

Title 26. Taxation

Chapter I. Generally, Department of Finance and Administration

Subchapter A. General, Procedural, or Legal

Part 1. Disclosable Tax Information

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"These regulations are promulgated pursuant to Act 400 of 1991 which requires the Director of the Department of Finance and Administration to promulgate regulations to establish procedures for requesting and releasing information under Ark. Code Ann. §26-18-303(b)(11). Act 400 of 1991 requires disclosure of some tax information which was previously confidential under the Arkansas Tax Procedure Act, Arkansas Code Annotated §26-18-303."

"A. The Director of the Department of Finance and Administration hereby delegates the authority and responsibility to disclose information under this regulation to the Commissioner of Revenue for the Revenue Division of the Department of Finance and Administration."

"G. EFFECTIVE DATE:

This Regulation shall become effective on July 15, 1991.

Executed this 27th day of June, 1991."

Subpart 1. Generally

26 CAR § 1-101. Disclosable information.

(a) The information which may be disclosed includes the name of any taxpayer and the amount of any tax credit, rebate, discount, or commission received by the taxpayer under the following provisions:

- (1) Arkansas Code § 26-52-503, discount for prompt payment;
- (2) Manufacturer's Investment Sales and Use Tax Credit Act of 1985, Arkansas Code § 26-52-701 et seq. [repealed];
- (3) Arkansas Code §§ 26-52-901 – 903 and Arkansas Code § 15-4-1101 et seq. [repealed], steel mill tax incentive;
- (4) Arkansas Code § 26-55-230(a)(1)(F), motor fuel shrinkage allowance;
- (5) Arkansas Enterprise Zone Act of 1989, Arkansas Code § 15-4-801 et seq. [repealed];
- (6) Arkansas Code § 26-57-236(f), commission for sales of stamps for cigarettes and the collection of cigarette taxes;
- (7) Motion Picture Tax Incentive Act of 1983, Arkansas Code § 26-4-201 et seq. [repealed];
- (8) Arkansas Code § 26-58-204, severance tax credit for oil producer;
- (9) Arkansas Code § 26-58-205, severance tax credit for natural gas producer;
- (10) Arkansas Code § 26-55-301 et seq. [repealed], refund of motor fuel tax for agricultural purposes;
- (11) Arkansas Code § 25-55-401 et seq., refund of motor fuel tax by municipal buses;
- (12) Arkansas Code §§ 26-56-214 and 215, refund of special distillate fuel tax to interstate users;
- (13) Arkansas Code § 15-72-706, credit against severance tax for discovery of commercial oil pool;
- (14) Arkansas Code § 3-5-1001 et seq., native wine subsidy;
- (15) Arkansas Code § 3-5-901 et seq., native wine incentive grants;
- (16) Arkansas Code § 3-5-607 [repealed], native wine export incentive;
- (17) Arkansas Code § 8-9-404, waste tire fees — administrative fee retained by the retailer; and

(18) Any other tax incentive program enacted after January 1, 1991, which provides a tax credit, tax rebate, tax discount, or commission for the collection of a tax, with the exception of any such benefits under the income tax laws of this state.

(b) The Revenue Division of the Department of Finance and Administration will compile and maintain all information for three (3) years.

Authority. Arkansas Code § 26-18-301.

Codification Notes. The Manufacturer’s Investment Sales and Use Tax Credit Act of 1985, Arkansas Code § 26-52-701 et seq., was revised and renamed the Economic Investment Tax Credit Act by Acts 1999, No. 995. The Economic Investment Tax Credit Act was repealed by Acts 2017, No. 465, § 5.

Arkansas Code § 15-4-1101 et seq., the steel mill tax incentive, was repealed by Acts 2005, No. 1962, § 57.

The Arkansas Enterprise Zone Act of 1989, Arkansas Code § 15-4-801 et seq., expired on June 30, 1995.

Arkansas Code §§ 26-4-201 – 210 and Arkansas Code §§ 26-4-212 and 26-4-213 of the Motion Picture Incentive Act of 1983 were repealed by Acts 2013, No. 1143. Arkansas Code § 26-4-211 of the Motion Picture Incentive Act of 1983 was repealed by Acts 2009, No. 816, § 3.

Arkansas Code § 26-55-301 et seq. was repealed by Acts 1995, No. 777, § 9.

Arkansas Code § 3-5-607 was repealed by Acts 2007, No. 668, § 5.

26 CAR § 1-102. Requests.

(a)(1) Requests for tax incentive information shall designate:

(A) The type of tax credit, rebate, discount, or commission for the collection of tax; and

(B) If available, the name of the taxpayer and permit number.

(2) The request should specify the time period, or reporting period, of the information requested.

(3) Requests for information shall be limited to information reported during the thirty-six (36) months preceding the request.

(b) Requests must be in writing, addressed to the:

Commissioner of Revenue
P. O. Box 1272, Room 2440
Little Rock, Arkansas 72203.

(c) The Commissioner of Revenue shall stamp or otherwise mark each request "Received", noting the date of receipt.

(d) The Office of Tax Administration in the Revenue Division shall process requests for information.

Authority. Arkansas Code § 26-18-301.

26 CAR § 1-103. Notice to taxpayers.

(a)(1) Within seven (7) days from the date the Commissioner of Revenue receives the request, the taxpayer or taxpayers whose tax information is requested will be notified of the request.

(2) If the request is for information of ten (10) or fewer taxpayers, the notice to the taxpayer or taxpayers will be mailed to the taxpayer's address of record.

(3) A copy of the notice is attached to this rule as attachment 1.

(b)(1) If the request is for information of more than ten (10) taxpayers, the notice will be published once in a newspaper having general circulation in the state.

(2) A copy of the notice is attached to this rule as attachment 2.

(c)(1) The notice, whether mailed or published, shall inform the taxpayers:

- (A) What information is being sought;
- (B) Who is requesting the information; and
- (C) When the request was received.

(2) The notice shall also inform the taxpayer or taxpayers that the information will be released within seven (7) days from the date the request was received, unless a valid exemption is claimed.

Authority. Arkansas Code § 26-18-301.

26 CAR § 1-104. Taxpayer objections.

(a)(1) Acts 1991, No. 400, creates the presumption that all tax information designated in Acts 1991, No. 400, is subject to disclosure.

(2) Information is exempt from disclosure only if the information:

- (A) Would give advantage to competitors or bidders; or
- (B) Is exempt from disclosure under any other law which exempts specific information from disclosure.

(b)(1) Taxpayers may object to release of their information on these grounds.

(2) The burden of proving grounds for an exemption is on the taxpayer objecting to the release.

(3) Taxpayer objections raising the "competitive advantage" exemption must state specific facts and provide documentation to prove that the release of the information requested will cause substantial harm to the taxpayer's competitive position.

(c)(1) All objections must be in writing and sent to the Commissioner of Revenue.

(2) The Commissioner of Revenue will stamp, or otherwise mark, each objection "Received", noting the date of receipt.

(3) Objections can be hand delivered, mailed, or sent by telefacsimile to:

Commissioner of Revenue
Ledbetter Building, Room 2440
P.O. Box 1272
Little Rock, Arkansas 72203
Telefax: (501) 683-1161

(d) All taxpayer objections must be received by the Commissioner of Revenue during business hours prior to the end of the seventh day after the date the Commissioner of Revenue received the information request.

Authority. Arkansas Code § 26-18-301.

26 CAR § 1-105. Release of information.

(a)(1) Within seven (7) days from the receipt of the request, the Commissioner of Revenue will release requested information.

(2) If the seventh day falls on a weekend or a state holiday, the information will be released on the first day after the weekend or holiday.

(3) The seven (7) days:

(A) Will be calculated from the date the Commissioner of Revenue marked the request "Received"; and

(B) Shall not include the date of receipt.

(b)(1) Information will be compiled and released on a calendar year basis.

(2)(A) All disclosable information, except motor fuel shrinkage information, has been compiled for:

(i) 1988;

(ii) 1989;

(iii) 1990; and

(iv) 1991.

(B) Motor fuel shrinkage information reported prior to the effective date of this regulation is currently being compiled.

(C) All future motor fuel shrinkage information will be compiled as it is reported.

(D) Until the Revenue Division has completed this compilation, requests for motor fuel shrinkage allowance information will require a manual search of the taxpayers' records.

(c)(1) Manual searches will be performed as quickly as possible.

(2) However, manual searches may require more than seven (7) days.

(3) If a manual search cannot be completed in seven (7) days, the Commissioner of Revenue will inform the requestor within seven (7) days of the request.

(4) If motor fuel shrinkage information is requested, the request should be prioritized, specifying the information needed first.

Authority. Arkansas Code § 26-18-301.

26 CAR § 1-106. Costs.

(a) The requester of information must reimburse the Department of Finance and Administration for the cost of producing requested information.

(b) The reimbursement shall not include any charge for the time spent reviewing documents or segregating exempt from nonexempt portions.

(c) The cost of producing requested information must be paid prior to the release of the information.

Authority. Arkansas Code § 26-18-301.

Appendix A. Notice to Taxpayer of Request for Tax Information

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/216/26CARpt.1Appendix.pdf>