

**SUMMARY OF PROPOSAL #12**  
*for consideration by the*  
**ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE**

**TOPIC:        Partial Sales Tax Exemption on Natural Gas and Electricity by Electric Power Generators**

**Summary of Proposal for Consideration**

To repeal the partial excise tax rate of one and five-eighths percent (1.625%) rate in FY2017 on the use of natural gas and electricity by electric power generator facilities that use combined-cycle gas turbine technology under Arkansas Code § 26-52-319 and subject use of natural gas and electricity by electric power generator facilities that use combined-cycle gas turbine technology to the full sales tax rate, effective for tax years beginning on or after January 1, 2019.

**Fiscal Analysis**

Repeal of the exemption may result in an estimated \$13,100,000 per year increase to General Revenue based upon FY17, as provided by the Department of Finance and Administration’s “Sales and Use Tax Revenue Impact of Exemptions” presentation to the Arkansas Tax Reform and Relief Legislative Task Force on March 19, 2018.

**Legal Analysis**

***Background***

Arkansas currently taxes the use of natural gas and electricity by electric power generator facilities that use combined-cycle gas turbine technology with an excise tax at the rate of one and five-eighths percent (1.625%).

ACT 754 of 2011, created the sales tax exemption on the use of natural gas and electricity by electric power generator facilities that use combined-cycle gas turbine technology from Arkansas sales tax and imposed an excise tax as follows:

- Beginning January 1, 2012, five and one-eighths percent (5.125%)
- Beginning January 1, 2013, four and one-eighths percent (4.125%); and
- Beginning January 1, 2014, two and five-eighths percent (2.625%).

ACT 1411 of 2013 reduced the excise tax rate on the use of natural gas and electricity by electric power generator facilities that use combined-cycle gas turbine technology from Arkansas to one and five-eighths percent (1.625%), and has not been amended since.

***Potential Legal Issues***

None.

### ***Other States***

- Iowa: Sales tax exemption for fuel, which includes natural gas and electricity, consumed in creating power, heat, or steam for processing or for generating electric current. (IA St. §423.3).
- Louisiana: Sales tax exemption on the use of electric power or energy, including natural gas used to fuel the generation of electric power for resale or used by an industrial manufacturing plant for self-consumption or cogeneration. (LA St. § 47:305)
- Mississippi: Sales tax exemption on sales of fuel used to produce electric power by a utility company primarily engaged in the business of producing, generating, or distributing electric power for sale. (MS St. § 27-65-107)
- Missouri: Sales tax exemption on natural gas, propane, and electricity used by a generation cooperative or a generation processing entity. (MO. St. § 144.030)
- Oklahoma: No exemption.
- Tennessee: Taxes a facility which utilizes natural gas in a combined heat and power configuration (CHP) for production of heat and electricity for consumption onsite at rate of 1.5%. (TN St. § 67-6-204)
- Texas: Provides a tax credit on property taxes for a facility that produces electric power using integrated gasification combined cycle technology. (TX St. § 313.024).