

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

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/9/17
A Bill

HOUSE BILL 2280

By: Representative M. Hodges

For An Act To Be Entitled

AN ACT TO AMEND THE SALES AND USE TAX EXEMPTION FOR CERTAIN PRODUCTS USED BY MANUFACTURERS; TO REDUCE THE SALES AND USE TAX APPLICABLE TO COAL USED BY MANUFACTURERS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE SALES AND USE TAX EXEMPTION FOR CERTAIN PRODUCTS USED BY MANUFACTURERS; AND TO REDUCE THE SALES AND USE TAX APPLICABLE TO COAL USED BY MANUFACTURERS.

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

SECTION 1. Arkansas Code § 26-52-319 is amended to read as follows:

26-52-319. Natural gas, coal, and electricity used by manufacturers.

(a)(1)(A) ~~Beginning July 1, 2014, in lieu of the gross receipts or gross proceeds tax levied in §§ 26-52-301 and 26-52-302, there is levied an excise tax on the gross receipts or gross proceeds derived from the sale of natural gas and electricity to a manufacturer for use directly in the actual manufacturing process at the rate of one percent (1%).~~

~~(B)(i) Beginning July 1, 2015, the The gross receipts or gross proceeds tax levied in §§ 26-52-301 and 26-52-302 and this section shall be levied at a rate of zero percent (0%) on the sale of natural gas, coal, and electricity to a manufacturer for use directly in the actual manufacturing process.~~

~~(ii) (B) However, the sale of natural gas, coal, and~~



electricity to a manufacturer for use directly in the actual manufacturing process shall remain subject to the excise tax of one-eighth of one percent (1/8 of 1%) levied in Arkansas Constitution, Amendment 75, and the temporary excise tax of one-half percent (½%) levied in Arkansas Constitution, Amendment 91.

(2) The taxes levied in this subsection shall be distributed as follows:

(A) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received by the Director of the Department of Finance and Administration shall be deposited as general revenues;

(B) Eight and five-tenths percent (8.5%) of the tax, interest, penalties, and costs received by the director shall be deposited into the Property Tax Relief Trust Fund; and

(C) Fourteen and nine-tenths percent (14.9%) of the tax, interest, penalties, and costs received by the director shall be deposited into the Educational Adequacy Fund.

(3)(A) The excise tax levied in this section applies only to natural gas, coal, and electricity sold for use directly in the actual manufacturing process.

(B) Natural gas, coal, and electricity sold for any other purpose are subject to the full gross receipts or gross proceeds tax levied under §§ 26-52-301 and 26-52-302.

(4) The excise tax levied in this section shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of all other Arkansas gross receipts taxes.

(b) As used in this section, "manufacturer" means a:

(1) Manufacturer classified within sectors 31 through 33 or sector 115111 of the North American Industry Classification System, as in effect on January 1, 2011; or

(2) Generator of electric power classified within sector 22 of the North American Industry Classification System, as in effect on January 1, 2011, that uses ~~natural~~:

(A) Natural gas to operate a new or existing generating facility that uses combined-cycle gas turbine technology; or

(B) Coal to operate a new or existing generating facility.

(c)(1) Except as otherwise provided in this subsection, the tax rate under subsection (a) of this section does not apply to a manufacturer as defined in subdivision (b)(2) of this section.

(2) In lieu of the tax rate under subsection (a) of this section, the excise tax rate levied on the gross receipts or gross proceeds derived from the sale of natural gas, coal, and electricity to a manufacturer as defined in subdivision (b)(2) of this section ~~to operate a new or existing facility that uses combined cycle gas turbine technology is as follows:~~ is one percent (1%).

~~(A) Beginning January 1, 2012, five and one eighth percent (5.125%);~~

~~(B) Beginning January 1, 2013, four and one eighth percent (4.125%);~~

~~(C) Beginning January 1, 2014, two and five eighths percent (2.625%); and~~

~~(D) Beginning January 1, 2015, one percent (1%).~~

(3) The taxes levied in this subsection shall be distributed in the same manner as stated in subsection (a) of this section.

(d) Natural gas, coal, and electricity subject to the reduced tax rate levied in this section shall be separately metered or stored from natural gas, coal, and electricity used for any other purpose by the manufacturer or otherwise established under subsection (f) of this section.

(e) Before the sale of natural gas, coal, or electricity at the reduced excise tax rate levied in this section, the director may require any seller of natural gas, coal, or electricity to obtain a certificate from the consumer, in the form prescribed by the director, certifying that the manufacturer is eligible to purchase natural gas, coal, and electricity at the reduced excise tax rate.

(f) The director shall promulgate rules for the proper administration of this section.

(g) The gross receipts or gross proceeds derived from the sale of natural gas, coal, and electricity to a manufacturer shall continue to be subject to:

(1) The excise tax levied under Arkansas Constitution, Amendment 75, § 2; and

(2) All municipal and county gross receipts taxes.

(h) All existing exemptions from the gross receipts tax levied by this chapter and the compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., for natural gas, coal, or electricity used in manufacturing or for other purposes that are otherwise provided by law shall continue in effect.

SECTION 2. Arkansas Code § 26-53-148 is amended to read as follows:

26-53-148. Natural gas, coal, and electricity used by manufacturers.

~~(a)(1)(A) Beginning July 1, 2014, in lieu of the tax levied in §§ 26-53-106 and 26-53-107, there is levied an excise tax on the sales price of natural gas and electricity purchased by a manufacturer for use directly in the actual manufacturing process at the rate of one percent (1%).~~

~~(B)(i) Beginning July 1, 2015, the The compensating use tax levied in §§ 26-53-106 and 26-53-107 and this section shall be levied at a rate of zero percent (0%) on natural gas, coal, and electricity purchased by a manufacturer for use directly in the actual manufacturing process.~~

~~(ii) (B) However, natural gas, coal, and electricity purchased by a manufacturer for use directly in the actual manufacturing process shall remain subject to the excise tax of one-eighth of one percent (1/8 of 1%) levied in Arkansas Constitution, Amendment 75, and the temporary excise tax of one-half percent (½%) levied in Arkansas Constitution, Amendment 91.~~

(2) The taxes levied in this subsection shall be distributed as follows:

(A) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received by the Director of the Department of Finance and Administration shall be deposited as general revenues;

(B) Eight and five-tenths percent (8.5%) of the tax, interest, penalties, and costs received by the director shall be deposited into the Property Tax Relief Trust Fund; and

(C) Fourteen and nine-tenths percent (14.9%) of the tax, interest, penalties, and costs received by the director shall be deposited into the Educational Adequacy Fund.

(3)(A) The excise tax levied in this section applies only to natural gas, coal, and electricity purchased for use directly in the actual manufacturing process.

(B) Natural gas, coal, and electricity purchased for any other purpose shall be subject to the full compensating use tax levied under §§ 26-53-106 and 26-53-107.

(4) The excise tax levied in this section shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of all other Arkansas compensating use taxes.

(b) As used in this section, "manufacturer" means a:

(1) Manufacturer classified within sectors 31 through 33 or subsector 115111 of the North American Industry Classification System, as in effect on January 1, 2011; or

(2) Generator of electric power classified within sector 22 of the North American Industry Classification System, as in effect on January 1, 2011, that uses ~~natural~~:

(A) Natural gas to operate a new or existing generating facility that uses combined-cycle gas turbine technology; or

(B) Coal to operate a new or existing generating facility.

(c)(1) Except as otherwise provided in this subsection, the tax rate under subsection (a) of this section does not apply to a manufacturer as defined in subdivision (b)(2) of this section.

(2) In lieu of the tax rate under subsection (a) of this section, the excise tax rate levied on the sales price of natural gas, coal, and electricity purchased by a manufacturer as defined in subdivision (b)(2) of this section to operate a new or existing facility ~~that uses combined-cycle gas turbine technology is as follows:~~ is one percent (1%).

~~(A) Beginning January 1, 2012, five and one eighth percent (5.125%);~~

~~(B) Beginning January 1, 2013, four and one eighth percent (4.125%);~~

~~(C) Beginning January 1, 2014, two and five eighths percent (2.625%); and~~

~~(D) Beginning January 1, 2015, one percent (1%).~~

(3) The taxes levied in this subsection shall be distributed in the same manner as stated in subsection (a) of this section.

(d) Natural gas, coal, and electricity subject to the reduced tax rate levied in this section shall be separately metered or stored from natural

gas, coal, and electricity used for any other purpose by the manufacturer or otherwise established under subsection (f) of this section.

(e) Before purchasing any natural gas, coal, or electricity at the reduced excise tax rate levied in this section, the director may require any seller of natural gas, coal, or electricity to obtain a certificate from the consumer, in the form prescribed by the director, certifying that the manufacturer is eligible to purchase natural gas, coal, and electricity at the reduced excise tax rate.

(f) The director shall promulgate rules for the proper administration of this section.

(g) The purchase of natural gas, coal, and electricity by a manufacturer shall continue to be subject to:

(1) The excise tax levied under Arkansas Constitution, Amendment 75, § 2; and

(2) All municipal and county compensating use taxes.

SECTION 3. Sections 1 and 2 of this act shall be effective on and after July 1, 2018.

/s/M. Hodges