ARKANSAS

2018

Sub-Chapter S Corporation Income Tax Instructions

CONTENTS PAGE

Tax Year 2018

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 or
Go to www.dfa.arkansas.gov.

The due date for filing Arkansas S Corporation Income tax returns is on or before the 15th day of the 4th month following the close of the tax year, for calendar year filers the due date is April 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

WHAT'S NEW for 2018 S Booklet

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.

Act 434 of 2017 amends ACA 26-51-409(b) to require a corporation filing a federal Subchapter S income tax return to file an Arkansas Subchapter S income tax return. ACA 26-51-413(b) is repealed. Overpayments made for 2017 Estimate payments or 2018 ECF's will be applied to Composite Accounts, Withholding or refunded but will not be applied to Individual accounts. Effective for tax years beginning on and after January 1, 2018.

Act 482 of 2017 amends ACA 26-51-802(c) to require that Partnership income be determined for state income tax purposes by using an apportionment method. Partners will continue to allocate partnership income. Effective for tax years beginning on and after January 1, 2018.

Act 760 of 2017 amends ACA 26-51-919(a)(2), (b)(I), (A)(i), (c)(5)(A) and (d) for the income tax withholding requirements for members or owners of a pass-through entity to require withholding on corporate partners and to allow corporate partners to participate in composite returns. Effective for tax years beginning on and after January 1, 2018.

IMPORTANT REMINDERS FOR 2018

For tax year beginning January 1, 2016, Arkansas has adopted the due date of April 15th for calendar year filers. The extended due date will be October 15th for calendar year filers.

Act 48 of 2017 provides that Arkansas corporate income tax returns be filed by April 15th for calendar years beginning on and after January 1, 2016, and the 15th day of the 4th of the month following the end of the tax year for all fiscal year filers.

The AR1155, Arkansas Request for Extension now contains a Corporation Extension Payment Voucher included on the form to be used only with the Arkansas Extension form.

As stated in the What's New section, Act 434 of 2017 does not take effect until 2018. Therefore an Arkansas Sub S election must be made for the 2017 tax year. 2017 will be the final year that a federal Sub S corporation may file an Arkansas C corporation return. For 2018 tax year Arkansas no longer requires a separate election to be considered an S corporation, taxpayers will file the federal 1120S along with the Arkansas AR1100S and will be considered an S Corporation for Arkansas filing purposes.

Schedule A-Worksheet for Apportionment of Multistate Corporation has been changed. Part B Apportionment Factor, Line 1.c. is now the Average Value of Intangible Property and Line 1.d. is now the Total Property line.

The 2018 Subchapter S income tax booklet now includes the Form AR1100S and the Arkansas Schedule ARK-1 that are included with the S return. The instructions for the ARK-1 are also included in this booklet. The Arkansas Schedule K-1 form has been developed for tax year 2018 for Subchapter S corporations to report each shareholder's share of the corporation's income, deductions, credits, etc. The Arkansas Schedule K-1 will be required to be submitted for the 2018 filing season. Adjustments to convert federal amounts may be necessary for a number of items including but not limited to capital gains, interest income, depreciation, Section 179 deductions, contributions and others. The amount reported for each shareholder should be the total Arkansas amount for an item of income, deduction or credit multiplied by the shareholders ownership percentage.

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 is available. Instructions for filing are posted at www.dfa.arkansas.gov. **The federal return must be attached to the Arkansas E-File return.**

The AR1100S now includes a check box if the corporation is filing as a Financial Institution. In general all state national banks, savings and loan associations or any other entity operating as a financial institutions are to be taxed under ACA 26-51-1401 and following. 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 existing applicable laws of this State.

ACA 26-51-1401 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.

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 Tax Processing Section.

Subchapter S Corporation Election and Instructions

ACA 26-51-409(b) states that an election made under Subchapter S for federal income tax purposes is deemed to have been made for Arkansas income tax purposes. It also states that a corporation that has elected to be Sub S for federal purposes shall not elect to be treated as a C corporation for Arkansas income tax purposes.

Subchapter S of the Federal Internal Revenue Code of 1986, in effect as of January 1, 2018 has been adopted for Arkansas income Tax purposes.

TO BE RECOGNIZED AS AN ARKANSAS S-CORPORATION

The following must be completed:

1. The business must register with the AR Secretary of State.
   (501) 682-3409 or www.sos.arkansas.gov

2. For tax years beginning before January 1, 2018, 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. For tax years beginning before January 1, 2018, a Federal Subchapter S corporation must also file as an Arkansas S corporation; taxpayers will no longer be allowed to file as a C corporation if filing as a Federal S corporation. (501) 682-4775.

For tax years beginning before January 1, 2018, 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. A shareholder cannot be a Corporation or Partnership.
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 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)

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 4th month after the close of the income year.

NOTE: *Estimate payments made on composite returns (AR1000CR) should be made to the* ***Individual Income Tax Section on the AR1000CRES Voucher.***

For proper processing please verify you are choosing the correct payment type and applying it to the correct tax year with the correct voucher.

The return is to be filed with the:

DEPARTMENT OF FINANCE AND ADMINISTRATION
CORPORATION INCOME TAX
P. O. BOX 919
LITTLE ROCK, AR 72203-0919

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

If the corporation is the Parent of one or more Qualified Subchapter S Subsidiaries (QSSS), the Parent must file the AR1100S return and include schedules for the Q Subs in the Parents return. 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 must file an Arkansas S return, they can no longer file as a C corporation for Arkansas. A QSSS may not file an Arkansas Corporation 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 filed a valid Federal Subchapter S return.

The Arkansas Business Corporation Act amended **(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 or website information or assistance regarding S-Corporation matters refer to:

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

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 credit or deductions, except normal depreciation, may be claimed on that equipment. Any unused credit may be carried forward for the next three (3) succeeding tax years or until exhausted, whichever occurs first. **Act 1476 of 2013** also extends the waste reduction, reuse or recycling equipment tax credit to carry forward for a period of fourteen (14) consecutive tax years following the taxable year in which the credit originated for the Big River Steel Mill project. Income tax credits that would otherwise expire during that period shall be claimed first.

2. Consolidated Incentive Act 182 of 2003

Advantage Arkansas Income Tax Credit

ACA 15-4-2705 provides an income tax credit for creating new jobs after the company signs a financial incentive agreement with the Arkansas Economic Development Commission. The annual payroll of the new employees must meet the payroll threshold for the county in which the business is located. The income tax credit earned is a percentage of the annual payroll of the new full-time permanent employees for a period of five (5) tax years. Unused credits may be carried forward for nine (9) tax years. The Advantage Arkansas job creation credit cannot offset more than 50% of a business's income tax liability.

ArkPlus Income Tax Credit

ACA 15-4-2706(b) allows the AEDC to provide a 10% income tax credit to eligible businesses based on the total investment in a new location or expansion project after signing a financial incentive agreement with AEDC. The minimum investment and payroll requirements depend on the county in which the business is located. Any unused credits may be carried forward for nine (9) tax years. The ArkPlus tax credits taken during any tax year shall not exceed fifty percent (50%) of the business's income tax liability resulting from the project or facility.

The ArkPlus incentive may be awarded by AEDC as an optional income tax credit or sales tax credit to technology based businesses that create a new payroll of at least $250,000 and pays wages at least 175% of the state or county average hourly wage. The credit is between 2% and 8% of the total investment based on the total amount invested. Depending on the average hourly wage, the credits earned may be used to offset 50%, 75%, or 100% of the tax liability. Any unused credits may be carried forward for nine (9) tax years.

Research & Development with Universities Tax Credit

ACA 15-4-2708(a) authorizes a business that contracts with Arkansas colleges or universities in performing research to qualify for an income tax credit as authorized by **ACA 26-51-1102(b)** equal to 33% of qualified expenses. A business must submit an application to AEDC and the Arkansas Science and Technology Authority must also approve the plan. The credit may offset 100% of the tax liability and unused credits may carry forward nine (9) tax years.

In-House Research Income Tax Credit

ACA 15-4-2708(b), authorizes an income tax credit to businesses that conduct "in-house" research. The credit allowed for approved in-house research is 10% of qualified expenditures. However, the maximum credit that can be earned by each business is $10,000 per tax year and is equal to 20% of qualified expenses. The income tax credit may offset 100% of the income tax liability. Unused credits may be carried forward for nine (9) tax years.

In-House Research by Targeted Business income Tax Credit

ACA 15-4-2708(c), provides income tax credits for businesses deemed by the AEDC to fit within the six (6) business sectors classified as "targeted businesses". An eligible business may be approved for an income tax credit each year equal to 33% of the qualified research and development expenditures incurred each year for the first five (5) tax years of the financial incentive agreement. The income tax credit for research and development earned by targeted businesses may be sold. The business must make application to AEDC within one year of issuance and the credits may only be sold one time. Any unused credits may be carried forward for nine (9) years.

In-House Research in Area of Strategic Value Tax Credit

ACA 15-4-2708(d) authorizes an income tax credit equal to 33% of qualified research expenditures for an Arkansas taxpayer that invests in:(A) In-house research in an area of strategic value; or (B) A project under the research and development programs approved by the state of Arkansas Science and Technology Authority. The taxpayer must apply to AEDC in order to qualify for the income tax credit. The tax credit may be earned for the first five (5) tax years following the signing of a financial incentive agreement. The maximum tax credit that may be claimed by a taxpayer under this program is $50,000 per tax year. Any unused credits may be carried forward nine (9) tax years.

Targeted Business Payroll Income Tax Credit

ACA 15-4-2709 provides income tax credits to "targeted businesses" approved by AEDC. Companies must pay wages that are 150% of the state or county average wage and meet requisite payroll and investment thresholds. The credits may be sold upon approval by the AEDC. The buyer of the tax credit shall be allowed the remaining carryforward of the tax credit. Any unused credits may be carried forward for a maximum of nine (9) tax years. The tax credit is equal to 10% of its annual payroll, with a cap of $100,000 per year. The incentive may be offered for a period not to exceed five (5) tax years.

To claim the credits authorized under the Consolidated Incentive Act, attach to the tax return a copy of the Certificate of Tax Credit issued by Tax Credits/ Special Refunds Section. For information regarding application to any of the incentives under this Act contact Arkansas Economic Development at (501) 682-1121 or their website at http:/arkansasedc.com.

3. Equity Investment Incentive Credit

Act 164 of 2015 amends **ACA 15-4-3305** to provide tax credits for entities investing in eligible businesses and purchases the qualified business in calendar years 2007-2028. 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 a qualified business shall not exceed $6,250,000. Any unused credit may be carried forward for a period of nine (9) tax years and in no event be carried past December 31, 2037. The application must be filed with AEDC.

4. Child Care Facility

ACA 26-51-507 provides an income tax credit of 3.9% of the annual salary of employees employed exclusively in providing child care services if the revenue to the business does not exceed the direct operating costs of the facility. Certification of eligible childcare facilities must be made 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 26-51-516** or **ACA 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 $5000 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.

5. Water Resource Conservation

All water resource conservation credits must be approved by the Arkansas Natural Resource Commission.

(a) Water Impoundment outside and within critical areas:

Act 1125 of 2017 amends **ACA 26-51-1005** to provide an income tax credit equal to 50% of the cost of construction and installation or restoration of water impoundments or water control structures of twenty (20) acre-feet or more designed for the purpose of storing water to be used for agricultural, commercial or industrial purposes. The credit shall not exceed the lesser of 50% of the project cost incurred or $90,000.

The amount of tax credit allowed to each approved applicant per project shall not exceed the lesser of the amount of individual or corporate income tax otherwise due or $9,000. Any unused credit may be carried forward for the next fifteen (15) 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 - **ACA 26-51-1007** provides an income tax credit that shall not exceed the lesser of 10% of the project cost incurred or $27,000 for the reduction of ground water use by substitution of surface water for water used for industrial, commercial, agricultural or recreational purposes. The credit shall not exceed the lesser of individual or corporate income tax otherwise due or $9,000 per project and 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 - **ACA 26-51-1008** provides 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.

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 the amount 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 allows the Wetland and Riparian Zone Creation and Restoration Tax Credit amount not to exceed $50,000 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. 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. Any unused credit may be carried forward for a maximum of nine (9) consecutive taxable years.

6. Equipment Donation, Sale Below Cost or Qualified Research Expenditure & Research Park Authority

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 authorizes 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 tax and estate tax. The act allows contributions to research park authorities to qualify for the credit provided by **ACA 26-51-1102.**

7. 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 for tax years prior to 2014 to increase to $100 per hour for tax years beginning on or after January 1, 2014. If training is by company employees or company paid consultants, the tax credit cannot be more than $25 per hour. There is no carryforward period for this credit. Applications for this credit are available from the AEDC at (501) 682-7675.

8. Tourism Development Credit

ACA 15-11-509 provides 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) tax years or until exhausted, whichever occurs first.

9. Apprenticeship Program

Act 1042 of 2017 amends **ACA 26-51-509** to provide 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 shall not exceed $10,000 per year for each corporation. Any unused credit may be carried forward for the next two (2) succeeding tax years or until exhausted, whichever occurs first.

Arkansas Code Title 26, Chapter 51, Subchapter 16 is repealed.

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. Form AR1036 must be attached to the Arkansas return in addition to Form AR1100BIC to claim this credit.

11. Family Savings Initiative Credit

ACA 20-86-109 creates the Family Savings Initiative Act, 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 which 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. 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 AEDC.

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. Any unused credit may be carried forward for the next five (5) succeeding tax years or until exhausted, whichever occurs 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 in calendar years 2003-2015 to be entitled to 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) years 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 Tax Credit

ACA 15-5-1301 et seq. provides an income or annual premium tax credit for any business firm engaged in provding 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 activites. 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 untiol 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 earned.

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 over 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 tax years following the tax year the credit was earned and is effective for tax years beginning on or after January 1, 2006.

19. Delta Geotourism Incentive Act

The Delta Geotourism Incentive Act of 2007 as amended allows an income tax credit equal to 25% of an investment of up to $250,000 in a geotourism supporting business, a tourism attraction or tourism supporting business project that attracts out of state visitors in an economically distressed area of the Lower Mississippi River Delta in Arkansas. Application must be made to the Tax Credits Section of the Department of Finance and Administration and must also be approved by the Arkansas Department of Parks and Tourism. The credit may be transferred to another tourism related business in Arkansas upon approval by DFA and Parks and Tourism. The minimum investment to qualify for the credit is $25,000 and a transferee of a credit must invest a minimum of $100,000 in a tourism related business project in Arkansas. Unused tax credits may be carried forward five (5) taxable years after the year the credit is earned or until exhausted, whichever occurs first. The credit expires and no credit may be established for a tax year ending after December 31, 2021.

20. Arkansas Historic Rehabilitation Income Tax Credit

Act 393 of 2017 amends **ACA 26-51-2201** to create a 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 tax 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 for a project that starts on or after January 1, 2009. For a project starting on or after July 1, 2017, $1,600,00 of qualified rehabilitation expenses on 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) tax years. **Act 567 of 2015** changes the sunset date to be extended from December 31, 2015 to December 31, 2027 and no credit may be established after December 31, 2027.

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

ACA 26-51-2407 amends Arkansas Code 26, Chapter 51 to add Subchapter 24, to establish an investment tax credit equal to 25% for a qualified rehabilitation or development expenditure incurred for a qualified 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 total credit will be issued for 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 up to 100% of the state income tax due. Any unused tax credit may carryforward for five (5) consecutive taxable years or until exhausted whichever occurs first. This act will take effect only if the Chief Fiscal Officer of the State certifies that sufficient funds are available. The credit will not be funded for tax year 2018. 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 continue for a period of two (2) years.

The Business and 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
or call (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.

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). Corporations must file Form AR1100S if:

They are considered to be a Subchapter S corporation with the IRS 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.gov (ACA 26-51-919)**

Pass-Through Entities Required To Withhold Income Tax

Pass-through entities are required to withhold income tax on the applicable distributions to non resident indivuals that are attributable to income from other souces within the state. A pass-though entity is a business entity (corporation treated as a Subchapter S corporation, a general partnership, limited liability company, or a trust) **that is not taxed as acorporation for federal or Arkansas income tax purposes.**

ACT 760 of 2017 amends ACA 26-51-919(a)(2),(b)(I),(A)(i), (c)(5)(A) and (d) for the income tax withholding requirements for members or owners of a pass-through entity to require withholding on corporate partners and to allow corporate partners to particiapte in composite returns. Effective for tax years beginning on and after January 1, 2018.

The pass-through entity is required to file an annual return that shows the total amount of income distributed or credited to its nonresident members and the amount of tax withheld and remit the tax on behalf of the nonresident 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)**.

TIME AND PLACE FOR FILING

Form AR1100S is due on or before the 15th day of the 4th 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 4th month following the close of the Corporation's tax year. Attach your check to Extension Voucher attached to Form AR1155 if requesting an Arkansas extension.

The annual income tax return of a Subchapter S Corporation is to be submitted on Form AR1100S. Generally, a "Subchapter S " election permits the taxable income of the Subchapter S 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.

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 180 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. **ACA 26-18-306(b)(3)(B)** states that a refund shall not be paid if the amended return is filed on or after the 181st day following receipt of the notice from the IRS. Any additional tax and interest must be paid with the amended return or a refund must be requested on an amended return if applicable. Statute of Limitations will remain open for one (1) year for assessment of tax if the taxpayer fails to disclose Federal Revenue Agent Reports.

PENALTIES AND INTEREST

The following penalties shall be imposed:

- Failure to file timely - 5% per month not to exceed 35%.
- Failure to make timely remittance - 5% per month not to exceed 35%.
- Underestimate penalty - 10% of the amount of the underestimate.
- Failure to file return - $50.00.
- Failure to make required EFT payment - 5% of the tax due.
- Incomplete electronic payment -10% of the amount of the draft or $20.00, whichever is greater.
- Failure to Comply - $50.00.

LIABILITY FOR FILING RETURNS

Every corporation organized or registered under the laws of this State, or having income from Arkansas sources as defined in **ACA 26-51-205** must file an income tax 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. Balance sheets as of the beginning and close of the year and a reconciliation of surplus must be attached to the return.

General Instructions

Specific Line Instructions for Page 1 of AR1100S 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.*

Line 7 - GROSS SALES

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

Line 8 - COST OF GOODS SOLD

Enter 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.

Line 9 - GROSS PROFITS

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

Line 10 - NET GAIN OR (LOSS) FROM FORM 4797

Enter 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).

Line 11 - OTHER INCOME

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

Line 12 - TOTAL INCOME (LOSS)

Enter the Total Income (Loss); add lines 9 through 11.

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 the Arkansas Schedule AR K-1.*

Line 13 - COMPENSATION OF OFFICERS

Enter the compensation of officers in whatever form paid.

Line 14 - SALARIES AND WAGES

Enter 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.

Line 15 - REPAIRS

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

Line 16 - BAD DEBTS

Enter 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.

Line 17 - RENT

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

Line 18 - TAXES

Enter 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.

Line 19 - INTEREST

Enter 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.

Line 20 - DEPRECIATION

ACA 26-51-428 did not adopt the bonus depreciation provisions contained in Internal Revenue Code 168(k). The following IRC Code was adopted: Sections 167,168(a)-(j), of the IRS Code of 1986 as in effect on January 1, 2018 and Section 179 as in effect on January 1, 2009 for property purchased in tax years beginning on or after January 1, 2014. For tax years beginning on or after January 1, 2011 the Section 179 expense election is $25,000 with phase out beginning at $200,000. **Attach Arkansas Schedule AR1100REC to the AR1100CT to reconcile Federal and Arkansas depreciation.**

Line 21 - DEPLETION

Enter 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 IRS Section 613A as in effect January 1, 2011.

Line 22 - ADVERTISING

Enter any advertising for the business.

Line 23 - PENSION, PROFIT-SHARING Plans, etc

Enter the amount of pension or profit sharing plans.

Line 24 - EMPLOYEE BENEFIT PROGRAMS

Enter employee benefit programs for the business.

Line 25 - OTHER DEDUCTIONS

Enter 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.

Line 26 - TOTAL DEDUCTIONS

Enter the Total Deductions (add Lines 13 through 25).

Line 27 - NET INCOME (LOSS) FROM TRADE OR BUSINESS ACTIVITY

Enter the net income or loss from trade or business activity (Subtract Line 26 from Line 12).

Line 28 - EXCESS NET PASSIVE INCOME TAX

Enter 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 page 16 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 on page 15 to figure the tax.

Line 29 - Income Tax on Capital Gains/Built in gains

Enter the amount from Schedule D, page 2, A7+B6.

Line 30 - TOTAL TAX

Add Lines 28 and 29, if Amended Return checked, Enter Amended Total Tax.

Line 31 - PAYMENTS

Enter payments you made on a 2018 Declaration of Estimated Income Tax voucher, and amount applied from 2017 return.

Line 32 - Withholding Payment:

Attach AR1100-WH. Only enter an amount on this line if withholding is to be applied to the Sub S return and not to shareholders.

Line 33 - Amended Return Only

Enter Net Tax paid (or refunded) on previous returns for this tax year.

Line 34 - Tax Due

If Line 31 plus Line 32 is less than Line 30, enter the amount due.

Line 35 - Overpayment

If Line 31 plus Line 32 is greater than Line 30, enter the difference.

Line 36 - Amount of refund to be credited to 2019 estimated tax.

Line 37 - Refund

Line 35 less Line 36.

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.

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 27 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.

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 4th month following the close of the corporations tax year regardless of having an extension to file.**

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 are required to allocate and apportion the net income under the following:
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 being the average value of the taxpayer's real and tangible personal property owned or rented and used during the tax period and the denominator being the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period in this State.

The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the taxable year by the taxpayer for compensation paid both within and without the State during the taxable year. The payroll factor shall include only that compensation which is included in the computation of the apportionable income tax base for the taxable year. 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 is 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.

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

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.**

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 taxpayer 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.

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.

FINANCIAL INSTITUTIONS

In general all state and national banks, savings 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 any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a public utility or the rendering of purely personal services by an individual, shall allocate and apportion their net income.

ACA 26-51-426 adopted Internal Revenue Code Sections 582, 585, and 593 as in effect January 1, 1999 regarding bad debts of financial institutions.

ACA 26-51-1401 et seq. adopted the Multistate Tax Commission regulation regarding apportionment and allocation of net income of financial institutions. It requires a financial institution whose business activity is taxable both within and without this State to allocate and apportion its net income to this State. All business income which is includable in the apportionable income tax base, shall be apportioned to this State by multiplying such income by the apportionment percentage which is determined by adding the receipts factor, property factor, and payroll factor and dividing the sum by three (3).

Receipts Factor:

Generally, the receipts factor is a fraction; the numerator is the financial institution's gross receipts in Arkansas during the taxable year, and the denominator is all gross receipts that the financial institution derives from transactions and activities in the regular course of its trade or business. Interest from loans secured by real property is attributed to Arkansas if the property is located in Arkansas. Interest from loans not secured by real property is attributed to Arkansas if the borrower is located in Arkansas. Interest from credit cards receivables and fees charged to card holders are attributable to Arkansas if the billing address of the card holder is in Arkansas. Net gains from the sale of loans and loan servicing fees are sourced in the same manner as the loan interest. Net gains from the sale of credit card receivables are sourced in the same manner as the interest on credit card receivables. Interest, dividends, and net gains from investment and trading assets and activities are attributed to Arkansas if such receipts are property assigned to a regular place of business of the taxpayer within Arkansas. Financial institutions must single weight the sales factor.

Property Factor:

Generally, the property factor is a fraction, the denominator includes the average value of all owned and rented real and tangible personal property used by the financial institution in its trade or business. The property factor also includes two intangible assets, loans and credit card receivables, which are valued at their average outstanding principal balance, without regard for any reserve for bad debts, but reduced by any amount written off for federal income tax purposes. The numerator includes the average value of real and tangible personal property owned or rented by the taxpayer that is located or used within Arkansas during the taxable year and the average value of the taxpayer's loans and credit card receivables that are located in Arkansas during the taxable year. Loan and credit card receivables are attributed to Arkansas if they are property assigned to a regular place of business of the taxpayer within Arkansas. A loan or credit card receivable is properly assigned to the place of business which they have a preponderance of substantive contacts with as determined by such activities as the solicitation, investigation, negotiation, approval and administration of the loan or credit card receivable.

Payroll Factor:

Generally, the payroll factor is a fraction, the numerator of which is the total amount paid in this State during the taxable year by the taxpayer for compensation and the denominator of which is the total compensation paid both within and without the State during the taxable year. The payroll factor shall include only that compensation which is included in the computation of the apportionable income tax base for the taxable year.