

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 441

By: Senator D. Wallace
By: Representative Joey Carr

For An Act To Be Entitled

AN ACT TO AMEND THE SALES AND USE TAX LAWS CONCERNING EXEMPTIONS RELATED TO CERTAIN MACHINERY AND EQUIPMENT; TO AMEND THE SALES TAX EXEMPTION FOR CERTAIN MACHINERY AND EQUIPMENT; TO AMEND THE SALES AND USE TAX EXEMPTIONS FOR THE PARTIAL REPAIR AND REPLACEMENT OF CERTAIN MACHINERY AND EQUIPMENT; TO ALLOW A SALES AND USE TAX EXEMPTION FOR CERTAIN MACHINERY AND EQUIPMENT PLACED IN INVENTORY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE SALES AND USE TAX LAWS CONCERNING EXEMPTIONS RELATED TO CERTAIN MACHINERY AND EQUIPMENT; AND TO ALLOW A SALES AND USE TAX EXEMPTION FOR CERTAIN MACHINERY AND EQUIPMENT PLACED IN INVENTORY.

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

SECTION 1. Arkansas Code § 26-52-402(c)(2)(C), concerning the definition of "used directly" as used in relation to the sales tax exemption for certain machinery and equipment, is amended to read as follows:

(C) Machinery and equipment "used directly" in the manufacturing process shall not include the following:

(i) Hand tools;



(ii) ~~Machinery~~ Except as provided in §§ 26-52-447 and 26-53-149, machinery, equipment, and tools used in maintaining and repairing any type of machinery and equipment;

(iii) Transportation equipment, including conveyors, used solely before or after the manufacturing process has been started or completed;

(iv) Office machines and equipment including computers and related peripheral equipment not directly used in controlling or measuring the manufacturing process;

(v) Buildings;

(vi) Machinery and equipment used in administrative, accounting, sales, or other such activities of the business;

(vii) All furniture; and

(viii) All other machinery and equipment not used directly in manufacturing or processing operations as defined in this section; ~~and~~

~~(ix) Machinery and equipment used by a manufacturer to produce or repair replacement dies, molds, repair parts, or replacement parts used or consumed in the manufacturer's own manufacturing process.~~

SECTION 2. Arkansas Code § 26-52-447(a), concerning the sales tax exemption for the partial replacement and repair of certain machinery and equipment, is amended to read as follows:

(a) The taxes levied under §§ 26-52-301 and 26-52-302 on the gross receipts or gross proceeds from the sale of the following are subject to a refund or exemption as provided in this section:

(1) Machinery and equipment purchased to modify, replace, ~~or~~ repair, or maintain, either in whole or in part, existing machinery or equipment used directly in producing, manufacturing, fabricating, assembling, processing, finishing, or packaging articles of commerce at a manufacturing or processing plant or facility in this state;

(2) Service relating to the initial installation, alteration, addition, cleaning, refinishing, replacement, or repair of machinery or equipment described in subdivision (a)(1) of this section; ~~and~~

(3) Machinery and equipment purchased to modify, replace, or repair, either in whole or in part, existing molds and dies used directly in

producing, manufacturing, fabricating, assembling, processing, finishing, or packaging articles of commerce at a manufacturing or processing plant or facility in this state; and

(4)(A) Except as provided in subdivision (a)(4)(B) of this section, machinery and equipment purchased for use or possible use by a taxpayer for a purpose described in subsections (a)(1)-(3) of this section and placed in inventory for later use by the taxpayer for a purpose described in subsections (a)(1)-(3) of this section.

(B)(i) As used in this subdivision (a)(4)(B), “withdrawal from inventory” means the withdrawal or use of machinery or equipment held under subdivision (a)(4)(A) of this section by a taxpayer for a purpose that does not qualify for an exemption under this section or any other applicable exemption at the time of the withdrawal from inventory.

(ii) A withdrawal from inventory is not eligible for the exemption provided under this section.

(iii) For purposes of calculating the gross receipts tax under subdivision (a)(4)(B)(iv) of this section, the gross receipts or gross proceeds for a withdrawal from inventory is the purchase price of the machinery or equipment withdrawn.

(iv) Tax is due on a withdrawal from inventory at the time the withdrawal from inventory occurs.

SECTION 3. Arkansas Code § 26-53-149(a), concerning the compensating use tax exemption for the partial replacement and repair of certain machinery and equipment, is amended to read as follows:

(a) The taxes levied under §§ 26-53-106 and 26-53-107 on the privilege of storing, using, distributing, or consuming the following within this state are subject to a refund or exemption as provided in this section:

(1) Machinery and equipment purchased to modify, replace, ~~or~~ repair, or maintain, either in whole or in part, existing machinery or equipment used directly in producing, manufacturing, fabricating, assembling, processing, finishing, or packaging articles of commerce at a manufacturing or processing plant or facility in this state;

(2) Service relating to the initial installation, alteration, addition, cleaning, refinishing, replacement, or repair of machinery or equipment described in subdivision (a)(1) of this section; ~~and~~

(3) Machinery and equipment purchased to modify, replace, or repair, either in whole or in part, existing molds and dies used directly in producing, manufacturing, fabricating, assembling, processing, finishing, or packaging articles of commerce at a manufacturing or processing plant or facility in this state; and

(4)(A) Except as provided in subdivision (a)(4)(B) of this section, machinery and equipment purchased for use or possible use by a taxpayer for a purpose described in subsections (a)(1)-(3) of this section and placed in inventory for later use by the taxpayer for a purpose described in subsections (a)(1)-(3) of this section.

(B)(i) As used in this subdivision (a)(4)(B), “withdrawal from inventory” means the withdrawal or use of machinery or equipment held under subdivision (a)(4)(A) of this section by a taxpayer for a purpose that does not qualify for an exemption under this section or any other applicable exemption at the time of the withdrawal from inventory.

(ii) A withdrawal from inventory is not eligible for the exemption provided under this section.

(iii) For purposes of calculating the compensating use tax under subdivision (a)(4)(B)(iv) of this section, the gross receipts or gross proceeds for a withdrawal from inventory is the purchase price of the machinery or equipment withdrawn.

(iv) Tax is due on a withdrawal from inventory at the time the withdrawal from inventory occurs.

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

APPROVED: 4/11/23