



ARKANSAS

2024

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:
passthrough.entitytax@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



Forms

To obtain a booklet or forms you may:

1. Access our website at:
<https://www.dfa.arkansas.gov/office/taxes/income-tax-administration/pass-through-entity-tax/>
2. Call: (501) 371-7692

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.

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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, qualified subchapter S subsidiaries, 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 2024, the tax rate on income other than capital gains will be 3.9% and the tax rate for capital gains will be 1.95%. 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. Payments for estimated taxes, extension payments, return payments, etc., may be made by check or through the Arkansas Taxpayer Access Point (ATAP).

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 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 532 of 2023 amends Arkansas Code Annotated §26-51-201(a)(2) reduces the income tax rates for individuals and the pass-through entity tax from 5.5% on income other than capital gains and 2.75% for capital gains to 4.7% for income other than capital gains and 2.35% for capital gains for tax years beginning in 2023 and after.

Act 4 of the Second Extraordinary Session of 2024 amends Arkansas Code Annotated 56-51-205 to reduce the maximum corporation tax rate to 4.3% for all taxable income exceeding \$11,000 for tax years beginning on or after January 1, 2024, and the maximum individual income tax rate for individuals to 3.9% for tax years beginning on or after January 1, 2024. For years 2024 and after, the capital gains tax rate is 1.95%.

IMPORTANT REMINDERS

Arkansas Code Annotated 26-51-428 was amended to adopt Internal Revenue Code Annotated 26-51-428 as in effect on 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 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 member that is subject to the tax imposed by the Elective Pass-through Entity Tax 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 member 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 member’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 members 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 income earned in Arkansas comes from pass-through entities that 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 3.9% on net taxable income for tax years beginning on or after January 1, 2024. 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 3.9% rate or 1.95% for net capital gains for tax years beginning in 2024 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 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 2024 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 to DFA is on page 2 of Form AR1100PET. Form AR K-1 is used to report earnings to each member.
- 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 or revocation 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 Forms AR362-E for election and AR362-R for revocation or by completing the desired forms on ATAP. Forms AR362-E and AR362-R is now available on our DFA website at: <https://www.dfa.arkansas.gov/office/taxes/income-tax-administration/pass-through-entity-tax/forms/>
- Form AR1100PET is the form for filing the Arkansas pass-through entity tax. The form is 4 pages. The first page calculates the PET tax. Schedule K Page 2 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 3 is the apportionment schedule for entities operating in more than 1 state and are required to apportion income. All entities must apportion their income 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. Page 4 is a summary of each member's share of income and of the taxes paid on their behalf and multiple page 4 forms may be necessary.

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 using the special industry apportionment method 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.

Act 658 of 2023 amends Arkansas Code Annotated 26-51-702 authorizes railroad operating within and without the State may use either single sales factor or three factor apportionment beginning tax years effective January 1, 2023.

Airlines are required to use sales factor apportionment only under Regulation 4.26-51-718(d).

Bus Lines and Trucking Companies are required to apportion using a mileage factor only under Regulation 5.26-51-718(d).

Private Railcar operators should apportion income by dividing the total system miles operated in Arkansas by total system miles operated everywhere as required in Regulation 2.26-51-204.

Television and Radio Broadcasters should apportion income using only the modified sales factor required in Regulation 2.26-51-718(d). The property and payroll factors mentioned in the regulation should not be used for tax years beginning in 2021 and after.

Pipelines should apportion income using only the modified sales factor required in Regulation 3.26-51-718(d). The property and payroll factors mentioned in the regulation should not be used for tax years beginning in 2021 and after.

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 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, and PPL 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-E, or by registering for the tax on ATAP. Form AR362-E for registration, 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 not available for 2021. The tax rate for tax years beginning in 2022 was set at 5.9% on income and 2.95% capital gains for the Pass-through Entity Tax. However, Acts 1 and 2 of the Third Extraordinary Session of 2021 amended the tax rate to be equal to the maximum income tax rate for individual income taxes. Therefore, the tax rate for income other than capital gains for tax years beginning in 2022 is 4.9% and the tax rate for capital gains is 2.45%. The tax rate for tax years beginning in 2023 was set to 4.7% on income and 2.35% for capital gains.

Sub-S Corporations that elect the PET tax for 2022 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.

ATAP – Arkansas Taxpayer Access Point

Arkansas Taxpayer Access Point (ATAP) is available for the filing of most Arkansas Pass-Through Entity Income Tax payments. 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 Entities 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-Through 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.

Report of Change in Federal Taxable Income

Revenue Agent Reports (RARs) must be reported to this state within 180 days after the receipt of the RAR or supplemental report reflecting correct net income of taxpayer. Amended returns must be filed with payment of any additional tax due. ACA 26-18-306(b)(3)(B) states that a refund shall not be paid if the amended return is filed on or after the 181st day following receipt of the 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.

If any part of any deficiency or tax liability is due to negligence or intentional disregard of rules and regulations, a penalty of 10% of the total amount shall be added. Any part of any deficiency determined to be due to fraud shall be subject to a 50% penalty. Interest at the rate of 10% per annum shall be assessed on all tax deficiencies. Interest will be computed using a daily rate of .00027397 from the 15th day of the 4th month after the close of the tax year until the date the tax is paid.

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 members included on this return. The amount must equal the total amount shown on page 2 (Schedule K) line 20 or page 3 (P3) line C4.

Line 2 – Compute Tax

Compute tax at 3.9% (.039) of the amount listed on Line 1.

Line 3 - Capital Gains or (Loss) From Schedule K, Line 7, 8, and 10, or; Page 3, Schedule D, A. 6

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 1.95% (.0195) 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 - Excess Net Passive Income Tax

S Corporations are subject to Arkansas income tax on excess net passive income in the same manner that such items are taxed federally. Enter the tax on Line 6

of AR1100PET and attach a schedule showing the computation of the tax.

Enter the amount of excess net passive income tax due. If the corporation has always been a Subchapter S Corporation, then P1 Line 6 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%

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 6, P1, Form AR1100PET..... _____

*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 P2, Form AR1100PET.

Line 7 - Income Tax on Capital Gains/Built-in Gains

For entities with tax imposed on certain capital gains/built-in gains, complete Page 3, Schedule D, B. and/or C. Enter the amount from B7 and/or C6.

Line 8 – Business Incentive Credits (BIC)

Enter the Business Incentive Credits from Form AR-1100BIC. The BIC incentives cannot exceed the total tax reported on lines 5 through 7.

Line 9 - Total Liability Tax

Enter the amount of tax reported. Add lines 5 through 7, less line 8.

Line 10 – Estimated Payments

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

Line 11 – Payment with Extension Request

Enter payment(s) made with an extension request.

Line 12 – Withholding Payments

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

Line 13 – 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 14 - Overpayment

Enter Overpayment amount (Lines 10 - 12 plus or minus 13; less line 9)

Line 15 – Amount of Overpayment Applied to Next Tax Year

Enter amount to be applied to next tax year

Line 16 – Overpayment to be Refunded

Enter amount to be refunded.

Line 17 – Tax Due

Enter tax due (Line 9 less lines 10 through 12; add or subtract line 13).

Line 18 – Interest on Tax due

Enter the interest on tax due.

Line 19 – Penalty on Late Filing or Payment

Enter the penalty for late filing or late payment.

Line 20 – Penalty for Underpayment of Estimated Tax

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

Line 21 – Amount Due

Enter the amount due (add lines 17 through 20).

SCHEDULE K - DISTRIBUTIVE SHARE ITEMS

Schedule K summarizes all the members' shares of the entity's income, credits, deductions, etc. Schedule K is used to report the totals of these and other amounts. **The Schedule K is required.**

NOTE: A completed AR K-1 for each member of the entity is required to be attached to this return.

Enter each member's name, address, Tax ID Number, and share of the net income, whether distributed or not. If the distributed income is determined on a basis other than a percentage basis, attach an explanatory statement.

Total/Arkansas Column Instructions

"Total" column refers to the total federal items of income, deductions, etc. Complete the appropriate lines in the total column without regard to Arkansas-specific adjustments.

"Arkansas" column refers to Arkansas apportioned or allocated items of income, deductions, etc. Include Arkansas-only amounts. Pass-through entities operating only in Arkansas will complete both the federal and Arkansas columns.

IMPORTANT: A supplemental schedule **MUST** be attached reconciling differences between Total and Arkansas amounts.

Part I: Income (Loss)

Line 1 – Ordinary business income (loss)

Enter the income (loss) from normal business operations. Do not include rental activity income (loss) or portfolio income (loss).

Line 2 – Net rental real estate income (loss)

Enter the net income (loss) from rental real estate activities. Attach federal Form 8825.

Line 3 – Other net rental income (loss)

Enter net income from rental activities other than those reported on federal Form 8825. Attach statement showing how you calculated net rental income (loss).

Line 4 – Interest income

Enter taxable portfolio interest. Tax-exempt interest income is not to be reported on this line. Report tax-exempt interest income on line 17a or b of Part III.

Line 5 – Dividends

Enter taxable dividends including any qualified dividends.

Line 6 – Royalties

Enter royalties received by the partnership.

Line 7 – Net short-term capital gain (loss)

Enter the short-term gain (loss) and attach federal Schedule D (Form 1065/1120-S).

Lines 8a-b – Net long-term capital gain (loss)

Enter the portfolio capital gain or loss. Attach federal Schedule D (Form 1065/1120-S). Note: Capital gains from collectibles are taxed at the ordinary income rates in Arkansas.

Line 9 – Unrecaptured section 1250 gain

Enter any unrecaptured section 1250 gain and attach statement. Amounts reported on this line should already be included on line 10 – net section 1231 gain (loss) from the calculation of Federal Form 4797, Part I. This line is informational only and should not be included in the total net capital gains calculation on line 23 of Schedule K.

Line 10 – Net section 1231 gain (loss)

Enter any net section 1231 gain (loss) and attach federal Form 4797

Line 11 – Other income (loss)

Enter any other item of income or loss that is not included on lines 1-10. Identify the type of income in the space provided. If there is more than one type of income, attach a statement that identifies each type and amount.

Line 12 – Guaranteed payments

Enter any guaranteed payments to partners. This line is informational only and not to be included in the calculation of net income (loss) on line 20 of Schedule K.

Part II: Deductions

Line 13 – Section 179 deduction

Figure the partnership's section 179 expense deduction. Report the allowable amount on the Arkansas column. Attach Form 4562.

Line 14a – Cash charitable contributions

Enter any cash charitable contributions made by the entity.

Line 14b – Non-cash charitable contributions

Enter any non-cash charitable contributions made by the entity.

Line 14c – Other deductions

Enter any allowable deductions. Identify the type of deduction in the space provided. If there is more than one type of deduction, attach a detailed schedule that identifies each by type and amount.

Part III: Other Information

Line 15 – Credits

If the entity has any applicable Arkansas-sourced credits allocated to members, enter them here.

NOTE: Recent legislation may have amended, increased, or extended some of the provisions for Tax Credits. Use of any credit is subject to the limitations and carryover provisions provided by the respective Arkansas statute. A summary of the Tax Credit Programs can be found at: www.dfa.arkansas.gov If you have any questions, please contact the Tax Credits/Special Refunds Section at (501) 682-7106.

Line 16 – Items affecting partners basis

Enter any relevant items of information affecting the partner(s) basis as a result of activities from the partnership in the taxable year.

Lines 17a-c – Tax-exempt interest income

Enter any interest income that is tax exempt on 17a, as well as other tax-exempt income on 17b. Nondeductible expenses are to be entered on 17c.

Line 18a-b – Distributions of cash and marketable securities

Enter the amount of partnerships distributions of cash, marketable securities on 18a, and other property on 18b.

Lines 19a-c – Investment income

Enter the investment income, expenses, and other items and amounts.

Analysis of Net Income (Loss)

Line 20 – Net income (loss)

Combine Schedule K lines 1 through 8, 10, and 11. From the result, subtract lines 7, 8, 10, 13 through 14c. Net capital gains/losses are to be removed from the net taxable income calculation and reported separately on line 23 of Schedule K.

Lines 21 through 23 – Complete if filing status 1: pass-through entity operating only in Arkansas.

Entities operating only in Arkansas will report lines 22 and 23 (Arkansas Column) of Schedule K on AR1100PT, page 1, lines 1 and 3.

Line 21 – Net Operating Loss Deduction

Enter the net operating loss deduction. Attach schedule AR1100NOL.

Line 22 – Total

Subtract line 21 – net operating loss deduction from line 20 – net income (loss).

Line 23 – Net Capital Gains

Enter the total net capital gains by adding lines 7, 8, and 10.

Worksheet for Apportionment of Multistate Entities (P3)

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 **ACA 26-51-701(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. ACA 26-51-701(e) defines nonbusiness income as all income other than business income.

For tax years beginning on or after January 1, 2021, all multistate entities should use the single sales factor.

If a special industry three-factor apportionment rule applies complete Special Industry and Alternative Apportionment Form AR-718.

Apportionment Formula

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 using the special industry apportionment method 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.

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/.

Change of Method

Prior approval Required Before Deviation From the Allocation and Apportionment Method: If the allocation and apportionment provisions as set out above do not fairly represent the extent of the taxpayer's business activity in this State, the taxpayer may petition for, or the Commissioner of Revenue, Department of Finance and Administration may require in respect to all or any part of the taxpayer's business activity, if reasonable:

- A) Separate accounting
 - B) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this State,
- or**
- C) The employment of any other method to effectuate 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

Enter the FEIN in the box provided.

Part A - Income To Apportion

Line 1: Enter federal taxable income before any adjustments, net operating losses, or special deductions from Line 28 of the federal Form 1120. If federal Form 1120 is not filed, use the appropriate line from the federal form that is filed that reflects taxable income before adjustments, net operating loss, and special deductions.

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, Partnership Income. (Attach schedule AR1100ADJ)

Line 4: Enter Arkansas Total Apportionable Income. Line 1 + Total Amount from Line 2 - Total Amount from Line 3 = 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. The examples listed above are not intended as an all-inclusive list of required adjustments.

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). As a result, Schedule A reflects single sales factor apportionment. 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 and 14.29% to the destination state.**

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 only the amount of Apportioned NOL available or the amount needed to absorb the total of Lines 1 and 2 on Part C. (*Attach Form AR1100NOL*).

Example: Line C1=\$1000 + Line C2=\$500
NOL available is \$5000; Line C3 will only show \$1500

Line 4: Enter Total Income Taxable to Arkansas: Total of Lines C1 and C2, and subtract C3. (Enter here and on Schedule B, Line 1)

Schedule D - Arkansas Capital Gains

Part A - Arkansas Capital Gains

Line 1: Enter Capital Gains Apportioned to Arkansas:

Enter total apportionable capital gains (federal total amount adjusted to Arkansas basis).

Line 2: Arkansas Apportionment Factor: Enter Arkansas apportionment percentage from Section B, line 5.

Line 3: Capital Gains apportioned to Arkansas:

Multiply Line 1 by Line 2. (Arkansas apportioned capital gains) enter here.

Line 4: Enter Net Capital Gains: Enter net capital gains (losses) to be allocated to Arkansas (if any)

Line 5: Less Capital Loss Carryforward: Enter any prior year Arkansas capital loss carryforward deduction

Line 6: Net Capital Gains: Line 3 plus or minus Line 4: minus Line 5 (Arkansas net capital gains) enter here and on P1, Line 3.

Schedule D (Form AR1100PET Continued)

Enter on Line 3 the tax from P3, Schedule D, Part A line 6. 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 B, or part C of Schedule D, Form AR1100PET. The tax rate for 2024 is 4.3%

Part B – Tax Imposed on certain capital gains:

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 B, Schedule D, Form AR1100PET. If multistate, under Schedule D, part B, Line 3, multiply by apportionment factor from Part B, Line 5 of Schedule B.

Part C – Tax imposed on certain Built-in gains:

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 C, Schedule D, Form AR1100PET. If multistate, under Schedule D, Part C, Line 2, multiply apportionment factor from Part B, Line 5 of Schedule B.

P1 Line 7 - Income Tax on Capital Gains/Built in gains:

Enter the amount from Schedule D, P3, B7+C6

Partners Share of Income (P4)

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 Member 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.

Form AR K1 must be completed for each member of the pass-through entity using the same information that would have been used if the business did not make the election to file under the PET tax. However, all items on the AR K1 form should be adjusted from the return of the member with the exception of guaranteed payments. Guaranteed payments must be reported as taxable income on the member's Arkansas individual return. The AR K1 should be used to show amounts to exclude from income or deductions on Form AR-OI or other applicable forms. See the instructions for Form AR1000F and Form AR1000NR for details.

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.

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 activities 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**). Entities 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

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 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 26-51-426 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.

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.