

State of Arkansas

77th General Assembly

Regular Session, 1989

HOUSE BILL

1645

By: Representatives Hinshaw, McJunkin, and Matthews

"AN ACT TO AMEND ARKANSAS CODE 26-52-402 AND 26-53-114 TO DEFINE THE TERM 'ARTICLE OF COMMERCE' AS IT IS USED IN THE EXEMPTIONS TO THE GROSS RECEIPTS TAX AND THE COMPENSATING USE TAX; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

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

SECTION 1. Subsection (b) of Arkansas Code 26-52-402 is hereby amended to read as follows:

"(b) (1) For the purposes of this section, the terms 'manufacturing' or 'processing', as used herein, refer to and include those operations commonly understood within their ordinary meaning and shall also include mining, quarrying, refining, extracting oil and gas, cotton ginning, the drying of rice, soybeans, and other grains and the manufacturing of feed, the processing of poultry or eggs and livestock and the hatching of poultry, and printing of all kinds, types, and characters, including the services of overprinting, and photographic processing incidental to printing, the processing of scrap metal into grades and bales for further processing into steel and other metals, and the rebuilding or remanufacturing of used parts and retreading of tires for automobiles, trucks, and other mobile equipment powered by electrical or internal combustion engines or motors if the rebuilt or remanufactured parts or retreaded tires are not sold directly to the consumer but are sold for resale.

(2) For the purposes of this section, the term 'article of commerce' means any tangible personal property that is available for resale on any commercial market without regard to whether the product is a consumer product or readily marketable to the general public."

SECTION 2. Subsection (b) of Arkansas Code 26-53-114 is hereby amended to read as follows:

"(b) (1) For the purpose of this section, the terms 'manufacturing' and 'processing' refer to and include those operations commonly understood within their ordinary meaning and shall also include mining, quarrying, refining, extracting oil and gas, cotton ginning, the drying of rice, soybeans, and other grains; and the manufacturing of feed, processing of poultry and eggs and the hatching of poultry; and printing of all kinds, types, and characters, including the services of overprinting and photographic processes incidental to printing; the processing of scrap metal into grades and bales for further processing into steel and other metals and the rebuilding or remanufacturing of used parts and retreading of tires for automobiles, trucks, and other mobile equipment powered by electrical or internal combustion engines or motors if the rebuilt or remanufactured parts or retreaded tires are not sold directly to the consumer but are sold for resale.

(2) For the purposes of this section, the term 'article of commerce' means any tangible personal property that is available for resale on any commercial market without regard to whether the product is a consumer product or readily marketable to the general public."

SECTION 3. All provisions of this act of general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. The provisions of this act shall apply for all Gross Receipts Tax returns and Compensating Use Tax returns for the periods beginning on and after the effective date of this act.

SECTION 6. Emergency. It is hereby found and determined by the Seventy-Seventh General Assembly of the State of Arkansas that the taxpayers of this State are burdened by the Gross Receipts Tax and the Compensating Use Tax because of an unreasonably strict interpretation of the term "article of commerce" and that to make the aforementioned taxes more fair it is necessary

to further define the term "article of commerce" as it is used in those laws. Therefore, in order to clarify the definition of the term "article of commerce", an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

