

HOUSE AMENDMENT 4 TO hb1703.

deleting lines 9 through 14 on page 1 and substituting the following:

"AN ACT TO LEVY A WHOLESALER EXCISE TAX ON GROSS RECEIPTS OF FUEL SOLD BY WHOLESALERS IN ARKANSAS AND ON PURCHASE PRICE OF FUEL IMPORTED FOR SALE, USE, STORAGE, DISTRIBUTION, OR CONSUMPTION IN ARKANSAS AT THE SAME RATE OF TAXATION IMPOSED UPON THE GROSS PROCEEDS OR GROSS RECEIPTS DERIVED FROM SALES PURSUANT TO THE 'ARKANSAS GROSS RECEIPTS ACT OF 1941,' INCLUDING ALL ADDITIONAL TAXES NOW IMPOSED OR HEREAFTER IMPOSED UPON SUCH GROSS PROCEEDS OR GROSS RECEIPTS; DESIGNATES THE TAX AS SPECIAL REVENUES FOR USE FOR HIGHWAY, ROAD, AND STREET PURPOSES; AND FOR OTHER PURPOSES."

AND

by deleting lines 17 through 21 on page 1 and substituting the following:

"LEVIES A WHOLESALER FUEL EXCISE TAX ON SALE OF FUEL BY WHOLESALERS AND IMPORTATION OF FUEL BY IMPORTERS WITH REVENUES TO BE USED FOR HIGHWAY, ROAD, AND STREET PURPOSES."

AND

by deleting SECTIONS 1 through 3 and substituting the following:

"SECTION 1. Title 26, Chapter 57 of the Arkansas Code Annotated is amended to add a new subchapter as follows:

26-57-1101. Definitions. As used in this act:

(a) "Director" means the Director of the Department of Finance and Administration.

(b) "Export" means with respect to a wholesaler or his agent, or with respect to an exporter, or his agent, the delivery of fuel out of this state.

(c) "Exporter" means any person who acquires fuel in Arkansas for the purpose of transporting or delivering the fuel to another state or country.

(d) "Gross receipts" or "gross proceeds" means:

(1) the total amount of consideration for the sale of fuel including federal fuel excise tax less deductions for state fuel gallonage tax levied and collected pursuant to Title 26, Chapters 55 and 56 and transportation charges; and,

(2) the value of fuel, including any federal fuel excise tax, withdrawn from the stock of a wholesaler for distribution or use by the wholesaler. The value is deemed equal to the price per gallon, including any federal fuel excise tax, allocated to the withdrawal by the wholesaler as reflected on the bill of lading or manifest.

(e) "Import" means with respect to a wholesaler or his agent, or with respect to an importer or his agent, the delivery of fuel into Arkansas from out of state.

(f) "Importer" means any person who import fuel to a location in Arkansas other than to a wholesaler at a terminal or refinery.

(g) "Fuel" as used herein shall have the same meaning as described to the term "motor fuel" as set out in §26-55-202 (2) and as described to the term "distillate special fuel" as set out in §26-56-102 (9).

(h) "Person" includes any individual, company, partnership, joint venture, joint agreement, mutual or other association, corporation, limited liability company, estate, trust, business trust, receiver, or trustee appointed by any state, federal, or other court, syndicate, this state, any county, city, municipality, school district, or any other political subdivision of this state or group or combination acting as a unit, in the plural or singular number.

(i) "Purchase price" means the total consideration for the purchase of fuel including federal fuel excise tax less deductions for state fuel gallonage tax levied and collected pursuant to Title 26, Chapters 55 and 56 and transportation charges.

(j) "Rack" means a dock, platform, or an open bay with a series of metered pumps and hoses for delivering fuel from a refinery or terminal into a motor vehicle or other means of conveyance.

(k) "Terminal" means a fuel storage and distribution facility that is supplied by pipeline, marine vessel or other source, and from which fuel may be removed at a rack.

(l) "Terminal Operator" means the person who by ownership or contractual agreement is charged with the responsibility and physical control over the operation of a terminal. However, there shall be only one (1) person charged with responsibility as operator at each terminal. However, there shall be only one (1) person charged with responsibility as operator at each terminal for purposes of this Act.

(m) "Wholesaler" as used herein shall have the same meaning as ascribed to the term "distributor" as set out in §26-55-202 (7) and as ascribed to the term "supplier" as set out in §26-56-102 (11).

26-57-1102. There is hereby levied a wholesale excise tax at the same rate of taxation imposed upon the gross proceeds or gross receipts derived from sales pursuant to the "Arkansas Gross Receipts Act of 1941," including all additional taxes now imposed or hereafter imposed upon such gross proceeds or gross receipts, on:

(a) the gross receipts or gross proceeds derived from all sales of fuel by wholesalers to any person in the State of Arkansas; and,

(b) the purchase price of fuel purchased by an importer for sale, storage, use, distribution or consumption within this state.

26-57-1103. There is specifically exempted from the tax imposed by this Act the following:

(a) The gross receipts or gross proceeds derived from sales to the United States Government.

(b) The gross receipts or gross proceeds derived from sales for export outside of Arkansas.

(c) Fuel imported into Arkansas in the fuel tank of a motor vehicle.

26-57-1104. (a) The importer or wholesaler subject to the taxes levied by this Act shall file a monthly return and remit the tax for the month to the director on or before the twenty-fifth day of the month next following the month in which the sale was made.

(b) The returns shall be made upon forms prescribed and furnished by the director and signed by the person required to collect and remit the tax or his agent. The return shall contain such information as the director shall require for the proper administration of this subchapter. The director shall have the authority to make and promulgate rules and regulations to carry out the provisions of this subchapter.

(c) This act is to be administered in all respects in accordance with the Arkansas Tax Procedure Act, §26-18-101 et seq., unless otherwise provided.

26-57-1105. Every importer and wholesaler subject to the tax levied by this Act shall register with the Director and obtain a tax reporting number.

SECTION 2. Ark. Code Ann. §26-52-401 (11) is amended to read as follows:

(11) (A) Gross receipts or gross proceeds derived from the sale of:

(i) Gasoline or motor vehicle fuel on which the motor vehicle fuel or gasoline tax has been paid to the State of Arkansas;

(ii) Special fuel or petroleum products sold for consumption by vessels, barges, and other commercial watercraft and railroads.

(B) Nothing in this subdivision shall exempt ~~gasoline fuel~~ from the wholesale gross receipts tax imposed pursuant to ~~Act 1005 of 1995~~ §26-57-1101, et seq.

SECTION 3. (1) All taxes, fees, penalties, interest, and other amounts collected under the provisions of this Act shall be classified as special revenues and shall be deposited in the State Treasury. After deducting the amount to be credited to the Constitutional Officers Fund and the State Central Services Fund as provided under the Revenue Stabilization Law, §19-5-101 et seq., the Treasurer of State shall transfer on the last business day of each month:

(A) Fifteen percent (15%) of the amount thereof to the County Aid Fund;

(b) Fifteen percent (15%) of the amount thereof to the Municipal Aid Fund; and

(C) Seventy percent (70%) of the amount thereof to the State Highway and Transportation Department Fund.

(2) The funds shall be further disbursed in the same manner and used for the same purposes as set out in the Arkansas Highway Revenue Distribution Law, §27-70-201 et seq."