



# STATE OF ARKANSAS

## Election By Small Business Corporation

### PURPOSE

The Purpose of this election is to permit the undistributed taxable income of a "Small Business Corporation" to be taxed to the shareholders rather than the corporation. The term "undistributed taxable income" means taxable income (as computed under the Income Tax Act of 1929 as amended) minus the sum of (1) the tax imposed on certain capital gains and (2) the amount of money distributed as dividends out of earnings and profits of the taxable year.

### INSTRUCTIONS

Subchapter S of the Federal Internal Revenue code of 1986, as amended, and in effect as of January 1, 2016 has been adopted for Arkansas income tax purposes. A corporation may elect Subchapter S treatment for Arkansas income tax purposes only if it has elected Subchapter S treatment for federal income tax purposes for the same tax year. A copy of the Corporation's "NOTICE OF ACCEPTANCE AS AN S-CORPORATION" received from the Internal Revenue Service must be submitted to approve the Arkansas Election, Form AR1103. The Arkansas election will be held in suspense until the IRS Notice is received.

Qualifying corporations 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 seven (7) of the following requirements:

- (1) It is treated as a Small Business Corporation with the Federal Government.
- (2) It has no more than one hundred (100) shareholders. However, if stock is held by a husband and wife as joint tenants by the entirety, or tenants in common or is community property for the income from which is community income, it shall be treated as owned by one shareholder.
- (3) It has only individuals or estates as shareholders.
- (4) It has no shareholder who is a nonresident alien stockholder.
- (5) It has only one class of stock.
- (6) S Corporations are permitted to hold C & S Corporate Subsidiaries.
- (7) It is a corporation organized under the laws of the United States or a state or territory or it is a similar association taxed as a corporation.

If the corporation is the parent of one or more Qualified Subchapter S Subsidiaries (QSSS), the election **must be completed by the parent corporation and must include the Notice of Acceptance for the parent** and accompanied by Federal Form 8869 for each subsidiary that will be filing with the corporation.

#### TO BE RECOGNIZED AS AN ARKANSAS S-CORPORATION

The following must be met:

1. The business must be registered with the Arkansas Secretary of State. (501) 682-1010
2. The business must file with the Internal Revenue Service an Election for Small Business Form (2553) and apply for a Federal Identification Number (SS-4). (1-800-829-3676)
3. The business must file with the State of Arkansas an Election by Small Business Form (AR1103). (501) 682-4775.

For an election to be valid, all persons who are shareholders of the corporation on the first day of the corporation's taxable year or on the day of election, whichever is later, must consent to such an election. The Arkansas election form is AR1103, and can be obtained from the website, [www.dfa.arkansas.gov](http://www.dfa.arkansas.gov) and submitted to Corporation Income Tax Section, P.O. Box 919, Little Rock, AR 72203-0919.

The election must be filed during the first seventy-five (75) days of the taxable year. It shall be effective for the taxable year for which it is made and for all succeeding taxable years unless it is terminated under provision of the law.

This form must be signed either by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other corporate officer (such as tax officer) who is authorized to sign.

At the shareholder's option on the date of the election, their signatures may be entered on the consent shown in the lower portion of the election Form AR1103 filed by the corporation in place of preparing and attaching the consents described below.

IN GENERAL: The consent to the election of the corporation by all shareholders at the date of election (which may be incorporated in one statement) shall be attached to this form unless otherwise shown on the face. In addition to an affirmative statement shall set forth the name and address of the corporation and of the shareholder, the number of shares of stock owned by the shareholder, and the date(s) on which such stock was acquired. The consent must be signed by both the husband and wife if they have a community interest in the stock or the income therefrom, and by each tenant in common, each joint tenant, and each tenant by the entirety. The consent of a minor shall be made by the minor or by his legal guardian, or his natural guardian if no legal guardian has been appointed (even if the case of stock held by a custodian for a minor under a statute patterned after the Uniform Gifts to Minors Act). The consent of an estate shall be made by the executor or administrator thereof. If the election is made before the first day of the corporation's taxable year, the consent of persons who became shareholders after the date of the election and on or before such first day shall be filed as soon as practicable after such first day but in no event later than the last day prescribed for filing the election and a copy shall also be filed with the corporation income tax return.

The annual Income Tax Return of a small business corporation is to be submitted on Arkansas Form AR1100S, and filed with The Department of Finance and Administration, Corporation Income Tax Section, P.O. Box 919, Little Rock AR 72203-0919.

Generally, a "Small Business" election permits the taxable income of the corporation to be taxed to the shareholders rather than to the corporation. All resident and non resident shareholders of S corporations doing business in Arkansas must file a properly executed Arkansas income tax return and the 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.

Failure to so report and remit on the part of any shareholder is grounds upon which the Director shall be authorized to 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.

### IMPORTANT NOTES

1. Send to the Department of Finance and Administration and upon approval a letter will be sent to you for proof of acceptance of your election.
2. You may use AR1103, Supplemental Shareholder's Consent Form if an additional list of shareholders is necessary.
3. If this form is received incomplete, it will be returned to you and will delay approval of S status.