



# 2008

## IMPORTANT

**This Packet Contains Your  
Sub-Chapter S Corporation Income Tax  
Form and Instructions**

**DUE DATE: MARCH 15, 2009**

*PLEASE READ IMPORTANT INFORMATION FOR TAX YEAR 2008 INSIDE*

**397207**  
**State of Arkansas**  
**Corporation Income Tax**  
**P. O. Box 919**  
**Little Rock, AR 72203-0919**

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ARKANSAS

# IMPORTANT REMINDERS FOR 2008

**NOTE: THE FOLLOWING IS A BRIEF DESCRIPTION OF EACH ACT AND IS NOT INTENDED TO REPLACE A CAREFUL READING OF THE ACT IN ITS ENTIRETY.**

**Act 212 of 2007** provides additional time to request an administrative hearing and to clarify the time for requesting review of an administrative decision. The Act amends ACA 26-18-404(c) to extend the time to request an administrative hearing from 30 to 60 days and amends ACA 26-18-405(d) (4) to clarify the time to request a revision of the decision to 20 days. The act is effective July 31, 2007.

**Act 218 of 2007** adopted certain recent changes to the IRS Code of 1986 as in effect January 1, 2007.

**Act 369 of 2007** provides for an extension of time up to 180 days to file certain tax returns. The Act amends ACA 26-18-505(a)(3) to change the maximum time for filing any return from 120 to 180 days. Calendar year exempt organizations that are required to file a return shall file on or before May 15<sup>th</sup>, if fiscal year, on or before the expiration of four and one half months after the close of the period. The Act is effective for tax years beginning on or after January 1, 2007.

**Act 566 of 2007** amends Arkansas Code Title 15, Chapter 4 to establish the Equity Investment Incentive Act of 2007 to provide incentives in the form of tax credits to persons or companies investing in eligible businesses as defined in ACA 15-4-2703(43) and purchases the qualified business in calendar years 2007-2019. The credit shall not exceed 33.3% of the actual purchase price paid for the equity interest and shall not exceed 50% of the Arkansas state income tax liability and shall not exceed \$6,250,000. Any credit in excess of the amount allowed may be carried forward for a period of 9 years or until it is exhausted, whichever occurs first, and in no event be carried past December 31, 2028. It requires that the person or entity make application for an equity investment tax credit by filing with the Department of Economic Development. The act is effective July 31, 2007.

**Act 613** amends ACA 26-51-428(a) to adopt Section 179 of the IRS Code as in effect on January 1, 2007. The funding provisions of this act were certified on August 10, 2007, for use during FY08 and FY09 to replace the revenue reduction that will result in the adoption of IRC 179.

**Act 722** adds Arkansas Code 25-18-701 to permit the state to use electronic records and electronic signatures and shall be implemented no later than June 20, 2009.

**Act 1596** amends the Consolidated Incentive Act, ACA 15-4-2703, ACA 15-4-2706-2709 to provide for existing employees to be classified as new employees, to allow for flexibility in the use of earned tax credits, to allow technology based enterprises to qualify for payroll rebates and investment tax credits, to revise the research and development tax credit for existing businesses. The funding provisions of this act were certified on August 10, 2007, for use during the FY08 and FY09 to replace the revenue reduction as required by the Act.

Section 179 of the IRS Code 1986, in effect on January 1, 2007 has been adopted to allow an election to expense certain depreciable business assets under Arkansas income tax law. The Arkansas limit is \$25,000 for the first year expense deduction for tax years beginning on or after January 1, 2003, \$112,000 for tax years beginning on or after January 1, 2007 and \$115,000 for tax years beginning on or after January 1, 2008. Arkansas has not adopted the income tax provisions contained in the federal economic stimulus bills Congress passed on March 28, 2002 and May 28, 2003, or the Special Depreciation Allowance for Gulf Opportunity Zone Property passed on December 16, 2005. Therefore, Arkansas income tax returns must be filed using depreciation and expensing of property provisions found in Sections 167, 168 and 179A of the IRS Code as in effect on January 1, 1999. No bonus depreciation is allowed for Arkansas income tax purposes.

## **Pass-Through Entities Required To Withhold Income Tax (Act 1982 of 2005)**

This act requires pass-through entities to withhold income tax on the applicable distributions to nonresidents that are attributable to income from sources within the state. A pass-through entity is a business entity (corporation treated as a Subchapter S corporation, a general partnership, limited partnership, limited liability partnership, limited liability company, or a trust) that is not taxed as a corporation for federal or Arkansas income tax purposes.

The pass-through entity is required to file an annual return in electronic format that shows the total amount of income distributed or credited to its nonresident members and the amount of tax withheld and remit the tax.

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).

The act is effective for tax years beginning on or after January 1, 2006.

## **Arkansas Capital Development Company Act Amended (Act 1759 of 2005)**

This act amends the Arkansas Capital Development Company Act to limit the maximum amount of tax credits available in any calendar year. The cap is \$5,000,000 per calendar year, with an additional \$1,250,000 allowed if approved by the Director of the Department of Finance and Administration, who must certify that issuance of the additional amount will not harm or adversely affect public education or other government programs or functions funded by general revenues.

This act amends the CDCA to clarify and define what types of transactions are permissible and are eligible for the tax credit. It extends by 2 years the period during which a purchaser must invest to be eligible for this tax credit (from 2013 to 2015) and the last tax period in which this tax credit is allowed (from 2019 to 2021).

This act reduces from thirty (30) to fifteen (15) days the amount of time that the governing board has to make a decision whether to allow or deny the transfer of an equity interest or the tax credit associated with it.

Finally, the act provides that if the authority of a capital development company to receive tax credits is terminated prior to 12-31-2015, or if a capital development company is dissolved, the capital development company may assign the administration of any outstanding tax credits to the Department of Economic Development. It further provides that the agreement to purchase shall remain valid and the purchaser entitled to continue to claim the tax credit, as long as the agreement was approved prior to 12-31-2015.

## Subchapter S Corporation Election and Instructions

**Act 261 of 2005** requires a corporation to have elected Subchapter S treatment for federal income tax purposes if electing Subchapter S treatment for Arkansas income tax purposes for the same tax year. The act is effective for tax years beginning on or after January 1, 2005.

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 tests:

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.
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 BE RECOGNIZED AS AN ARKANSAS S-CORPORATION**

#### **The following must be completed:**

1. The business must register with the Arkansas Secretary of State. (501) 682-3409 or [www.sosweb.state.ar.us](http://www.sosweb.state.ar.us).
2. The business must file an Election by Small Business Form (Federal Form 2553) with the IRS and apply for a Federal Employer Identification Number (FEIN) (Federal Form SS-4). You may apply online at [IRS.gov](http://IRS.gov) or by calling 1-800-829-3676.
3. The business must file an Election by Small Business Form (AR1103) with the State of Arkansas, and submit a copy of the IRS Notice of Acceptance as an S Corporation. (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 the Arkansas election whichever is later, must consent to such election on Arkansas election form AR1103.

The election is to be filed with the:

**DEPARTMENT OF FINANCE AND ADMINISTRATION  
CORPORATION INCOME TAX/S-CORP ELECTION  
P. O. BOX 919  
LITTLE ROCK, AR 72203-0919**

**PHYSICAL LOCATION:  
1816 West 7th Street, Room 2250  
Little Rock, AR 72201-1030**

Subchapter S of the Federal Internal Revenue Code of 1986, as amended, and in effect as of January 1, 2007 has been adopted for Arkansas income tax purposes.

If the corporation is the parent of one or more Qualified Subchapter S Subsidiaries (QSSS), the Arkansas Subchapter S Election, Form AR1103, must be accompanied by Federal Form 8869 for each subsidiary that will be filing with the corporation. 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". Federal S corporations or their QSSS who do not have a valid Arkansas S election, must file on an AR1100CT.

If an entity files an Arkansas Subchapter S corporation income tax return without a properly filed and approved Arkansas and IRS election to be treated as a Subchapter S corporation for income tax purposes, the filed Arkansas Subchapter S corporation income tax return will be disallowed. The entity will be required to file a proper Arkansas income tax return reflecting the correct entity status. If the entity fails to correctly file its return after notification by the Corporation Income Tax Section, the improperly filed return will be processed as an Arkansas C corporation income tax return which may require any affected Arkansas shareholder to amend the shareholder's Arkansas income tax return.

Small Business Entity Pass Through Act (Act 1103 of 1993)

A Limited Liability Company is a hybrid business entity with characteristics of a Sub S Corporation and a limited partnership. For tax years beginning on or after January 1, 2003, a Limited Liability Company (LLC) must file in the same manner for Arkansas income tax purposes as for federal income tax purposes. Therefore, if the LLC files a federal partnership return, an Arkansas partnership return must be filed. If the LLC is a disregarded entity, its activity must be reported on the return of the owner. If the LLC is electing to file as a Subchapter S corporation, it must have a valid federal and Arkansas Subchapter S Election. Otherwise it must file an Arkansas C corporation return on Form AR1100CT.

Act 479 of 1997 amends State law concerning Limited Liability Companies (LLCs), the Uniform Partnership Act, and the Revised Limited Partnership Act to allow mergers and consolidations between LLCs, corporations and partnerships. Currently, partnerships are not included in the merger provision. The franchise tax provisions are amended to apply to LLCs.

**Failure to 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.**

For telephone information or assistance regarding S-Corporation matters, call (501) 682-4775.

# **BUSINESS AND INCENTIVE TAX CREDITS**

## **1. Purchase of Common Stock of a County and Regional Industrial Development Corporation**

ACA 15-4-1224 allows the original purchaser of common stock of a County and Regional Industrial Development Corporation an income tax credit equal to 33%, increased to 33.3% beginning January 1, 1999, of the actual purchase price of the stock. In any one tax year the credit shall not exceed 50% of the income tax liability, after all other credits and reductions in tax have been calculated. Any unused credit may be carried forward for the next 3 succeeding tax years or until exhausted, whichever occurs first. Act 37 of 1999 extended the qualifying years through year 2003 and allows Limited Liability Companies (LLC) to participate in this credit. County and Regional Industrial Development Corporations are exempt from Arkansas income tax but are required to file returns according to ACA 15-4-1223.

## **2. Purchase of Waste Reduction, Reuse or Recycling Machinery or Equipment**

ACA 26-51-506 provides an income tax credit equal to 30% of the cost of approved waste reduction, reuse or recycling machinery and equipment including the cost of installation. No other credits or deductions, except depreciation, may be claimed on that equipment. Pursuant to ACA 26-51-409 the amount of the credit shall be apportioned among shareholders based on their percentage of ownership.

Any unused credit may be carried forward for the next 3 succeeding years or until exhausted, whichever comes first.

## **3. Consolidated Incentive Act**

ACA 15-4-2701 et seq. consolidates the current Biotechnology, Economic Development Incentive Act of 1993, Enterprise Zone, Arkansas Economic Development Act of 1995, Economic Investment Credit and Emerging Technology Credits into a comprehensive set of tax credits with new criteria, measuring devices and documentation requirements. Eligible businesses which signed a financial incentive agreement with the Department of Economic Development prior to March 3, 2003 may claim an income tax credit equal to 10% of the annual payroll during the term of the financial agreement for a period not to exceed 5 years and the credit cannot exceed \$100,000 per year. All credits in the Act will be administered by the Department of Economic Development.

Act 1296 of 2005 makes technical corrections by amending ACA 15-4-2705, changing the payroll thresholds in tier counties for new full-time permanent employees hired within the first 60 months following the date of the approved incentive agreement. The credits may offset 50% of the business' tax liability, and any unused tax credits may be carried forward for 9 years.

ACA 15-4-2706 allows tax credits based on the percentage of the payroll in the county tier in which the project is located and authorizes a tax credit equal to 10% of the total investment in land, buildings, equipment and costs of licensing and protecting intellectual property of an approved project. The credit may offset 50% of the business' tax liability and any unused tax credits may be carried forward for 9 years. The Code expands the research and development tax credit available under ACA 26-51-1102 by allowing an income tax credit equal to 20% of the amount spent on in-house research in Arkansas, or 33% of the amount spent on in-house research for the first 5 tax years for targeted businesses or in a strategic research area approved by the Department of Economic Development and the Arkansas Science and Technology Authority. The credits may offset 100% of the business' tax liability and any unused tax credits may be carried forward for 9 years.

Act 1607 of 2007 amends ACA 26-51-1103 to allow credits for qualified research expenditures, donations and sales to a college or university to offset 100% of the net tax liability and extends the carry forward period for the credit from 3 years to 9 years.

## **4. Child Care Facility**

ACA 26-51-507 provides for an income tax credit of 3.9% of the annual salary of employees employed exclusively in providing child care services if the revenue of the business does not exceed the direct operating costs of the facility. Act 413 of 2001 requires certification of eligible childcare facilities by the Division of Childcare and Early Childhood Education.

ACA 26-51-508 provides that a business which qualifies for the refund of the Gross Receipts Tax or Compensating Use Tax under ACA 26-52-516 or 26-53-132 shall be allowed an income tax credit of 3.9% of the annual salary of its employees employed exclusively in providing child care service, or a \$5,000 income tax credit for the first tax year the business provides its employees with a child care facility. This credit is for a business which operates a child care facility for its employees only.

Any unused credit may be carried forward for the next 2 succeeding tax years or until exhausted, whichever occurs first.

## **5. Water Resource Conservation**

(a) Water Impoundment outside and within critical areas:

ACA 26-51-1005 and 26-51-1006 provide an income tax credit equal to 50% of the cost of construction and installation or restoration of water impoundments or water control structures of 20 acre-feet or more. The credit shall not exceed the lesser of income tax otherwise due or \$9,000.

Any unused credit may be carried forward for the next 9 succeeding tax years or until exhausted, whichever occurs first. After March 12, 2001, projects used for commercial purposes can qualify for this credit.

(b) Surface Water Conversion:

1. Outside Critical Areas-ACA 26-51-1007 provides an income tax credit equal to 10% of the cost incurred for the reduction of groundwater use by substitution of surface water for water used for industrial, commercial, agricultural or recreational purposes. The credit shall not exceed the lesser of income tax otherwise due or \$9,000. Any unused credit may be carried forward for the next 2 succeeding tax years or until exhausted, whichever occurs first.

2. Within Critical Areas-ACA 26-51-1008 provides an income tax credit equal to 50% of the cost incurred for the reduction of groundwater use by substitution of surface water for water used for industrial, commercial, agricultural or recreational purposes. The credit shall not exceed the lesser of income tax otherwise due or \$9,000 for projects using water for agricultural or recreational purposes. For projects using water for industrial or commercial purposes, the credit is limited to the lesser of the income tax otherwise due or \$200,000.

Any unused credit may be carried forward for the next 2 succeeding tax years or until exhausted, whichever occurs first, for projects using water for agricultural or recreational purposes. For projects approved on or after August 1, 1997 and using water for industrial or commercial purposes, any unused credit may be carried forward for the next 4 succeeding tax years or until exhausted, whichever occurs first.



(c) Land Leveling for Water Conservation:

ACA 26-51-1009 provides an income tax credit equal to 10% of the project cost incurred for agricultural land leveling to conserve water. The credit shall not exceed the lesser of income tax otherwise due or \$9,000. Any unused credit may be carried forward for the next 2 succeeding tax years or until exhausted, whichever occurs first.

(d) Wetland and Riparian Zone Creation and Restoration:

ACA 26-51-1505 provides for an income tax credit for any taxpayer engaged in the development or restoration of wetlands and riparian zones. The amount of credit shall be equal to the project costs not to exceed the lesser of income tax due or \$5,000. Any unused credit may be carried forward for the next 9 succeeding tax years or until exhausted, whichever occurs first.

“Critical areas” means those areas so designated by the Arkansas Soil and Water Conservation Commission.

## **6. Equipment Donation, Sale Below Cost or Qualified Research Expenditure**

(a) ACA 26-51-1102 provides an income tax credit for a taxpayer who donates or sells below cost new machinery or equipment to a qualified educational institution, or a taxpayer who has qualified research expenditures under a qualified research program. This credit is equal to 33% of the cost of the donation, sale below cost, or qualified expenditure.

(b) ACA 26-51-1103 is amended by Act 1607 of 2007 to allow the credit to offset 100% of the net income tax liability. Any unused credit may be carried forward for the next 9 succeeding tax years or until exhausted, whichever occurs first.

Act 1045 of 2007 amends Arkansas Code Title 14 to authorize the creation and operation of research park authorities for the purpose of economic development, exempting the property of each research park authority from all state, county and municipal taxes including income tax, inheritance and estate tax. The act allows contributions to research park authorities to qualify for the credit provided by ACA 26-51-1103.

## **7. Workforce Training Credit**

Act 1003 of 2007 amends ACA 6-50-702 increasing the hourly wage for training in an Arkansas state supported educational institution. The credit allowed is the lesser of one-half (1/2) of the amount paid by the company or the hourly training cost up to \$80 per instructional hour. If training is by company employees or company paid consultants, the tax credit cannot be more than \$25 per hour. There is no carryforward period for this credit. Applications for this credit are available from the Arkansas Department of Economic Development at (501) 682-7675.

## **8. Tourism Development Credit**

Act 2308 of 2005 amends ACA 15-11-509 to provide for an income tax credit based on a percentage of the payroll of the new full-time permanent employees working at a tourism attraction project, equal to 4% of the payroll of the new full-time permanent employees.

For projects receiving approval after March 1, 1999, the credit may be applied against the approved company's income tax liability for the succeeding 9 years or until entirely used, whichever occurs first. The Act was effective August 12, 2005.

## **9. Youth Apprenticeship Program**

ACA 26-51-509 provides for an income tax credit of \$2,000 or 10% of the wages earned by a youth apprentice, whichever is less, to a business participating in the United States Department of Labor apprenticeship program. The credit may not exceed the income tax otherwise due. The pass-through provisions of ACA 26-51-409 as in effect for the taxable year the credit is earned shall be applicable.

Any unused credit may be carried forward for the next 2 succeeding tax years or until exhausted, whichever occurs first.

ACA 26-51-1601 et seq. provides for an income tax credit of \$2,000 or 10% of the wages earned by a youth apprentice, whichever is less, to a business participating in the Arkansas Vocational and Technical Education Division apprenticeship program. The occupation in which the youth apprentice is employed must not be covered by the United States Department of Labor apprenticeship program as in effect on January 1, 1995. The credit may not exceed the income tax otherwise due.

Any unused credit may be carried forward for the next 2 succeeding tax years or until exhausted, whichever occurs first.

## **10. Biodiesel Incentive Act**

ACA 15-4-2801 et seq. establishes an income tax credit to biofuels suppliers equal to 5% of the costs of facilities and equipment used directly in the wholesale or retail distribution of biodiesel fuels. The costs of service contracts, sales tax, or the acquisition of undeveloped land cannot be included in determining the amount of the credit. The credit cannot be claimed by a supplier for any facility or equipment in use on or before the certification of the company for tax credits, or for any facility or equipment for which a supplier previously claimed a tax credit for any other tax year. The limitations on the use of the credit will not apply if an entity is sold and the entity is entitled to credit. The credit can be carried forward for a period not to exceed 3 years. The provisions of the Act apply to tax years beginning on or after January 1, 2003 and expired June 30, 2007.

## **11. Tuition Reimbursement Credit**

ACA 26-51-1902 permits an income tax credit equal to 30% of the cost of tuition reimbursed by the employer to a full-time permanent employee on or after July 30, 1999. The credit cannot exceed 25% of the business' income tax liability in any tax year. The employee must attend a qualified Arkansas institution. There is no carryforward for this credit. This credit is administered by the Arkansas Department of Economic Development.

## **12. Family Savings Initiative Credit**

ACA 20-86-109, creates the Family Savings Initiative Act, effective July 1, 1999, which provides a tax credit to those taxpayers who make contributions to a designated fiduciary organization created pursuant to this Act. The fiduciary will notify the Department of Human Services of the deposits and will issue a certificate to be attached to the tax return for the first year the credit is taken. The credit allowed is the lesser of the income tax due or \$25,000 per taxpayer. The total tax credit allowed for all taxpayers is \$100,000 per year.

Any unused credit may be carried forward for the next 3 succeeding tax years or until exhausted, whichever occurs first.

### **13. Public Road Improvement**

ACA 15-4-2306 provides a tax credit for those taxpayers who contribute to the "Public Roads Incentive Fund" for the improvement of public roads. The credit is limited to 33% of the total contributions made to the fund and in any tax year is limited to 50% of the net Arkansas tax liability after all other credits have been taken. The credit is available for tax years beginning on or after January 1, 1999.

Any unused credit can be carried forward for the next 3 succeeding tax years or until the credit is exhausted, whichever occurs first. This program is administered by the Arkansas Department of Economic Development.

### **14. Low Income Housing Credit**

ACA 26-51-1702 provides an income tax credit for a taxpayer owning an interest in a qualified low income building which is approved through the Arkansas Development Finance Authority. The tax credit is computed by multiplying the Federal Low Income Housing Tax Credit for the qualified project by 20%. The credit may not exceed the income tax otherwise due. The tax credits allocated to the taxpayer shall be allocated to each shareholder.

Any unused credit may be carried forward for the next 5 succeeding tax years or until exhausted, whichever comes first.

### **15. Purchase of Equity in a Capital Development Company**

ACA 15-4-1026 allows the original purchaser of an equity interest in a Capital Development Company for tax years 2003-2015, an income tax credit equal to 33.3% of the actual purchase price, limited to 50% of the net Arkansas income tax liability.

Any unused credit may be carried forward for the next 3 succeeding tax years or until exhausted, whichever occurs first. No credit will be allowed for any tax year ending after December 31, 2021.

### **16. Affordable Neighborhood Housing Credit**

ACA 15-5-1301 et seq. provides an income tax credit for any business firm engaged in providing affordable housing which is approved through the Arkansas Development Finance Authority. The tax credit is limited to 30% of the total amount invested in affordable housing assistance activities. The credit may not exceed the income tax otherwise due.

Any unused credit may be carried forward for the next 5 succeeding tax years or until exhausted, whichever occurs first.

### **17. Coal Mining Tax Credit**

ACA 26-51-511 provides an income or insurance premium tax credit of \$2.00 per ton of coal mined, produced or extracted on each ton of coal mined in Arkansas in a tax year. An additional credit of \$3.00 per ton will be allowed for each ton of coal mined in Arkansas in excess of 50,000 tons in a tax year. The credit can only be earned if the coal is sold to an electric generation plant for less than \$40 per ton excluding freight charges.

Any unused credits may be carried forward for the next 5 succeeding tax years or until exhausted, whichever occurs first.

### **18. Venture Capital Investment Credit**

ACA 15-5-1401 et seq. provides an income tax credit up to \$10 million per year as recommended by the Arkansas Development Finance Authority and approved by the State Board of Finance. The credit may not exceed the income tax otherwise due.

Any unused credit may be carried forward for the next 5 succeeding tax years or until exhausted, whichever occurs first.

### **19. Rice Straw Tax Credit**

ACA 26-51-512 allows an income tax credit in the amount of \$15.00 for each ton of rice straw in excess of 500 tons that is purchased by an Arkansas taxpayer who is the end user of the straw (person who purchases and uses the straw for processing, manufacturing, generating energy or producing ethanol). The amount of the credit is limited to 50% of the income tax due for the tax year.

Any unused credit may be carried forward for 10 consecutive years following the year in which the credit is earned and is effective for tax years beginning on or after January 1, 2006.

### **20. Delta Geotourism Incentive Act**

Act 518 of 2007, The Delta Geotourism Incentive Act of 2007 creates an income tax credit for geotourism investment in the lower Mississippi River Delta. Taxpayer shall invest a minimum of \$25,000 in a geotourism supporting business in an unincorporated area and be eligible for an income tax credit equal to 25% of the amount of the investment with a maximum investment of \$100,000 in any tax year. The act will expire at the end of 2011 tax year and any unused credit may be carried forward for five (5) years after the credit was first earned or until exhausted, whichever occurs first. The Act is effective July 31, 2007.

The Business and Incentive Tax Credit Forms and instructions may be obtained from:

Department of Finance and Administration  
Tax Credit/Special Refunds Section  
P.O. Box 1272  
Little Rock, AR 72203-1272  
by phone: (501) 682-7106  
website: [www.arkansas.gov/dfa/](http://www.arkansas.gov/dfa/)

# GENERAL INFORMATION ON FILING AS A SUBCHAPTER S CORPORATION

**Act 380 of 2007** requires a Subchapter S Corporation to attach a copy of its federal income tax return and requires that Subchapter S election and shareholder consents be filed on forms prescribed by the Director. The act is effective for tax years beginning on or after January 1, 2007.

## 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) must file an income tax return. Consolidated returns are permitted under certain conditions. D.I.S.C. and F.S.C. Corporations should use Form AR1100CT. Corporations must file Form AR1100S if:

- (a) they elected to be taxed as an S Corporation within seventy-five (75) days of incorporation or doing business in Arkansas.
- (b) they are considered to be a Subchapter S corporation with the IRS, the State of Arkansas accepted the election and the election remains in effect.
- (c) Life insurance companies who pay a premium tax as provided by law are exempt from filing.

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 [www.arkansas.gov/dfa/](http://www.arkansas.gov/dfa/).

## Privately Designed Tax Forms

Computer generated substitute tax forms are not acceptable unless the computer generated format is approved (in advance of use) by the Manager of the Corporation Income Tax Section.

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

- A. Tax Year
- B. Corporation name, address, city, state, zip code
- C. Date of Incorporation
- D. FEIN (Federal Identification Number)
- E. Federal Business Code Number (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)

## TIME AND PLACE FOR FILING

Form AR1100S is due on or before the 15<sup>th</sup> day of the 3<sup>rd</sup> month following the close of the Corporation's tax year.

Forms must be filed with:

The Department of Finance and Administration  
Corporation Income Tax/S-Corp,  
P. O. Box 919  
Little Rock, Arkansas 72203-0919.

Physical Location:  
1816 West 7th Street, Room 2250  
Little Rock, AR 72201-1030

## 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 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.

The annual income tax return of a Small Business Corporation is to be submitted on Form AR1100S. A "Small Business" election permits the taxable income of the Small Business 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 with the Department of Finance and Administration. Arkansas Income Tax must be paid on the shareholders' taxable income.

## 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 31, or any other tax year for which the S Corporation established a business purpose.

Application for changes must be made and forwarded to the Department of Finance and Administration, Corporation Income Tax Management, at least 60 days before the close of the proposed or new taxable year or period and/or accounting method. 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.

When the Commissioner of Revenue approves a change in the accounting period, the net income computed on the separate return for a fractional part of a year shall be placed on an annual basis by multiplying the amount of income earned during the taxable period by twelve and dividing by the number of months included in the period. Calculate the tax on the annualized income. The annualized tax is then multiplied by the number of months in the taxable period and then divided by twelve (12). The result is the tax liability.

## SIGNATURES AND VERIFICATION

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.

## REPORT OF CHANGE IN FEDERAL TAXABLE INCOME

Revenue Agent Reports (RARs) must be reported to this state within 90 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. The Statute of Limitation will remain open for eight (8) years if the taxpayer fails to disclose Federal Revenue Agent Reports.

## PENALTIES

Willful failure to pay or file a return required under any state tax law is a Class A Misdemeanor. An additional penalty of \$500.00 will be assessed if any taxpayer files what purports to be a return but does not contain information on which substantial correctness may be judged and such conduct is due to a position which impedes the administration of any tax law.

## LIABILITY FOR FILING RETURNS

A corporation subject to the provisions of the Income Tax Act of 1929, regardless of the amount of its net income, is required to file a 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.

## TYPE RETURN

Whether the S Corporation is filing an Initial Return (first time filing), an Amended Return (making changes to an original return), or a Final Return (going out of business), clearly mark the return and check 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 a Federal Schedule K. Clearly mark "Arkansas" on the Federal Schedule K that contains the Arkansas amounts.

## GROSS SALES

If engaged in trading or manufacturing, enter as item 7 on page 1 of return, the gross receipts, less goods returned and any allowances or discounts from the sale price.

## COST OF GOODS SOLD

Enter as item 8 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.

Balance sheets as of the beginning and close of the year and a reconciliation of surplus must be attached to the return.

## GROSS PROFITS

Enter as item 9 the gross profit which is obtained by deducting item 8, the cost of goods sold as extended from item 7, the gross sales.

## NET GAIN OR (LOSS) FROM FORM 4797

Enter as item 10, 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).

## OTHER INCOME

Enter as line 11 any other taxable trade or business income not listed above and explain its nature on an attached schedule.

## 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 a Federal Schedule K. Clearly mark "Arkansas" on the Federal Schedule K that contains the Arkansas amounts.

## COMPENSATION OF OFFICERS

Enter as item 13 the compensation of officers in whatever form paid.

## SALARIES AND WAGES

Enter as item 14 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.

## REPAIRS

Enter as item 15 the cost of incidental repairs related to any trade or business activity.



## Excess Net Passive Income Tax Worksheet

1. Enter Arkansas gross receipts tax for the tax year (See IRC Section 1362 (d)(3)(C) for gross receipts from the sale of capital assets.)\*..... \_\_\_\_\_
2. Enter Arkansas passive investment income as defined in IRC\* Section 1362 (d)(3)(D)..... \_\_\_\_\_
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 6.5% 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.

### BAD DEBTS

Enter as item 16 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.

### RENT

Enter as item 17 rent paid for trade or business property in which the S Corporation has no equity.

### TAXES

Enter as item 18 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.

### INTEREST

Enter as item 19 only 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.

### DEPRECIATION

Enter as item 20a depreciation expense from Federal Form 4562. Do not include any expense for recovery property (Section 179) on this line.

### DEPLETION

Enter as item 21 depletion expense from Federal Form 4562. Do not include any depletion deduction for oil and gas properties on this line. Arkansas allows Federal depletion allowances as in effect January 1, 2007.

### OTHER DEDUCTIONS

Enter as item 25 any other authorized deductions related to any trade or business activity for which there is no line on page 1 of this form. Pension Profit Sharing and Employee Benefits deductions remain valid deductions.

### EXCESS NET PASSIVE INCOME TAX

Enter as item 28 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 to figure the tax.

### 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 32 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.

### SCHEDULE D (Form AR1100S)

Enter as item 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.

### 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.

### PAYMENTS

Enter as item 31 payments you made on a 2008 Declaration of Estimated Income Tax Form.

### Filing Declaration of Estimated Income Tax

Every taxpayer who can reasonably expect to owe an 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 fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) 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 fifteenth (15<sup>th</sup>) day of the second (2<sup>nd</sup>) 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 fifteenth (15<sup>th</sup>) day of the (3<sup>rd</sup>) month after the close of the income year.

**NOTE:** Estimate payments made on composite returns (AR1100CR) should be made to the **Individual Income Tax Section**.

## Payment of Taxes

The tax should be paid by attaching to the return a check or money order payable to "Department of Finance and Administration."

## WORKSHEET FOR APPORTIONMENT OF MULTISTATE CORPORATIONS

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

In general, taxpayers with income derived from activities both within and outside the State (Public Utilities excepted) are required to allocate and apportion the net income under the following provision:

Business and non-business income defined – Article IV 1 (A) defines "Business Income" as income arising from transactions and activities in the regular course of taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's trade or business operation. In essence, all income which arises from the conduct of trade or business operations of a taxpayer is business income. Income of any type or class and from any source is business income if it arises from transactions and activities occurring in the regular course of a trade or business. In general all transactions and activities of the taxpayer which are dependent upon, or contribute to, the operations of the taxpayer's economic enterprise as a whole constitute the taxpayer's trade or business and will be considered "Business Income" unless otherwise excluded by statute.

Business income is to be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two (2) times the sales factor, and the denominator of which is four (4).

The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period. The average value of property owned by the taxpayer means the average of the original cost of the property including inventories at the beginning and ending of the tax period. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate.

The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

Compensation is paid in this state **if:** (a) the individual's service is performed entirely within the state **or,** (b) the individual's service is performed both within and outside the state incidental to the individual's service within the state **or** (c) some of the service is performed in the state **and** (1) the base of operations (or if there is no base of operations the place from which the service directed or controlled) is in the State **or** (2) the base of operations or the place from which the service directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in the state.

The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period and the denominator of which is the total sales of the taxpayer everywhere during the tax period. The sales factor is then doubled.

Sales of tangible personal property are in this state if: (a) the property is delivered or shipped to a purchaser, other than the United States Government, within this State regardless of the f.o.b. point or other conditions of the sale or (b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State and (1) the purchaser is the United States Government or (2) the taxpayer is not taxed in the State of the purchaser.

Sales, other than sales of tangible personal property, are in this State if the income producing activity is performed both within and without the State, in which event the income allocable to this State shall be the percentage that is used in the formula for apportioning business income to this State.

## 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 rental or royalty 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 state.
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.

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

If the allocated 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 exclusion of any one or more of the factors
3. the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state, **or**
4. the employment of any other method to effect an equitable allocation and apportionment of the taxpayer's income.