

HOUSE BILL 95

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 67; Chapter 72 of the Public Acts of 2011; Chapter 480 of the Public Acts of 2013; Chapter 530 of the Public Acts of 2009 and Chapter 602 of the Public Acts of 2007, relative to taxation.

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

SECTION 1. Tennessee Code Annotated, Section 67-1-1704(c), is amended by adding the language “and software” after the word “equipment”.

SECTION 2. Tennessee Code Annotated, Section 67-4-2006(a)(5)(A), is amended by deleting the language “provided, that a schedule indicating the name and federal identification number of the public REIT receiving the distribution is attached;”.

SECTION 3. Section 187 of Chapter 602 of the Public Acts of 2007, as amended by Chapter 530 of the Public Acts of 2009, and as further amended by Chapter 72 of the Public Acts of 2011, and as further amended by Chapter 480 of the Public Acts of 2013, is amended by deleting the language:

Sections 127 through 178 of this act shall take effect on July 1, 2015, the public welfare requiring it.

and by substituting instead the language:

Sections 127 through 178 of this act shall take effect on July 1, 2017, the public welfare requiring it.

SECTION 4. Tennessee Code Annotated, Section 67-6-230, is amended by deleting subsection (b) in its entirety.

SECTION 5. Tennessee Code Annotated, Section 67-6-231, is amended by deleting subsection (b) in its entirety.

SECTION 6. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding the following language as a new, appropriately designated section:

(a) The retail sale of, use of, or subscription to a warranty or service contract covering the repair or maintenance of tangible personal property shall be subject to the tax levied by this chapter. The tax shall be levied on the sales price or purchase price of the warranty or service contract at a rate equal to the rate of tax levied on the sale of tangible personal property at retail by § 67-6-202.

(b) The retail sale of, use of, or subscription to a computer software maintenance contract shall be subject to the tax levied by this chapter. The tax shall be levied on the sales price of the computer software maintenance contract at a rate equal to the rate of tax levied on the sale of tangible personal property at retail by § 67-6-202.

(c) Warranty or service contracts covering the repair and maintenance of tangible personal property and computer software maintenance contracts shall be subject to tax in this state when:

(1) The warranty or service contract is sold as part of or in connection with the sale of tangible personal property that is subject to the tax levied by this chapter, or the computer software maintenance contract is sold as part of or in connection with the sale of computer software that is subject to the tax levied by this chapter;

(2) The warranty or service contract applies to tangible personal property located in this state, or the computer software maintenance contract applies to computer software installed on computers located in this state. If a warranty or service contract applies to tangible personal property located both inside this state and outside this state or a computer software maintenance contract applies to computer software installed on computers located both inside this state and outside this state, dealers or users may allocate to this state a percentage of the sales price or purchase price of the warranty or service contract or computer

software maintenance contract that equals the percentage of tangible personal property located in this state or computer software installed on computers located in this state; or

(3) The location of the tangible personal property covered by the warranty or service contract or computer software covered by the computer software maintenance contract is not known to the seller but the purchaser's residential street address or primary business address is in this state.

(d) No additional tax shall be due under this chapter on any repairs or maintenance provided pursuant to a warranty or service contract covering the repair and maintenance of tangible personal property that is subject to tax under subsection (a) or on any repairs, modifications, updates, or upgrades provided pursuant to a computer software maintenance contract that is subject to tax under subsection (b), unless the seller makes an additional charge for the repairs, maintenance, modifications, updates, or upgrades.

SECTION 7. Sections 4, 5, and 6 of this act shall take effect July 1, 2015, the public welfare requiring it. All remaining sections of this act shall take effect upon becoming a law, the public welfare requiring it.