ARKANSAS

2022

Pass-Through Entity Tax

Instructions

Due Date: 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
Pass-Through Entity Tax
P.O. Box 919
Little Rock, Arkansas 72203-0919

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

TAX HELP AND FORMS

Internet

You can access the Department of Finance and Administration's website at **www.dfa.arkansas.gov.**

- Get current year forms and instructions
- Access latest income tax info and archived news
- You can e-mail questions to:
  passthroughentitytax@dfa.arkansas.gov

Phone

General Information..(501) 371-7692

Representatives are available to assist callers at the number above during normal business hours (Monday through Friday from 8:00 a.m. to 4:30 p.m.) with:

- Taxpayer Assistance
- Forms
- Audit and Examination
- Notices Received
- Amended Returns
- Payment Information

Other useful phone numbers:

Corporation Income Tax.................. (501) 682-4775
Tax Credits...................................... (501) 682-7106
Withholding Tax .... (501) 682-7290
Collections .... (501) 682-5000
Revenue Legal Counsel .... (501) 682-7030
Individual Income Tax .... (501) 682-1100
Sales and Use Tax.......................... (501) 682-7104
Problem Resolution and .... (501) 682-7751
Tax Information Office (Offers In Compromise)

Internal Revenue Service .... (800) 829-1040
Social Security Administration .... (800) 772-1213

ATAP

Arkansas Taxpayer Access Point (ATAP) allows taxpayers or their representatives to log on to a secure site and manage their account online.

Access ATAP at **www.atap.arkansas.gov** to:

- Make Tax Payments
- Make Estimated Tax Payments
- Make name and address changes
- View account letters

(Registration is not required to make payments or to check refund status.)

Mail

Pass-Through Entity Tax Section
P. O. Box 919
Little Rock, AR 72203-0919

Be sure to apply sufficient postage or your return will not be delivered by the U.S. Postal Service.

Walk-In

Representatives are available to assist walk-in taxpayers with pass-through entity tax questions, but are **not available to prepare your return.**

No appointment is necessary, **but plan to arrive before 4:00 p.m. to allow sufficient time for assistance.**

The Pass-Through Entity Tax Office is located at:
1816 W. 7th Street, Room 2250
Ledbetter Building, Little Rock, AR 72201

Office hours are Monday through Friday from 8:00 a.m. to 4:30 p.m.

Forms

To obtain a booklet or forms you may:

1. Access our website at:
   https://www.dfa.arkansas.gov/income-tax/passthroughentity/passthroughentity-forms/
2. Call: (501) 371-7692

CONTENTS

Arkansas Elective Pass-Through Entity Tax

What is the Pass-Through Entity Tax

The Elective Pass-Through Entity Tax or PET Tax allows a partnership, Sub-S corporation or limited liability company to file a single income tax return on behalf of the entity and pay the income tax on behalf of all owner members. The PET tax is not available to C corporations, trusts, sole proprietorships or limited liability companies taxed as C corporations for federal income tax purposes. **The PET tax is effective for tax years beginning on or after January 1, 2022**. The PET tax rate for all taxpayers will be the same for all owner members and will be equal to the highest income tax rate for individuals. The tax rate on capital gains will be one half of the rate of tax on other types of income of an entity subject to the PET tax. For tax years beginning in 2022, the tax rate on income other than capital gains will be 5.5% and the tax rate for capital gains will be 2.75%. The due date for the PET tax will be the same as other income taxes and will be April 15 for calendar year filers. The PET tax will be subject to all provisions of the Arkansas Tax Procedures Act and all penalty and interest provisions, statute of limitations for refunds and assessments and other provisions will apply.

The PET tax must be paid in quarterly installments if the tax exceeds $1,000 in order to avoid the penalty for underpayment of estimated taxes. Estimated tax payments will not be required in 2022 because the PET tax is a new tax, but estimated payments may be made in 2022 for any taxpayer wishing to do so. PET tax returns may only be filed by paper in calendar year 2022 for entities who need to file short period returns, but electronic filing of returns and payments will be available in 2023. Payments for estimated taxes, extension payments, return payments, etc., may be made by check or through the Arkansas Taxpayer Access Point (ATAP) system in 2022.

The election to be subject to the PET tax must be made by owner members representing more than 50% of the voting power of the pass-through entity. The election is due before the due date for filing a return as extended. The election may be made by filing Form AR362 on paper or by registering for the PET tax in ATAP or by filing a PET tax income tax return before the due date. DFA encourages taxpayers wishing to make estimated or extension payments before the filing of a return to file an election so that payments can more easily be associated with a specific taxpayer account.

For entities wishing to elect to be subject to the PET tax, a federal employer identification number (FEIN) must be provided. Each entity wishing to elect PET status must have a unique FEIN so that their returns and payments may be separated from other entities that may be owned by a single owner member and so that payments and returns can be separated from the owner members. FEIN numbers are issued by the Internal Revenue Service which can be reached at 800-829-4933 or at **https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online**

When filing a PET tax return on Form AR1100PET, a copy of the federal income tax return must be included for entities taxed as Sub-S corporations or partnerships for federal purposes. Single member Limited Liability Companies must include a copy of the federal income tax return of the single member owner.

WHAT'S NEW FOR 2022

Act 362 of 2021 was passed and signed into law to allow Arkansas businesses to reduce their Federal Tax burden by electing Entity-level taxation. The Tax Cuts and Jobs Act of 2017 imposed a cap of $10,000 on the State and Local Tax deductions (SALT deduction) for itemized deductions for individuals for tax years 2018 through 2025. However, amounts paid by a Partnership, Limited Liability Company or an S Corporation to a state to satisfy a liability for income taxes are not subject to the cap on the SALT deduction as they are considered to be a business expense paid by the business.

Act 362 of 2021 creates a voluntary tax that pass-through entities would pay if owners of more than 50% of the voting rights of a pass-through entity elect to do so. Income of a member that is subject to the pass-through entity tax would be excluded from Arkansas income tax. Taxes paid by the pass-through entity will decrease the amount of taxes considered in computing the SALT deduction available for Federal income tax purposes of the members and thus reduce their Federal tax liability. **Act 362 of 2021 is effective for tax years beginning on or after January 1, 2022.**

Act 362 provides the following provisions:

- Amends Arkansas Code §26-51-404(b) to add an exemption for a person that is subject to the tax imposed by the Elective Pass-through Act so that the income is not subject to Arkansas income tax for the member owner(s) of the business. Income subject to a similar tax in other states is also exempted by Act 362.
- Adds an additional Chapter 65 to the Arkansas Code titled the "Elective Pass-Through Entity Tax Act" to create the Pass-through entity tax.
- Act 362 of 2021 defines "Business entity" as a general partnership, limited partnership, limited liability company, or for federal income tax purposes, a Subchapter S Corporation, that:
- (A) Is engaged in a business for profit; and
- (B) Is required to file a return under this title;
- Adds §26-51-404(b)(31)(B)(i)(a) which provides: A person that is subject to the elective pass-through entity tax as a resident or part-year resident and that is a member of an affected business entity may exclude from the taxable income the person's pro rata share of income subject to a tax paid to another state or DC on income of any affected business entity of which the person is a member, if the taxes paid result from a tax that is substantially similar. Substantially Similar Tax – means a tax that is levied on the aggregate taxable income of each of the persons that have an ownership interest in an entity that is engaged in business for profit. Non-resident members of an entity subject to the pass-through entity tax are not required to file an Arkansas income tax return if all pass-through entities the member has an ownership interest in pay the pass-through entity tax in Arkansas.
- Creates a voluntary tax that pass-through entities would pay at a flat rate of 5.5% on net taxable income for tax years beginning on or after January 1, 2022. The flat tax will be equal to the highest personal income tax rate in Arkansas in effect for that year in future years.
- Limits the rate of tax on net capital gains to 50% of the flat 5.5% rate or 2.75% for net capital gains for tax years beginning in 2022 and will be reduced to 50% of the highest personal income tax rate in future years.
- Provides that the business entity can elect to receive a credit against its liability for the voluntary tax for any Arkansas income tax credit that the business entity has received. If the business does not elect to use a tax credit, that credit may be passed on to the members to offset their Arkansas income tax credit as allowed under the relevant Arkansas laws for each credit. Tax credits earned by members may not be used to offset the pass-through entity tax.
- Provides that entities subject to the pass-through entity tax would be allowed the same provisions for net operating loss deductions as provided in Arkansas Code §26-51-427. Net operating losses that occur in 2022 and after may be carried forward up to 10 tax years.
- The pass-through entity tax is due before the 15th day of the fourth month after the end of the taxable year. It must be paid in quarterly installments to avoid underpayment penalties if the pass-through entity tax was elected in the previous year.
- The pass-through entity tax would be subject to all interest and penalty provisions of the Arkansas Tax Procedure Act (ATPA).
- The pro-rata interest of each member of a pass-through entity shall be reported to each member on forms prescribed and furnished by the DFA. The form for reporting the member information is on page 2 of Form AR1100PET.

- The elective pass-through entity tax is NOT the same as filing a composite return which allows pass-through entities to file and pay the individual tax on behalf of nonresident members who elect to be included. **If the pass-through entity tax is elected, all Arkansas income of the entity is subject to the PET tax and all owner members must participate. Owner members may not opt out of participating in the PET tax if the entity makes the election.**

- The election to be subject to the pass-through entity tax must be made before the due date for filing the return or before the extended due date for filing the return if applicable. The election may be made by filing Form AR362 or by completing Form AR362 on ATAP. Form AR362 is now available on our DFA website at: https://www.dfa.arkansas.gov/images/uploads/incomeTaxOffice/AR362_PET_Election_or_Revocation.pdf

- Form AR1100PET is the form for filing the Arkansas pass-through entity tax. The form is 4 pages and will be available in March of 2022. The first page calculates the PET tax. Page 2 is a summary of each member's share of income and of the taxes paid on their behalf and multiple page 2 forms may be necessary depending on how many owner members there are. Page 3 is the calculation of income and deductions for entities that only operate in Arkansas or that have received prior written permission from DFA to file using the direct accounting method for an entity operating in more than 1 state. Page 4 is the apportionment schedule for entities operating in more than 1 state and are required to apportion income. All entities must apportion their in come using only the sales factor unless they are included in an industry that is required to use a modified 3 factor apportionment method by the special industry regulations.

Act 1 of the Second Extraordinary session of 2021 – reduces the income tax rates for individuals and the pass-through entity tax to 5.5% for tax years beginning in 2022, to 5.3% for tax years beginning in 2023 and if certain conditions are met to 5.1% for tax years beginning in 2024 and to 4.9% for tax years beginning in 2025 and after. Therefore, the PET tax rate will be 5.5% on income other than capital gains and 2.75% for capital gains for tax years beginning in 2022. For tax years beginning in 2023, the PET tax rate for income other than capital gains will be 5.3% and 2.65% for capital gains. If certain conditions are met, the PET tax rate for income other than capital gains will be 5.1% and 2.55% for capital gains for tax years beginning in 2024. If the conditions are met for reducing the tax rate for tax years beginning in 2024 and 2025, the PET tax rate will be 4.9% for income other than capital gains and 2.45% for capital gains for tax years beginning in 2025 and after.

IMPORTANT REMINDERS

Act 822 of 2019 amends **Arkansas Code Annotated 26-5-101, Article IV** and **26-51-709** through **26-51-718** to provide for a single sales factor to apportion income from within and without Arkansas for tax years beginning on or after January 1, 2021. For tax years beginning on or after January 1, 2021, all taxpayers with income from sources within and without Arkansas must use a single sales factor to apportion income from Arkansas unless the taxpayer is subject to a special industry apportionment method authorized for;

1. Railroads by Regulation 1.26-51-204,
2. Private Railcar Operators by Regulation 2.26-51-204
3. Construction Contractors by Regulation 1.26-51-718(d)
4. Television and Radio Broadcasting by Regulation 2.26-51-718(d)
5. Publishing by Regulation 3.26-51-718(d), and
6. Pipelines by Regulation 6.26-51-718(d).

Airlines are required to use sales factor apportionment only under Regulation 4.26-51-718(d) and Bus Lines and Trucking Companies are required to apportion using a mileage factor only under Regulation 5.26-51-718(d)and the mileage should be reported in the sales factor area of Schedule A for Form AR1100PET.

Act 822 amends Arkansas Code Annotated 26-51-427 to allow net operating losses occurring in tax years beginning on or after January 1, 2020 to carry forward for 8 tax years and losses occurring in tax years beginning on or after January 1, 2021 to carry forward 10 years. Net operating losses that occur in tax years beginning before January 1, 2020 carry forward 5 tax years.

Tax Exemptions for certain Economic and Covid 19 related U S Government payments

Act 95 of 2020 created Arkansas Code Annotated 26-51-316 and exempts from Arkansas income tax payments made to a taxpayer by the United States Department of Agriculture under the Market Facilitation Program authorized by 15 U.S.C. §714c as it existed on January 1, 2020. Expenses for losses related to the receipt of a payment to a taxpayer under the Market Facilitation Program are not deductible or otherwise permitted to offset any other income from the tax year in which the loss or expenses are incurred. Act 95 of 2020 is effective for tax years beginning on or after January 1, 2020.

Act 248 of 2021 amended Arkansas Code Annotated 26-51-404(b) to add the following exclusions from gross income:

1. Title 15 U.S.C. § 626A(i) as in effect on January 1, 2021 exempts sums received under the Paycheck Protection Program of loan forgiveness as included in § 304(b), 276(a) and 276(b) of the Consolidated Incentive Act of 2021, Public Law 116-260.
2. Section 277 of the Consolidated Appropriations Act concerning the tax treatment of certain emergency financial aid grants to students.
3. Section 278 of the Consolidated Appropriations Act concerning the clarification of the tax treatment of certain loan forgiveness and other business financial assistance. Section 278 includes exemptions for Paycheck Protection Program loan forgiveness under section 1109(d)(2)(d) of the CARES Act, Economic Injury Disaster Loan grants also known as EIDL Grants from the Small Business Administration under section 1110(c) of the Cares Act and section 331 of the Hard-Hit Small Businesses, Nonprofits and Venues Act, Subsidies for certain SBA loan payments described in Section1112(c) of the Cares Act and Grants for Shuttered Venue Operators under Section 324 of the Hard-Hit Small Businesses, Nonprofits and Venues Act.
4. Payments received under the Coronavirus Food Assistance Program described in 7 C.F.R. Part 9 as it existed on January 19, 2021. Expenses related to the exclusion of income under Act 248 of 2021 are deductible. **Income exempted under Act 248 of 2021 and Act 95 of 2020 must be added back in the calculation of net operating loss as required by Arkansas Code Annotated 26-51-427(2).**

There are a number of federal and state financial assistance programs that are not exempt from Arkansas income taxes. Among the assistance programs that are not exempt are any government assistance programs included in the American Rescue Plan Act (ARPA) such as;

1. the Restaurant Revitalization Fund Grants,
2. Rural Health Care and Development Grants, USDA loan subsidies,
3. EIDL Grants under ARPA,
4. PPP loan forgiveness under ARPA,
5. Emergency Rental Assistance under ARPA and the Consolidated Appropriations Act,
6. Arkansas Ready for Business Grants
7. Meat and Poultry Processing Grants and
8. Any other federal, state or local financial assistance program not specifically exempted by Arkansas law.

Act 629 of 2021 amends Arkansas Code Annotated 26-51-807(a) to allow taxpayers an extension to file of one month after the extended due date for a federal income tax return for tax years beginning on or after January 1, 2021. This means for calendar year filers with a Federal extension until October 15th, the Arkansas return is due November 15th. The one month extended due date does not apply to returns for which a federal extension is not requested and does not extend the original due date. As a reminder all tax payments are due on the original return due date and interest at 10% per annum and failure to pay penalties at 5% per month will be assessed on all taxes unpaid after the original due date which is April 15 for calendar year filers and the15th day of the fourth month after the end of a tax year that does not end in December.

ATAP – Arkansas Taxpayer Access Point

Arkansas Taxpayer Access Point (ATAP) is available for the filing of most Arkansas Pass-Through Entity Income Tax payments. However, PET tax returns may not be filed using ATAP in 2022 but will be available in 2023. Federal returns and other required schedules must be attached with the ATAP filing or mailed separately to the Pass-through Entity Tax Section. They may be provided on CD, in PDF, or in paper form. 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 Pass-through Entity Tax activity including other tax activity such as Individual Income Tax, Sales Tax, Withholding Tax, and other taxes administered by DFA.

Accountants and attorneys must obtain permission from their clients to access and view their client's accounts. ATAP is a web-based service that will give taxpayers, or their designated representative, online access to their tax accounts, and offers the following services:

Register a business, file a return online, file a return using XML return upload, change a name, change an address, amend a return, make a payment, store banking information for use during payment submission, view tax period financial information (tax, penalty, interest, credits, balance, etc.), view payment received, view recent account activity, view correspondence from the department.

If you are currently enrolled with our online systems to either make payments or file a return electronically, you will need to sign up in ATAP to take advantage of the enhanced services. To correctly process payments on ATAP, make sure you are choosing the correct type of payment and applying it to the correct tax year.

General Information on Filing Pass-Through Entity Return

Time/Filing as a Pass-Through Entity

The election to be subject to the PET tax must be made by owner members representing more than 50% of the voting power of the pass-through entity. The election is due before the due date for filing a return as extended. The election may be made by filing Form AR362 on paper or by registering for the PET tax in ATAP or by filing a PET tax income tax return before the due date. DFA encourages taxpayers wishing to make estimated or extension payments before the filing of a return to file an election so that payments can more easily be associated with a specific taxpayer account. Form AR1100PET is due on or before the 15th day of the 4th month following the close of the Corporation's tax year.

When filing a PET tax return on Form AR1100PET, a copy of the federal income tax return must be included for entities taxed as Sub-S corporations or partnerships for federal purposes. Single member Limited Liability Companies must include a copy of the federal income tax return of the single member owner.

Extension of Time for Filing

If you have received an automatic Federal extension (Form 7004), the time for filing your Arkansas Pass-Through Entity Tax Return shall be extended until one month after the extended due date of your Federal Return for a US domestic entity. When filing the Arkansas AR1100PET, check the box at the top indicating that the Federal Extension Form 7004 and/or Arkansas Extension Form AR1155PET has been filed and file the Arkansas return on or before one month after the Federal due date. It is not 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 AR1155PET 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 Pass-Throug Entity 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 taxpayer's tax year. Attach your check to the Extension Voucher attached to Form AR1155PET if requesting an Arkansas extension.

Period Covered/Accounting Method

A Pass-Through Entity 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 pass-through entities 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 entity established a business purpose.

The entity must provide to the Commissioner a copy of any certification or approval from the Internal Revenue Service authorizing the pass-through entity to change its accounting method or income year.

Signatures and Verification

ACA 26-51-804 (b) provides, the President, Vice-President, Treasurer, or other principal officer shall certify the return. Such agent may certify the return of a foreign pass-through entity having an agent in the state. If receiver, trustee in bankruptcy, or assignee are operating the property or business of the pass-through entity, such receiver, trustee, or assignees shall execute the return for such pass-through entity under certification.

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 final 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 three (3) years 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 entity 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 taxpayers 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 AR1100PET

Type Return

Whether the Entity is filing an Initial Return (first time filing), an Amended Return (making changes to an original return), a Final Return (going out of business), clearly mark the AR1100PET by checking the applicable box at the top of the form.

Income (P1)

Line 1 – Taxable Income

Report the taxable income from doing business in Arkansas or derived from sources within this state and distributed to Non-Entity nonresident members electing to be included on this return. The amount must equal the total amount shown on page 3 (P3) line 27 or page 4 (P4) line C4.

Line 2 – Compute Tax

Compute tax at 5.50% (.055) of the amount listed on Line 1.

Line 3 - Capital Gains or (Loss) From Page3 (P3) line 30 or Page 4 (P4) line D4

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 entity's trade or business assets. Do not include any recapture of expense deduction for any section 179 deduction passed on to members prior to the election to be subject to the PET tax.

Line 4 – Arkansas Capital Gains Tax

Compute tax at 2.75% (.0275) of the amount listed on Line 3.

Line 5 – Pass-Through Entity Election Tax

Enter the Pass-Through Entity Election Tax; add lines 2 and 4.

Line 6 – Business Incentive Credits (BIC)

Enter the Business Incentive Credits from Form AR-1100BIC. The BIC incentives cannot exceed the amounts reported on Line 5.

Line 7 – Net Income Tax

Enter the amount of net income tax (Line 5 minus Line 6).

Line 8 – Estimated Payments

Enter Estimated Tax paid from Form AR1100ESPET/ or estimate carryforward, if applicable.

Line 9 – Payment with Extension Request

Enter payment(s) made with an extension request.

Line 10 – Withholding Payments

Enter amount of withholding from an Entity, if applicable, attach Form AR1100WH and/or AR1099PT.

Line 11 – Amended Return

Enter Net tax paid as a positive number on previous return(s) for this tax year. If the net tax return of the previous return(s) resulted in a refund or increased overpayment carried forward, enter the net amounts as a negative number in brackets.

Line 12 - Overpayment

Enter Overpayment amount (Lines 8 – 10 plus or minus 11; less Line 7)

Line 13 – Amount applied to 2023 estimated tax

Enter amount to be applied to 2023 estimated tax

Line 14 – Overpayment to be Refunded

Enter amount to be refunded.

Line 15 – Tax Due

Enter tax due (Line 7 less 8, 9, and 10; plus, or minus Line 11).

Line 16 – Interest on Tax due

Enter the interest on tax due.

Line 17 – Penalty on Late Filing or Payment

Enter the penalty for late filing or late payment.

Line 18 – Penalty for Underpayment of Estimated Tax

Enter the penalty for underpayment of Estimated tax, attach AR2220 or enter exception checked in part 3.

Line 19 – Amount Due

Enter the amount due (add Lines 15 through 18).

Partners Share of Income (P2)

Enter the beginning and ending dates of the tax year. Enter federal employer identification number. DO NOT ENTER “APPLIED FOR” anywhere on this return for the entity or any partners. Enter the name of the Pass-Through Entity.

Enter the name of each Partner or Entity, complete all information for each Partner or Entity. Enter a check mark to indicate Arkansas resident or business domicile. If there are more than 21 Partners or Entities for this return, the information must be submitted by CD or USB Flash Drive. The information must be in a spreadsheet format or a Delimited Text File and should contain for each member included on this return: name, FEIN (DO NOT ENTER “APPLIED FOR”), percentage of stock or interest in partnership or LLC owned, percentage of profit, loss or capital, income minus capital gains, capital gains, and the tax amount.

Accounting Income Statement (P3)

If an entity elects to be taxed under Act 362, all items of income or deduction which are normally passed onto the owner members on a K-1 form will be included on the PET tax return. These items include section 179 depreciation, charitable contributions, passive income, rental income, certain capital gains, guaranteed payments, royalties, dividends, interests and any other item of income or deduction that is not included on the K-1 form as ordinary income.

Income

Line 1: Enter the amount of gross sales (less returns and allowances).

Line 2: Enter cost of goods sold. Attach schedule; explain method used.

Line 3: Enter the total of Line 1 minus Line 2.

Line 4: Enter the amount of dividends received.

Line 5: Enter Taxable Interest.

Line 6: Enter Gross Rents/Royalties.

Line 7: Enter Gains or Losses not included in capital gains or losses

Line 8: Enter Other Income not listed above; explain on an attached schedule.

Line 9: Enter total of Lines 3 through 8.

Deductions

Line 10: Enter Compensation / Salaries / Wages paid to others, in whatever form paid, other than amounts deducted elsewhere on this return. Do not reduce this deduction by any federal job credit.

Line 11: Enter guaranteed payments to partners. Entities may deduct guaranteed payments to its members as ordinary and necessary business expenses to the extent they are not required to be capitalized by Arkansas law and otherwise meet the definition of an ordinary and necessary business expense.

Line 12: Enter costs of repairs related to any trade or business activity.

Line 13: Enter total of bad debts.

Line 14: Enter rent of business property.

Line 15: Enter amount of taxes paid. Attach form AR1100REC if applicable. 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 16: Enter amount of interest paid or incurred by the entity not reported elsewhere.

Line 17: Enter amount of contributions.

Line 18: Enter depreciation and attach AR1100REC.

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, 2019 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 Arkansas Section 179 expense maximum election is $25,000 with phase out beginning at $200,000.

Line 19: Enter depletion amount. Enter depletion expense claimed. Arkansas allows federal depletion allowances as in effect January 1, 2019. 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, 2019.

Line 20: Enter advertising amount.

Line 21: Enter amount of retirement plan costs

Line 22: Enter amount of employee benefits.

Line 23: Enter amount of other deductions and attach schedule.

Line 24: Total of lines 10 through 23.

Net Income

Line 25: Enter the total taxable income before Net Operating Loss (Subtract Line 24 from Line 9)

Line 26: Enter the amount of Net Operating losses (adjust for non-taxable income) (attach AR1100NOL)

Line 27: Enter net taxable income (line 25 minus line 26) This total will be entered on P3 line 27 and on line 1 of P1.

Capital Gains

Line 28: Enter the current year net capital gains.

Line 29: Enter any capital loss carryforward

Line 30: Enter the total of Net Capital Gains (line 28 minus line 29) Enter on P3 line 30 and P1 line 3 if line 30 is positive.

Worksheet for Apportionment of Multistate Corporations (P4)

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

In general, entities 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.

For tax years beginning on or after January 1, 2021, all multistate corporations should use the single sales factor only unless they are required to use a three factor apportionment formula under the special industry apportionment regulations.

If a special industry three-factor apportionment rule applies, the 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 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.

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.

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

Apportionment Formula

Construction companies, pipelines, publishing companies, railroads, private rail-car operators, 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 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. Passive activity gains and losses.
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 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 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 inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state, **or**
3. The employment of any other method to effect an equitable allocation and apportionment of the tax payer's income. A petition must be submitted in writing to DFA and approved prior to filing a return.

Schedule A - Apportionment of Income for Multistate Corporation *(Prior written approval with box checked (P1) indicating using 3 factor apportionment)*

Enter the FEIN in the box provided.

Part A - Income To Apportion

Line 1: Enter net income (amount from page 1, Line 1.)

Line 2: Enter any Add Adjustments Examples Include: Arkansas Corporation Income Taxes Deducted, Bonus Depreciation, Federal Charitable Contributions, and Partnership Loss etc... (Attach detailed schedule)

Line 3: Enter any Deduct Adjustments Examples include: Arkansas Depreciation, Arkansas Charitable Contributions, etc. (Attach detailed schedule)

Line 4: Total Apportionable Income: Line 1 + Line 2 – Line 3 = Line 4, Total Apportionable Income to Arkansas.

Part B - Apportionment Factor

Column A is for Amounts in Arkansas; Column B is the Total Everywhere; Column C is the Percentage of Column (A)÷(B). Calculate all percentages to six (6) places beyond whole percentages. Example 26.123456%

Property Factor: The property factor is only to be used if the taxpayer is subject to a special industry regulation that requires a modified three factor apportionment method. The property factor is a fraction, the numerator is the average value of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period, and the denominator is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period. **Please refer to the special industry apportionment regulations for any modifications required.**

Line 1: Enter Property Used in Business

Line a: Tangible Assets Used in Business and Inventories.

(a1) Enter the amount at the beginning of the year in both Column A and Column B.

(a2) Enter the amount at the end of the year in both Column A and Column B.

(a3) Enter total amounts: (Add Lines a1 and a2) in both Columns.

(a4) Enter Average of Tangible Assets: (Line a3 divided by 2) in both Columns.

Line b: Enter Rental Property: (8 times annual rent Column A and B.)

Line c: Enter Total Property in both Columns: (Add Lines a4 and b).

In Column C, calculate the Arkansas percent by dividing the amount on Line c, Column A by the amount on Line c, Column B.

Payroll Factor: The payroll factor is only to be used if the taxpayer is subject to a special industry regulation that requires a modified three factor apportionment method. 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. The payroll factor shall include only that compensation which is included in the computation of the apportionable income tax base for the taxable year. **(ACA 26-51-713 and ACA 26-51-1405)**

Column A is total compensation paid within Arkansas; Column B is total compensation paid everywhere during the tax year; Column C is the percentage of Column (A) ÷ (B).

Line 2: Enter Salaries, Wages, Commissions and Other Compensation Related to the Production of Business Income.

Sales/Receipts Factor: The receipts 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 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 which constitute business income and are included in the computation of the apportionable income base for the taxable year. Arkansas requires receipts to be gross receipts instead of net receipts.

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 properly assigned to a regular place of business of the taxpayer within Arkansas.

Line 3: Sales/Receipt

(a) Enter Destination Shipped from Within Arkansas: Sale of property that is delivered or shipped by a seller located in Arkansas to a purchaser located in Arkansas.

(b) Enter Destination Shipped from Without Arkansas: Sale of property that is delivered or shipped to a purchaser located in Arkansas regardless of the f.o.b. point or other conditions of the sale.

(c) Enter Origin Shipped from Within Arkansas to U.S.Govt.: Gross receipts from sales of tangible personal property to the United States Government are in this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the U.S. Government.

(d) Enter Origin Shipped from Within Arkansas to Other Non-Taxable Jurisdictions: Sales of property that is shipped from an office, store, warehouse, factory or other place of storage in Arkansas to a taxpayer that is not taxable in the state of the purchaser.

(e) Enter Other Gross Receipts: Includes items such as interest income, other income, proceeds from sales of assets, rental income. (Attach schedule)

Gross receipts from transactions other than sales of tangible personal property are attributed to Arkansas if:

1) The income producing activity is performed entirely within Arkansas **or**,
2) If the income producing activity is performed both inside and outside of Arkansas, the income reportable to Arkansas is determined by calculating the property, payroll, and sales factor excluding sales from transactions other than the sale of tangible personal property and applying the resulting percentage to the Arkansas sales factor numerator for gross receipts from transactions other than sales of tangible personal property.

(f) Enter Total Sales/Receipts: (Add Lines 3a through 3e). Divide Line 3f in Column A by Line 3f in Column B to arrive at the percentage for Line 3f in Column C.

(g) Enter Double Weighted: Applies only to taxpayers reporting under the three factor special industry regulations. Taxpayers using a single sales factor apportionment or a single factor apportionment method for special industries do not double weight sales.

Line 4: Enter Sum of Percentages: Add Column C, Lines 1c, 2a and 3g.

Line 5: Enter Percentage Attributable to Arkansas: For Part B, Line 5, divide Line 4 by number of entries other than zero which you make on Part B, Column B, Lines (1c), (2a), and (3f). Also, if Double Weighted Sales Factor applies, any entry other than zero in Part B, Column B, Line (3f), counts as two (2) entries. **For taxpayers using the sales factor only or a single factor apportionment method under the special industry regulations, enter the percentage on Line 3 F, Column C.**

Part C - Arkansas Taxable Income

Line 1: Enter Income Apportioned to Arkansas. (Part A, Line 4) x (Part B, Line 5, Column C).

Line 2: Enter Direct Income Allocated to Arkansas: Include non-business income and partnership income/loss that are sourced to Arkansas. **Arkansas Regulation 1.26-51-802(b)** requires taxpayers to directly allocate partnership Arkansas income or loss to Arkansas rather than including partnership income and apportionment factors in the taxpayer's apportionment formula. Multistate taxpayers with partnership income should deduct all partnership income on Part A, Line 3 (Deduct Adjustments). Partnership losses should be added on Part A, Line 2 (Add Adjustments). The taxpayer's Arkansas partnership income or loss should then be entered on Part C, Line 2 Add: Direct Income Allocated to Arkansas line. Attach Forms AR K-1 and if claiming withholding, attach Forms AR1099PT. Income or loss from a partnership that elects the Arkansas PET tax is not to be included.

Line 3: Less: Apportioned NOL to Arkansas (See Net Operating Loss (NOL) instructions, Attach AR1100NOL Form). Add or subtract lines 1 and 2, subtract lines 3. Enter here and on line 1 P1.

Schedule D - Arkansas Capital Gains

Line 1: Enter Capital Gains apportioned to Arkansas: Multiply total apportionable net gains or losses by the Arkansas apportionment factor from Part B Line 5.

Line 2: Enter Net Capital Gains allocated to Arkansas: (plus/or minus gains or losses allocated to Arkansas)

Line 3: Enter Less Capital loss carryforward

Line 4: Enter Net Capital gains add or subtract lines 1 and 2 and subtract from line 3 (enter here and on page1, Line 3). If line 4 is positive.

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 out side this State but doing business in this State shall be taxed as a foreign business entity 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.

Act 822 of 2019 amends ACA 26-5-101, Article IV, 26-51- 709 through 26-51-1405 to provide for a single sales factor to apportion income from within and without Arkansas for tax years beginning on or after 01/01/2021.

ACA 26-51-1401 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 which is includable in the apportionable income tax base shall be apportioned to this State by multiplying such income by the taxpayer's receipts factor as described in ACA 26-51-1403.

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.

Act 327 of 2019 provides that to qualify for Advantage Arkansas credits beginning on or after July 24, 2019, the business must pay average hourly wages at least equal to the greater of the average hourly wage of the county in which the facility is located, or $12.50 per hour. A qualified business may receive an additional tax credit of 1% of qualifying wages if the average hourly wage is at least equal to 125% of the lesser of the average hourly wage for the county or state in which the business locates or expands.

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.

Act 327 of 2019 provides for projects approved after July 24, 2019, that average hourly wages must exceed 150% of the lesser of state or county average hourly wage to qualify for the credit. The credit may offset 50% of the income tax or sales tax liability if wages exceed 150% of the lesser of state or county average hourly wage. The credit may offset 75% of the income tax or sales tax liability if wages exceed 175% of the lesser of state or county average hourly wage. The credit may offset 100% of the income tax or sales tax liability if wages exceed 200% of the lesser of state or county average hourly wage.

Act 911 of 2021 amends ACA 15-4-2703 and 15-4-2706 to allow project costs to be incurred within 6 years from the date the incentive agreement was approved instead of the current 4 years. Credits earned because of costs incurred more than 4 years after the incentive agreement is approved may not be claimed until on or after 07/01/2023, and the maximum credits for each qualified applicant may not exceed $750,000 per fiscal year.

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.

ACA 26-51-1101 (2)(C) allows an income tax equal to 33% of a cash donation that is used by a qualified educational institution in Arkansas to purchase new machinery and equipment in connection with a qualified education or research program. Taxpayers must submit an application to the Arkansas Economic Development Commission on forms prescribed by the Commission and if approved have itemized receipts documenting the amount of the cash donation and the purchase costs of the new machinery and equipment. The credit may offset 100% of the tax remaining after all other credits and any unused credits may be carried forward for nine 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 in excess of 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.

Act 537 of 2019 amends Arkansas Code Annotated 15-4-3305(g) to clarify that an equity investment incentive credit may be sold only 1 time at any time before the credit is exhausted or expires.

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.

Act 1073 of 2019 provides that Water Resource Conservation credits may be transferred for tax years beginning on or after January 1, 2020. The transferor must provide documentation of the transfer to the Department of Finance and Administration within 30 days of the transfer. The transferor of a credit is liable for the repayment of the credit if the transferor fails to complete and maintain the project as required under Arkansas Code Ann. 26-51-1011.

Act 563 of 2021 amends **ACA 26-51-1101(c)(1)** to allow water conservation projects receiving certificates of tax credit approval on or after 01/01/2017 five years to complete a project instead of the previous three year requirement.

Act 875 of 2021 amends **ACA 26-51-1013** to state that when the total amount of tax credits used under this subchapter exceeds $20,000,000 in any calendar year, the tax credits established under the subchapter shall expire on December 31 of the following calendar year.

(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.

Act 875 of 2021 amends **ACA 26-51-1005** for tax years beginning on or after 01/01/2021 to provide that the income tax credit is equal to the lesser of 50% of the project cost incurred or $120,000. The amount of tax credit shall not exceed the lesser of the amount of individual or corporate income tax otherwise due or $18,000.

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 the entity's 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.

   Act 875 of 2021 amends **ACA 26-51-1007** for tax years beginning on or after 01/01/2021 to provide that the income tax credit is equal to the lesser of 25% of the project cost incurred or $35,000. The amount of tax credit shall not exceed the lesser of the individual or corporate income tax otherwise due or $18,000. Any unused credits may be carried over for a maximum of 15 consecutive 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 the entity's 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 entity's 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.

Act 875 of 2021 amends **ACA 26-51-1008** for tax years beginning on or after 01/01/2021 to change the definition of within critical groundwater areas to include counties contiguous to counties with areas designated as critical groundwater areas. It also provides that the income tax credit for an agricultural or recreational project is equal to the lesser of 50% of the project cost incurred or $35,000. The amount of tax credit shall not exceed the lesser of the amount of the entity's income tax due or $18,000. Any unused credits may be carried over for a maximum of 15 consecutive 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 the entity's 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.

Act 875 of 2021 amends **ACA 26-51-1009** for tax years beginning on or after 01/01/2021 to provide that the tax credit shall not exceed the lesser of 25% of the project cost incurred or $35,000. The amount of tax credit shall not exceed the lesser of the amount of the entity's income tax otherwise due or $18,000. Any unused credits may be carried over for a maximum of 15 consecutive 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.

Act 203 of 2019 provides for an income tax credit equal to 33% of cash donations made to a qualified educational institution for the purpose of purchasing machinery and equipment. The Act is effective July 24, 2019. To qualify for the credit for cash donations, an application must be filed with and approved by the Arkansas Economic Development Commission. The taxpayer must obtain documentation from the qualified educational institution showing the amount of the donation and document the amounts spent purchasing machinery and equipment.

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.

Act 628 of 2021 amends **ACA 15-4-2306(b)** to allow the credit to offset 100% of the tax liability for tax years beginning on or after 01/01/2020.

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 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 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 until exhausted, whichever occurs first.

16. Coal Mining Tax Credit

ACA 26-51-511 provides an income or annual premium tax credit of $2.00 per ton of coal mined, produced, or extracted on each ton of coal mined in Arkansas in a tax year. An additional credit of $3.00 per ton will be allowed for each ton of coal mined in Arkansas in excess of 50,000 tons in a tax year. The credit can only be earned if the coal is sold to an electric generation plant for less than $40.00 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 nonrefundable. 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. Applications' 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. The amount of credit that may be used by a taxpayer for any taxable year shall not exceed twenty-five thousand dollars ($25,000).

20. Arkansas Historic Rehabilitation Income Tax Credit

ACA 26-51-2201 creates a credit for income taxes or premium taxes for qualified historic rehabilitation expenses in an amount equal to 25% of the total cost 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. The minimum investment to obtain the credit is $25,000. Historic rehabilitation credits are approved by the Department of Arkansas Heritage. The maximum tax credits that may be approved in one year is $4,000,000. The credit may offset 100% of income or annual premium tax due. Any unused credit may be carried forward for five (5) tax years or until exhausted.

The Arkansas Historic Rehabilitation tax credit program expires for tax years ending on or before December 31, 2027. The holder of rehabilitation tax credits may sell or assign all or a portion of unused credits by notifying the Department of Arkansas Heritage and the Department of Finance & Administration if the credit is an income tax credit.

Act 393 of 2017 increases the maximum costs eligible for the historic rehabilitation credit to $1,600,000 for projects starting on or after July 1, 2017. Act 470 of 2019 reduces the minimum investment necessary for non-income producing properties to $5,000 for tax years beginning on or after January 1, 2019.

Act 855 of 2019 provides for a Major Historic Rehabilitation Credit equal to 25% of qualified rehabilitation incurred by the owner to complete a certified rehabilitation approved by the Department of Arkansas Heritage. The minimum investment for the credit is $1,500,000. The Department of Arkansas Heritage may charge an application fee of up to 1% of the amount of the credit and may charge a fee of 0.75% of the amount of any credit transferred. Applications for the credit must be made between July 1, 2020 and June 30, 2025.

Act 840 of 2021 amends ACA 26-51-2204 to increase the maximum tax credits that may be approved in one year from $4 million to $8 million per fiscal year beginning with fiscal year 2022.

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.

22. Delta Music Trail Credit

Act 1066 of 2019 provides for an income tax credit equal to the lesser of 100% of the cost or $25,000 for an art project that promotes awareness and encourages enjoyment of the stories, biographies, and points of interest in blues, rock and roll, country and country music throughout the Arkansas Delta. Taxpayers must apply for the credit with the Arkansas Delta Music Commission and the commission may not approve more than $250,000 of expenses in any one calendar year. The credit may offset 100% of the tax due and unused credits may be carried forward up to five tax years.

23. Arkansas Wood Energy Products and Forest Maintenance Credit

Act 594 of 2021 provides for an income tax credit equal to 30% of the cost of qualifying equipment with a minimum investment in excess of $50 million required in a project approved by the Arkansas Economic Development Commission with a signed economic incentive agreement. Each project must create at least 100 new full-time jobs with an average salary of $60,000 per year. Up to $5 million of the credit may be claimed each year, and the State of Arkansas may purchase the tax credits at 80% of face value. Unused credits may be carried forward in perpetuity until fully claimed. Act 594 is effective for tax years beginning on or after 01/01/2021.

24. Motion Picture Credit

Act 797 of 2021 provides for a rebate or tax credit for approved film projects. The income tax credit or rebate is equal to 20% of all qualified production and post-production costs for an approved project that spends at least $200,000 in a six month period. An additional 10% of payroll costs for full-time Arkansas residents, or veterans, or veteran owned small businesses is allowed. The credit is limited to the first $500,000 of a highly compensated individual's salary. The Arkansas Economic Development Commission shall not approve more than $4 million in motion picture tax credits in any fiscal year. Unused credits may be carried forward for 5 tax years, and unused credits may be transferred.

25. Steel Specialty Products Manufacturing Credit

Act 895 of 2021 amends **ACA 26-51-506** to provide a tax credit equal to 30% of the cost of equipment including installation costs for an approved project that invests in excess of $200 million and employs at least 150 employees with an average salary of at least $75,000 per year. The maximum credit that may be claimed is $4 million if the total investment is $200 million to $275 million, $5 million if the total investment is $275 million to $350 million, and $6.5 million if the investment is at least $350 million. The State of Arkansas has the option to purchase the credits for 80% of face value. If the State fails to purchase credits the taxpayer or a transferee may carry forward unused credits for 3 tax years. The act is effective for tax years beginning on or after 01/01/2021.

26. Philanthropic Investment in Arkansas Kids Scholarship Program Credit

Act 904 of 2021 provides for a tax credit equal to 100% of the eligible contributions to a scholarship granting organization. Total tax credits awarded shall not exceed $2 million per calendar year, and unused credits may be carried forward for 3 tax years. Tax credit applications must be submitted to and approved by the Tax Credits and Special Refunds Section of the Department of Finance & Administration. The act is effective for tax years beginning on or after 01/01/2022.

27. Railroad Modernization Tax Credit

Act 967 of 2021 provides a tax credit for Class II and Class III railroad track maintenance. The credit is equal to 50% of railroad track maintenance expenditures up to $5,000 per track mile. The credit claimed may not exceed the tax liability, and unused credits may be carried forward up to 5 tax years and may be transferred. Maintenance projects must be approved by the Department of Commerce before expenditures are incurred. Certification of the tax credits is issued by the Department of Finance & Administration. The act is effective for tax year beginning on or after 01/01/2021.

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

NOTE: On any credit issued to a taxpayer that is sold/ transferred to another taxpayer, the owner of the credit must contact the issuing agency and request a Transfer Document. The issuing agency will send a copy of the approved trans- fer documents to the Tax Credit Section upon completion of the sale/transfer. For verification purposes, the taxpayer claiming the credit should attach a copy of the approved transfer document to the return claiming credit.