ARKANSAS

2024

Sub-Chapter S
Corporation Income 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.

Simple Reasons to e-file!

- Filing Confirmation Provided
- Makes Complex Returns Easy
- File Federal & State Forms Together
- Secure

Arkansas e-file

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

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

TAX HELP AND FORMS

Internet

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

- Get current and prior year forms and instructions
- Access latest income tax info and archived news
- Get e-file information

You can e-mail questions to:

corporate.income@dfa.arkansas.gov

Phone

General Information..(501) 682-4775

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:

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

Forms

To obtain a booklet or forms you may:

1. Access our website at:

   https://www.dfa.arkansas.gov/office/taxes/income-tax-administration/small-business-corporate-sub-s/

2. Call: (501) 682-4775

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

Corporation Income 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 corporate income 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 Corporate Income Tax Office is located at:
1816 W. 7th Street, Room 2250
Ledbetter Building, Litte Rock, Arkansas 72201

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

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WHAT'S NEW for 2024

NOTE: The following is a brief description of Acts affecting Arkansas Corporation Income Tax and is not intended to replace a careful reading of each Act in its entirety.

Tax rate and other important changes

Act 485 of 2023 to enhance economic competitiveness by phasing out the throwback rule amends Arkansas Code Annotated 26-51-716 and 26-5-101, Article IV to provide that sales of tangible personal property are in this state if:

1) the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser in which case the sales shall be sourced as follows:

Tax Year Beginning	Sales Within Arkansas	Sales Outside Arkansas
2024	85.71%	14.29%
2025	71.42%	28.58%
2026	57.13%	42.87%
2027	42.84%	57.16%
2028	28.55%	71.45%
2029	14.26%	85.74%
2030	0%	100%

The Act is effective for tax years beginning on or after January 1, 2024.

ACT 658 of 2023 authorizes an organization operating a railroad partly within this state and partly outside this state to choose between two options in apportioning its net operating income attributable to this state and provides that any rules adopted by the Department of Finance and Administration that conflict with the act are void. The act is effective for tax years beginning on or after January 1, 2023

Act 4 of the second Extraordinary Session of 2024 amends Arkansas Code Annotated 26-51-205 to reduce the maximum corporation income tax rate to 4.3% for all taxable income exceeding $11,000 for tax years beginning on or after January 1, 2024. The maximum income tax rate for corporations will remain 5.1% for all taxable income exceeding $25,000 for tax years beginning on or after January 1, 2023.

IMPORTANT REMINDERS for 2024

For tax years beginning on or after January 1, 2016, Arkansas has adopted the due date of April 15th for calendar year filers.

Arkansas Code Annotated 26-51-427 allows 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.

Arkansas Code Annotated 26-51-428 was amended to adopt Title 26 U.S.C. Section 179, as in effect on January 1, 2022, for the purpose of computing Arkansas income tax liability for property purchased in tax years beginning on or after January 1, 2022, for tax years beginning on or after January 1, 2024. The adoption of Internal Code Section 179 will result in the Arkansas Section 179 deduction being raised from $25,000 per year to $1,220,000 for tax years beginning in 2022 and for the dollar-for-dollar phaseout being raised from $200,000 to $3,050,000. The lower limits will remain in place for years beginning prior to 2022, including any carryforward of Section 179 that could not be claimed in earlier years. Please refer to the line item instructions for Depreciation and the instructions for Form AR1100REC for further details.

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 Section 1112(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). Act 248 also includes language that any successor programs to the PPP loan forgiveness program will also be exempt and related expenses are also deductible. Therefore, any PPP loan forgiveness under the ARPA Act will also be exempt from Arkansas income tax and related expenses will be allowed as deductions.

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 several 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,
3. USDA Grants and Loan Subsidies,
4. EIDL Grants under ARPA,
5. Emergency Rental Assistance under ARPA and the Consolidated Appropriations Act,
6. Aviation Manufacturing Job Protection Grants,
7. Airline and Airline Contractor Extended Payroll Support Program,
8. Arkansas Ready for Business Grants and
9. any other federal, state or local financial assistance program not specifically exempted by Arkansas law.

DFA has recently clarified that several federal tax credits created by ARPA are not taxable income and that related expenses are deductible in Arkansas. These include the Employee Retention Credits and the Employer Tax Credits for Paid Sick and Family Leave.

Act 143 of 2021 amends Arkansas Code Annotated 26-51-102 to include a definition for tax practitioner and Arkansas Code Annotated 26-51-806 to require a tax practitioner who files federal income tax returns electronically to also file Arkansas returns electronically and allows DFA to waive the requirement if the requirement would cause an undue hardship on the practitioner.

Act 362 of 2021 creates A new Chapter 65 to Arkansas Code Title 26 and creates the Elective Pass-Through Entity Tax for tax years beginning on or after January 1, 2022. Act 362 allows members holding 50% or more of a pass-through entity to elect to have the pass-through entity pay Arkansas income taxes itself instead of passing the income through to the members to pay income tax on their personal income tax returns or on a composite return. Act 362 also amends Arkansas Code Annotated 26-51-404 to exempt income subject to similar taxes in other states from Arkansas income tax for residents and part-year residents for tax years beginning in 2022 and after.

The Pass-through Entity Tax (PET) election must be made by the extended due date of the income tax return but may be made at any time prior by registering for the tax on combined registration forms or by completing Form AR362, or by registering for the tax in ATAP. Form AR362-E for registration, AR362-R for revocation, Form AR1100PET, the income tax return and vouchers for estimated payments for the Pass-through Entity Tax are available on the DFA Web site. The election to be taxed at the entity level and the exemption from income tax of income subject to similar taxes in other states is available at: https://www.dfa.arkansas.gov/income-tax/pass-through-entity/pass-through-entity-forms/. The tax rate for tax years beginning in 2024 is set at 3.9% on income and 1.95% for capital gains for the Pass-through Entity Tax.

Sub-S Corporations that elect the PET tax should not file Form AR1100S.

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. 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 the 15th day of the fourth month after the end of a tax year that does not end in December.

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

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

The Arkansas K-1 form has been developed for Subchapter S corporations to report each shareholder's share of the corporation's income, deductions, credits, etc. The Arkansas Schedule K-1 (AR K-1) is required to be submitted. Adjustments to convert federal amounts may be necessary for a number of items including but not limited to capital gains, interest income, depreciation, Section 179 deductions, contributions and others. The amount reported for each shareholder should be the total Arkansas amount for an item of income, deduction or credit multiplied by the shareholders ownership percentage.

ATAP – Arkansas Taxpayer Access Point

Arkansas Taxpayer Access Point (ATAP) is available for the filing of most Arkansas Corporation Income Tax returns and tax payments. Federal returns and other required schedules must be attached with the ATAP filing or mailed separately to the Corporation Income 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 Corporation Income 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.

Subchapter S Corporation Election and Instructions

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

Subchapter S of the Internal Revenue Code, 26 U.S.C. Section 1361 et seq., as in effect on January 1, 2019, has been adopted for the purposes of computing Arkansas income tax liability.

To be Recognized as an Arkansas S-Corporation

The following must be completed:

1. The business must register with the AR Secretary of State. (501) 682-3409 or www.sos.arkansas.gov
2. For tax years beginning before January 1, 2018 the business must file an Election by Small Business Form (Federal Form 2553) with the IRS; apply for a Federal Employer Identification Number (FEIN) (Form SS-4) and submit an Arkansas Election by Small Business Corporation (Form AR1103). You may apply online at IRS.gov or by calling 1-800-829-3676.
3. For tax years beginning on or after January 1, 2018, a Federal Subchapter S corporation must also file as an Arkansas S corporation; taxpayers are no longer allowed to file as a C corporation if filing as a Federal S corporation.

For tax years beginning before January 1, 2018, a corporation may elect to be treated as a "Small Business (S) Corporation" for Arkansas income tax purposes. The election may be made only if the corporation meets all of the following requirements:

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

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

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

Filing Declaration of Estimated Income Tax

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

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

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

<u>**If the corporation is the Parent of one or more Qualified Subchapter S Subsidiaries (QSSS), the Parent must file the AR1100S return and include schedules for the Q Subs in the Parents return.**</u> Attach a schedule to the Parent's Arkansas S return, Form AR1100S, listing all QSSS entities included in the Arkansas S return. The schedule must list the entity by name and the entity's federal employer identification number (FEIN) or if the

entity does not have an FEIN, state “NO FEIN”. A QSSS may not file an Arkansas Corporation income tax return.

Act 1041 of 2021 repeals the Small Business Entity Tax Pass-Through Act in Arkansas Code Title 4, Chapter 32 and creates the Uniform Limited Liability Company Act in a new Chapter 37 of Arkansas Code Title 4. The Act specifies that a Limited Liability Company is classified and taxed in the same manner for Arkansas purposes as it is for Federal income tax purposes unless it elects to be taxed under the Elective Pass-Through Entity Tax Act, Act 362 of 2021.

Act 362 of 2021 creates A new Chapter 65 to Arkansas Code Title 26 and creates the Elective Pass-Through Entity Tax for tax years beginning on or after January 1, 2022. Act 362 allows members holding 50% or more of a pass-through entity to elect to have the pass-through entity pay Arkansas income taxes itself instead of passing the income through to the members to pay income tax on their personal income tax returns or on a composite return. Act 362 also amends Arkansas Code Annotated 26-51-404 to exempt income subject to similar taxes in other states from Arkansas income tax for residents and part-year residents for tax years beginning in 2022 and after. The pass-through entity tax election must be made by the extended due date of the income tax return, but may be made at any time prior by registering for the tax on combined registration forms or by completing Form AR362. Form AR362 and vouchers for estimated payments for the Pass-through Entity Tax are available on the DFA website. The election to be taxed at the entity level and the exemption from income tax of income subject to similar taxes in other states is not available for 2021

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

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

General Information on Filing As A Subchapter S Corporation

ACA 26-51-409(B)(3) requires a Subchapter S corporation to attach a copy of its Federal income tax return.

Who Must File

Every corporation organized or registered under the laws of this state, or having income from Arkansas Code Section 26-51-201 (with the exception of those corporations exempted by Arkansas code Section 26-51-303, or entities electing the Pass-Through Entity Tax Act 362 of 2021 must file an income tax return). Corporations must file Form AR1100S if:

They are considered to be a Subchapter S corporation with the IRS and the election remains in effect. Corporations filing a Composite Return must file on an AR1000CR and file it with the Individual Income Tax Section. If you have questions regarding Composite returns, you can reach the Individual Tax Section at (501) 682-1100 or **https://www.dfa.arkansas.gov/income-tax/composite-filing/ (ACA 26-51-919)**

Pass-Through Entities Required To Withhold Income Tax

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

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

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

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

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

Time for Filing

Form AR1100S is due on or before the 15th day of the 4th month following the close of the Corporation's tax year.

Extension of Time for Filing

If you have received an automatic Federal extension (Form 7004), the time for filing your Arkansas Corporation Income Tax Return shall be extended until the due date of your Federal Return for a US domestic corporation. When filing the Arkansas AR1100S, check the box at the top indicating that the Federal Extension Form 7004 **and/or** Arkansas Extension Form AR1155 has been filed and file the Arkansas return on or before the Federal due date. It is no longer necessary to include a copy of the Federal Form 7004. To request an initial Arkansas extension of 180 days from the original Arkansas return due date **or** an Arkansas extension of 60 days beyond the Automatic Federal extension due date, complete and mail Arkansas Form AR1155 Request for Extension of Time for Filing Income Tax Returns by the due date or, if applicable, the extended due date of the Arkansas return to the Corporation Income Tax Section.

Arkansas extension(s) must be attached to the Arkansas income tax return. Interest at 10% per annum is due on all returns (including those with extensions) if the tax is not paid by the original return due date. Interest will be computed on a daily rate of .00027397. To avoid interest and/or penalty, any tax due payment must be made on or before the 15th day of the 4th month following the close of the Corporation's tax year. Attach your check to the Extension Voucher attached to Form AR1155 if requesting an Arkansas extension.

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

Period Covered/Accounting Method

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

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

Signatures and Verification

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 corporation having an agent in the state. If receiver, trustee in bankruptcy, or assignee are operating the property or business of the corporation, such receiver, trustee, or assignees shall execute the return for such corporation under certification.

Change in Federal Taxable Income

Revenue Agent Reports (RARs) must be reported to this state within 180 days after the receipt of the RAR or supplemental report reflecting correct net income of taxpayer. Amended returns must be filed with payment of any additional tax due. **ACA 26-18-306(b)(3)(B)** states that a refund shall not be paid if the amended return is filed on or after the 181st day following receipt of the notice from the IRS. Any additional tax and interest must be paid with the amended return or a refund must be requested on an amended return if applicable. Statute of Limitations will remain open for 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 corporation organized or registered under the laws of this State, or having income from Arkansas sources as defined in **ACA 26-51-205,** must file an income tax return.

Balance Sheet

The balance sheet submitted with the return should be prepared from the books and should agree therewith, or any difference should be reconciled. All corporations engaged in an interstate trade or business, and reporting to the Surface Transportation Board and to any national, state, municipal, or other public office, may submit copies of their balance sheets prescribed by said Board, or state and municipal authorities, as of the beginning and end of the taxable year. If the balance sheet as of the beginning of the current taxable year does not agree in every respect with the balance sheet which was submitted as of the end of the previous taxable year, a reconciliation schedule should be submitted with the return. Balance sheets as of the beginning and close of the year and a reconciliation of surplus must be attached to the return.

General Instructions

Specific Line Instructions for Page 1 of AR1100S Return

Type Return

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

Income

CAUTION: *Report only trade or business activity income or loss on Lines 7 through 12. Do not report rental activity or portfolio income or loss on these lines. Report the Arkansas portion of rental income and expenses and portfolio income and expenses distributable to each shareholder on the Schedule AR K-1.*

Line 7 - Gross Sales

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

Line 8 - Cost of Goods Sold

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

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

Line 9 - Gross Profits

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

Line 10 - Net Gain or (Loss) From Form 4797

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

Line 11 - Other Income

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

Line 12 - Total Income (Loss)

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

Deductions

CAUTION: *Report only trade or business activity related expenses on lines 13 through 25. Do not report rental activity expenses or expenses related to any portfolio income on these lines. Report the Arkansas rental activity income and expenses and portfolio income and expenses distributable to each shareholder on the Arkansas Schedule AR K-1.*

Line 13 - Compensation of Officers

Enter the compensation of officers in whatever form paid.

Line 14 - Salaries and Wages

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

Line 15 - Repairs

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

Line 16 - Bad Debts

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

Line 17 - Rent

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

Line 18 - Taxes

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

Line 19 - Deductible Interest

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

Line 20 - Depreciation

Depreciation expense claimed. ACA 26-51-428 does not adopt the bonus depreciation provisions contained in Internal Revenue Code 168(k). For Arkansas income tax purposes, Internal Revenue Code Sections 167 and 168 (a) – (j) as in effect on January 1, 2019 is adopted for tax years beginning on or after January 1, 2019.

Internal Revenue Code Section 179 as in effect on January 1, 2022 is adopted for tax years beginning on or after January 1, 2022. For tax years beginning on or after January 1, 2024, the Arkansas Section 179 deduction limit will be $1,220,000 and the dollar-for-dollar phaseout will begin at $3,050,000. For tax years beginning on or after January 1, 2011 and beginning before January 1, 2022, the Arkansas Section 179 deduction limit is $25,000 and the phaseout begins at $200,000. Form AR1100REC will need to be completed for any taxpayer filing a corporation income tax return or pass-through entity tax return and claiming a Section 179 deduction. Carryforward of Section 179 deductions from prior years may be used towards the Arkansas Section 179 deduction limitation but may only be claimed if Arkansas depreciation deductions were not claimed in those prior years. If the Arkansas Section 179 deduction is different from the federal Section 179 deduction, a Form 4562 depreciation schedule will need to be completed showing the calculation of the Arkansas depreciation deduction. In addition, Internal Revenue Code Section 179D Energy Efficient Commercial Buildings deduction is not an allowed deduction. Arkansas Legislature has not adopted this IRC code.

Line 21 - Depletion

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 22 - Advertising

Enter any advertising for the business.

Line 23 - Pension, Profit-Sharing Plans, etc

Enter the amount of pension or profit sharing plans.

Line 24 - Employee Benefit Programs

Enter employee benefit programs for the business.

Line 25 - Other Deductions

Enter any other authorized deductions related to any trade or business activity for which there is no line on page 1 of this form. Internal Revenue Code Section 179D Energy Efficient Commercial Buildings deduction is not an allowed deduction. Arkansas Legislature has not adopted this IRC code.

Line 26 - Total Deductions

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

Line 27 - Net Income (Loss) From Trade or Business Activity

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

Line 28 - Excess Net Passive Income Tax

Enter the amount of excess net passive income tax due. If the corporation has always been a Subchapter S Corporation, then line 28 tax does not apply to the corporation. If the corporation has "C" corporation earnings and profits at the close of the tax year, has passive investment income that is in excess of 25% of gross receipts, and has taxable income at year end, the corporation must pay a tax on the excess passive income. Complete Lines 1 through 3 and Line 9 of the worksheet on this page to make this determination. If Line 2 is greater than Line 3 and the corporation has taxable income, it must pay the tax. Complete a separate schedule using the format of Lines 1 through 11 of the worksheet on this page to figure the tax. The tax rate for 2024 is 4.3%

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

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

Line 30 - Total Tax

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

Line 31 - Estimated Tax Paid

Enter Estimated Tax paid, including estimate carryforward from prior year.

Line 32 - Withholding Payment

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

Line 33 - Amended Return Only

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

Excess Net Passive Income Tax Worksheet

1. Enter Arkansas gross receipts tax for the tax year (See IRC Section 1362 (d)(3)(B) for gross receipts from the sale of capital assets.)* .... ____________
2. Enter Arkansas passive investment income as defined in IRC* Section 1362 (d)(3)(C)... ____________
3. Enter 25% of Line 1 (If Line 2 is less than Line 3, stop here. You are not liable for this tax.) .... ____________
4. Excess Arkansas passive investment income (Subtract Line 3 from Line 2.) .... ____________
5. Arkansas expenses directly connected with the production of income on Line 2 [See IRC* Section 1375(b)(2)] .... ____________
6. Net passive income (Subtract Line 5 from Line 2.) .... ____________
7. Divide amount on Line 4 by amount on Line 2. .... ____________
8. Excess net passive income (Multiply Line 6 by Line 7.) .... ____________
9. Enter taxable income (See instructions for taxable income below.) .... ____________
10. Enter the smaller of Line 8 or 9 .... ____________
11. Excess net passive income tax – Enter 4.3% of Line 10. Enter here and on Line 28, page 1, Form AR1100S. .... ____________

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

Taxable Income (Line 9 of the Excess Net Passive Income Tax Worksheet)

Line 9, taxable income, is defined in IRC Section 1374(d). Figure this income by completing Lines 9 through 27 of page 1, or Schedule A, page 2 of **Form AR1100CT,** Arkansas Corporation Income Tax Return. Include the Form AR1100CT computation with the worksheet computation you attached to Form AR1100S. You do not have to attach the schedules etc. called for on Form AR1100CT. However you may want to complete certain schedules such as Schedule D, Form AR1100S.

Line 34 - Tax Due

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

Line 35 - Overpayment

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

Line 36 - Refund Estimated Tax Credit

Amount of refund to be credited to next tax year.

Line 37 - Refund

Line 35 less Line 36.

Schedule D (Form AR1100S)

Enter on Line 29 the tax from Schedule D, Form AR1100S, page 2. If net capital gain for Arkansas is $25,000 or less, the corporation is not liable for capital gains tax. If the net capital gain is more than $25,000 you must determine if the corporation owes the tax in part A, or part B of Schedule D, Form AR1100S. The tax rate for 2024 is 4.3%

Part A – Capital gains tax computation

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

Part B – Built-in gains tax computation

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

Worksheet for Apportionment of Multistate Corporations

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 required or approved in advance for the use of an alternative apportionment method.

Industries required to use special industry apportionment methods under the **special industry apportionment regulations should apportion income using a single sales factor as modified in the regulation and exclude the property and payroll factors.**

1. Construction Contractors by Regulation 1.26-51-718(d)
2. Television and Radio Broadcasting by Regulation 2.26-51-718(d)
3. Publishing Companies by Regulation 3.26-51-718(d).
4. Airlines by Regulation 4.26-51-718(d) – Miles
5. Bus Lines and Trucking Companies by Regulation 5.26-51-718(d) – Miles
6. Pipelines by Regulation 6.26-51-718(d).
7. Railroads by Regulation 2.26-51-204. (3 factors or a single sales factor optional)
8. Private Railcar Operators by Regulation 2.26-51-204.

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

Apportionment Formula

In general, taxpayers with income derived from activities both within and without the State are required to apportion Business Income and allocate the Nonbusiness and Partnership income. **For tax years beginning on or after January 1, 2021, all multistate corporations should use the single sales factor only, unless required to use an approved alternative apportionment method.**

Financial Institutions must use the single sales factor as outlined in Arkansas Codes Annotated 26-51-1403. Construction companies, pipelines, private railcar operators, bus lines and trucking companies, airlines, television and radio broadcasting companies, and publishers will use sales factor only as modified in the regulations. **Railroads operating within and without the State may use either single sales factor or three-factor double-weighted sales apportionment method beginning tax years effective January 1, 2023.** Requirements for apportionment formulas of the businesses listed in this paragraph (except for financial institutions) are contained in the Arkansas Corporation Income Tax Regulations which may be obtained from **www.dfa.arkansas.gov/income-tax/corporation/**.

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

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

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

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

3. Gains and losses from sales of assets:

a. Sales of real property located in the state.

b. Sales of tangible personal property.

(1) The property had a situs in this state at the time of sale, **or**
(2) The taxpayer's commercial domicile is in this state, **or**
(3) The property has been included in depreciation which has been allocated to this state, in which event gains or losses on sales shall be allocated on the percentage that is used in the formula for allocating income to the state.

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

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 taxpayer's income. To "petition for" and approved by DFA shall mean a formal written request submitted and approved prior to the filing of a return.

Schedule A-Apportionment of Income for Multistate Corporation

Part A - Income To Apportion

Line 1: Enter net income (amount from page 1, Line 27, Total Column)

Line 2: Enter any Add Adjustments. Examples include: Arkansas Corporation Income Taxes Deducted, Bonus, Depreciation, Federal Charitable Contributions, and Partnership Loss. (Attach schedule AR1100ADJ)

Line 3: Enter any Deduct Adjustments. Examples include: Arkansas Depreciation, Arkansas Charitable Contributions, and Partnership Income. (Attach schedule AR1100ADJ)

Line 4: Enter Arkansas Total Apportionable Income. (Line 1 + Total Amount from Line 2 - Total Amount from Line3 = Line 4 Total Arkansas Apportionable Income)

Note: Lines 2 and 3 are for reporting any adjustments to taxable income that result in differences between Federal and Arkansas tax laws.

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%

Arkansas adopted a single sales factor formula for the apportionment of multistate business income (Act 822 of 2019). If the corporation is subject to special industry or alternative apportionment, please see instructions for Form AR-718.

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.

Line 1: 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.

Line 2: Origin Sales From Arkansas

(c) 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.
Beginning January 1, 2024, a percentage of sales to which the throwback rule applies as taxable to Arkansas and a percentage as taxable to the destination state, with the amount taxable to the destination state increasing each year as the amount taxable to Arkansas decrease.

The percentages will be as follows:

- **2024: 85.71% to Arkansas.**

Line 3: Other Sales/Receipts

Items such as **d**. capital & ordinary gains, **e**. dividends, **f**. interest, **g**. rents, **h**. royalties, and **i**. services will be reported in the appropriate boxes. For **j**. other business gross receipts, 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.

(k) Total Sales/Receipts: (Add Lines 1a through 3j). Divide Line 3k in Column A by Line 3k in Column B to arrive at the percentage for Line 3k in Column C.

Line 4: Alternative Apportionment Percentage: If the corporation is subject to special industry and alternative apportionment, check the box and enter the percentage from Form AR-718, Line 5, Column C.

Line 5: Enter Percentage Attributable to Arkansas: Enter the percentage from Line 3k, Column C. If required to complete form AR-718, enter percentage from AR-718, Column C, Line 5.

Part C - Arkansas Taxable Income

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

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 corporations to directly allocate partnership Arkansas income or loss to Arkansas rather than including partnership income and apportionment factors in the corporation's apportionment formula. Multistate corporations 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 corporation'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.

Line 3: Enter Total Income Taxable to Arkansas: (Enter amount on C3, and on page 1, Line 27, Arkansas Column)

Schedule D - Capital Gains Tax

Part A - Tax Imposed on Certain Capital Gain:

Line 1: Enter Taxable Income: (See Instructions; Attach computation schedule)

Line 2: Enter tax amount on Line 1: (See Instructions for computation of tax)

Line 3: Net long-term capital gain reduced by net short-term capital loss: (If Multistate, multiply by apportionment factor, Part B, Line 5 above)

Line 4: Enter the Statutory minimum:

Line 5: Subtract Line 4 from Line 3

Line 6: Tax: (Enter 4.3% of Line 5)

Line 7: Compare Line 2 and Line 6: (Enter the smaller amount here and on Line 29, page 1, Form AR1100S)

Part B - Tax Imposed on Certain Built-In Gains:

Line 1: Taxable Income: (See Instrucions; Attach computation schedule)

Line 2: Recognized built-in gain: (If Multistate, multiply by apportionment factor, Part B, Line 5 above)

Line 3: Enter smaller of Line 1 or 2

Line 4: Section 1374(b)(2) deduction

Line 5: Subtract Line 4 from Line 3: (If zero or less, enter zero here and on Line 6 below)

Line 6: Enter 4.3% of Line 5: (Enter here and on Line 29, page 1, Form AR1100S)

Payment of Taxes

The tax due should be paid by attaching to the return a check or money order payable to "Department of Finance and Administration". Write the corporation's FEIN on the check. Payments with returns may not be made by EFT. Tax due on returns may be made through ATAP. Refer to **www.atap.arkansas.gov** for instructions. To avoid interest and/or penalty, tax due payment must be made on or before the 15th day of the 4th month following the close of the corporations tax year, regardless of having an extension to file.

Special Industry Apportionment Rules

Arkansas Regulations require taxpayers primarily engaged in certain industries to apportion income using a special industry apportionment method. See below for a brief description of each special industry apportionment method. For a complete description of industries that are required to modify their apportionment factors, see the Corporation Income Tax Regulations at **www.dfa.arkansas.gov**.

Construction Contractors

Arkansas Regulation 1.26-51-718(d) modifies the sales factor for all Construction contractors. Gross receipts derived from the performance of a contract are attributable to Arkansas if the construction project is located in Arkansas. If the construction project is located both inside and outside of Arkansas, the gross receipts attributable to Arkansas are based upon the ratio that construction costs for the project in Arkansas incurred during the tax year bear to the total construction costs for the entire project during the tax year. The amount of gross receipts to be included in the sales factor for the current tax year is based on the cost ratio regardless of whether the taxpayer uses the accrual method or the cash method of accounting for receipts and disbursements. All Construction contractors should not use a property or payroll factor for tax years beginning in 2021 and after.

Television and Radio Broadcasting

Arkansas Regulation 2.26-51-718(d) modifies the numerator of the sales factor to include all gross receipts of the taxpayer from sources within Arkansas plus a ratable part of film or radio programming revenue including advertising revenue determined by an audience factor. The audience factor is determined based on the ratio that the taxpayer's Arkansas viewing or listening audience bears to its total viewing or listening audience. Television and radio broadcasters should not use a property or payroll factor for tax years beginning in 2021 and after.

Publishing

Arkansas Regulation 3.26-51-718(d) modifies the sales factor for taxpayers in the business of publishing, selling, licensing, or distribution of books, newspapers, magazines, periodicals, trade journals, or other printed materials that have income from sources both inside and outside of Arkansas. The sales factor is modified to include a "circulation factor". Publishers should not use a property or payroll factor for years beginning in 2021 or after.

Airlines

Arkansas Regulation 4.26-51-718(d) requires airlines to determine Arkansas net taxable income by taking that portion of total operating revenue that the total passenger and freight receipts in Arkansas bear to total receipts from inside and outside Arkansas.

Bus Lines and Trucking Companies

Arkansas Regulation 5.26-51-718(d) requires a company whose primary business is bus lines or trucking to determine its net income subject to Arkansas income tax by an apportionment formula which is the number of miles operated within Arkansas divided by the total system miles.

Pipelines

Arkansas Regulation 6.26-51-718(d) establishes special rules for taxpayers operating a pipeline for the transportation of oil or gas both inside and outside of Arkansas. The sales factor includes any gas sales and storage sales within Arkansas plus a proportionate part of system revenue earned in Arkansas determined on the basis of total barrel or unit miles within Arkansas to the total barrel or unit miles in the system. Pipelines should not use a property or payroll factor for tax years beginning in 2021 and after.

Private Railcar Operators

Arkansas Regulation 2.26-51-204 requires taxpayers, other than a railroad, engaged in the business of operating railcars or in the business of furnishing or leasing railcars for the transportation of freight or property whether or not owned by such taxpayer, over any railway lines partly within and partly without the State to determine Arkansas net taxable income by taking that portion of total net operating income that the total miles operating in the State bears to total system miles operated.

Public Utilities

Arkansas Regulation 3.26-51-204 requires telephone, electric power, and gas distribution companies operating both inside and outside of Arkansas shall allocate and apportion their net income provided under **ACA 26-51-701**, et seq, ACA 26-51-709 requires income to be apportioned using a single sales factor.

Allocated Income

Partnership Income

Act 482 of 2017 amends **ACA 26-51-802(c)** to require partnership income from activites within and without this State that is reflected on a partnership return shall be apportioned to Arkansas under the uniform Division of Income for Tax Purposes Act **(ACA 26-51-701 et seq)**. Corporations that are partners in a partnership must allocate their share of partnership income as shown on form AR K-1 from the partnership. Partnership Income subject to Arkansas Pass-Through Entity Tax (PET) should be excluded from the Arkansas Individual return.

Non-Business Income

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

1. Rents & Royalties:

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

B) Net rents and royalties from tangible personal property

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

or

2) In their entirety, if the commercial domicile is in this State and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the State during the rental or royalty period in the taxable year; and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year.

If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property is located at the time the rental or royalty payer obtained possession.

2. Gain and Losses:

Gains and losses from sales of assets:

A) Sales of real property located in this State.

B) Sales of tangible personal property.

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

or

2) The taxpayer's commercial domicile is in this State,

or

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

3. Interest and Dividends:

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

4. Patent and Copyright Royalties:

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

or

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

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

Financial Institutions

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

In general, all state and national banks, savings and loan, building and loan associations, or any other entity operating as financial institutions are to be taxed under existing law. For a complete definition of "financial institution", refer to **ACA 26-51-1402.**

Who Must File

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

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

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

ACA 26-51-702 requires any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a public utility or the rendering of purely personal services by an individual, shall allocate and apportion their net income.

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

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.