A MESSAGE TO CORPORATION TAXPAYERS

This booklet contains forms and instructions needed to complete your return. If you need tax help, refer to page 3 of the booklet for the telephone numbers to call.

We can process your tax return more efficiently if you will do the following:

1. Use the Income Tax Forms in this booklet.
2. Complete all lines that apply to your corporation.
3. Attach all schedules and additional required information.
4. Have an authorized Corporate Officer sign and date the return.
5. Attach any Arkansas approved extension, if applicable.

Act 774 of 2003 changed the due date for filing state income tax returns to the due date for filing the corresponding federal income tax return. The Code change is effective for tax years beginning on or after January 1, 2003. Act 38 of 2003 levies a 3% surcharge to the tax liability of each person required to file an Arkansas Income Tax return, which will apply to tax years beginning in calendar years 2003 and 2004. Refer to Important Reminders on Page 3.

The mailing address for Corporation Income Tax Section is P.O. Box 919, Little Rock, AR 72203-0919. The physical location is as follows:

Ledbetter Building, Room 2250
1816 West 7th Street
Little Rock, AR 72201-1030

We appreciate your suggestions and constructive criticism. We want to provide you the best service possible. Please mail your suggestions and comments to: Manager, Corporation Income Tax Section, P.O. Box 919, Little Rock, AR 72203-0919.

Thank you,

Tim Leathers
Commissioner of Revenue

Governor Mike Huckabee

ARKANSAS 2004

Corporation Income Tax Booklet

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Tax Forms:

- AR1100CT, 2004 Corporation Income Tax Return (2)
- Schedule of Check-off Contributions
- Underpayment of Estimated Tax by Corporations (AR2220), Instructions, and Examples
- Annualized Income for Underpayment of Estimated Tax by Corporations (AR2220A) and Instructions
- Amended Corporation Income Tax Return (AR1100CTX)
- Estimated Tax Vouchers with Worksheet and Instructions

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

397207
State of Arkansas
Corporation Income Tax Section
P. O. Box 919
Little Rock, Arkansas 72203-0919

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IMPORTANT REMINDERS FOR 2004

1. To correctly process the Corporation's Return it is essential that every applicable line and space on Form AR1100CT and related schedules be typed or printed including tax year, corporation name, address, city, state, zip code, telephone number, FEIN (Federal Employer Identification Number), date of incorporation, federal business code, date began business in Arkansas, and filing status (check one box only). If consolidated box 4 is checked, you must also indicate number of entities in Arkansas in the space immediately to the right of Filing Status 4 description. Consolidated filers must complete a Form AR1100CT (with Schedule A if applicable) for each corporate entity and a separate Form AR1100CT for the consolidated group. If Filing Status 4 is checked, do not check any other box. An Arkansas consolidated group with its members having business activity only within Arkansas must check the box for Filing Status 4. The federal business code should be the same six-digit code used on the federal return.

2. Copy of Federal Return is required.

   Arkansas Code Annotated (ACA) 26-51-806(d) requires a completed copy of the corporation's Federal Corporate Income Tax Return, Form 1120, 1120S or other form, including all schedules and documents, be attached to the Arkansas "C" Corporation Income Tax Return, Form AR1100CT.

   (A) If the dollar amounts are the same for both the Federal and Arkansas Return, for corporations operating only in Arkansas, enter dollar amounts on Lines 17, 29, and 31 through 48 of the Arkansas Return and attach a completed copy of the Federal Return.
   (B) If the dollar amounts for the Arkansas Return are **NOT** the same as the dollar amounts shown on the Federal Return, prepare an Arkansas reconciliation schedule for each line item, **Lines 9 through 16 and Lines 18 through 28,** that is different and attach that schedule or schedules between the Arkansas Return and the completed copy of the Federal Return. Enter dollar amount on the appropriate line or lines for which schedules are prepared and on Lines 17, 29, and 31 through 48.
   (C) Multistate corporations, including financial institutions, must complete Schedule A, page 2 of Arkansas Form AR1100CT and page 1 of Form AR1100CT, Lines 32 through 48. Multistate corporations must attach a schedule or schedules of any adjustments shown on Schedule A, page 2, of the Arkansas Form AR1100CT in part A2 and A3. A completed copy of the multistate corporation's Federal Return is also required to be attached to the Arkansas Return.

   A copy of Federal Amended Return, Form 1120X, or IRS Revenue Agent's Report is also required to be filed with Arkansas Amended Return, Form AR1100CTX.

3. Signature.

   The return must be signed by a corporate officer in the space provided on the bottom of Schedule A, page 2, of Form AR1100CT. (Refer to General Instructions, page 4).

4. The Arkansas Corporation Income Tax Return must be organized as follows:

   Other than Filing Status 4 Filers:

   - Arkansas Form AR1100CT (front), (Must be signed on Schedule A, page 2)
   - Arkansas Form AR1100CT Schedule A, if applicable.
   - Arkansas Schedule of Check-Off Contributions, if applicable.
   - Arkansas approved extension, if applicable.
   - Business and Incentive Tax Credit Certificates, (originals), if any.
   - All other Schedules pertaining to the Arkansas Return.
   - Copy of Federal Return with supporting Schedules.

   Filing Status 4 Filers:

   - Arkansas Form AR1100CT (page 1 only) for Group. (Must be signed on Schedule A, page 2)
   - Arkansas Form AR1100CT for each entity (including parent) within the Group, and Schedule A, if applicable.
   - Arkansas Schedule of Check-Off Contributions, if applicable.
   - Arkansas approved extension, if applicable.
   - Business and Incentive Tax Credit Certificates, (originals), if any.
   - All other Schedules pertaining to the Arkansas Return.
   - Copy of Federal Return with supporting Schedules.

5. Corporations with Filing Status 2 must complete Schedule A (Apportionment Schedule).

   All percentages used in determining the apportionment factor on Schedule A must be calculated to 6 places to the right of the decimal (example 035.333452%).

6. Corporations with Filing Status 4 (Consolidated Return) must complete a separate AR1100CT and Schedule A, if applicable, for each member with gross income from sources within Arkansas and consolidate the applicable taxable income on a Consolidated Group AR1100CT and attach a copy of the Federal Return. Each member's Arkansas Business and Incentive Tax Credit may be combined to reduce the consolidated group's total tax liability without separate entity restrictions except for the Arkansas Economic Development Credit. Contribution limits are calculated on a separate corporation basis for consolidated filers for tax years beginning on or after January 1, 2001.

7. Estimated Tax Requirements.

   ACA 26-51-911(c)(1) and ACA 26-51-913(a)(2) have been amended regarding new due dates for making declarations of estimated Arkansas income tax. This change applies to tax years beginning on or after January 1, 2003. Arkansas taxpayers are still required to file an Estimated Declaration when their liability exceeds $1,000. ACA 26-19-106 provides that a corporation with an estimated quarterly income tax liability equal to or greater than $20,000.00 must pay the estimated quarterly income tax due by electronic funds transfer (Refer to General Instructions, page 4).

   Corporations that underestimate their corporate tax liability must calculate any penalty due as applicable, on Part 2 of Form AR2220, and enter the penalty amount on page 1, Line 47 of Form AR1100CT.

8. Privately Designed Tax Forms.

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

9. ACA 26-51-207 is amended to levy a 3% income tax surcharge, in addition to the tax levied by ACA 26-51-201 through 26-51-206, 26-51-301 and 26-51-302. The surcharge will apply to the tax liability of every person required to file an Arkansas income tax return. This change applies to tax years beginning in calendar years 2003 and 2004.

10. ACA 26-51-423 is amended to clarify the deduction available to a corporation for interest or intangible expenses paid to a related party. The change applies to tax years beginning on or after January 1, 2004.

11. ACA 26-51-703 is amended to clarify taxpayers who are taxable in another state for the purpose of allocation and apportionment of income pursuant to the Uniform Division of Income for Tax Purposes Act. A taxpayer must file an income based tax return in order to be considered taxable in another state. The change is effective for tax years beginning on or after January 1, 2003.

12. ACA 7-6-222, ACA 26-51-806(a) and ACA 26-51-807(b) were amended to change the due date for filing State income tax returns to the due date for filing the corresponding Federal income tax return. ACA 26-51-911(c) and ACA 26-51-913(a) were amended regarding declarations of estimated Arkansas income tax. These changes apply to tax years beginning on or after January 1, 2003.

13. ACA 4-32-1313 and ACA 26-51-802 were amended to allow Limited Liability Companies and Partnerships to be classified and taxed in the same manner for Arkansas income tax purposes as for federal income tax returns. Thereby, following federal “check the box” provisions. The change is effective for tax years beginning on or after January 1, 2003.

14. ACA 15-4-2701, The Consolidated Incentive Act, amends Arkansas Code Title 15, Chapter 4 to provide various economic development incentives for the creation of jobs and economic opportunity. The change is effective March 3, 2003. Refer to Pages 6 through 9.

15. Enclose proper tax documentation with all remittance checks. Please write the FEIN on the check.

16. The 2004 Corporation Income Tax Booklet instructions and most of the commonly requested forms are now on the internet. The instructions and forms may be viewed or downloaded from the following address: **www.Arkansas.gov/dfa/**. The website will also have prior year Income Tax Booklet Instructions, forms, regulations and frequently asked questions with answers.

17. For questions or comments you may contact the Corporation Income Tax Section through E- Mail at **Corporation.Income@rev.state.ar.us** or call:

    General Information: (501) 682-4775
    Audit Unit: (501) 682-4776
    Fax Number: (501) 682-7114

18. The physical location for this section is as follows:

    Corporation Income Tax Section
    Ledbetter Building, Room 2250
    1816 West 7th Street
    Little Rock, AR 72201-1030

    The mailing address will remain P. O. Box 919, Little Rock, AR 72203-0919

2004 State of Arkansas
Domestic and Foreign Income Tax
General Instructions

Who Must File

Every corporation organized or registered under the laws of this State, or having income from Arkansas sources as defined in ACA 26-51-205 (with the exception of those corporations exempted by ACA 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 are treated as regular business corporations. Business corporations, D.I.S.C and F.S.C. corporations should use Arkansas Form AR1100CT. Small business "S" corporations with valid Arkansas "S" elections must use Form AR1100S. Financial institutions should use Form AR1100CT.

Consolidated Returns

All corporations that are eligible members of an affiliated group filing a Federal Consolidated Corporation Income Tax Return may elect to file an Arkansas Consolidated Income Tax Return. However, only corporations in the affiliated group that have gross income from sources within the State that is subject to Arkansas income tax are eligible to file consolidated income tax returns in Arkansas. An Arkansas consolidated group with its members having business activity only within Arkansas must check the box for Filing Status 4.

In computing Arkansas consolidated taxable income or loss to which the tax rate is applied, the separate net income or loss of each corporation that is entitled to be included in the affiliated group will be included in the consolidated net income or loss to the extent that its net income or loss is separately apportioned or allocated to Arkansas. All corporations in the affiliated group that are eligible to file an Arkansas Consolidated Corporation Income Tax Return must consent to, and join in, the filing of the return prior to the last day for filing. The filing of the consolidated return will be considered as consent of each eligible corporation in the affiliated group.

Corporations with Filing Status 4 (Consolidated Return) must complete a separate Form AR1100CT reflecting taxable income before intercompany eliminations and adjustments, and Schedule A, if multistate, for each member with gross income from sources within Arkansas. Each member's separate net income or loss must be consolidated on a group Form AR1100CT beginning on Line 32. Schedule A should not be completed for the consolidated group, but must be included for signature by a corporate officer. A complete copy of the Federal return must be attached. <u>A schedule listing each intercompany elimination and adjustment, identifying the entity by FEIN to which it applies must be submitted if this information is not clearly shown on the Federal return</u>.

Time and Place For Filing

AR1100CT Forms are due on or before the 15th day of the 3rd month following the close of the Corporation's tax year. This includes short tax years. Cooperative Association returns are due on or before the 15th day of the 9th month following the close of the tax year. Forms must be filed with the:

Department of Finance and Administration
Corporation Income Tax Section
P.O. Box 919
Little Rock, AR 72203-0919

Amended Returns

File Form AR1100CTX within 3 years from date of filing original return, or 2 years from date of payment of tax on original return, whichever is later except in the case of an IRS audit. A copy of the corporation's Federal amended return or IRS audit report must be attached to the Arkansas amended return. All refund requests must be made on an amended return Form AR1100CTX.

Extensions 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. When filing the Arkansas AR1100CT, be sure to check the box at the top indicating that the Federal Extension Form 7004 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 or an Arkansas extension beyond the Federal due date, complete and mail Arkansas Form AR1055, 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 due date. Interest will be computed on a daily rate of .00027397. To avoid interest, 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 Voucher 5 along with your check.

Period Covered

A taxpayer must calculate his Arkansas income tax liability using the same income year for Arkansas income tax purposes as used for Federal income tax purposes (ACA 26-51-402).

Signatures and Verification

The return shall be sworn to by the President, Vice President, Treasurer, or other principal officer. The return of a foreign corporation having an agent in the State may be sworn to by such agent. If receivers, trustees in bankruptcy, or assignees are operating the property or business of the corporation, such receivers, trustees, or assignees shall execute the return for such corporation under certification. The return must be signed in the space provided on the bottom of Schedule A, page 2 of AR1100CT. For consolidated returns, only the group Form AR1100CT, Schedule A, page 2, must be signed.

Report of Change in Federal Taxable Income

An agreed Revenue Agent's Report (RAR) must be reported on an amended return Form AR1100CTX to this State within 30 days after the receipt of the RAR or supplemental report reflecting correct net income of taxpayer. The RAR must be reported on amended return Form AR1100CTX. Any additional tax and interest must be paid or a refund requested if applicable. Statute of limitations will remain open for 8 years for assessment of tax if taxpayer fails to disclose Federal Revenue Agent's Report.

Filing Declaration of Estimated Income Tax

Every taxpayer who can reasonably expect to owe an Arkansas income tax in excess of $1,000.00 must make a declaration and timely pay the estimated tax in equal installments. The declaration shall be filed with the Commissioner on or before the 15th day of the 4th month of the tax year of the taxpayer, except those taxpayers whose income from farming for the tax year can reasonably be expected to amount to at least two-thirds (2/3) of the total gross income from all sources for the tax 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 tax year or in lieu of filing any declaration, 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 tax year. To avoid penalty, all other taxpayers must pay quarterly estimates on or before the 15th day of the 4th month, 6th month, 9th month and 12th month of the tax year.

If the Director determines that a corporation's estimated quarterly Arkansas income tax liability exceeds $20,000.00, the corporation is required to pay the estimated quarterly income tax payments due by electronic funds transfer

(EFT). The EFT must be made no later than the day before each quarterly due date. If the corporation timely pays the estimated quarterly income tax payments by EFT, the corporation is not required to file a quarterly estimated income tax voucher. The Director's determination will be based on the corporation's average quarterly liability for the preceding tax year. Each corporation participating in EFT payments must complete an Arkansas EFT-CT Authorization form upon the State's request. Extension payments and payments with returns **may not** be made by EFT.

Accounting Methods

A taxpayer must calculate his Arkansas income tax liability using the same accounting method for Arkansas income tax purposes as used for Federal income tax purposes. If a corporation changes its accounting method, attach a copy of any certification or approval received from the Internal Revenue Service authorizing the change of accounting method to the corporation's Arkansas return (ACA 26-51-401).

Payment of Taxes

The tax should be paid by attaching to the return a check or money order payable to the order of "Department of Finance & Administration." Write the corporation's FEIN number on the check. Payments with returns **may not** be made by EFT. **The tax is to be paid in full when return is filed.**

Do not send cash by mail, nor pay in person, except at the:

Corporation Income Tax Section
Department of Finance and Administration
Ledbetter Building, Room 2250
1816 West 7th Street
Little Rock, AR 72201-1030

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.

If any part of any deficiency or tax liability is due to negligence or intentional disregard of rules and regulations, a penalty of 10% of the total amount shall be added. Any part of any deficiency determined to be due to fraud shall be subject to a 50% penalty. Interest at the rate of 10% per annum shall be assessed on all tax deficiencies. Interest will be computed using a daily rate of .00027397 from the 15th day of the 3rd month after the close of the tax year until the date the tax is paid.

Balance Sheets

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

If there are any differences between current year beginning and prior year ending balance sheets, submit schedule of reconciliation with return.

Gross Sales

Enter on Line 9 of return, the gross sales, less goods returned and any allowances or discounts from the sale price.

Cost of Goods Sold

Enter on Line 10 the cost of goods sold.

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 cost or market, whichever is lower. 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.

Gross Profits

Enter on Line 11 the gross profit which is obtained by deducting Line 10, the cost of goods sold, from Line 9, the gross sales.

Dividends

Enter on Line 12 taxable dividends only. Effective for tax years beginning on or after January 1, 1997, dividends from 80% or greater directly owned subsidiaries are exempt.

Interest Income

Enter on Line 13 interest income taxable in Arkansas. Enter amounts received or credited as interest to the corporation during the tax year on bank deposits, C.D.'s, notes, mortgages, corporation bonds, taxable U. S. interest and all other interest including interest on out-of-state municipal bonds (out-of-state municipal bonds are taxable in Arkansas). **Attach a schedule to the Arkansas return identifying each U. S. Agency or political subdivision of Arkansas and amounts received not included as taxable interest on the Arkansas return.** The schedule should reconcile Arkansas and Federal interest.

Gross Rents and Gross Royalties

Enter on Line 14 all gross rents and royalties. Attach schedule showing amounts received from rents and royalties separately, if not separately shown on federal return. The schedule should reconcile Arkansas and Federal rents and royalties.

Gains from Sale of Assets

Enter on Line 15 the total net gain or loss.

Other Income

Enter on Line 16 all other taxable income for which no place is provided on the return. The holder of the ownership interest in a Financial Asset Securitization Investment Trust (FASIT) must list the net income from prohibited transactions on this line. Attach schedule explaining all items included.

Total Income

Enter on Line 17 the net amount of Lines 11 to 16 inclusive.

Compensation of Officers, Salaries and Wages

Enter on Line 18 the compensation of all officers and employees, in whatever form paid. Attach a schedule showing amounts paid to officers and employees separately, if not separately shown on the federal return. The schedule should reconcile Arkansas and Federal compensation of officers and employees.

Bad Debts

Enter on Line 20 debts which have been definitely ascertained to be worthless and have been charged off within the year. Effective for tax years beginning on and after January 1, 1987, the Reserve Method for computing and deducting bad debts on receivables may be used only by small banks and thrift institutions. A debt previously charged off as bad, if subsequently collected, must be reported as income for the year in which collected.

Rent on Business Property

Enter on Line 21 rent paid for business property.

Tax Expense

Enter on Line 22 taxes paid or accrued during the taxable year. Do not include Arkansas income taxes or Federal income taxes or taxes assessed against local benefits tending to increase the value of the property assessed. The 3% income tax surcharge is not deductible as an expense.

Interest

Enter on Line 23 interest paid on business indebtedness.

Contributions

Enter on Line 24 the Arkansas allowable amount for charitable contributions. Arkansas recognizes the Federal Internal Revenue Code for contributions by corporations. Arkansas contribution carryover rules are the same as federal, except for the carryforward period. A 5 year carryforward period is allowed and is carried over separately from the NOL. No carryback of contributions is allowed. The Arkansas contribution deduction allowable will be calculated using Arkansas taxable income rather than Federal taxable income. ACA 26-51-419 of 2001 clarifies that contribution limits are calculated on a separate corporation basis for consolidated filers for tax years beginning on or after January 1, 2001.

Depreciation Expense

Enter on Line 25 depreciation expense claimed.

Section 168 (26 U.S.C. 168) of the Internal Revenue Code of 1986, in effect on January 1, 1999, has been adopted for computing the depreciation deduction under Arkansas income tax law.

Section 179 (26 U.S.C. 179) of the Internal Revenue Code of 1986, in effect on January 1, 1999, has been adopted to allow an election to expense certain depreciable business assets under Arkansas income tax law. The Arkansas limit is $24,000 for the first year expense deduction for tax years beginning on or after January 1, 2001, and is $25,000 for tax years beginning on or after January 1, 2003. **Arkansas has not adopted the Income tax provisions contained in the federal economic stimulus bills Congress passed on March 8, 2002 and May 28, 2003**. Therefore, Arkansas income tax returns must be filed using depreciation and expensing of property provisions found in Sections 167,168,179 and 179A of the Internal Revenue Code of 1986, as in effect on January 1, 1999. No bonus depreciation is allowed for Arkansas income tax purposes.

Depletion

Enter on Line 26 depletion claimed. Arkansas allows Federal depletion allowances as in effect January 1, 1999.

Other Deductions

Enter on Line 28 other deductions authorized by law. Attach schedule explaining all items included. Pension Profit Sharing and Employee Benefits deductions remain valid deductions. Those lines were removed from Form AR1100CT to allow other modifications.

Net Operating Loss Carryover (NOL)

Enter on Line 31, or Schedule A, Part C, Line 3, net operating losses from business, profession or farming. Losses must be carried forward under the following conditions:

(A) For years beginning on or after January 1, 1987, losses must be carried over to the next succeeding taxable year and annually thereafter for a total period of 5 years next succeeding the year of such net operating loss or until such net operating loss has been exhausted or absorbed by the taxable income of any succeeding year, whichever is earlier.

(B) For computing the amount of NOL that will be allowed for carryforward purposes, there shall be added to gross income all nontaxable income, not required to be reported as gross income by law, less any related expenses which will otherwise be nondeductible. Multistate tax filers must follow above procedures and apportion NOL by the apportionment formula for year of loss, applying the Arkansas percentage factor for the year of loss against total apportionable loss for that year. Failure to provide (with the return) a complete schedule of net operating losses may result in disallowance of any NOL claimed.

Carryback of NOL is not allowed. Contributions are not to be added to NOL and carried forward.

Net operating losses of a corporation which merges into another corporation will be allowed under the following conditions:

(1) The acquiring corporation must own at least 80% of the acquired corporation's voting stock, **and**

(2) Assets of the merged corporation must earn sufficient profits in the post-merger period to absorb the carryover losses claimed by the surviving corporation. Attach schedules of proof and computations.

Expenses of Earning Tax Exempt Income

ACA 26-51-431(c) provides that no deductions shall be allowed for interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by Arkansas law; expenses otherwise allowable as deductions which are related to tax exempt income other than interest; expenses otherwise allowable as deductions which are related to nonbusiness income.

<u>Example a</u>: (interest expense):

$$\frac{\text{avg. non-tax assets}}{\text{avg. total assets}} \times \text{interest expense} = \text{disallowed expense}$$

<u>Example b</u>: (nonbusiness income):

% X non-bus. inc. = disallowed expense

Taxpayer must justify % used and submit schedule.

Note: State may increase % if justification can be made.

Tax Liability

Enter on Line 33 the tax liability, before the 3% income tax surcharge. See Tax Table on pages 15 and 16.

BUSINESS AND INCENTIVE TAX CREDITS

1. Purchase of Common Stock of a County and Regional Industrial Development Corporation

ACA 15-4-1224 allows the original purchaser of common stock of a County and Regional Industrial Development Corporation an income tax credit equal to 33%, increased to 33 1/3% beginning January 1, 1999, of the actual purchase price of the stock. In any one tax year the credit shall not exceed 50% of the income tax liability, after all other credits and reductions in tax have been calculated. Any unused credit may be carried forward for the next 3 succeeding tax years or until exhausted, whichever occurs first. Act 37 of 1999 extended the qualifying years through year 2003 and allows Limited Liability Companies (LLC) to participate in this credit. County and Regional Industrial Development Corporations are exempt from Arkansas income tax but are required to file returns according to ACA 15-4-1223. Corporations filing due to this provision should write **Exempt under ACA 15-4-1223** on the face of the return on Form AR1100CT and mail to:

Department of Finance and Administration
Corporation Income Tax Section
Attn: Manager
P. O. Box 919
Little Rock, AR 72203

2. 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. No other credit or deductions, except depreciation, may be claimed on that equipment. Any unused credit may be carried forward for the next 3 succeeding years or until exhausted, whichever comes first.

3. Consolidated Incentive Act

ACA 15-4-2701 et seq. consolidates the current Biotechnology, Economic Development Incentive Act of 1993, Enterprize Zone, Arkansas Economic Development Act of 1995, Economic Investment Credit and Emerging Technology Credits into a comprehensive set of tax credits with new criteria, measuring devices and documentation requirements. Eligible businesses which signed a financial incentive agreement with the Department of Economic Development prior to March 3, 2003 will continue to be provided the benefits of those programs. The Code establishes a Job-Creation Tax Credit equal to 1% of the payroll for new full-time permanent employees for the first 60 months after the incentive agreement is approved. The credits may offset 50% of the business' tax liability. Any unused tax credits may be carried forward for 9 years after the credit is established. The Code creates an investment tax credit equal to 10% of the total investment in land, buildings, equipment and costs of licensing and protecting intellectual property of an approved project. The credit may offset 50% of the business' tax liability. Any unused tax credits may be carried forward for 9 years after the credit is established. The Code expands the research and development tax credit available under ACA 26-51-1102 by allowing an income tax credit equal to 10% of the amount spent on in-house research in Arkansas, or 33% of the amount spent on in-house research in Arkansas for targeted businesses or in a strategic research area approved by the Department of Economic Development and the Arkansas Science and Technology Authority. The credits may offset 50% of the business tax liability. Any unused tax credits may be carried forward for 3 years after the tax credit is established.
ACA 15-4-2701 et seq. establishes a targeted business income tax credit equal to 10% of annual payroll during the term of the financial agreement for a period not to exceed 5 years. The credit cannot exceed $100,000 per year. All credits under ACA 15-4-2701 et seq. are administered by the Department of Economic Development.

4. 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 to 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 2 succeeding tax years or until exhausted, whichever occurs first.

5. Water Resource Conservation

(a) Water Impoundment outside and within critical areas:

ACA 26-51-1005 and 26-51-1006 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 income tax otherwise due or $9,000. Any unused credit may be carried forward for the next 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-ACA 26-51-1007 provides an income tax credit equal to 10% of the cost incurred 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. Any unused credit may be carried forward for the next 2 succeeding tax years or until exhausted, whichever occurs first.

2. Within Critical Areas- ACA 26-51-1008 provides an income tax credit equal to 50% of the cost incurred 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 for projects approved before August 1, 1997 or using water for agricultural or recreational purposes. For projects using water for industrial or commercial purposes, the credit is limited to the lesser of the income tax otherwise due or $30,000 for projects approved on or after August 1, 1997 and $200,000 for projects approved on or after January 1, 1999. Any unused credit may be carried forward for the next 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 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 for agricultural land leveling to conserve water. The credit shall not exceed the lesser of income tax otherwise due or $9,000. Any unused credit may be carried forward for the next 2 succeeding tax years or until exhausted, whichever occurs first.

(d) Wetland and Riparian Zone Creation and Restoration:

ACA 26-51-1505 provides for an income tax credit for any taxpayer engaged in the development or restoration of wetlands and riparian zones. The amount of credit shall be equal to the project costs not to exceed the lesser of income tax due or $5,000. Any unused credit may be carried forward for the next 9 succeeding tax years or until exhausted, whichever occurs first.

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. "Critical areas" means those areas so designated by the Arkansas Soil and Water Conservation Commission.

6. Equipment Donation, Sale Below Cost Or Qualified Research Expenditure

(a) 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.

(b) ACA 26-51-1103 limits the credit to 50% of the net income tax liability. Any unused credit may be carried forward for the next 3 succeeding tax years or until exhausted, whichever occurs first.

7. Arkansas Economic Development Credit

ACA 15-4-1901 et seq. provides for an income tax credit based on the average wage of the new permanent employees for new or expanding facilities that employ at least 50 new permanent employees and expend at least $5,000,000 on the project. Twenty-five percent (25%) of the employee's annual bonus can be added to calculate the average hourly wage beginning January 1, 1999. The income tax credit amount may vary according to established guidelines. The amount of income tax credit that may be taken in any tax year shall not exceed the Arkansas income tax liability resulting from the project plant or facility. The project plant or facility's income tax liability is to be computed by adding the sales, payroll and property factors of the plant or facility and dividing the sum by 3. This percentage is multiplied by the corporation's Arkansas income tax liability to arrive at the income tax credit available to offset the income tax liability arising from the project as referenced in the financial incentive plan. Form AR1100AEDA, Income Tax Apportionment Worksheet, may be used to compute the project apportionment percentage and available income tax credit. This form may be obtained by contacting Corporation Income Tax Section, P. O. Box 919, Little Rock, AR 72203-0919.

Act 975 of 2001 expands the definition of distribution centers to include facilities that store products owned by other companies, or sells to the public if at least 75% of sales are from out-of-state customers. All other businesses must also derive at least 75% of sales revenue from out-of-state customers. High unemployment is defined as being 150% of the state rate if it is 6% or below, 3% above the state rate if it is above 6%. The credit is now based on the total amount invested divided by the number of years of the incentive plan, instead of the debt service payments.

8. Workforce Training Credit

Act 609 of 2003 amends ACA 6-50-704 which 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 $60 per instructional hour. If training is by company employees or company paid consultants, the tax credit cannot be more than $15 per hour. There is no carryforward period for this credit. Applications for this credit are available from the Arkansas Department of Economic Development at (501) 682-7675.

9. Energy Technology Development Credit

ACA 15-4-2104 allows a tax credit of 50% of the amount spent during the taxable year on a facility located in Arkansas which designs, develops or produces photovoltaic devices, electric vehicle equipment or fuel cells and is put in use after January 1, 2000. The credit allowed may not exceed the amount of the tax imposed for the taxable year reduced by all other state credits allowable. A taxpayer who receives this credit may not claim any other state income tax credit or deduction based on the purchase of machinery and equipment other than depreciation expense. Any unused credit may be carried forward to the next 6 succeeding tax years or until exhausted, whichever occurs first. Act 1284 of 2001 expands the credit to include businesses that design, develop, or produce microturbines, stirling engines or devices reliant on nanotechnology.

10. Tourism Development Credit

ACA 15-11-509 provides for an income tax credit equal to 100 times the average hourly wage paid, up to $3,000, for each new full-time permanent employee of a tourist attraction project approved on or after March 1, 1999. In high unemployment areas this credit increases by a factor of 4 up to $6,000 per employee. Any unused credit may be carried forward to the next 9 succeeding tax years or until exhausted, whichever occurs first. The tourist attraction project will be qualified through the Arkansas Department of Economic Development.

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

12. Biotechnology Development And Training Credit

ACA 2-8-101 et seq. provides an income tax credit for a qualified biotechnology business that is approved through the Arkansas Department of Economic Development as follows:

(a) Biotechnology Facility – 5% of the cost of such facility,
(b) Biotechnology Training – 30% of the cost of employee training or of the Higher Education Partnership,
(c) Biotechnology Research – 20% of the cost of qualified research that exceeds the cost of such research in the base year.

Act 1367 of 1999, effective April 12, 1999, amends the Biotechnology Development and Training Act to provide an income tax credit for an Arkansas taxpayer engaged in the business of producing advanced biofuels through biological means other than fermentation. The credit is limited to 30% of the cost of the buildings, equipment, higher education and licenses necessary to manufacture advanced biofuels. These credits can be used to offset the first $50,000 of income tax liability arising during the credit year and 50% of any remaining tax liability for the year. Any unused credit may be carried forward for the next 9 succeeding years or until exhausted, whichever occurs first. Act 900 of 2001 extends the carryforward period to 14 years and requires the project to be certified before incurring expenditures that qualify for the credit as of August 13, 2001.

13. 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 3 years. The provisions of the Act apply to tax years beginning on or after January 1, 2003.

14. 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 tax year. There is no carryforward for this credit. This credit is administered by the Arkansas Department of Economic Development.

15. 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 3 succeeding tax years or until exhausted, whichever occurs first.

16. 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 Arkansas tax liability after all other credits have been taken. This credit is available for tax years beginning on or after January 1, 1999. Any unused credit can be carried forward for the next 3 succeeding tax years or until the credit is exhausted, whichever occurs first. This program is administered by the Arkansas Department of Economic Development.

17. Low Income Housing Credit

ACA 26-51-1702 provides an income 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 the income tax otherwise due. Any unused credit may be carried forward for the next 5 succeeding tax years or until exhausted, whichever comes first.

18. 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 an income tax credit equal to 331/3 % of the actual purchase price, limited to 50% of the net income tax liability. Any unused credit may be carried forward for the next 8 succeeding tax years or until exhausted, whichever occurs first. No credit will be allowed for any tax year ending after December 31, 2019.

19. Affordable Neighborhood Housing Credit

ACA 15-5-1301 et seq. provides an income 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 the income tax otherwise due. Any unused credit may be carried forward for the next 5 succeeding tax years or until exhausted, whichever occurs first.

20. Manufacturer's Investment Tax Credit

ACA 26-51-2001 et seq. provides an income tax credit for investment of at least $100 million before December 31, 2004 in a qualified paper manufacturing business equal to 7% of the investment. The credit shall not exceed 50% of the income tax liability, after all other credits and reductions in tax have been calculated. Any unused credit may be carried forward for the next 6 succeeding years or until exhausted, whichever comes first.

21. Coal Mining Tax Credit

ACA 26-51-511 provides an income or insurance 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 $40.00 per ton excluding freight charges. The credit expires 5 tax years following the tax year in which the credit was earned.

22. Venture Capital Investment Credit

ACA 15-5-1401 et seq. provides an income tax credit up to $10 million per 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. Any unused credit may be carried forward for the next 5 succeeding tax years or until exhausted, whichever occurs first.

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

Specific Instructions

For Taxpayers with Income from Sources Within and Without the State

Multistate corporations should complete lines 32-48 of page 1, and Schedule A, page 2 of Form AR1100CT. Multistate corporations should not complete lines 9-31 of Form AR1100CT. If all apportionment factors are 100%, the corporation is not multistate and should file as a corporation operating only in Arkansas.

In general, taxpayers with income derived from activities both within and without the State are required to allocate and apportion the net income under the following provision.

Business and Nonbusiness Income Defined-ACA 26-51-701(a) defined "Business Income" as income arising from transactions and activity in the regular course of the 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 operations. 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 activity occurring in the regular course of a trade or business. In general, all transactions and activities 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 Arkansas law. Nonbusiness income means all income other than business income.

Unitary Determination of Intangible Income:

Interest, dividends [less than 80% directly owned], rents, royalties, and gains and losses from multistate corporations are apportionable to Arkansas if a unitary business relationship exists between the intangible income and the State of Arkansas. The U.S. Supreme Court has identified certain factors of profitability such as functional integration, centralization of management, and economies of scale and summarized these factors in the use of the term "flow of value" to indicate the contribution made to the overall business enterprise. Generally, a unitary business relationship will exist when an activity conducted in one state benefits and is benefited by an activity conducted in another state.

Arkansas will not accept returns filed on a unitary combined report basis.

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 4. If a taxpayer does not have all 4 factors, the denominator shall be the same as the number of entries other than zero that apply to the total (everywhere) amounts of the property, payroll and sales factors. When double weighted, the sales factor counts as 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:

Department of Finance and Administration
Corporation Income Tax Section
P. O. Box 919
Little Rock, AR 72203

or download from **www.Arkansas.gov/dfa/**

Property Factor:

The property factor is a fraction, the numerator of which is the average value of real and tangible personal property, including inventories, owned by the taxpayer means the average of the original cost of the property at the beginning and ending of the tax period. Property rented by the taxpayer is valued at 8 times the net annual rental rate.

Payroll Factor:

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 without the State, but the service performed without the State is 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 is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

Sales Factor:

The sales factor is a fraction, the numerator of which is the gross sales of the taxpayer in this State during the tax period, and the denominator of which is the gross sales of the taxpayer everywhere during the tax period.

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 taxable in the state of the purchaser.

Sales, other than sales of tangible personal property, are in this State if:

(A) The income producing activity is performed in this State, **or**

(B) 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.

Part B, Line 3.g. of Schedule A (Page 2 of AR1100CT) reflects the double weighting of the sales factor.

Allocated Income:

Partnership Income:

ACA 4-32-1313 and ACA 26-51-802 are amended by Act 965 of 2003 to adopt the federal "check the box" rules to make it consistent with Federal law regarding the income taxation of Limited Liability Companies and Partnerships. The change is effective for tax years beginning on or after January 1, 2003.

Subject to the provisions of ACA 26-51-202(e), all partnership income from activities within this State that is reflected on a partnership return shall be allocated to this State. Submit appropriate schedule [ACA 26-51-802 (b)].

Nonbusiness Income:

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

1. Rents & Royalties:

A) Net rents and royalties from real property located in this State.

B) Net rents and royalties from tangible personal property.

1) If and to the extent that the property is used in this State, **or**

2) In their entirety, if the commercial domicile is in this State and the taxpayer is not organized under the laws of or taxable 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 is located at the time the rental or royalty payer obtained possession.

2. Gains and Losses:

Gains and losses from sales of assets:

A) Sales of real property located in this State.

B) Sales of tangible personal property.

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

2) The taxpayer's 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 such sales shall be allocated on the percentage that is used in the formula for allocating income to this State.

C) Sales of intangible personal property if the taxpayer's commercial domicile is in this State.

3. Interest and Dividends:

Interest and dividends if the taxpayer's commercial domicile is in this State.

4. Patent and Copyright Royalties:

A) If and to the extent that the patent or copyright is utilized by the taxpayer in this State, **or**

B) If and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this State.

A copyright is utilized in a state to the extent that printing or other publications originate in the state. If the basis of receipts from copyright royalties does not permit allocation to 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.

Change of Method:

<u>Prior Approval Required Before Deviation From the Allocation and Apportionment Method:</u> If the allocation 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 Commissioner of Revenue, Department of Finance and Administration may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

A) Separate accounting;

B) The exclusion of any one or more factors;

C) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this State, or

D) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

To "petition for" shall mean a formal written request submitted and approved prior to the filing of a return.

Apportionment of Intragroup Intangible Licensing Transactions:

Regulation 1996-3 clarifies the calculation method for determining the sales factor in apportioning business income received from intragroup intangible licensing transactions. The regulation applies to a corporation that is a passive intangible holding company and receives business income from intragroup intangible licensing transactions with one or more members of the same group. Also, at least one of the other members of the same group from which the business income is received by the taxpayer must be subject to the Arkansas Income Tax Act.

The sales factor for intragroup intangible licensing transactions is modified as follows:

1. If the licensing agreement states a method of measuring the activity between the licensor and licensee, the numerator of the sales factor is the amount of the sales or receipts received as provided in the licensing agreement.

2. If the licensing agreement does not state a method of measuring the activity between the licensor and licensee, the measuring activity will be based on one of the following:

   a. If the licensee's activity generates sales or receipts, the numerator of the sales factor will be the percentage of sales in Arkansas compared to the licensee's total sales, or

   b. If the licensee's activity does not generate sales or receipts, the numerator of the sales factor will be the percentage of units produced or cost of units produced in Arkansas compared to the licensee's total units produced or total cost of units produced, or

   c. If neither of the above methods accurately represent the licensor's business activity in Arkansas, the licensor may petition for or the Director may require another method.

3. If the licensing agreement states a method of measuring the activity between the licensor and licensee in addition to a specifically stated dollar amount, the numerator of the sales factor will be the stated measuring activity plus the stated dollar amount attributable to Arkansas.

This Regulation modifies the sales factor for intragroup intangible licensing transactions only, and business income from any other source should be apportioned in accordance with ACA 26-51-709.

If a passive intangible holding company meets the above characteristics and the licensee elects to forego the intragoup intangible licensing transactions deduction, the passive intangible holding company will not be required to report the business income received from intragroup intangible licensing transactions for Arkansas income tax purposes. The licensee's election to forego the deduction will be binding unless the licensee and the passive intangible holding company submit a written petition to change the election to the Director, and the Director approves the change.

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 Arkansas Code Annotated (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 Internal Revenue Code Sections 582, 585, and 593 regarding bad debts of financial institutions.

ACA 26-51-1401 et seq. (effective for taxable years beginning on or after January 1, 1996) adopted the Multistate Tax Commission regulation regarding apportionment and allocation of net income of financial institutions. It requires that 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, income which is includable in the apportionable income tax base, shall be apportioned to this State by multiplying such income by the apportionment percentage. The apportionment percentage is determined by adding the receipts factor, property factor, and payroll factor and dividing the sum by 3.

Property Factor:

Generally, the property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the taxpayer that is located or used within this State during the taxable year, the average value of the taxpayer's real and tangible personal property owned that is located or used within this State during the taxable year, and the average value of the taxpayer's loans and credit card receivables that are located within this State during the taxable year, and the denominator of which is the average value of all such property located or used within and without this State during the taxable year. (Refer to ACA 26-51-1404).

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. (Refer to ACA 26-51-1405).

Receipts Factor:

Generally, the receipts factor is a fraction, the numerator of which is the receipts of the taxpayer in this State during the taxable year and the denominator of which is the receipts of the taxpayer within and without this State during the taxable year. The method of calculating receipts for purposes of the denominator is the same as the method used in determining receipts for purposes of the numerator. The receipts factor shall include only those receipts described herein which constitute the business income and are included in the computation of the apportionable income base for the taxable year. Financial institutions cannot double weight the receipts factor. (Refer to ACA 26-51-1403).

Exempt Organizations

Arkansas Code Annotated (ACA) 26-51-303 provides exemption from taxation for certain types of organizations.

Act 1147 of 1993 established the Non-Profit Corporation Act of 1993 and sets out filing requirements of the Secretary of State as well as action to be taken for receiving recognition of tax exempt status by the Arkansas Revenue Division. Guidelines for filing with the Secretary of State may be obtained by contacting that office at:

Arkansas Secretary of State
State Capitol Building
Little Rock, AR 72201

Telephone numbers: (501) 682-3409
(888) 233-0325

Website: **www.sosweb.state.ar.us/**

Non-Profit corporations, unincorporated groups or associations shall be eligible to receive Arkansas income tax exempt status upon submitting proper documentation and application to:

Arkansas Department of Finance and Administration
Corporation Income Tax Section
P. O. Box 919
Little Rock, AR 72203-0919

The following information must be submitted for review in determining income tax exempt status:

A) Organizations with an IRS Ruling letter:

1) Copy of IRS Ruling letter.

2) Copy of pages 1 and 2 of IRS Form 1023 or 1024.

3) Statement declaring Arkansas Code exemption.

B) Organizations without an IRS Ruling letter:

1) Arkansas Form AR1023CT.

2) Copy of Articles of Incorporation, Articles of Association, copy of Trust Indenture or Agreement.

3) Copy of Bylaws.

Income derived from investments made by nonprofit organizations which is not for the sole purpose of providing pension and annuity benefits to members should be reported on Form AR1100CT. Attach a copy of the applicable federal form.

Small Business (S) Corporations

Qualifying corporations may elect to be treated as “small business (S) corporations” for Arkansas income tax purposes. The election may be made only if the corporation meets all of the following requirements:

1) It has no more than 75 shareholders. A husband and a wife (and their estates) are treated as one shareholder for this requirement. All other persons are treated as separate shareholders.

2) It must be a corporation organized or created under the laws of the United States or a state or territory or it is a similar association taxed as a corporation.

3) Its shareholders are individuals, estates and certain trusts described in IRC 1361.

4) It has no nonresident alien shareholders.

5) It has only one class of stock.

6) It is not an ineligible corporation as defined in IRC 1361.

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 election, whichever is later, must consent to such election. The Arkansas election form is AR1103. The election is to be filed within 75 days of the beginning of the tax year. All shareholders are required to file Arkansas individual income tax returns. The annual income tax return of a small business corporation is to be submitted on Arkansas Form AR1100S.

Forms AR1100S and AR1103 can be obtained from or submitted to:

Department of Finance and Administration
Individual Income Tax Manager
P.O. Box 3628
Little Rock, AR 72203-3628

Telephone number: (501) 682-7255

CORPORATION INCOME TAX TABLE

1. Find your income from Line 32; Enter tax on Line 33.

IF YOUR INCOME IS			IF YOUR INCOME IS			IF YOUR INCOME IS		
AS MUCH AS	BUT LESS THAN	YOUR TAX IS	AS MUCH AS	BUT LESS THAN	YOUR TAX IS	AS MUCH AS	BUT LESS THAN	YOUR TAX IS
0	100	0	5,000	5,100	71	10,000	10,100	212
100	200	1	5,100	5,200	73	10,100	10,200	215
200	300	3	5,200	5,300	75	10,200	10,300	218
300	400	4	5,300	5,400	77	10,300	10,400	221
400	500	5	5,400	5,500	79	10,400	10,500	224
500	600	6	5,500	5,600	81	10,500	10,600	227
600	700	7	5,600	5,700	83	10,600	10,700	230
700	800	8	5,700	5,800	85	10,700	10,800	233
800	900	9	5,800	5,900	87	10,800	10,900	236
900	1,000	10	5,900	6,000	89	10,900	11,000	239
1,000	1,100	11	6,000	6,100	92	11,000	11,100	243
1,100	1,200	12	6,100	6,200	95	11,100	11,200	248
1,200	1,300	13	6,200	6,300	98	11,200	11,300	253
1,300	1,400	14	6,300	6,400	101	11,300	11,400	258
1,400	1,500	15	6,400	6,500	104	11,400	11,500	263
1,500	1,600	16	6,500	6,600	107	11,500	11,600	268
1,600	1,700	17	6,600	6,700	110	11,600	11,700	273
1,700	1,800	18	6,700	6,800	113	11,700	11,800	278
1,800	1,900	19	6,800	6,900	116	11,800	11,900	283
1,900	2,000	20	6,900	7,000	119	11,900	12,000	288
2,000	2,100	21	7,000	7,100	122	12,000	12,100	293
2,100	2,200	22	7,100	7,200	125	12,100	12,200	298
2,200	2,300	23	7,200	7,300	128	12,200	12,300	303
2,300	2,400	24	7,300	7,400	131	12,300	12,400	308
2,400	2,500	25	7,400	7,500	134	12,400	12,500	313
2,500	2,600	26	7,500	7,600	137	12,500	12,600	318
2,600	2,700	27	7,600	7,700	140	12,600	12,700	323
2,700	2,800	28	7,700	7,800	143	12,700	12,800	328
2,800	2,900	29	7,800	7,900	146	12,800	12,900	333
2,900	3,000	30	7,900	8,000	149	12,900	13,000	338
3,000	3,100	31	8,000	8,100	152	13,000	13,100	343
3,100	3,200	33	8,100	8,200	155	13,100	13,200	348
3,200	3,300	35	8,200	8,300	158	13,200	13,300	353
3,300	3,400	37	8,300	8,400	161	13,300	13,400	358
3,400	3,500	39	8,400	8,500	164	13,400	13,500	363
3,500	3,600	41	8,500	8,600	167	13,500	13,600	368
3,600	3,700	43	8,600	8,700	170	13,600	13,700	373
3,700	3,800	45	8,700	8,800	173	13,700	13,800	378
3,800	3,900	47	8,800	8,900	176	13,800	13,900	383
3,900	4,000	49	8,900	9,000	179	13,900	14,000	388
4,000	4,100	51	9,000	9,100	182	14,000	14,100	393
4,100	4,200	53	9,100	9,200	185	14,100	14,200	398
4,200	4,300	55	9,200	9,300	188	14,200	14,300	403
4,300	4,400	57	9,300	9,400	191	14,300	14,400	408
4,400	4,500	59	9,400	9,500	194	14,400	14,500	413
4,500	4,600	61	9,500	9,600	197	14,500	14,600	418
4,600	4,700	63	9,600	9,700	200	14,600	14,700	423
4,700	4,800	65	9,700	9,800	203	14,700	14,800	428
4,800	4,900	67	9,800	9,900	206	14,800	14,900	433
4,900	5,000	69	9,900	10,000	209	14,900	15,000	438

TAX TABLE CONTINUED

IF YOUR INCOME IS			IF YOUR INCOME IS			IF YOUR INCOME IS		
AS MUCH AS	BUT LESS THAN	YOUR TAX IS	AS MUCH AS	BUT LESS THAN	YOUR TAX IS	AS MUCH AS	BUT LESS THAN	YOUR TAX IS
15,000	15,100	443	18,500	18,600	618	22,000	22,100	793
15,100	15,200	448	18,600	18,700	623	22,100	22,200	798
15,200	15,300	453	18,700	18,800	628	22,200	22,300	803
15,300	15,400	458	18,800	18,900	633	22,300	22,400	808
15,400	15,500	463	18,900	19,000	638	22,400	22,500	813
15,500	15,600	468	19,000	19,100	643	22,500	22,600	818
15,600	15,700	473	19,100	19,200	648	22,600	22,700	823
15,700	15,800	478	19,200	19,300	653	22,700	22,800	828
15,800	15,900	483	19,300	19,400	658	22,800	22,900	833
15,900	16,000	488	19,400	19,500	663	22,900	23,000	838
16,000	16,100	493	19,500	19,600	668	23,000	23,100	843
16,100	16,200	498	19,600	19,700	673	23,100	23,200	848
16,200	16,300	503	19,700	19,800	678	23,200	23,300	853
16,300	16,400	508	19,800	19,900	683	23,300	23,400	858
16,400	16,500	513	19,900	20,000	688	23,400	23,500	863
16,500	16,600	518	20,000	20,100	693	23,500	23,600	868
16,600	16,700	523	20,100	20,200	698	23,600	23,700	873
16,700	16,800	528	20,200	20,300	703	23,700	23,800	878
16,800	16,900	533	20,300	20,400	708	23,800	23,900	883
16,900	17,000	538	20,400	20,500	713	23,900	24,000	888
17,000	17,100	543	20,500	20,600	718	24,000	24,100	893
17,100	17,200	548	20,600	20,700	723	24,100	24,200	898
17,200	17,300	553	20,700	20,800	728	24,200	24,300	903
17,300	17,400	558	20,800	20,900	733	24,300	24,400	908
17,400	17,500	563	20,900	21,000	738	24,400	24,500	913
17,500	17,600	568	21,000	21,100	743	24,500	24,600	918
17,600	17,700	573	21,100	21,200	748	24,600	24,700	923
17,700	17,800	578	21,200	21,300	753	24,700	24,800	928
17,800	17,900	583	21,300	21,400	758	24,800	24,900	933
17,900	18,000	588	21,400	21,500	763	24,900	25,000	938
18,000	18,100	593	21,500	21,600	768			
18,100	18,200	598	21,600	21,700	773			
18,200	18,300	603	21,700	21,800	778			
18,300	18,400	608	21,800	21,900	783			
18,400	18,500	613	21,900	22,000	788			

(1) For Net Income $25,000 through $100,000, the tax is $940 plus 6% of the excess over $25,000.
(2) For Net Income over $100,000, the tax is $5,440 plus 6.5% of the excess over $100,000.