2012

Sub-Chapter S Corporation Income Tax Instructions

Tax Year 2012

Due to increasing numbers of taxpayers electronically filing their tax returns, to conserve paper and mailing costs, the Subchapter S income tax booklets will not be mailed.

To obtain a booklet you may:

Call the Corporation Income Tax office at (501) 682-4775

Go to www.arkansas.gov/scorp

The due date for filing Arkansas S Corporation Income tax returns is on or before the 15th day of the 3rd month following the close of the tax year, for calendar year filers the due date is March 15th.

Mailing Address:
State of Arkansas
Corporation Income Tax Section
P O Box 919
Little Rock, Arkansas 72203-0919

Physical Address:
Corporation Income Tax
1816 W 7th St, Room 2250
Ledbetter Building
Little Rock, AR 72201-1030

IMPORTANT REMINDERS FOR 2012

NOTE:***THE FOLLOWING IS A BRIEF DESCRIPTION OF EACH ACT AND IS NOT INTENDED TO REPLACE A CAREFUL READING OF THE ACT IN ITS ENTIRETY.***

Arkansas Taxpayer Access Point (ATAP) is available for the filing of most Arkansas S Corporation Income Tax returns and tax payments. Federal returns and other required schedules may be attached with the ATAP filing or mailed separately to the Corporation Income Tax Section. The secure online filing, managing and payment options of ATAP are available at www.atap.arkansas.gov. Taxpayers and their authorized representatives will be able to view and manage their corporation income tax activity including other taxes administered by DFA. Accountants and attorneys must obtain permission from their clients to access and view their client's accounts.

E-File of S corporation income tax returns became available beginning on January 10, 2011. Instructions for filing will be posted at www.dfa.arkansas.gov/.

The AR1100S now includes a check box if the corporation is filing as a Financial Institution. In general all state and national banks, saving and loan, building and loan associations or any other entity operating as financial institutions are to be taxed under existing law. For a complete definition of "financial institution" refer to ACA 26-51-1402.

Who Must File:

1) A financial institution having its principal office in this State shall be taxed as a business corporation organized and existing under the laws of this State, or

2) A financial institution having its principal office outside this State but doing business in this State shall be taxed as a foreign business corporation doing business in this State.

This is not intended to recognize the right of a foreign financial institution to conduct any business in this State except to the extent and under the conditions permitted by any acts or any other now existing applicable laws of this State.

ACA 26-51-702 requires financial organizations having business income from business activity both within and without the State of Arkansas to apportion their net income.

ACA 26-51-426 adopted IRS Code Sections 582, 585 and 593 regarding bad debts of financial institutions.

Apportionment Formula

For tax years beginning on or after January 1, 1995 (for all multistate corporations except financial institutions, airlines, bus lines, truckers and private railcar operators) business income is to be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor, plus double the sales factor, and the denominator of which is four (4). If a taxpayer does not have all four (4) factors, the denominator shall be the same as the number of entries other than zero (0) that apply to the total (everywhere) amounts of the property,payroll and sales factors. When double weighted, the sales factor counts as two (2).

For tax years beginning prior to January 1, 1995, the single weighted sales factor must be used. Construction companies, pipelines, publishing companies, railroads, and TV and radio broadcasters must utilize the double weighted sales factor, apportionment method with factor modifications. Requirements for apportionment formulas of the businesses listed in this paragraph (except for financial institutions) are contained in the Arkansas Corporation Income Tax Regulations which may be obtained from **www.dfa.arkansas.gov/.**

Pass-Through Entities Required To Withhold Income Tax (ACA 26-51-919)

Pass-through entities are required to withhold income tax on the applicable distributions to nonresident individuals that are attributable to income from sources within the state. A pass-through entity is a business entity (corporation treated as a Subchapter S corporation, a general partnership, limited partnership, limited liability partnership, limited liability company, or a trust) **that is not taxed as a corporation for federal or Arkansas income tax purposes**. Pass-through entities may not withhold income tax on corporations, trusts, other pass-through entities or other businesses who are partners.

The pass-through entity is required to file an annual return in electronic format that shows the total amount of income distributed or credited to its nonresident individual members and the amount of tax withheld and remit the tax on behalf of the nonresident individual member no later than the 15th day of the 4th month following the end of the tax year.

A pass-through entity is not required to withhold tax for a nonresident if:

1. The member's share of income is less than $1,000;
2. The member's income is not subject to withholding;
3. The member elects to have the tax paid as part of a composite return filed by the pass-through entity as allowed by the act;
4. The entity is a publicly traded partnership as defined by IRC 7704(b) that is treated as a partnership for federal tax purposes and has agreed to file an annual information return reporting the name, address, and taxpayer identification number of each member with Arkansas income greater than $500:
5. The entity has filed the member's signed agreement to file and pay Arkansas nonresident income tax: or
6. The member's income is exempt from Arkansas income tax pursuant to ACA 26-51-202(e).

Subchapter S Corporation Election and Instructions

ACA 26-51-409(b)(2) requires a corporation to have elected Subchapter S treatment for federal income tax purposes if electing Subchapter S treatment for Arkansas income tax purposes for the same tax year. The act is effective for tax years beginning on or after January 1, 2005.

Subchapter S of the Federal Internal Revenue Code of 1986, as amended, and in effect as of January 1, 2011 has been adopted for Arkansas income Tax purposes.

A corporation may elect to be treated as a "Small Business (S) Corporation" for Arkansas income tax purposes. The election may be made only if the corporation meets all of the following requirements:

1. It is treated as a Small Business Corporation with the Internal Revenue Service (IRS).
2. It has no more than one hundred (100) shareholders. Members of a family (and their estates) can be treated as one shareholder for this requirement. All other persons are treated as separate shareholders.
3. It must be a corporation organized or created under the laws of the United States, a state, or territory or it is a similar association taxed as a corporation.
4. Its shareholders are individuals, estates and certain trusts described in IRC 1361.
5. It has no nonresident alien shareholders.
6. It has only one class of stock.
7. It is not an ineligible corporation as defined in IRC 1361.
8. Banks may elect S Corp status even though the bank stock is owned by an individual's IRA rather than the individual.

TO BE RECOGNIZED AS AN ARKANSAS S-CORPORATION
The following must be completed:

1. The business must register with the Arkansas Secretary of State. (501) 682-3409 or www.sosweb.state.ar.us.

2. The business must file an Election by Small Business Form (Federal Form 2553) with the IRS and apply for a Federal Employer Identification Number (FEIN) (Federal Form SS-4). You may apply online at IRS.gov or by calling 1-800-829-3676.

3. The business must file a separate Election by Small Business Form (AR1103) with the State of Arkansas, and submit a copy of the IRS Notice of Acceptance as an S Corporation. (501) 682-4775.

For an election to be valid, all persons who are shareholders of the corporation on the first day of the corporation's taxable year or on the day of the Arkansas election whichever is later, must consent to such election on Arkansas election form AR1103 and submit a copy of the IRS Notice of Acceptance as an S Corporation for approval. If the AR1103 is received without the Notice, it will be held in suspense until the Notice is received. If the Notice is not received the S return filed may be processed as a "C" return and taxed at those rates. All shareholders are required to file Arkansas Individual income tax returns or be included in a composite return.

The election is to be filed with the:

DEPARTMENT OF FINANCE AND ADMINISTRATION
CORPORATION INCOME TAX/S-CORP ELECTION
P O BOX 919
LITTLE ROCK, AR 72203-0919

PHYSICAL LOCATION:
1816 West 7th Street, Room 2250
Little Rock, AR 72201-1030

Telephone number: (501) 682-4775
Website: www.dfa.Arkansas.gov/

If the corporation is the parent of one or more Qualified Subchapter S Subsidiaries (QSSS), the Arkansas Subchapter S Election, Form AR1103, **must be completed by the parent corporation** and must be accompanied by Federal Form 8869 for each subsidiary that will be filing with the corporation. Attach a schedule to the Parent's Arkansas S return, Form AR1100S, listing all QSSS entities included in the Arkansas S return. The schedule must list the entity by name and the entity's federal employer identification number (FEIN) or if the entity does not have an FEIN, state "NO FEIN". Federal S corporations who do not have a valid Arkansas S election, must file on an AR1100CT form.

If an entity files an Arkansas Subchapter S corporation income tax return without a properly filed and approved Arkansas and IRS election to be treated as a Subchapter S corporation for income tax purposes, the filed Arkansas Subchapter S corporation income tax return will be disallowed. The entity will be required to file a proper Arkansas income tax return reflecting the correct entity status. If the entity fails to correctly file its return after notification by the Corporation Income Tax Section, the improperly filed return will be processed as an Arkansas "C" Corporation income tax return which may require any affected Arkansas shareholder to amend the shareholder's Arkansas Individual income tax return.

Small Business Entity Pass Through Act (Act 1103 of 1993)

A Limited Liability Company is a hybrid business entity with characteristics of a Sub S Corporation and a limited partnership. For tax years beginning on or after January 1, 2003, a Limited Liability Company (LLC) must file in the same manner for Arkansas income tax purposes as for federal income tax purposes. Therefore, if the LLC files a Federal Partnership return, an Arkansas Partnership return must be filed. If the LLC is a disregarded entity, its activity must be reported on the return of the owner. If the LLC is electing to file as a Subchapter S Corporation, it must have both a valid federal and Arkansas Subchapter S Election. Otherwise it must file an Arkansas "C" Corporation return on Form AR1100CT.

Act 408 of 2009 amends the Arkansas Business Corporation Act (ACA 4-26-101), the Small Business Entity Tax Pass Through Act (ACA 4-32-101) concerning Limited Liability Companies (LLCs), and enacts the Uniform Partnership Act, and the Revised Limited Partnership Act to allow any business entity to convert or merge with any other business entity. The franchise tax provisions are amended to apply to LLCs.

Failure to report and remit on the part of any non resident shareholder shall be grounds upon which the Director may revoke the Corporation's Subchapter S election and collect the tax from the Corporation by any manner authorized by the Arkansas Income Tax Act of 1929 as amended. (ACA 26-51-409(c)(2)

For telephone information or assistance regarding S-Corporation matters, call Corporation Income Tax at (501) 682-4775.

BUSINESS INCENTIVE TAX CREDITS

1. Purchase of Waste Reduction, Reuse or Recycling Machinery or Equipment

ACA 26-51-506 provides an income tax credit equal to 30% of the cost of approved waste reduction, reuse or recycling machinery and equipment including the cost of installation. No other credits or deductions, except depreciation, may be claimed on that equipment. Pursuant to ACA 26-51-409 the amount of the credit shall be apportioned among shareholders based on their percentage of ownership.

Any unused credit may be carried forward for the next three (3) succeeding years or until exhausted, whichever comes first.

2. Consolidated Incentive Act

Act 716 of 2009 repeals Arkansas Code Title 2, Chapter 8, Subchapter 1, for Biotechnology and Advanced fuels and repeals the Arkansas Emerging Technology Development Act of 1999; amends the Consolidated Incentive Act of 2003 by amending ACA 15-4-2703 to change the average hourly wage criteria; to include contractual agreements with state colleges, universities and other research organizations for in house research eligibility; amends ACA 15-4-2705(d) for qualifying for the job creation tax credit; the Code expands the research and development tax credit available under ACA 26-51-1102 by allowing an income tax credit equal to 33% of qualified research expenditures or of a donation made to support a research park authority or in a strategic research area approved by the Department of Higher Education and/or the Arkansas Science and Technology authority.

The credits may offset 100% of the business' tax liability and any unused tax credits may be carried forward for nine (9) years; amends ACA 15-4-2706 concerning proof of an equity investment to qualify for a special incentive to $250,000; amends ACA 15-4-2712 to clarify which incentives or tax credits may or may not be combined.

3. Equity Investment Incentive Credit

ACA 15-4-3305 provides tax credits entities investing in eligible businessess and purchases the qualified business in calendar years 2007-2019. The credit shall not exceed 33.33% of the actual purchase price paid for the equity interest and shall not exceed 50% of the state income or premium tax liability. The total amount of credits available to all purchasers of equity interest in qualified businesses under this section shall not exceed $6,250,000. Any credit in excfess of the amount allowed may be carried forward for a period of 9 years or until it exhausted, whichever occurs first and in no event be carried past December 31, 2028. It requires the entity make application by filing with the Dept of Economic Development. Act 566 of 2007 is effective July 31, 2007.

4. Water Resource Conservation

(a) Water Impoundment outside and within critical areas:

ACA 26-51-1005 provides an income tax credit equal to 50% of the cost of construction and installation or restoration of water impoundments or water control structures of 20 acre-feet or more. The credit shall not exceed the lesser of 50% of the project cost incurred or $90,000. The Act repeals ACA 26-51-1006.

Any unused credit may be carried forward for the next nine (9) succeeding tax years or until exhausted, whichever occurs first. After March 12, 2001, projects used for commercial purposes can qualify for this credit.

(b) Surface Water Conversion:

1. Outside Critical Areas - Act 631 of 2011 amends ACA 26-51-1007 to provide an income tax credit that shall not exceed the lesser of 10% of the project cost incurred or $27,000 for the reduction of groundwater use by substitution of surface water for water used for industrial, commercial, agricultural or recreational purposes.

The credit shall not exceed the lesser of income tax otherwise due or $9,000 per project. Any unused credit may be carried forward for the next two (2) succeeding tax years or until exhausted, whichever occurs first.

2. Within Critical Areas-Act 631 of 2011 amends ACA 26-51-1008 to provide an income tax credit not to exceed the lesser of 50% of the cost incurred or $27,000 for the reduction of groundwater use by substitution of surface water for water used for agricultural or recreational purposes. The credit shall not exceed the lesser of income tax otherwise due or $9,000 for projects using water for agricultural or recreational purposes.

For industrial or commercial projects, there shall be allowed a tax credit to each approved applicant not to exceed the lesser of 50% of the project cost incurred or $1,000,000. The amount of tax credit allowed is the amount of individual or corporate income tax otherwise due or $200,000. If the approved applicant is a pass-through entity the amount of tax credit that may be used for a taxable year shall not exceed the lesser of the aggregate amount of individual or corporate income tax due by all members or $9,000. “Critical areas” means those areas so designated by the Arkansas Natural Resources Commission.

Any unused credit may be carried forward for the next two (2) succeeding tax years or until exhausted, whichever occurs first, for projects using water for agricultural or recreational purposes. For projects approved on or after August 1,1997 and using water for industrial or commercial purposes, any unused credit may be carried forward for the next four (4) succeeding tax years or until exhausted, whichever occurs first.

(c) Land Leveling for Water Conservation:

ACA 26-51-1009 provides an income tax credit equal to 10% of the project cost incurred or $27,000 for agricultural land leveling to conserve irrigation water. The credit shall not exceed the lesser of individual or corporate income tax otherwise due or $9,000 per project. Any unused credit may be carried forward for the next two (2) succeeding tax years or until exhausted, whichever occurs first.

(d) Wetland and Riparian Zone Creation and Restoration and Conservation Tax Credits Act:

ACA 26-51-1505 as amended to allow the Wetland and Riparian Zone Creation and Restoration Tax Credit to apply to taxable years beginning on or after January 1,1996, not to exceed $50,000 and the Wetland and Riparian Zone Conservation Tax Credits which shall apply to taxable years beginning on or after January 1, 2009 and shall equal 50% of the fair market value of the qualified property interest donation, calculated to exclude any short term capital gain under 26 U.S.C.170(e)(1)(A) as in effect on January 1, 2009, not to exceed $50,000.The amount of credit shall be equal to the project costs not to exceed the lesser of income tax due or $5,000. An eligible donor may earn only one wetland and riparian zone conservation tax credit per income tax year. The availability of the tax credits shall expire on December 31st of the calendar year following the calendar year the tax credits used exceed $500,000. The Act is effective for tax years beginning on or after January 1, 2009.

Any unused credit may be carried forward for a maximum of nine (9) consecutive taxable years following the taxable year in which the tax credit originated.

Any water resource or surface water conservation project approved prior to December 31,1995 must comply with the provisions established under the Water Resource Conservation and Development Incentives Act of 1985.

5. Equipment Donation, Sale Below Cost or Qualified Research Expenditure

ACA 26-51-1102 provides an income tax credit for a taxpayer who donates or sells below cost new machinery or equipment to a qualified educational institution, or a taxpayer who has qualified research expenditures under a qualified research program. This credit is equal to 33% of the cost of the donation, sale below cost, or qualified expenditure and the credit may offset 100% of the net income tax liability. Any unused credit may be carried forward for the next nine (9) succeeding tax years or until exhausted, whichever occurs first.

ACA 14-144-311 amends Arkansas Code Title 14 to authorize the creation and operation of research park authorities for the purpose of economic development, exempting the property of each research park authority from all state, county and municipal taxes including income tax, inheritance and estate tax. The act allows contributions to research park authorities to qualify for the credit provided by ACA 26-51-1103.

6. Workforce Training Credit

ACA 6-50-702 permits an income tax credit based on a portion of the cost of workforce training. If the training is in an Arkansas state supported educational institution, the credit allowed is the lesser of one-half (1/2) of the amount paid by the company or the hourly training cost up to $80 per instructional hour. If training is by company employees or company paid consultants, the tax credit cannot be more than $25 per hour. There is no carryforward provision for this credit. Applications for this credit are available from the Arkansas Department of Economic Development at (501) 682-7675.

7. Tourism Development Credit

ACA 15-11-509 provides for an income tax credit equal to 4% of the payroll of the new full-time permanent employees working at a tourism attraction project. To be counted as a new full-time permanent employee for the purpose of qualifying for the tax credit, the employee in the position must have been an Arkansas taxpayer during the year in which the credit was earned.

For projects receiving approval after March 1,1999, the credit may be applied against the approved company's income tax liability for the succeeding nine (9) years or until exhausted, whichever occurs first. The Act was effective August 12, 2005.

8. Youth Apprenticeship Program

ACA 26-51-509 provides for an income tax credit of $2,000 or 10% of the wages earned by a youth apprentice, whichever is less, to a business participating in the United States Department of Labor apprenticeship program. The credit may not exceed the income tax otherwise due and the pass-through provisions of ACA 26-51-409 will apply as in effect for the taxable year the credit was earned.

Any unused credit may be carried forward for the next two (2) succeeding tax years or until exhausted, whichever occurs first.

ACA 26-51-1601 et seq. provides for an income tax credit of $2,000 or 10% of the wages earned by a youth apprentice, whichever is less, to a business participating in the Arkansas Vocational and Technical Education Division apprenticeship program. The occupation in which the youth apprentice is employed must not be covered by the United States Department of Labor apprenticeship program as in effect on January 1,1995. The credit may not exceed the income tax otherwise due.

Any unused credit may be carried forward for the next two (2) succeeding tax years or until exhausted, whichever occurs first.

9. Biodiesel Incentive Act

ACA 15-4-2801 et seq. establishes an income tax credit to biofuels suppliers equal to 5% of the costs of facilities and equipment used directly in the wholesale or retail distribution of biodiesel fuels. The costs of service contracts, sales tax, or the acquisition of undeveloped land cannot be included in determining the amount of the credit.

The credit cannot be claimed by a supplier for any facility or equipment in use on or before the certification of the company for tax credits, or for any facility or equipment for which a supplier previously claimed a tax credit for any other tax year. The limitations on the use of the credit will not apply if an entity is sold and the entity is entitled to credit. The credit can be carried forward for a period not to exceed three (3) years. The provisions of the Act apply to tax years beginning on or after January 1, 2003 and the credit established under ACA 15-4-2803 expired June 30, 2007.

10. Tuition Reimbursement Credit

ACA 26-51-1902 permits an income tax credit equal to 30% of the cost of tuition reimbursed by the employer to a full-time permanent employee on or after July 30, 1999. The credit cannot exceed 25% of the business' income tax liability in any one tax year and has no carryforward provision. The employee must attend a qualified Arkansas institution. This credit is administered by the Arkansas Department of Economic Development. Form AR1036 must be attached to the Arkansas return in addition for Form AR1100BIC to claim this credit.

11. Family Savings Initiative Credit

ACA 20-86-109, creates the Family Savings Initiative Act, effective July 1,1999, which provides a tax credit to those taxpayers who make contributions to a designated fiduciary organization created pursuant to this Act. The fiduciary will notify the Department of Human Services of the deposits and will issue a certificate to be attached to the tax return for the first year the credit is taken. The credit allowed is the lesser of the income tax due or $25,000 per taxpayer. The total tax credit allowed for all taxpayers is $100,000 per year.

Any unused credit may be carried forward for the next three (3) succeeding tax years or until exhausted, whichever occurs first.

12. Public Road Improvement

ACA 15-4-2306 provides a tax credit for those taxpayers who contribute to the "Public Roads Incentive Fund" for the improvement of public roads. The credit is limited to 33% of the total contributions made to the fund and in any tax year is limited to 50% of the net Arkansas tax liability after all other credits have been taken. The credit is available for tax years beginning on or after January 1,1999.

Any unused credit can be carried forward for the next three (3) succeeding tax years or until the credit is exhausted, whichever occurs first. This program is administered by the Arkansas Department of Economic Development.

13. Low Income Housing Credit

ACA 26-51-1702 provides an income or premium tax credit for a taxpayer owning an interest in a qualified low income building which is approved through the Arkansas Development Finance Authority. The tax credit is computed by multiplying the Federal Low Income Housing Tax Credit for the qualified project by 20%.The credit may not exceed $250,000 or the income or annual premium tax otherwise due. The tax credits allocated to the taxpayer shall be allocated to each shareholder.

Any unused credit may be carried forward for the next five (5) succeeding tax years or until exhausted, whichever comes first.

14. Purchase of Equity in a Capital Development Company

ACA 15-4-1026 allows the original purchaser of an equity interest in a Capital Development Company for calendar years 2003-2015, an income or annual premium tax credit equal to 33.33% of the actual purchase price, limited to 50% of the net Arkansas income or premium tax liability in any one tax year. No capital development company shall enter into an agreement or commitment for the purchase by any person of equity interests in the capital development company on or after July 1, 2007.

Any unused credit may be carried forward for the next succeeding tax year and annually thereafter for a total of eight (8) succeeding the year in which the equity interest was purchased or until exhausted, whichever occurs first. In no event may the credit be allowed for any tax year ending after December 31, 2021.

15. Affordable Neighborhood Housing Credit

ACA 15-5-1301 et seq. provides an income or annual premium tax credit for any business firm engaged in providing affordable housing which is approved through the Arkansas Development Finance Authority. The tax credit is limited to 30% of the total amount invested in affordable housing assistance activities. The credit may not exceed $750,000 or the income or premium tax otherwise due in any taxable year.

Any unused credit may be carried forward for the next five (5) succeeding tax years or until exhausted, whichever occurs first.

16. Coal Mining Tax Credit

ACA 26-51-511 provides an income or annual premium tax credit of $2.00 per ton of coal mined, produced or extracted on each ton of coal mined in Arkansas in a tax year. An additional credit of $3.00 per ton will be allowed for each ton of coal mined in Arkansas in excess of 50,000 tons in a tax year. The credit can only be earned if the coal is sold to an electric generation plant for less than $40 per ton excluding freight charges.

The credit expires five (5) tax years following the tax year in which the credit was earned.

17. Venture Capital Investment Credit

ACA 15-5-1401 et seq. provides an income tax credit up to $10 million per fiscal year as recommended by the Arkansas Development Finance Authority and approved by the State Board of Finance. The credit may not exceed the income tax otherwise due and is non refundable.

Any unused credit may be carried forward for five (5) succeeding tax years after the tax year in which the credit was first used.

18. Rice Straw Tax Credit

ACA 26-51-512 allows an income tax credit in the amount of $15.00 for each ton of rice straw in excess of 500 tons that is purchased by an Arkansas taxpayer who is the end user of the straw (person processing, manufacturing, generating energy or producing ethanol). The amount of the credit is limited to 50% of the income tax due for the tax year.

Any unused credit may be carried forward for ten (10) consecutive years following the year in which the credit is earned and is effective for tax years beginning on or after January 1, 2006.

19. Delta Geotourism Incentive Act

Act 349 of 2009 amends The Delta Geotourism Incentive Act of 2007 to allow a geotourism income tax credit to transfer to other tourism projects to construct, expand or remodel a geotourism supporting business. The minimum investment to claim the tax credit is $25,000.

Act 738 of 2011 changes the maximum investment to $250,000 for geotourism property located within the Lower Mississippi River Delta or a minimum investment of $100,000 in property located in the state but not within the Lower Mississippi River Delta and increases the credit amount

20. Arkansas Historic Rehabilitation Income Tax Credit

ACA 26-51-2201 creates the credit for qualified rehabilitation expenses in an amount equal to 25% of the total incurred by a person, firm or corporation subject to state income or an insurance company paying annual premium tax to complete a certified rehabilitation project up to the first $500,000 of expenses on income producing property or $100,000 on non-income producing property. The credit may offset 100% of income or annual premium tax due. Any unused credit shall be carried forward for five (5) years and is effective for tax years beginning on or after January 1, 2009.

Act 831 of 2011 extends the sunset provision from December 31, 2015 to December 31, 2021.

21. Arkansas Central Business Improvement District Rehabilitation and Development Investment Tax Credit

Act 1166 of 2011 (ACA 26-51-2407) establishes an investment tax credit equal to 25% for a qualified rehabilitation or development expenditure incurred for a qualifed project up to the first $500,000 on income producing property or $200,000 on non income producing property with a minimum investment of $30,000. The tax credit will only be issued up to $1,000,000 in any one fiscal year on a first come, first serve basis. The credit may be transferred, sold or assigned only one (1) time and will offset 100% of the state income tax due but shall not exceed the amount of tax due for the taxable year.

Any unused tax credit my be carried over for five (5) consecutive taxable years or until exhausted, whichever occurs first. This act will take effect only if the Chief Fiscal Officer for the state certifies that sufficient funding is available. The credit will not be funded for tax year 2012. If it is determined that funding is available the act will be effective for tax years beginning on or after January 1 of the year following the certification and continues for a period of two (2) years.

22. Child Care Facility

ACA 26-51-507 provides for an income tax credit of 3.9% of the annual salary of employees employed exclusively in providing child care services if the revenue of the business does not exceed the direct operating costs of the facility. Act 413 of 2001 requires certification of eligible childcare facilities by the Division of Childcare and Early Childhood Education.

ACA 26-51-508 provides that a business which qualifies for the refund of the Gross Receipts Tax or Compensating Use Tax under ACA 26-52-516 or 26-53-132 shall be allowed an income tax credit of 3.9% of the annual salary of its employees employed exclusively in providing child care service, or a $5,000 income tax credit for the first tax year the business provides its employees with a child care facility. This credit is for a business which operates a child care facility for its employees only.

Any unused credit may be carried forward for the next two (2) succeeding tax years or until exhausted, whichever occurs first.

The Business Incentive Tax Credit Forms and instructions may be obtained from:

Department of Finance and Administration
Tax Credit/Special Refunds Section
P O Box 1272
Little Rock, AR 72203-1272
by phone: (501) 682-7106
website: www.dfa.arkansas.gov/

GENERAL INFORMATION ON FILING AS A SUBCHAPTER S CORPORATION

ACA 26-51-409(b)(3) requires a Subchapter S Corporation to attach a copy of its federal income tax return and requires that Subchapter S election and shareholder consents be filed on forms prescribed by the Director. The act is effective for tax years beginning on and after January 1, 2007.

WHO MUST FILE

Every corporation organized or registered under the laws of this state, or having income from Arkansas Code Section 26-51-201 (with the exception of those corporations exempted by Arkansas Code Section 26-51-303) must file an income tax return. Consolidated returns are permitted under certain conditions. D.I.S.C. and F.S.C. Corporations should use Form AR1100CT. Corporations must file Form AR1100S if:

(a) they elected to be taxed as an S Corporation within seventy-five (75) days of incorporation or doing business in Arkansas.

(b) they are considered to be a Subchapter S corporation with the IRS, the State of Arkansas accepted the election and the election remains in effect.

Corporations filing a Composite Return must file on an AR1000CR and file it with the Individual Income Tax Section. If you have questions regarding Composite returns, you can reach the Individual Tax Section at (501) 682-1100 or **www.dfa.arkansas.gov/**.

Privately Designed Tax Forms

Computer generated substitute tax forms are not acceptable unless the computer generated format is approved (in advance of use) by the Manager of the Corporation Income Tax Section.

To expedite processing of the AR1100S, it is essential that the following items are completed:

A. Tax Year Beginning and ending date
B. Corporation name, address, city, state, zip code
C. Date of Incorporation
D. FEIN (Federal Identification Number)
E. NAICS Code (same as on Federal return)
F. Date began business in Arkansas
G. Filing Status (check only one box)
H. Type of corporation (check only one box)

TIME AND PLACE FOR FILING

Form AR1100S is due on or before the 15th day of the 3rd month following the close of the Corporation's tax year.
Forms must be filed with:

The Department of Finance and Administration
Corporation Income Tax/S-Corp
P O Box 919
Little Rock, Arkansas 72203-0919.

Physical Location:
1816 West 7th Street, Room 2250
Little Rock, AR 72201-1030

EXTENSION OF TIME FOR FILING

If you have received an automatic Federal extension (Form 7004), the time for filing your Arkansas Corporation Income Tax Return shall be extended until the due date of your Federal Return for a US domestic corporation. When filing the Arkansas AR1100S, check the box at the top indicating that the Federal Extension Form 7004 and/or Arkansas Extension Form AR1155 has been filed and file the Arkansas return on or before the Federal due date. It is no longer necessary to include a copy of the Federal Form 7004. To request an initial Arkansas extension of 180 days from the original Arkansas return due date or an Arkansas extension of 60 days beyond the Automatic Federal extension due date, complete and mail Arkansas Form AR1155, Request for Extension of Time for Filing Income Tax Returns, by the due date or, if applicable, the extended due date of the Arkansas return to the Corporation Income Tax Section. Arkansas extension(s) must be attached to the Arkansas income tax return. Interest at 10% per annum is due on all returns (including those with extensions) if the tax is not paid by the original return due date. Interest will be computed on a daily rate of .00027397. To avoid interest and/or penalty, any tax due payment must be made on or before the 15th day of the 3rd month following the close of the Corporation's tax year. Attach your check to Extension Voucher 5.

The annual income tax return of a Small Business Corporation is to be submitted on Form AR1100S. Generally, a "Small Business" election permits the taxable income of the Small Business Corporation to be taxed to the shareholders rather than to the corporation. All resident and nonresident shareholders of S Corporations doing business in Arkansas must file a properly executed Arkansas Income Tax Return with the Department of Finance and Administration. Arkansas income tax must be paid on the shareholders' taxable income on an Arkansas AR1000, an AR1000NR for non resident filers or AR1000CR if filing on a Composite return with Arkansas Individual Income tax.

PERIOD COVERED/ACCOUNTING METHOD

A corporation must calculate its Arkansas Taxable Income using the same income year and accounting method for Arkansas tax purposes as used for Federal income tax purposes. For tax years beginning after 1986 all S Corporations are required to have a permitted tax year. A permitted tax year is a tax year ending December 31st, or any other tax year for which the S Corporation established a business purpose.

Application for changes must be made and forwarded to the Department of Finance and Administration, Corporation Income Tax Management, at least 60 days before the close of the proposed or new taxable year or period and/or accounting method. The corporation must provide to the Commissioner a copy of any certification or approval from the Internal Revenue Service authorizing the corporation to change its accounting method or income year.

When the Commissioner of Revenue approves a change in the accounting period, the net income computed on the separate return for a fractional part of a year shall be placed on an annual basis by multiplying the amount of income earned during the taxable period by twelve and dividing by the number of months included in the period. Calculate the tax on the annualized income. The annualized tax is then multiplied by the number of months in the taxable period and then divided by twelve (12). The result is the tax liability.

SIGNATURES AND VERIFICATION

The President, Vice-President, Treasurer, or other principal officer shall certify the return. Such agent may certify the return of a foreign corporation having an agent in the state. If receiver, trustee in bankruptcy, or assignee are operating the property or business of the corporation, such receiver, trustee, or assignees shall execute the return for such corporation under certification.

REPORT OF CHANGE IN FEDERAL TAXABLE INCOME

Revenue Agent Reports (RARs) must be reported to this state within 90 days after the receipt of the RAR or supplemental report reflecting correct net income of taxpayer. Amended returns must be filed with payment of any additional tax due. The Statute of Limitation will remain open for eight (8) years if the taxpayer fails to disclose Federal Revenue Agent Reports.

PENALTIES

Willful failure to pay or file a return required under any state tax law is a Class A Misdemeanor. An additional penalty of $500.00 will be assessed if any taxpayer files what purports to be a return but does not contain information on which substantial correctness may be judged and such conduct is due to a position which impedes the administration of any tax law.

LIABILITY FOR FILING RETURNS

A corporation subject to the provisions of the Income Tax Act of 1929, regardless of the amount of its net income, is required to file a return.

BALANCE SHEET

The balance sheet submitted with the return should be prepared from the books and should agree therewith, or any difference should be reconciled. All corporations engaged in an interstate trade or business and reporting to the Surface Transportation Board and to any national, state, municipal or other public office may submit copies of their balance sheets prescribed by said Board, or state and municipal authorities, as of the beginning and end of the taxable year.

If the balance sheet as of the beginning of the current taxable year does not agree in every respect with the balance sheet which was submitted as of the end of the previous taxable year, a reconciliation schedule should be submitted with the return.

TYPE RETURN

Whether the S Corporation is filing an Initial Return (first time filing), an Amended Return (making changes to an original return), a Final Return (going out of business), or filing as a Cooperative Association or Financial Institution, clearly mark the AR1100S by checking the applicable box at the top of the form.

INCOME

CAUTION: *Report only trade or business activity income or loss on Lines 7 through 12. Do not report rental activity or portfolio income or loss on these lines. Report the Arkansas portion of rental income and expenses and portfolio income and expenses distributable to each shareholder on a Federal Schedule K. Clearly mark* **"Arkansas"** *on the Federal Schedule K that contains the Arkansas amounts.*

GROSS SALES

If engaged in trading or manufacturing, enter on Line 7 on page 1 of return, the gross receipts, less goods returned and any allowances or discounts from the sale price.

COST OF GOODS SOLD

Enter on Line 8 the cost of goods sold. Attach schedule and explain fully the method used.

If the production, purchase, or sale of merchandise is an income producing factor in the trade or business, inventories of merchandise on hand should be taken at the beginning and end of the taxable year, which may be valued at the lower of cost or market. Explain fully the method used. In case the inventories reported on the return do not agree with those shown on the balance sheet, attach a statement explaining how the difference occurred.

Balance sheets as of the beginning and close of the year and a reconciliation of surplus must be attached to the return.

GROSS PROFITS

Enter on Line 9 the gross profit which is obtained by deducting Line 8, the cost of goods sold as extended from Line 7, the gross sales.

NET GAIN OR (LOSS) FROM FORM 4797

Enter on Line 10, gains or losses from the sale, exchange, or involuntary conversion of assets used in trade or business activity. If the corporation is also a partner in a partnership, include the partner's share of gains (losses) from sales or exchanges, involuntary or compulsory (other than casualties or thefts), of the partnership's trade or business assets. Do not include any recapture of expense deduction for recovery property (Federal Code Section 179).

OTHER INCOME

Enter on Line 11 any other taxable trade or business income not listed above and explain its nature on an attached schedule.

DEDUCTIONS

CAUTION: *Report only trade or business activity related expenses on lines 13 through 25. Do not report rental activity expenses or expenses related to any portfolio income on these lines. Report the Arkansas rental activity income and expenses and portfolio income and expenses distributable to each shareholder on a Federal Schedule K. Clearly mark* **"Arkansas"** *on the Federal Schedule K that contains the Arkansas amounts.*

COMPENSATION OF OFFICERS

Enter on Line 13 the compensation of officers in whatever form paid.

SALARIES AND WAGES

Enter on Line 14 the amount of salaries and wages (other than wages and salaries deducted elsewhere on your return) paid or incurred for the tax year. Do not reduce this figure by Federal jobs credit.

REPAIRS

Enter on Line 15 the cost of incidental repairs related to any trade or business activity.

Excess Net Passive Income Tax Worksheet

1. Enter Arkansas gross receipts tax for the tax year (See IRC Section 1362 (d)(3)(B) for gross receipts from the sale of capital assets.)*.. ___________
2. Enter Arkansas passive investment income as defined in IRC* Section 1362 (d)(3)(C)...... ___________
3. Enter 25% of Line 1 (If Line 2 is less than Line 3, stop here. You are not liable for this tax.).. ___________
4. Excess Arkansas passive investment income (Subtract Line 3 from Line 2.) .... ___________
5. Arkansas expenses directly connected with the production of income on Line 2 [See IRC* Section 1375(b)(2)]....................... ___________
6. Net passive income (Subtract Line 5 from Line 2.) .... ___________
7. Divide amount on Line 4 by amount on Line 2... ___________
8. Excess net passive income (Multiply Line 6 by Line 7.)... ___________
9. Enter taxable income (See instructions for taxable income below.)............................. ___________
10. Enter the smaller of Line 8 or 9. .... ___________
11. Excess net passive income tax – Enter 6.5% of Line 10. Enter here and on Line 28, page 1, Form AR1100S. .... ___________

*Income and expenses on Lines 1, 2, and 5 are from total Arkansas operations for the tax year. This includes applicable income and expenses from page 1, Form AR1100S, as well as those that are reported separately on Federal Schedule K. See IRC Section 1375(b)(4) for exceptions regarding Lines 2 and 5.

BAD DEBTS

Enter on Line 16 the amount of bad debt incurred during the year. The S Corporation can only use the specific charge-off method for figuring its bad debt deduction.

RENT

Enter on Line 17 rent paid for trade or business property in which the S Corporation has no equity.

TAXES

Enter on Line 18 taxes paid or accrued during the taxable year. Do not include Arkansas income taxes, Federal income taxes, or taxes assessed against local benefits tending to increase the value of the property.

INTEREST

Enter on Line 19 only interest incurred in the trade or business activity of the corporation that is not reported elsewhere on the return. Do not include interest expense related to rental activity, portfolio or investment income.

DEPRECIATION

Enter on Line 20a depreciation expense from Federal Form 4562. Do not include any expense for recovery property (Section 179) on this line. For tax years beginning on or after January 1, 2011 the expense election will be $25,000.No bonus depreciation is allowed for Arkansas income tax purposes.

DEPLETION

Enter on Line 21 depletion expense claimed. Arkansas allows Federal depletion allowances as in effect January 1, 2007. In computing depletion allowance deduction for oil and gas wells, the depletion deduction shall be controlled by the provisions of IRC Section 613A as in effect January 1, 2011.

OTHER DEDUCTIONS

Enter on Line 25 any other authorized deductions related to any trade or business activity for which there is no line on page 1 of this form. Pension Profit Sharing and Employee Benefits deductions remain valid deductions.

EXCESS NET PASSIVE INCOME TAX

Enter on Line 28 the amount of excess net passive income tax due. If the corporation has always been a Subchapter S Corporation, then line 28 tax does not apply to the corporation. If the corporation has "C" corporation earnings and profits at the close of the tax year, has passive investment income that is in excess of 25% of gross receipts, and has taxable income at year end, the corporation must pay a tax on the excess passive income. Complete Lines 1 through 3 and Line 9 of the worksheet on this page to make this determination. If Line 2 is greater than Line 3 and the corporation has taxable income it must pay the tax. Complete a separate schedule using the format of Lines 1 through 11 of the worksheet to figure the tax.

Taxable Income (Line 9 of the Excess Net Passive Income Tax Worksheet)
Line 9, taxable income, is defined in IRC Section 1374(d). Figure this income by completing Lines 9 through 32 of page 1, or Schedule A, page 2 of Form AR1100CT, Arkansas Corporation Income Tax Return. Include the Form AR1100CT computation with the worksheet computation you attached to Form AR1100S. You do not have to attach the schedules etc. called for on Form AR1100CT. However you may want to complete certain schedules such as Schedule D, Form AR1100S.

SCHEDULE D (Form AR1100S)

Enter on Line 29 the tax from Schedule D, Form AR1100S, page 2. If net capital gain for Arkansas is $25,000 or less, the corporation is not liable for capital gains tax. If the net capital gain is more than $25,000 you must determine if the corporation owes the tax in part A, or part B of Schedule D, Form AR1100S.

Part A – Capital gains tax computation

If the corporation made its election to be an S Corporation before 1987, IRC Section 1374 (as in effect before the enactment of the Tax Reform Act of 1986) continues to impose a tax on certain gains of the S Corporation. Consult the IRS instructions to determine if you are liable for this tax. If so, complete Part A, Schedule D, Form AR1100S. If multistate, under Schedule D, part A, Line 3, multiply by apportionment factor from Part B, Line 5 of Schedule A.

Part B – Built-in gains tax computation

If the corporation made its election to be an S Corporation after December 31,1986, IRC Section 1374 provides for a tax on built-in gains that applies to certain S Corporations. Consult the IRS instructions to determine if you are liable for this tax. If so, complete Part B, Schedule D, Form AR1100S. If multistate, under Schedule D, Part B, Line 2, multiply apportionment factor from Part B, Line 5 of Schedule A.

PAYMENTS

Enter on Line 31 payments you made on a 2012 Declaration of Estimated Income Tax voucher.

Filing Declaration of Estimated Income Tax

Every taxpayer who can reasonably expect to owe Arkansas income tax in excess of $1,000 must make an estimate and pay in equal installments tax due thereon. The declaration shall be filed with the Commissioner of Revenue on or before the 15th day of the 4th month of the income year of taxpayer. Taxpayers whose income from farming for the income year can reasonably be expected to amount to at least two-thirds (2/3) of the total gross income from all sources for the income year, may file such declaration and pay the estimated tax on or before the 15th day of the 2nd month after the close of the income year. In lieu of filing any declaration, the taxpayer may file an income tax return and pay the tax on or before the 15th day of the 3rd month after the close of the income year. NOTE: Estimate payments made on composite returns (AR1100CR) should be made to the Individual Income Tax Section.

Payment of Taxes

The tax should be paid by attaching to the return a check or money order payable to "Department of Finance and Administration." Write the corporation's FEIN on the check. Payments with returns may not be made by EFT. Tax due on returns may be made through ATAP beginning January 10, 2011. Refer to www.atap.arkansas.gov for instructions. To avoid interest and/or penalty, tax due payment must be made on or before the 15th day of the 3rd month following the close of the corporations tax year.

WORKSHEET FOR APPORTIONMENT OF MULTISTATE CORPORATIONS

For corporations with income from sources within and without the State:

In general, taxpayers with income derived from activities both within and outside the State (Public Utilities excepted) are required to allocate and apportion the net income under the following provision:

Business and non-business income defined – Article IV 1 (A) defines "Business Income" as income arising from transactions and activities in the regular course of taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's trade or business operation. In essence, all income which arises from the conduct of trade or business operations of a taxpayer is business income. Income of any type or class and from any source is business income if it arises from transactions and activities occurring in the regular course of a trade or business. In general all transactions and activities of the taxpayer which are dependent upon, or contribute to, the operations of the taxpayer's economic enterprise as a whole constitute the taxpayer's trade or business and will be considered "Business Income" unless otherwise excluded by statute.

Business income is to be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two (2) times the sales factor, and the denominator of which is four (4).

The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period. The average value of property owned by the taxpayer means the average of the original cost of the property including inventories at the beginning and ending of the tax period. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate.

The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

Compensation is paid in this state if: (a) the individual's service is performed entirely within the state or, (b) the individual's service is performed both within and outside the state incidental to the individual's service within the state or (c) some of the service is performed in the state and (1) the base of operations (or if there is no base of operations the place from which the service directed or controlled) is in the State or (2) the base of operations or the place from which the service directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in the state.

The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period and the denominator of which is the total sales of the taxpayer everywhere during the tax period. The sales factor is then doubled.

Sales of tangible personal property are in this state if: (a) the property is delivered or shipped to a purchaser, other than the United States Government, within this State regardless of the f.o.b. point or other conditions of the sale or (b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State and (1) the purchaser is the United States Government or (2) the taxpayer is not taxed in the State of the purchaser.

Sales, other than sales of tangible personal property, are in this State if the income producing activity is performed both within and without the State, in which event the income allocable to this State shall be the percentage that is used in the formula for apportioning business income to this State.

The following items of income to the extent that they do not constitute business income are to be allocated to this state:

1. Net rents and royalties from real property located in the state.

2. Net rents and royalties from tangible personal property (a) if and to the extent that the property is used in this state or (b) in their entirety if the commercial domicile is in the state and the taxpayer is not organized under the laws of or taxed in the state in which the property is utilized.

The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer tangible personal property is utilized in the state in which the property was located at the time the rental or royalty obtained possession.

3. Gains and losses from sales of assets:

    a. Sales of real property located in the state

    b. Sales of tangible personal property

        (1) The property had a situs in this state at the time of sale, or

        (2) The taxpayers commercial domicile is in this state, or

        (3) The property has been included in depreciation which has been allocated to this state, in which event gains or losses on sales shall be allocated on the percentage that is used in the formula for allocating income to the state.

    c. Sales of intangible personal property if the taxpayer's commercial domicile is in this state.

4. Interest and dividends if the taxpayer's commercial domicile is in the state.

5. Patent and copyright royalties: If and to the extent that the patent or copyright is utilized by the taxpayer in this state, or if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxed and the taxpayer's commercial domicile is in this state.

    A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to the states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

Prior written approval is required before deviation from the allocation and apportionment method.

If the allocated and apportionment provisions as set out above do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the Director of Revenue, Department of Finance and Administration may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

1. separate accounting

2. the exclusion of any one or more of the factors

3. the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state, or

4. the employment of any other method to effect an equitable allocation and apportionment of the taxpayer's income.