19)(C), concerning items

1 excluded from the definition of "telecommunications service" to be used
2 regarding the sales tax on telecommunications and related services, is
3 amended to read as follows:

4 (C) "Telecommunications service" does not include:

5 (i) Data processing and information services that
6 allow data to be generated, acquired, stored, processed, or retrieved and
7 delivered by an electronic transmission to a purchaser when the purchaser's
8 primary purpose for the underlying transaction is the processed data or
9 information;

10 (ii) Installation or maintenance of wiring or
11 equipment on a customer's premises;

12 (iii) Tangible personal property;

13 (iv) Advertising, including ~~but not limited to~~
14 without limitation directory advertising;

15 (v) Billing and collection services provided to
16 third parties;

17 (vi) Internet access service;

18 (vii)(a) Radio and television audio and video
19 programming services, regardless of the medium, including the furnishing of
20 transmission, conveyance, and routing of the services by the programming
21 service provider.

22 (b) Radio and television audio and video
23 programming services ~~shall include but not be limited to~~, including without
24 limitation cable service as defined in 47 U.S.C. § 522(6), as in effect on
25 January 1, 2007, and audio and video programming services delivered by
26 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3, as
27 in effect on January 1, 2007;

28 (viii) Ancillary services; ~~or~~

29 (ix) A digital product delivered electronically,
30 including ~~but not limited to~~ without limitation software, music, video,
31 reading material, or a ring tone;

32 (x) Specified digital products; or

33 (xi) A digital code;

34
35 SECTION 22. Arkansas Code § 26-52-401(1) and (2), concerning sales tax
36 exemptions for various products and services, are amended to read as follows:

1 (1) *The gross receipts or gross proceeds derived from the sale*
2 *of tangible personal property, specified digital products, a digital code, or*
3 *services by churches, except when the organizations may be engaged in*
4 *business for profit;*

5 (2) *The gross receipts or gross proceeds derived from the sale*
6 *of tangible personal property, specified digital products, a digital code, or*
7 *service by charitable organizations, except when the organizations may be*
8 *engaged in business for profit;*

9
10 SECTION 23. *Arkansas Code § 26-52-401(7)-(10), concerning sales tax*
11 *exemptions for various products and services, are amended to read as follows:*

12 (7) *Gross receipts or gross proceeds derived from the sale of*
13 *specified digital products, a digital code, tangible personal property,*
14 *including ~~but not limited to~~ without limitation office supplies; office*
15 *equipment; program items at camp such as bows, arrows, and rope; rifles for*
16 *rifle range and other rifle items; food, food ingredients, or prepared food*
17 *for camp; lumber and supplies used in camp maintenance; camp equipment; first*
18 *aid supplies for camp; the leasing of cars used in promoting scouting; or*
19 *services to the Boy Scouts of America chartered by the United States Congress*
20 *in 1916 or the Girl Scouts of the United States of America chartered by the*
21 *United States Congress in 1950 or any of the scout councils in the State of*
22 *Arkansas;*

23 (8) *Gross receipts or gross proceeds derived from sales of*
24 *tangible personal property, specified digital products, a digital code, or*
25 *services to the Boys & Girls Club of America;*

26 (9) *Gross receipts or gross proceeds derived from sales of*
27 *tangible personal property, specified digital products, a digital code, or*
28 *services to the Poets' Roundtable of Arkansas;*

29 (10) *Gross receipts or gross proceeds derived from sales of*
30 *tangible personal property, specified digital products, a digital code, or*
31 *services to 4-H clubs and FFA clubs in this state, to the Arkansas 4-H*
32 *Foundation, the Arkansas Future Farmers of America Foundation, and the*
33 *Arkansas Future Farmers of America Association;*

34
35 SECTION 24. *Arkansas Code § 26-52-401(21)(A), concerning sales tax*
36 *exemptions for various products and services, is amended to read as follows:*

1 (21)(A) Gross receipts or gross proceeds derived from the sale
2 of ~~any~~ tangible personal property, specified digital products, a digital
3 code, or services as specifically provided in this subdivision (21) to ~~any~~ a
4 hospital or sanitarium operated for charitable and nonprofit purposes or ~~any~~
5 a nonprofit organization whose sole purpose is to provide temporary housing
6 to the family members of patients in a hospital or sanitarium.

7
8 SECTION 25. Arkansas Code § 26-52-401(29), concerning sales tax
9 exemptions for various products and services, is amended to read as follows:

10 (29) Gross receipts or gross proceeds derived from the sale of
11 ~~any~~ tangible personal property, specified digital products, or a digital code
12 specifically exempted from taxation by the Arkansas Compensating Tax Act of
13 1949, § 26-53-101 et seq.;

14
15 SECTION 26. Arkansas Code § 26-52-401(31), concerning sales tax
16 exemptions for various products and services, is amended to read as follows:

17 (31) Gross receipts or gross proceeds derived from sales of
18 tangible personal property, specified digital products, a digital code, or
19 services to Habitat for Humanity;

20
21 SECTION 27. Arkansas Code § 26-52-401(33) and (34), concerning sales
22 tax exemptions for various products and services, are amended to read as
23 follows:

24 (33) Gross receipts or gross proceeds derived from sales of
25 tangible personal property, specified digital products, a digital code, or
26 services to The Salvation Army;

27 (34) Gross receipts or gross proceeds derived from sales of
28 tangible personal property, specified digital products, a digital code, and
29 services to Heifer International, Inc.;

30
31 SECTION 28. Arkansas Code § 26-52-401(37), concerning sales tax
32 exemptions for various products and services, is amended to read as follows:

33 (37) Gross receipts or gross proceeds derived from sales of
34 tangible personal property, specified digital products, a digital code, or
35 services to the Arkansas Symphony Orchestra Society, Inc.;

36

1 SECTION 29. Arkansas Code § 26-52-401(39), concerning sales tax
2 exemptions for various products and services, is amended to read as follows:

3 (39) Gross receipts or gross proceeds derived from sales of
4 tangible personal property, specified digital products, a digital code, or
5 services to the Arkansas Black Hall of Fame Foundation, Inc.

6
7 SECTION 30. Arkansas Code § 26-52-430(a), concerning the sales tax
8 exemption for sales by charitable organizations, is amended to read as
9 follows:

10 (a) The exemptions ~~set forth~~ stated in this subchapter for a
11 charitable organization shall not extend to sales of new tangible personal
12 property, specified digital products, or a digital code by the charitable
13 organization if the sales compete with sales by for-profit businesses.

14
15 SECTION 31. Arkansas Code § 26-52-437(a)(1), concerning the definition
16 of "instructional materials" for purposes of the sales tax exemption for
17 textbooks and instructional materials for public schools, is amended to add
18 an additional subdivision to read as follows:

19 (G) Specified digital products and a digital code that
20 contains instructional information designed to be presented to students as
21 part of a course of study.

22
23 SECTION 32. Arkansas Code § 26-52-440(b)(1), concerning the sales tax
24 exemption for sales to qualified museums, is amended to read as follows:

25 (b)(1) The gross receipts or gross proceeds derived from the sale of
26 ~~any~~ tangible personal property, specified digital products, a digital code,
27 or services to a qualified museum are exempt from this chapter.

28
29 SECTION 33. Arkansas Code § 26-52-443 is amended to read as follows:
30 26-52-443. Exemption for Arkansas Search Dog Association, Inc.

31 The gross receipts or gross proceeds from the sale of tangible personal
32 property, specified digital products, a digital code, or a service to the
33 Arkansas Search Dog Association, Inc., are exempt from the gross receipts tax
34 levied by this chapter and the compensating use tax levied by the Arkansas
35 Compensating Tax Act of 1949, § 26-53-101 et seq.

36

1 SECTION 34. Arkansas Code § 26-52-449(a), concerning the sales tax
2 exemption for nonprofit blood donation organizations, is amended to read as
3 follows:

4 (a) The gross receipts or gross proceeds from the sale of tangible
5 personal property, specified digital products, a digital code, or a service
6 to a nonprofit blood donation organization are exempt from the gross receipts
7 tax levied by this chapter and the compensating use tax levied by the
8 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

9
10 SECTION 35. Arkansas Code § 26-52-501(j), concerning the preparation
11 of returns and payment of sales tax, is amended to read as follows:

12 (j) The director may establish by regulation separate requirements for
13 filing reports and returns and paying the tax levied under this chapter for
14 taxpayers whose principal line of business does not include the retail
15 selling of tangible personal property, specified digital products, or a
16 digital code or performing taxable services.

17
18 SECTION 36. Arkansas Code § 26-52-508(a), concerning the collection of
19 sales tax by sellers or admissions collectors, is amended to read as follows:

20 (a) The tax levied by this chapter shall be paid to the Director of
21 the Department of Finance and Administration by:

22 (1) The seller of tangible personal property, specified digital
23 products, or a digital code;

24 (2) The seller or collector of admissions to places of
25 amusement, recreational, or athletic events;

26 (3) The seller of privileges of access to or the use of
27 amusement, entertainment, athletic, or recreational facilities; and

28 (4) Any other person furnishing any service subject to the
29 provisions of this chapter.

30
31 SECTION 37. Arkansas Code § 26-52-517(a) and (b), concerning exemption
32 certificates, are amended to read as follows:

33 (a) The sales tax liability for all sales of tangible personal
34 property, specified digital products, digital codes, and taxable services is
35 upon the seller unless the purchaser claims an exemption and the seller
36 obtains identifying information of the purchaser and the reason the purchaser

1 is claiming the exemption in the manner prescribed by the Director of the
2 Department of Finance and Administration.

3 (b)(1) When tangible personal property, specified digital products, a
4 digital code, or taxable services are purchased ~~tax-free pursuant to tax-free~~
5 under subsection (a) of this section and the tangible personal property,
6 specified digital products, digital code, or taxable service is not resold by
7 the purchaser, the purchaser is solely liable for reporting and remitting to
8 the director any tax which should have been paid at the time of purchase.

9 (2) Use or disposition of the property other than for resale
10 shall be deemed a withdrawal from stock for all purposes, including reporting
11 and remittance of the tax due, and the tax shall be due from the purchaser at
12 the time of the withdrawal from stock.

13
14 SECTION 38. Arkansas Code § 26-52-518(b), concerning the remittance of
15 sales tax from special events, is amended to read as follows:

16 (b)(1) Special event vendors shall collect sales tax from purchasers
17 of tangible personal property, specified digital products, or a digital code
18 and remit the tax daily, along with a daily sales tax report, to the promoter
19 or organizer.

20 (2) The isolated sale exemption found in § 26-52-401(17) shall
21 not apply to sales of tangible personal property, specified digital products,
22 or a digital code at special events.

23
24 SECTION 39. Arkansas Code § 26-52-521(b)(5), concerning the sources of
25 sales for sales tax purposes, is amended to read as follows:

26 (5) If none of the previous rules of subdivisions (b)(1)-(4) of
27 this section apply, including the circumstance in which the seller is without
28 sufficient information to apply the previous rules, the location will be
29 determined by the address from which tangible personal property was shipped,
30 from which the specified digital products or the digital code was first
31 available for transmission by the seller, or from which the service was
32 provided, disregarding for these purposes any location that merely provided
33 the digital transfer of the product sold.

34
35 SECTION 40. The introductory language of Arkansas Code § 26-52-521(c),
36 concerning the sources of sales for sales tax purposes, is amended to read as

1 follows:

2 (c) The lease or rental of tangible personal property, specified
3 digital products, or a digital code other than property identified in
4 subsection (d) or subsection (e) of this section shall be sourced as follows:

5

6 SECTION 41. Arkansas Code § 26-52-521(f), concerning the sources of
7 sales for sales tax purposes, is amended to read as follows:

8 (f) As used in subsection (b) of this section:

9 (1) "Receive" and "receipt" mean:

10 (A) Taking possession of tangible personal property,
11 specified digital products, or a digital code; or

12 (B) Making first use of services; and

13 (2) "Receive" and "receipt" do not include possession by a
14 shipping company on behalf of the purchaser.

15

16 SECTION 42. Arkansas Code § 26-52-522(a)(5), concerning the definition
17 of "product" to be used in relation to direct mail sourcing, is amended to
18 read as follows:

19 (5) "Product" means tangible personal property, specified
20 digital products, a digital code, a product transferred electronically, or a
21 service.

22

23 SECTION 43. Arkansas Code § 26-52-523(a) and (b), concerning the
24 credit or rebate of local sales and use tax for certain purchases, is amended
25 to read as follows:

26 (a) As used in this section:

27 (1) "Qualifying purchase" means a purchase of tangible personal
28 property, specified digital products, a digital code, or a taxable service:

29 (A) For which the purchaser may take a business expense
30 deduction pursuant to 26 U.S.C. § 162, as in effect on January 1, 2007;

31 (B) For which the purchaser may take a depreciation
32 deduction pursuant to 26 U.S.C. § 167, as in effect on January 1, 2007;

33 (C) By an exempt organization under 26 U.S.C. § 501, as in
34 effect on January 1, 2007, if the purchase would be subject to a business
35 expense deduction or depreciation deduction if the purchaser were not an
36 exempt organization under 26 U.S.C. § 501, as in effect on January 1, 2007;

1 or

2 (D) By a state, or ~~any~~ a county, city, municipality,
3 school district, state-supported college or university, or any other
4 political subdivision of a state, if the purchase would be subject to a
5 business expense deduction or depreciation deduction if the purchaser were
6 not one of the entities enumerated in this subdivision (a)(1)(D);

7 (2) "Single transaction" means ~~any~~ a sale of tangible personal
8 property, specified digital products, a digital code, or a taxable service
9 reflected on a single invoice, receipt, or statement for which an aggregate
10 sales or use tax amount has been reported and remitted to the state for a
11 single local taxing jurisdiction; and

12 (3) "Travel trailer" means a trailer that:

13 (A) Provides temporary living quarters for travel,
14 recreation, or camping;

15 (B) Includes a chassis having wheels and a trailer hitch
16 or fifth wheel for towing; and

17 (C) Is required to be licensed for highway use under
18 Arkansas law.

19 (b)(1) A purchaser that pays any municipal sales or use tax in excess
20 of the tax due on the first two thousand five hundred dollars (\$2,500) of
21 gross receipts or gross proceeds from the purchase of a travel trailer or
22 from a qualifying purchase of tangible personal property, specified digital
23 products, a digital code, or a taxable service in a single transaction is
24 entitled to a credit or rebate of the excess amount of municipal sales or use
25 tax paid on each single transaction.

26 (2) A purchaser that pays any county sales or use tax in excess
27 of the tax due on the first two thousand five hundred dollars (\$2,500) of
28 gross receipts or gross proceeds from the purchase of a travel trailer or
29 from a qualifying purchase of tangible personal property, specified digital
30 products, a digital code, or a taxable service in a single transaction is
31 entitled to a credit or rebate of the excess amount of county sales or use
32 tax paid on each single transaction.

33

34 SECTION 44. Arkansas Code § 26-53-102(5)(B), concerning the
35 definitions used under the Arkansas Compensating Tax Act, is amended to read
36 as follows:

1 (B) "Food" and "food ingredients" do not include candy, a
2 soft drink, an alcoholic beverage, tobacco, or a dietary supplement;

3
4 SECTION 45 Arkansas Code § 26-53-102(10)-(16), concerning the
5 definitions to be used under the Arkansas Compensating Tax Act of 1949, are
6 amended to read as follows:

7 (10)(A) "Purchase" means the sale of tangible personal property,
8 specified digital products, a digital code, or taxable services by a vendor
9 to a person for the purpose of storage, use, distribution, or consumption in
10 this state.

11 (B)(i) "Purchase" also includes any withdrawal of tangible
12 personal property, specified digital products, or a digital code from a stock
13 or reserve maintained outside of the state by ~~any~~ a person and subsequently
14 brought into this state and thereafter stored, consumed, distributed, or used
15 by that person or by any other person.

16 (ii) In such an event, the tax shall be computed on
17 the value of the tangible personal property, specified digital products, or
18 digital code at the time it is brought into this state.

19 (C) No tax shall be computed to the extent that a
20 withdrawal consists of carbonaceous materials such as petroleum coke or
21 carbon anodes that are to be directly used or consumed in the electrolytic
22 reduction process of producing tangible personal property for ultimate sale
23 at retail;

24 (11) "Purchaser" means a person to whom a sale of tangible
25 personal property, specified digital products, or a digital code is made or
26 to whom a taxable service is furnished;

27 (12)(A) "Sale" means ~~any~~ a transfer, barter, or exchange of the
28 title or ownership of tangible personal property, specified digital products,
29 a digital code, or taxable services or the right to use, store, distribute,
30 or consume the tangible personal property, specified digital products, a
31 digital code, or taxable services for a consideration paid or to be paid in
32 installments or otherwise and includes any transaction whether called leases,
33 rentals, bailments, loans, conditional sales, or otherwise, notwithstanding
34 that the title or possession of the property, or both, is retained for
35 security.

36 (B) For the purpose of this subchapter, the sale of

1 tangible personal property, specified digital products, a digital code, or
2 taxable services shall be sourced according to §§ 26-52-521, 26-52-522, and
3 26-52-523;

4 (13)(A) "Sales price" or "purchase price" means the total amount
5 of consideration, including cash, credit, property, and services, for which
6 tangible personal property, specified digital products, a digital code, or
7 services are sold, leased, or rented, valued in money, whether received in
8 money or otherwise, without any deduction for the following:

9 (i) The seller's cost of the property sold;

10 (ii) The cost of materials used, labor or service
11 cost, interest, losses, all costs of transportation to the seller, all taxes
12 imposed on the seller, and any other expense of the seller;

13 (iii) A charge by the seller for any service
14 necessary to complete the sale, other than a delivery or installation charge;

15 (iv) Delivery charge;

16 (v)(a) Installation charge.

17 (b) However, installation charges ~~will~~ shall
18 not be included in the "sales price" if they are not a specifically taxable
19 service under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,
20 or this subchapter and the installation charges have been separately stated
21 on the invoice, billing, or similar document given to the purchaser; or

22 (vi) Credit for any trade-in.

23 (B) "Sales price" or "purchase price" ~~shall~~ does not
24 include:

25 (i) A discount, including cash, term, or a coupon
26 that is not reimbursed by a third party and that is allowed by a seller and
27 taken by a purchaser on a sale;

28 (ii) Interest, financing, and carrying charges from
29 credit extended on the sale of tangible personal property, specified digital
30 products, a digital code, or services if the amount is separately stated on
31 the invoice, bill of sale, or similar document given to the purchaser; and

32 (iii) Any tax legally imposed directly on the
33 consumer that is separately stated on the invoice, bill of sale, or similar
34 document given to the purchaser;

35 (14) "Seller" means a person making a sale, lease, or rental of
36 tangible personal property, specified digital products, a digital code, or

1 services;

2 (15) "Storage" means any keeping or retention in this state of
3 tangible personal property, specified digital products, a digital code, or
4 taxable services purchased from a vendor for any purpose except sale or
5 subsequent use solely outside this state;

6 (16)(A) "Tangible personal property" means personal property
7 that may be seen, weighed, measured, felt, or touched or is in any other
8 manner perceptible to the senses.

9 (B) "Tangible personal property" includes electricity,
10 water, gas, steam, and prewritten computer software.

11 (C) "Tangible personal property" does not include
12 specified digital products or digital codes;

13

14 SECTION 46. Arkansas Code § 26-53-102(20)-(21), concerning the
15 definitions to be used under the Arkansas Compensating Tax Act of 1949, are
16 amended to read as follows:

17 (20)(A) "Use", with respect to tangible personal property,
18 specified digital products, or a digital code, means the exercise of any
19 right or power over tangible personal property, specified digital products,
20 or a digital code incident to the ownership or control of that tangible
21 personal property, specified digital product, or digital code except that it
22 ~~shall~~ does not include the sale of that tangible personal property, specified
23 digital product, or digital code in the regular course of business.

24 (B) With respect to a taxable service, "use" means the
25 privilege of using the service, enjoyment of the service, or the first act
26 within this state by which the purchaser takes or assumes dominion or control
27 over the service or the ~~article~~ of tangible personal property, specified
28 digital products, or digital code upon which the service was performed; and

29 (21)(A)(i) "Vendor" means ~~every~~ a person engaged in making sales
30 of tangible personal property, specified digital products, digital codes, or
31 taxable services by mail order, by advertising, or by agent, by peddling
32 tangible personal property, specified digital products, a digital code, or
33 taxable services, by soliciting, or by taking orders for such sales for
34 storage, use, distribution, or consumption in this state.

35 (ii) "Vendor" includes all salespersons, solicitors,
36 hawkers, representatives, consignees, peddlers, or canvassers as agents of

1 the dealers, distributors, consignors, supervisors, principals, or employers
2 under whom they operate or from whom they obtain the tangible personal
3 property, specified digital products, digital code, or taxable services sold
4 by them.

5 (B) Regardless of whether a person is making sales on his
6 or her own behalf or on behalf of dealers, distributors, consignors,
7 supervisors, principals, or employers, the person must be regarded as a
8 vendor, and the dealers, distributors, consignors, supervisors, principals,
9 or employers must be regarded as vendors for purposes of this subchapter.

10
11 SECTION 47. Arkansas Code § 26-53-102, concerning the definitions used
12 in the Arkansas Compensating Tax Act of 1949, is amended to add additional
13 subdivisions to read as follows:

14 (22)(A) “Candy” means a preparation of sugar, honey, or other
15 natural or artificial sweeteners in combination with chocolate, fruits, nuts,
16 or other ingredients or flavorings in the form of bars, drops, or pieces.

17 (B) “Candy” shall not include a preparation containing
18 flour and shall require no refrigeration;

19 (23) “Digital audio works” means works that result from the
20 fixation of a series of musical, spoken, or other sounds, including
21 ringtones;

22 (24) “Digital audio-visual works” means a series of related
23 images that, when shown in succession, impart an impression of motion,
24 together with accompanying sounds, if any;

25 (25) “Digital books” means works that are generally recognized
26 in the ordinary and usual sense as “books”;

27 (26) “Digital code” means a code that:

28 (A) Provides a purchaser with a right to obtain one (1) or
29 more specified digital products; and

30 (B) May be obtained by any means, including email or
31 tangible means, regardless of its designation as a song code, video code, or
32 book code;

33 (27)(A) “End user” means a person who purchases specified
34 digital products or the code for specified digital products for his or her
35 own use or for the purpose of giving away the product or code.

36 (B) “End user” does not include a person who receives by

1 contract a product transferred electronically for further commercial
 2 broadcast, rebroadcast, transmission, retransmission, licensing, relicensing,
 3 distribution, redistribution, or exhibition of the product, in whole or in
 4 part, to another person or persons;

5 (28) "Ringtones" means digitized sound files that:

6 (A) Are downloaded onto a device; and

7 (B) May be used to alert the customer with respect to a
 8 communication;

9 (29)(A) "Soft drink" means a nonalcoholic beverage that contains
 10 natural or artificial sweeteners.

11 (B) "Soft drink" does not include a beverage that contains
 12 milk or milk products, soy, rice, or similar milk substitutes, or that is
 13 greater than fifty percent (50%) of vegetable or fruit juice by volume;

14 (30) "Specified digital products" means the following when
 15 transferred electronically:

16 (A) Digital audio works;

17 (B) Digital audio-visual works; and

18 (C) Digital books; and

19 (31) "Transferred electronically" means obtained by the
 20 purchaser by means other than tangible storage media.

21
 22 SECTION 48. Arkansas Code §§ 26-53-106 and 26-53-107 are amended to
 23 read as follows:

24 26-53-106. Imposition and rate of tax generally – Presumptions.

25 (a) There is levied and there shall be collected from every person in
 26 this state a tax or excise for the privilege of storing, using, distributing,
 27 or consuming within this state ~~any article of~~ tangible personal property,
 28 specified digital products, a digital code, or a taxable service purchased
 29 for storage, use, distribution, or consumption in this state at the rate of
 30 three percent (3%) of the sales price of the tangible personal property,
 31 specified digital products, digital code, or taxable service except for food
 32 and food ingredients that are taxed under § 26-53-145.

33 (b) This tax ~~will~~ does not apply with respect to the storage, use,
 34 distribution, or consumption of ~~any article of~~ tangible personal property,
 35 specified digital products, or a digital code purchased, produced, or
 36 manufactured outside this state until the transportation of the ~~article of~~

1 tangible personal property, specified digital products, or digital code has
2 finally come to rest within this state or until the ~~article of~~ tangible
3 personal property, specified digital products, or digital code has become
4 commingled with the general mass of property of this state.

5 (c) This tax applies to use, storage, distribution, or consumption of
6 ~~every article of~~ tangible personal property, specified digital products, a
7 digital code, or taxable service except as provided in this subchapter
8 irrespective of whether the ~~article of~~ tangible personal property, ~~or~~ similar
9 articles of tangible personal property, specified digital products, digital
10 code, or the taxable service is manufactured within the State of Arkansas, ~~or~~
11 is available for purchase within the State of Arkansas, ~~and irrespective of~~
12 or any other condition.

13 (d)(1)(A) For the purpose of the proper administration of this
14 subchapter and to prevent evasion of the tax and the duty to collect the tax
15 imposed in this section, it ~~shall be~~ is presumed that tangible personal
16 property, specified digital products, a digital code, or taxable services
17 sold by any vendor for delivery in this state or transportation to this state
18 are sold for storage, use, distribution, or consumption in this state unless
19 the vendor selling the tangible personal property, specified digital
20 products, digital code, or taxable service has taken from the purchaser a
21 resale certificate signed by and bearing the name, address, and sales tax
22 permit number of the purchaser certifying that the property or taxable
23 service was purchased for resale, except that sales made electronically ~~will~~
24 shall not require the purchaser's signature.

25 (B) The use by the purchaser of a resale certificate and
26 any resulting liability for, or exemption from, use tax in a transaction
27 involving a resale certificate shall be governed in all respects by the terms
28 of § 26-52-517.

29 (2) It is further presumed that tangible personal property,
30 specified digital products, a digital code, or taxable services shipped,
31 mailed, expressed, transported, or brought to this state by the purchaser
32 were purchased from a vendor for storage, use, distribution, or consumption
33 in this state.

34
35 26-53-107. Additional taxes levied.

36 (a)(1) In addition to the excise tax levied upon the privilege of

1 storing, using, distributing, or consuming tangible personal property,
2 specified digital products, a digital code, and taxable services within this
3 state by this subchapter, there is levied an excise tax of one percent (1%)
4 upon all tangible personal property, specified digital products, digital
5 codes, and taxable services subject to the tax levied in this subchapter
6 except for food and food ingredients that are taxed under § 26-53-145.

7 (2) The tax shall be collected, reported, and paid in the same
8 manner and at the same time as is prescribed by law for the collection,
9 reporting, and payment of state compensating taxes.

10 (b)(1) In addition to the excise tax levied upon the privilege of
11 storing, using, distributing, or consuming tangible personal property,
12 specified digital products, a digital code, and taxable services within the
13 state by this subchapter, there is levied an excise tax of one-half of one
14 percent (0.5%) upon all tangible personal property, specified digital
15 products, digital codes, and taxable services subject to the tax levied in
16 this subchapter except for food and food ingredients that are taxed under §
17 26-53-145.

18 (2) The tax shall be collected, reported, and paid in the same
19 manner and at the same time as is prescribed by law for the collection,
20 reporting, and payment of Arkansas compensating taxes.

21 (c)(1) There is levied an additional excise tax of one-half of one
22 percent (0.5%) upon all tangible personal property, specified digital
23 products, digital codes, and taxable services subject to the tax levied by
24 this subchapter except for food and food ingredients that are taxed under §
25 26-53-145.

26 (2) The tax shall be collected, reported, and paid in the same
27 manner and at the same time as is prescribed by this subchapter for the
28 collection, reporting, and payment of Arkansas compensating taxes.

29 (d)(1) There is levied an additional excise tax of seven-eighths of
30 one percent (0.875%) upon all tangible personal property, specified digital
31 products, digital codes, and taxable services subject to the tax levied by
32 this subchapter except for food and food ingredients that are taxed under §
33 26-53-145.

34 (2) The tax shall be collected, reported, and paid in the same
35 manner and at the same time as is prescribed by this subchapter for the
36 collection, reporting, and payment of Arkansas compensating taxes.

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SECTION 49. Arkansas Code § 26-53-110 is amended to read as follows:

26-53-110. Financial institutions.

Sales of tangible personal property, specified digital products, a digital code, and services to financial institutions ~~shall be~~ are subject to the state compensating tax levied in this subchapter, the same as such sales to other business corporations.

SECTION 50. Arkansas Code § 26-53-112 is amended to read as follows:

26-53-112. Exemptions generally.

There are specifically exempted from the taxes levied in this subchapter:

(1) Property or services, the storage, use, distribution, or consumption of which this state is prohibited from taxing under the United States Constitution or laws or the Arkansas Constitution or laws; and

(2) Sales of tangible personal property, specified digital products, a digital code, or services on which the tax under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., is levied and any tangible personal property, specified digital products, digital codes, or services specifically exempted from taxation by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and legislation enacted subsequent to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

SECTION 51. Arkansas Code §§ 26-53-121 and 26-53-122 are amended to read as follows:

26-53-121. Registration of vendors – Out-of-state vendors.

Every vendor selling tangible personal property, specified digital products, a digital code, or taxable services for storage, use, distribution, or consumption in this state shall:

(1) Register with the Director of the Department of Finance and Administration;

(2) Provide the location of any ~~and all~~ distribution or sales houses or offices of other places of business in this state; and

(3) Provide ~~such~~ other information as the director may require.

26-53-122. Agents furnished statements of compliance.

1 Every vendor selling tangible personal property, specified digital
2 products, a digital code, or taxable services for storage, use, distribution,
3 or consumption in this state shall furnish all agents with a statement to the
4 effect that the agent's principal has been and is complying with the
5 provisions of this subchapter.

6
7 SECTION 52. Arkansas Code § 26-53-123(a), concerning liability for the
8 compensating use tax, is amended to read as follows:

9 (a) Every person storing, using, distributing, or consuming in this
10 state tangible personal property, specified digital products, a digital code,
11 or taxable services purchased from a vendor shall be liable for the tax
12 imposed by this subchapter, and the liability shall not be extinguished until
13 the tax has been paid to this state.

14
15 SECTION 53. Arkansas Code § 26-53-124(a)(1), concerning the collection
16 of the compensating use tax by a vendor, is amended to read as follows:

17 (a)(1)(A) Every vendor making a sale of tangible personal property,
18 specified digital products, a digital code, or taxable services directly or
19 indirectly for the purpose of storage, use, distribution, or consumption in
20 this state shall collect the tax from the purchaser and give a receipt for
21 the tangible personal property, specified digital products, digital code, or
22 taxable services.

23 (B) Subdivision (a)(1)(A) of this section includes all
24 out-of-state vendors who deliver merchandise and taxable services into
25 Arkansas in their own conveyance when such merchandise or services will be
26 stored, used, distributed, or consumed within this state.

27 (C) The sale of tangible personal property, specified
28 digital products, a digital code, or taxable services ~~will~~ shall be sourced
29 according to §§ 26-52-521 – 26-52-523.

30
31 SECTION 54. Arkansas Code § 26-53-125(a)(2), concerning the return and
32 payment of the compensating use tax, is amended to read as follows:

33 (2) Every vendor selling tangible personal property, specified
34 digital products, a digital code, or taxable services for storage, use,
35 distribution, or consumption in this state shall file with the director on or
36 before the twentieth day of each month a sales and use tax return for the

1 preceding monthly period in such form as may be prescribed by the director,
2 showing:

3 (A) The total tax levied by this subchapter due on all
4 tangible personal property, specified digital products, digital codes, or
5 taxable services sold by the vendor during the preceding monthly period, the
6 storage, use, distribution, or consumption of which is subject to the tax
7 levied by this subchapter; and

8 (B) Such other information as the director may deem
9 necessary for the proper administration of this subchapter.

10

11 SECTION 55. Arkansas Code § 26-53-125(b), concerning the return and
12 payment of the compensating use tax, is amended to read as follows:

13 (b)(1) Every person purchasing tangible personal property, specified
14 digital products, a digital code, or taxable services of which the storage,
15 use, distribution, or consumption is subject to the tax levied by this
16 subchapter and who has not paid the tax due with respect to the tangible
17 personal property, specified digital products, digital code, or taxable
18 services to a vendor registered in accordance with the provisions of §§ 26-
19 53-121 and 26-53-122 shall file a return with the director on or before the
20 twentieth day of each month for the preceding monthly period in such a form
21 as may be prescribed by the director showing:

22 (A) The tax levied by this subchapter due on the tangible
23 personal property, specified digital products, digital code, or taxable
24 services purchased during the preceding monthly period; and

25 (B) Such other information as the director may deem
26 necessary for the proper administration of this subchapter.

27 (2) The return shall be accompanied by a remittance of the
28 amount of the tax required by this subchapter to be paid by the person
29 purchasing the tangible personal property, specified digital products,
30 digital code, or taxable services during the period covered by the return.

31 (3)(A) A return shall be signed by the person liable for the tax
32 or the person's authorized agent but need not be verified by oath.

33 (B) A return filed electronically does not need to be
34 signed.

35

36 SECTION 56. Arkansas Code § 26-53-131(a), concerning credit for the

1 tax paid in another state, is amended to read as follows:

2 (a)(1)(A)(i) ~~The provisions of this~~ This subchapter shall does not
3 apply to ~~any~~ tangible personal property, specified digital products, a
4 digital code, or taxable services used, consumed, distributed, or stored in
5 this state upon which a like tax equal to or greater than the tax imposed by
6 this subchapter has been paid in another state.

7 (ii) Proof of payment of such a tax shall be made
8 according to the rules and regulations promulgated by the Director of the
9 Department of Finance and Administration.

10 (B) If the amount of tax paid in another state is less
11 than the amount of Arkansas compensating tax imposed on the property or
12 services by this subchapter, then the taxpayer shall pay to the director an
13 amount of Arkansas compensating tax sufficient to make the combined amount of
14 tax paid in the other state and this state equal to the total amount of
15 Arkansas compensating tax that would be due if no tax on the property or
16 services had been paid to any other state.

17 (2) No credit shall be given under this section for taxes paid
18 on the property or services in another state if that state does not grant
19 credit for taxes paid on similar tangible personal property, specified
20 digital products, digital codes, or services in this state.

21

22 SECTION 57. Arkansas Code § 26-53-146(b)(1), concerning the exemption
23 from the compensating use tax for qualified museums, is amended to read as
24 follows:

25 (b)(1) The storage, use, distribution, or consumption of ~~any~~ tangible
26 personal property, specified digital products, or a digital code by a
27 qualified museum is exempt from this subchapter.

28

29 SECTION 58. Arkansas Code § 26-53-201 is amended to read as follows:
30 26-53-201. Definition.

31 As used in this subchapter, "contractors" mean consumers of ~~all~~
32 tangible personal property, specified digital products, or a digital code
33 used or consumed in the performance of a contract in this state and of ~~all~~
34 tangible personal property, specified digital products, or a digital code
35 stored for use or upon which the contractor may exercise any right or power
36 in this state.

1
2 SECTION 59. Arkansas Code § 26-53-203 is amended to read as follows:

3 26-53-203. Tangible personal property, specified digital products, or
4 a digital code procured from outside state for use by contractors.

5 (a)(1) All tangible personal property ~~which is,~~ specified digital
6 products, and digital codes that are procured from without this state for
7 use, storage, distribution, or consumption, including machinery, equipment,
8 repair or replacement parts, materials, and supplies used, stored,
9 distributed, or consumed by a contractor in the performance of a contract in
10 this state, ~~shall be~~ are subject to the compensating tax of four and five-
11 tenths percent (4.5%) of the purchase price as provided by the Arkansas
12 Compensating Tax Act, § 26-53-101 et seq., or four and five-tenths percent
13 (4.5%) of its market or book value, whichever is greater, if the property has
14 been subjected to prior use before coming to rest for use, storage,
15 distribution, or consumption within this state. The four and five-tenths
16 percent (4.5%) compensating tax ~~shall be~~ is in addition to any other
17 compensating taxes levied by the State of Arkansas.

18 (2) The tax ~~shall be~~ is due and payable regardless of whether or
19 not any right, title, or interest in the tangible personal property,
20 specified digital products, or digital code becomes vested in the contractor.

21 (b) In the case of leases or rentals of tangible personal property,
22 specified digital products, or a digital code by a contractor for use,
23 storage, distribution, or consumption in this state, the contractor shall
24 report and remit the compensating tax on the basis of rental or lease
25 payments made to the lessor of the tangible personal property, specified
26 digital products, or digital code during the term of the lease or rental,
27 which lease rentals shall be in accordance with written contracts between
28 lessor and lessee furnished to the Director of the Department of Finance and
29 Administration.

30 (c)(1) ~~The provisions of this~~ This subchapter ~~shall~~ does not apply in
31 respect to the use, consumption, distribution, or storage of tangible
32 personal property, specified digital products, or a digital code as defined
33 in this ~~subchapter~~ chapter for use or consumption in this state upon which a
34 like tax equal to or greater than the amount imposed by this subchapter has
35 been paid in another state, the proof of payment of the tax to be according
36 to rules and regulations made by the director.

1 (2) If the amount of tax paid in another state is not at least
2 equal to or greater than the amount of tax imposed by the Arkansas
3 Compensating Tax Act, § 26-53-101 et seq., then the contractor shall pay to
4 the director an amount sufficient to make the tax paid in the other state and
5 this state equal to the total amount of tax due under Arkansas law.

6 (3) No credit shall be given under this section for taxes paid
7 on the property in another state if that state does not grant credit for
8 taxes paid on similar tangible personal property, specified digital products,
9 or digital codes in this state.

10
11 SECTION 60. Arkansas Code § 26-53-301 is amended to read as follows:
12 26-53-301. Authorization to enter.

13 (a) When in the judgment of the Director of the Department of Finance
14 and Administration it is necessary in order to secure the collection of any
15 tax, penalties, or interest due or to become due under this subchapter, the
16 director may negotiate agreements with the tax departments of other states in
17 respect to the collecting, reporting, payment, and enforcement of tax on
18 sales of tangible personal property, specified digital products, a digital
19 code, or taxable services to residents of Arkansas by a retailer maintaining
20 a place of business in the other state.

21 (b) In consideration of the agreement, the director may make similar
22 agreements for the collecting, reporting, payment, and enforcement of tax as
23 imposed by the other states on sales of tangible personal property, specified
24 digital products, a digital code, or taxable services to residents of other
25 states by retailers maintaining places of business in Arkansas.

26
27 SECTION 61. Arkansas Code § 26-57-904(a), concerning the tax levied on
28 the sale of soft drink syrup and simple syrup, is amended to read as follows:

29 (1) ~~Two dollars (\$2.00)~~ One dollar and twenty-six cents (\$1.26)
30 per gallon for each gallon of soft drink syrup or simple syrup sold or
31 offered for sale in the State of Arkansas;

32 (2) ~~Twenty-one cents (21¢)~~ Twenty and six-tenths cents (20.6¢)
33 per gallon for each gallon of bottled soft drinks sold or offered for sale in
34 the State of Arkansas; and

35 (3)(A) When a package or container of powder or other base
36 product, other than a syrup or simple syrup, is sold or offered for sale in

1 *Arkansas, and the powder is for the purpose of producing a liquid soft drink,*
2 *then the tax on the sale of each package or container shall be equal to*
3 ~~*twenty-one cents (21¢)*~~ *twenty and six-tenths cents (20.6¢)* *for each gallon of*
4 *soft drink which may be produced from each package or container by following*
5 *the manufacturer's directions.*

6 *(B) This tax applies when the sale of the powder or other*
7 *base is sold to a retailer for sale to the ultimate consumer after the liquid*
8 *soft drink is produced by the retailer.*

9

10 SECTION 62. Arkansas Code § 26-57-905(3), concerning exemptions from
11 the Arkansas Soft Drink Tax Act, is amended to read as follows:

12 (3) Any powder or base product that is used in preparing coffee
13 or tea and any simple syrup used in preparing tea;

14

15 SECTION 63. EFFECTIVE DATE. Sections 2 through 62 of this act are
16 effective for tax years beginning on and after January 1, 2018.

17

18 */s/C. Fite*

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21 **APPROVED: 02/07/2017**

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