

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas      *As Engrossed: S2/17/15 S3/17/15 S3/24/15*  
90th General Assembly      **A Bill**  
Regular Session, 2015

SENATE BILL 332

By: Senator Files

*By: Representative Jett*

### **For An Act To Be Entitled**

AN ACT TO AMEND THE LAWS CONCERNING THE SALES AND USE  
TAX APPLICABLE TO THE PARTIAL REPLACEMENT AND REPAIR  
OF CERTAIN MACHINERY AND EQUIPMENT USED IN  
*MANUFACTURING; TO DECLARE AN EMERGENCY; AND FOR OTHER  
PURPOSES.*

### **Subtitle**

*TO AMEND THE LAWS CONCERNING THE SALES  
AND USE TAX APPLICABLE TO THE PARTIAL  
REPLACEMENT AND REPAIR OF CERTAIN  
MACHINERY AND EQUIPMENT USED IN  
MANUFACTURING; AND TO DECLARE AN  
EMERGENCY.*

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

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

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

SECTION 2. Arkansas Code § 26-52-509(a), concerning the direct payment of sales and use tax by a consumer or user, is *amended to read as follows:*



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

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

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

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

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

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

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

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

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

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

(4)(A) A seller shall collect and remit gross receipts and

compensating use taxes on purchases made by a person holding a limited direct pay permit that are not eligible purchases.

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

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

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

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

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that most states exempt modifications, partial replacements, and repairs of manufacturing machinery and equipment from sales and use tax; that other states apply a reduced rate to modifications, partial replacements, and repairs; that Arkansas recognized this discrepancy and reduced, but did not eliminate, the tax rate on most modifications, partial replacements, and repairs in 2014; that Arkansas has been classified as the worst of the twelve (12) states in the southeast region on the taxation of industrial materials used in manufacturing; that Alabama, Mississippi, North Carolina, and other states have phased in exemptions for modifications, partial replacements, and repairs of manufacturing machinery and equipment over time; and that this act is immediately necessary because Arkansas is not competitive with surrounding states and states in the southeast region in imposing taxes on many types of manufacturing modifications, partial replacements, and repairs, which is costing the state present and future jobs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective

on:

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

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

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

*/s/Files*