

REGULATION 1991-7
DISCLOSABLE TAX INFORMATION

These regulations are promulgated pursuant to Act 400 of 1991 which requires the Director of the Department of Finance and Administration to promulgate regulations to establish procedures for requesting and releasing information under Ark. Code Ann. §26-18-303 (b) (11). Act 400 of 1991 requires disclosure of some tax information which was previously confidential under the Arkansas Tax Procedure Act, Arkansas Code Annotated §26-18-303.

A. The Director of the Department of Finance and Administration hereby delegates the authority and responsibility to disclose information under this regulation to the Commissioner of Revenue for the Revenue Division of the Department of Finance and Administration.

B. DISCLOSABLE INFORMATION

The information which may be disclosed includes the name of any taxpayer and the amount of any tax credit, rebate, discount, or commission received by the taxpayer under the following provisions:

- (1) Arkansas Code Annotated §26-52-503 - Discount for prompt payment;
- (2) Arkansas Code Annotated §§26-52-701 through 706 – Manufacturer’s Investment Sales and Use Tax Credit;
- (3) Arkansas Code Annotated §§26-52-901 through 903 and §§15-4-1101 through 1104; - Steel Mill Tax Incentive;
- (4) Arkansas Code Annotated §26-55-230 (a) (1) (F) – Motor Fuel Shrinkage Allowance;
- (5) Arkansas Code Annotated §15-4-801 through 814- Arkansas Enterprise Zone Act of 1989;
- (6) Arkansas Code Annotated §26-57-236 (g) – Commission for sales of stamps for cigarettes and the collection of cigarette taxes;
- (7) Arkansas Code Annotated §§26-4-201 through 213- Motion Picture Tax Incentive;
- (8) Arkansas Code Annotated §26-58-204 – Credit on Severance Tax of Oil Producers;

- (9) Arkansas Code Annotated §26-58-205 – Credit on Severance Tax of Gas Producers;
- (10) Arkansas Code Annotated §§26-55-301 through 321- Refund of Motor Fuel Tax for Agricultural Purposes;
- (11) Arkansas Code Annotated §§26-55-401 to 408 – Refund of Motor Fuel Tax by Municipal Buses;
- (12) Arkansas Code Annotated §§26-56-214 to 215 – Refund of Special Distillate Fuel Tax to Interstate Users;
- (13) Arkansas Code Annotated §15-72-706 – Credit Against Severance Tax for Discovery of Commercial Oil Pool;
- (14) Arkansas Code Annotated §§3-5-1001 to 1007 – Native Wine Subsidy;
- (15) Arkansas Code Annotated §§3-5-901 to 908 – Native Wine Incentive Grants;
- (16) Arkansas Code Annotated §3-5-607 – Native Wine Export Incentive;
- (17) Arkansas Code Annotated §8-9-404 – Waste Tire Fees – Administrative Fee Retained by the Retailer;
- (18) Any other tax incentive program enacted after January 1, 1991, which provides a tax credit, tax rebate, tax discount, or commission for the collection of a tax, with the exception of any such benefits under the income tax laws of this state.

The Revenue Division will compile and maintain all information for three years.

C. REQUESTS

Requests for tax incentive information shall designate the type of tax credit, rebate, discount, or commission for the collection of tax, and if available, the name of the taxpayer and permit number. The request should specify the time period, or reporting period, of the information requested. Requests for information shall be limited to information reported during the 36 months preceding the request.

Requests must be in writing, addressed to the Commissioner of Revenue, P. O. Box 1272, Little Rock, Arkansas 72203. The Revenue Commissioner shall stamp, or otherwise mark, each request “Received”, noting the date of receipt. The Office of Tax Administration in the Revenue Division shall process requests for information.

D. NOTICE TO TAXPAYERS

Within seven (7) days from the date the Commissioner of Revenue receives the request, the taxpayer (s) whose tax information is requested will be notified of the request. If the request is for information will be notified of the request. If the request is for information of ten (10) or fewer taxpayers, the notice to the taxpayer(s) will be mailed to the taxpayer's address of record. (A copy of the notice is attached to this Regulation as attachment #1.)

If the request is for information of more than ten (10) taxpayers, the notice will be published once in a newspaper having general circulation in the state. (A copy of the notice is attached to the Regulation as attachment #2.)

The notice, whether mailed or published, shall inform the taxpayers what information is being sought, who is requesting the information and when the request was received. The notice shall also inform the taxpayer(s) that the information will be released within seven (7) days from the date the request was received, unless a valid exemption is claimed.

E. TAXPAYER OBJECTIONS

Act 400 of 1991 creates the presumption that all information designated in the Act is subject to disclosure. Information is exempt from the disclosure only if:

- (1) the information would give advantage to competitors or bidders, or
- (2) the information is exempt from disclosure under any other law which exempts specific information from disclosure.

Taxpayers may object to release of their information of these grounds. The burden of proving grounds for an exemption is on the taxpayer objecting to the release. Taxpayer objections raising the "competitive advantage" exemption must state specific facts and provide documentation to prove that the release of the information requested will cause substantial harm to the taxpayer's competitive position.

All objections must be in writing and sent to the Commissioner of Revenue. The Commissioner of Revenue will stamp, or otherwise mark, each objection "Received", noting the date of receipt. Objections can be hand delivered, mailed, or sent by telefacsimile to:

Commissioner of Revenue
Ledbetter Building, Room 215
P. O. Box 1272
Little Rock, Arkansas 72203
Telefax: (501) 682-7599

All taxpayer objections must be received by the Commissioner of Revenue during business hours prior to the end of the seventh day after the date the Commissioner of Revenue received the information request.

F. RELEASE OF INFORMATION

Within seven (7) days from the receipt of the request, the Commissioner of Revenues will release requested information. If the seventh day falls on a weekend or a state holiday, the information will be released on the first day after the weekend or holiday. The seven (7) days will be calculated from the date the Commissioner of Revenue marked the request "Received" and shall not include the date of receipt.

Information will be compiled and released on a calendar year basis. All disclosable information, except Motor Fuel Shrinkage information, as been compiled for 1988, 1989, 1990 and 1991. Motor Fuel Shrinkage information reported prior to the effective date of this regulation is currently being compiled. All future Motor Fuel Shrinkage information will be compiled as it is reported. Until the Revenue Division has completed this compilation, requests for Motor Fuel Shrinkage Allowance information will require a manual search of the taxpayers records.

Manual searches will be performed as quickly as possible. However, manual searches may require more than seven (7) days. If a manual search cannot be completed in seven (7) days, the Commissioner of Revenue will inform the requestor within seven (7) days of the request. If Motor Fuel Shrinkage information is requested, the request should be prioritized, specifying the information needed first.

G. COSTS

The requestor of information must reimburse the Department of Finance and Administration for the cost of producing requested information. The reimbursement shall not include any charge for the time spent reviewing documents or segregating exempt from nonexempt portions. The costs of producing requested information must be paid prior to the release of the information.

H.[sec]EFFECTIVE DATE:

This Regulation shall become effective on July 15, 1991.

Executed this 27th day of June, 1991.

Jim Pledger, Director
Arkansas Department of Finance
and Administration

Tim Leathers
Commissioner of Revenues
Arkansas Department of Finance
and Administration