



Arkansas Sales & Use Tax 101

A Basic Level Overview for CPAs

October 23, 2020

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**Arkansas Society of Certified Public Accounts
Annual Industry, Commerce & Banking
Conference**

With You Today



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With You Today



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LIMITATION OF PURPOSE

This document supports SALTA, PLLC's marketing of professional services, and is not written tax advice directed at the particular facts and circumstances of any person. If you have specific tax concerns we encourage you to contact us or an independent tax advisor to discuss potential application to your particular situation.

LEARNING OBJECTIVES

Gain a basic understanding of Arkansas sales and use taxes so that you can recognize important issues in order to properly advise your employer or your clients regarding sales and use tax matters

TIP – for those in Public Accounting

Engagement letters – Public accountants should include a clause in their SOWs specifically stating that they are not providing services for state and local taxes – unless they intend to do so.

STATE LAW

- Explanations of tax laws in this presentation pertain to Arkansas unless noted.
- Sales tax laws vary between states and are frequently inconsistent.

AGENDA

- 1) Sales and Use Taxes and the Difference Between Them
- 2) Transactions on Which These Taxes are Imposed***
- 3) Temporary Storage***
- 4) Exemptions
- 5) Basis of The Tax***
- 6) Local Tax ***
- 7) Contractors
- 8) Doing Business in Other States
- 9) Sales of Business Assets ***

*** To be led by Patti Gilliland

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Sales and Use Taxes and the Difference Between Them

- Terminology: Arkansas uses the term “gross receipts tax” to describe what nearly every other state calls “sales tax”
- DE, NV, OH, OR & WA have true gross receipts types of excise taxes

Sales Tax versus Use Tax

- Sales Tax – Imposed on **intrastate** transactions/sales
- Use Tax – Imposed on **interstate** transactions/sales

Examples of Sales v. Use Tax

- NWA vendor to LR purchaser = ?
- Tulsa vendor with nexus in AR sells to NWA purchaser = ?
- Tulsa vendor with no nexus in AR sells to NWA purchaser = ?

Why does it matter what type of tax applies?

- Primary responsibility for in-state sales rests on the in-state seller
- Seller's protection/remedy for uncharged taxes – statutory or contractual

Why does it matter what type of tax applies?

- For purchases of items to be used out-of-state, an exemption applies for use tax, but not sales tax

Other excise taxes

- Tourism Tax - 2% on rentals and lodging associated with tourism.
- Short-term rental tax - 1% on rentals of tangible personal property for <30 days.
- Residential Moving Tax - (happy trails tax)
- Soft drink tax – wholesale level
- Rental Vehicle Taxes
- Waste Tires and Battery Disposal Taxes

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What types of sales are subject to sales and use taxes?

- Tangible personal property – by default
- Real property – not taxable
- Intangible property – not taxable – except digital downloaded products...
- Services – only on specified services

Defaults, Exclusions, Exemption

- Imposition – a law that has been enacted ...
- Default – taxable unless ...
- Exemption – an exception ...
- Exclusion – not taxable because ...

Defaults

- By **default**, sales of TPP are taxable because the imposition statute states that sales of TPP are taxable – Exception: a specific **exemption** must apply to a transaction for the sale to be tax free

Defaults

- Example – Acme sells a desk. The sale is taxable, unless the purchaser provides a resale exemption certificate or some other exemption certificate – such as a non-taxable purchaser (Red Cross, Boy Scouts, etc.).

Exclusions

- By default, sales of real property and intangible property are not taxable because no law imposes tax on these types of transactions generally. These transactions are **excluded** from taxation.
- Currently, in Arkansas, no sales of real or intangible property are taxed EXCEPT for “specified digital products” since 2017

Exclusions

- By default, sales of services are not taxable because no law imposes tax on these types of transactions generally. These transactions are **excluded** from taxation.
- However, Arkansas has imposed tax on numerous types of services.

Exemptions

TYPES OF EXEMPTIONS

- Exempt Purchasers
- Exempt Sellers
- Exemptions based on what is sold – the type of item or service
- Exempt Usages – manufacturing, resale, agricultural, etc.

Exemptions will be covered in more detail in a separate section of this presentation

Impositions

The Arkansas Gross Receipts Act (sales tax) **applies to sales of tangible personal property and certain services**. Ark. Code Ann. Sect. 26-52-104

Services on which sales tax has been imposed:

- Accommodations/lodging
- Armored car transport
- Boat storage and docking
- Body piercing, tattooing, and electrolysis services
- Cable television, video, and radio services
- Campground furnishing of camping or trailer spaces
- Car washes

Services subject to sales tax:

- Cleaning and janitorial for buildings***
- Cleaning of parking lots, gutters, and pools
- Dry cleaning & laundry
- Fishing guides
- Fur storage
- Initial installation, alteration, addition, cleaning, refinishing, replacement and repair of machinery and other objects***
- Lawn Care & landscaping

Services subject to sales tax:

- Locksmith services
- Motor vehicle parking & storage
- Pager services
- Pest control services
- Pet grooming and kennel services
- Photography
- Pool cleaning

Services subject to sales tax:

- Printing
- Private clubs
- Security & alarm monitoring services
- Solid waste disposal
- Tanning Salon
- Telephone answering services
- Wrecker & towing

*** Repair, Maintenance, and Installation ("Fixing") Services ***

When the type of maintenance type service listed in List A is performed on the types of objects in List B, the service is taxable:

- **List A (Type of Service)** - initial installation, alteration, addition, cleaning, refinishing, replacement and repair ... of the following items of tangible personal property:

Repair, Maintenance, and Installation ("Fixing") Services

- **List B (Type of Object):**

Mechanical: motor vehicles, aircraft, farm machinery and farm implements, motors of all kinds, tires, batteries, boats, electrical appliances, and electrical devices, household appliances, television and radio, watches, clocks, engineering instruments, medical instruments and surgical instruments, *machinery of all kinds*, bicycles, office machines, office equipment, tin and sheet metal, mechanical tools and shop equipment

Repair, Maintenance, and Installation ("Fixing") Services

List B (Type of Object):

Other: furniture, flooring (including carpets, rugs, and other flooring), upholstery, jewelry, shoes

Services and Rentals – Who is responsible for tax?

- Rental v. Service
 - Operators, tool supervisors and bare rentals
- Service provider
 - Consumer of materials used in process
 - Separately stated materials transferred to customer are taxable to customer, purchased for resale
 - Examples: plumber, auto or appliance repair

Maintenance Contracts

- Taxable if the contract is to supply taxable services such as repair machinery, etc.
- Certain extended warranties on motor vehicles may not be taxable

Transactions between related entities

Transaction based tax - Imposed on transactions in which ownership of property is transferred

- Applies to inter-company sales or transfers
- Does not apply to intra-company transfers

Transactions between related entities - Example

Acme Company has two legal entities: FabCo and ContractorCo.

Fabco builds components for large storage tanks and transfers them to ContractorCo

ContractorCo builds these components into large tanks at customer sites.

QUESTION: Are the transfers from Fabco to ContractorCo taxable?

Withdrawals from stock:

- Taxable - normally
- Basis:
 - Donated goods to 501©(3), churches, public education and victims or emergency service workers in disaster area – **Zero**
 - Resellers & contractors: **Cost of materials purchased** (GR 18 and 21)
 - Manufacturers: **Sales price of finished goods**

Withdrawals from stock:

- Free meals provided to employees of restaurants are taxable at the sales price; If provided at discounted charge, taxable at discounted price.

Exception: excess food that had been prepared provided on an irregular basis

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Sales Tax Treatment of Purchases: Items Temporarily Stored in AR

- Sales tax applies to all goods sold in Arkansas unless an exemption applies
- AR provides an exemption from USE TAX for purchases of items temporarily stored in AR for usage out-of-state
- However, no sales tax exemption applies to purchases of items temporarily stored in AR for usage out-of-state

Credit for tax paid in original state of purchase

- Nearly every state allows a credit for sales or use taxes on purchases when tax was legally imposed and had been previously paid to another state.
- Tax would only be due into the second state if that state's tax would be higher than the tax previously paid in the first state.

Solution to adverse tax law application to temporary storage:

- Direct Payment Permit
- Alternate Solution – Purchasing Company
 - Side benefit - local tax rebate

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STATUTORY EXEMPTIONS

Statutory Exemptions

- Some items are exempt because of what they are
– regardless of who sells, purchases, or how they are used

Examples: groceries (partial exemption), prescription drugs and prosthetic devices, gasoline on which fuel tax is paid (highway use not off-road use); human tissue/blood

- No exemption certificates are required to exempt sales of statutorily exempt items

PURCHASER EXEMPTIONS

Purchaser Exemptions

- Misconception: All entities that are exempt from income taxes (for example 501©(3) organizations) are exempt from sales taxes
- For example: churches, the State of Arkansas, and local governments are not exempt purchasers
- However: specific exemptions may apply to some state government transactions – such as sales to the State Highway & Transportation Department of sand or gravel removed from land for use in road maintenance or construction

Purchaser Exemptions

- An extensive list of exempt organizations have had exemptions granted by the legislature
- Purchases by organizations not included on this list are taxable.

Exempt Entities – organizations that can make purchases on exempt basis – GR 31:

1. The Boy's Clubs of America or any local council or organization thereof;
2. The Girl's Clubs of America or any local council or organization thereof;
3. The Poets' Roundtable of Arkansas;
4. The Boy Scouts of America or any of the Scout Councils located in Arkansas;
5. The Girl Scouts of the United States of America or any of the Scout Councils located in Arkansas;
6. U. S. Governmental agencies;
7. 4-H Clubs and FFA Clubs located in Arkansas;
8. The Arkansas 4-H Foundation, the Arkansas Future Farmers of America Foundation and the Arkansas Future Farmers of America Association;
9. Orphans' homes or children' homes located in Arkansas which are not operated for profit and which are operated by a church, religious organization or other benevolent, charitable association;
10. Public Housing Authorities organized pursuant to Ark. Code Ann. § 14-169-201 et seq.;
11. Regional Water Distribution Districts organized pursuant to Ark. Code Ann. § 14-116-101 et seq.;
12. The Arkansas Country Music Hall of Fame Board;
13. The American Red Cross;
14. Humane Societies not operated for a profit and organized under Ark. Code Ann. § 20-19-101 et seq. for the prevention of cruelty to animals.
15. The rental or lease of specialized equipment used in the filming of a motion picture which qualifies for the tax incentives provided by Ark. Code Ann. § 26-4-201 et seq.
16. Fort Smith Clearing House, Ark. Code Ann. § 26-52-424;
17. Habitat for Humanity, Ark. Code Ann. § 26-52-401 (31);
18. Heifer Project International, Inc., Ark. Code Ann. § 26-52-401 (34);
19. The Salvation Army, Ark. Code Ann. § 26-52-401 (33);
20. The value of goods withdrawn from inventory and donated to the National Guard, emergency services workers, or volunteers providing disaster relief services in a county which is declared a disaster area by the Governor pursuant to Ark. Code Ann. § 26-52-401 (38);
21. Sales made by the canteen at Camp Robinson to active and retired members of the armed forces and full-time employees of the Arkansas Military Department are exempt under Ark. Code Ann. § 12-63-406. If sales are made to other purchasers, they are subject to gross receipts tax.
22. The Arkansas Symphony Orchestra, Inc. pursuant to Ark. Code Ann. § 26-52-401 (37);
23. Regional Airport Authorities organized pursuant to Ark. Code Ann. § 14-362-121.

SELLER EXEMPTIONS

Seller Exemptions

- The exempt status of non-profit organizations pertaining to purchases and sales is **not** identical
- In general, sales by charitable organizations are not subject to sales tax as long as
 - they are not-for-profit, and
 - they do not compete with for-profit organizations

USAGE EXEMPTIONS

Resale exemption

- This exemption applies to goods that are resold, including packaging materials.
- Vendors – IMPORTANT – Collect and maintain valid exemption certificates!!!

Manufacturing exemption

- Machinery & equipment – including:
 - molds, frames, cavities, and forms ...;
 - dies, tools, and devices attached to or a part of a unit of machinery ...;
 - components of a mold or die
 - includes saw blades and drill bits
- Act 772 of 2019 – Extends exemption for mfg. repairs to include modification and repair of molds and dies

Manufacturing exemption

- Machinery & equipment – including:
 - testing equipment (Q.A.)
 - controls and measurement equipment
 - machinery and equipment that produces steam, electricity, or chemical catalysts and solutions that are essential to the manufacturing process

Manufacturing exemption

Machinery & equipment that is NOT exempt:

- not “used directly” such as:
 - machinery or tools used in repairing machinery
 - HVAC generally except special situations
- hand tools
- equipment used solely before or after the manufacturing process
- R&D equipment

Manufacturing exemption

- Catalysts, chemicals, reagents, and solutions used in manufacturing or to reduce pollution.

(Sec. 26-52-401 (35), A.C.A.; Reg. GR-55.1)

Manufacturing exemption

QUALIFICATIONS (Sec. 26-52-402, A.C.A.):

- Exemption begins at the initial stage where the raw material is first acted upon
- Exemption ends at the completion of the finished article of commerce

Manufacturing exemption

QUALIFICATIONS (Sec. 26-52-402, A.C.A.):

- Machinery & equipment must be “directly used”
- Predominant or exclusive usage is NOT required

Manufacturing exemption - Statute

- Sec. 26-52-402, A.C.A.:
 - Directly usage requires that machinery or equipment must cause a recognizable and measurable mechanical, chemical, electrical, or electronic action to take place as a necessary and integral part of manufacturing, the absence of which would cause the manufacturing operation to cease. "Directly" does not mean that the machinery and equipment must come into direct physical contact with any of the materials that become necessary and integral parts of the finished product. (also see Reg. GR-55)

Manufacturing exemption - Utilities

- Utilities – state (not local) exemption all but 0.625%
 - Usage must be $>50\%$ used in manufacturing
 - Must apply to DF&A for exemption approval
 - If exempt portion claimed is $<100\%$, must compute the full tax on the non-exempt portion
 - Provide the certification to the utility provider
 - Once approved, can apply for refund for period in SOL

Manufacturing exemption - Repairs – exemption phased-in

- Manufacturing exemption (Sec. 26-52-402, A.C.A.):
 - Repairs – exemption is being phased in
 - Currently - state rate is 4% less
 - 7/1/2021 – 5% less
 - 7/1/2022 - Fully exempt – state and local tax
 - Exemption claimed by:
 - DP, LDP, or consumer use tax – accrue reduced rate
 - Other users – claim credit when filing in ATAP

Manufacturing – Accruals of Use Tax and Claiming of Rebates/Partial Exemptions

CONSUMER USE TAX ON PURCHASES TO REPORT IN ATAP									
STATE		ATAP LINE	TAXABLE			STATE TAX			
	Regular	CU Tax - Line 9	0.00			-			
	Addition for utilities	CU Tax - Line 12b	not used			-			
	Mfg Repair	CU Tax - Line 13a	0.00			-			
	TOTAL		0.00			-			
	Less: Rebate - tax paid to vendors	Mfg Repair Rebate	n.a.			-			
	NET STATE TAX		n.a.			-			
LOCAL			TAXABLE	COUNTY TAX	CITY TAX	TOTAL LOCAL TAX	Less: County Rebate	Less: City Rebate	Equals Net Local Tax Due
	Regular		0.00	-	-	\$			-
	Mfg Repair		0.00	-	-	-			-
	TOTAL		0.00	-	-	-	-	-	-
TOTAL TAX						-			

Manufacturing – Accruals of Use Tax and Claiming of Rebates/Partial Exemptions

ACCRUALS OF CONSUMER USE TAX - FULL RATE													
Input only in yellow areas													
TAX PERMIT :					Washington Co	7200	County		RATES:				
FOR INVOICE PAID:					Springdale	7210	City		0.0125				
					STATE	current rate			0.02				
									0.065				
VENDOR	INV. #	INV. DATE	LOCAL CITY & COUNTY TAX	DF&A LOC. TAX CODE	Gross Invoice	Less: Tax	Net Total Taxable	Less: \$2,500	Taxable for Local Tax	STATE TAX 6.5%	COUNTY TAX 1.25%	CITY TAX 2%	TOTAL TAX
TOTALS					0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
			Springdale/Washingto	7210			0.00	2,500.00	0.00	0.00	0.00	0.00	0.00
			Springdale/Washingto	7210			0.00	2,500.00	0.00	0.00	0.00	0.00	0.00
			Springdale/Washingto	7210			0.00	2,500.00	0.00	0.00	0.00	0.00	0.00
			Springdale/Washingto	7210			0.00	2,500.00	0.00	0.00	0.00	0.00	0.00

Manufacturing – Accruals of Use Tax and Claiming of Rebates/Partial Exemptions

REBATE OF STATE TAX PAID TO VENDORS FOR MFG REPAIRS					
Input only in yellow areas					Use if vendor DOES charge tax on the invoice.
Rebate Rates for future periods					
		2021	4.00%	After June 30, 2022 - Fully exempt from all taxes	Column E - Rebate will figure out your rebate...
Through June 2020	3.00%	Through June 2022	5.00%		If they charge you \$100, and sales tax \$9.75, totaling the invoice to \$109.75, on column D, the amount entered will only be \$100.
VENDOR	INV. #	INV. DATE	Taxable Amount (net of sales tax)	STATE TAX REBATE (update rate for current period)	At the end of the year when we file the tax through atap, there should be a field that will allow us to put in the rebate amount, which most likely reduce the tax amount payable to the state.
TOTALS					
				-	
				-	

Manufacturing – Accruals of Use Tax and Claiming of Rebates/Partial Exemptions

LOCAL TAX REBATE - FOR ATAP ENTRY

Input only in yellow areas

Washington Co
Springdale

7200 County
7210 City

RATES:

0.0125

0.02

VENDOR	INV. #	INV. DATE	Gross Invoice	Less: Tax	Net Total Taxable	Less: \$2,500	Invoice Amt. Eligible for Rebate	COUNTY REBATE	CITY REBATE	TOTAL REBATE
TOTALS							0.00	-	-	-
					0.00	2,500.00	0.00	-	-	-
					0.00	2,500.00	0.00	-	-	-

Filing Sales and Use Tax Returns Via ATAP

- a. Click "Sales and Use Tax" under account type.

ATAP
Welcome, [Settings](#) [Log Off](#)

[Home](#)

Ligon

Last logged on 27-Jan-2020

Balance: \$0.00

Alerts

✓ There are no alerts

I Want To

- [Manage payments and returns](#)
- [Add access to another account](#)
- [Add third party access](#)
- [Register new account](#)
- [Send us a message](#)
- [Manage e-Correspondence](#)
- [Manage additional logins](#)

Accounts
Submissions
Correspondence
Names and Addresses
Logons

☒ **Accounts** [View Accounts](#) [Show Ceased](#) [Filter](#)

Account Type	Account Id	Name	Balance
Sales and Use Tax	SLS		\$0.00

- b. Click "File Return" on the period line that you are filing.
- c. Complete Step 1 by selecting "Enter Tax Information". The ET-1 form will appear for you to out.

ET-1 Form

<p>Gross Receipts Tax (Sales by In-State Sellers)</p> <table style="width: 100%;"> <tr> <th></th> <th style="text-align: center;">A. Taxable Sales</th> <th style="text-align: center;">E. Tourism Credit</th> </tr> <tr><td>1. State Tax</td><td style="text-align: right;">0.00</td><td style="text-align: right;">0.00</td></tr> <tr><td>2. Food Tax</td><td style="text-align: right;">0.00</td><td style="text-align: right;">0.00</td></tr> <tr><td>3. Mfg. Utility Tax</td><td style="text-align: right;">0.00</td><td></td></tr> <tr><td>4. Aviation Tax</td><td style="text-align: right;">0.00</td><td></td></tr> <tr><td>Elect. Mfg. Tax</td><td style="text-align: right;">0.00</td><td></td></tr> </table> <p>Vendor Use Tax (Sales by Out-of-State Sellers)</p> <table style="width: 100%;"> <tr> <th></th> <th style="text-align: center;">A. Taxable Sales</th> </tr> <tr><td>5. State Tax</td><td style="text-align: right;">0.00</td></tr> <tr><td>6. Food Tax</td><td style="text-align: right;">0.00</td></tr> <tr><td>7. Mfg. Utility Tax</td><td style="text-align: right;">0.00</td></tr> <tr><td>8. Aviation Tax</td><td style="text-align: right;">0.00</td></tr> <tr><td>Elect. Mfg. Tax</td><td style="text-align: right;">0.00</td></tr> </table> <p>Consumer Use Tax (Purchases by All Taxpayers)</p> <table style="width: 100%;"> <tr> <th></th> <th style="text-align: center;">A. Taxable Purchases</th> <th style="text-align: center;">D. Economic Dev. Credit</th> </tr> <tr><td>9. State Tax</td><td style="text-align: right;">0.00</td><td style="text-align: right;">0.00</td></tr> <tr><td>10. Food Tax</td><td style="text-align: right;">0.00</td><td style="text-align: right;">0.00</td></tr> <tr><td>11. Mfg. Utility Tax</td><td style="text-align: right;">0.00</td><td style="text-align: right;">0.00</td></tr> <tr><td>12. Aviation Tax</td><td style="text-align: right;">0.00</td><td style="text-align: right;">0.00</td></tr> <tr><td>Elect. Mfg. Tax</td><td style="text-align: right;">0.00</td><td style="text-align: right;">0.00</td></tr> <tr><td>13. 3.5% Mfg. Repair</td><td style="text-align: right;">0.00</td><td style="text-align: right;">0.00</td></tr> <tr><td>0.625% Mfg. Repair</td><td style="text-align: right;">0.00</td><td style="text-align: right;">0.00</td></tr> </table>		A. Taxable Sales	E. Tourism Credit	1. State Tax	0.00	0.00	2. Food Tax	0.00	0.00	3. Mfg. Utility Tax	0.00		4. Aviation Tax	0.00		Elect. Mfg. Tax	0.00			A. Taxable Sales	5. State Tax	0.00	6. Food Tax	0.00	7. Mfg. Utility Tax	0.00	8. Aviation Tax	0.00	Elect. Mfg. Tax	0.00		A. Taxable Purchases	D. Economic Dev. Credit	9. State Tax	0.00	0.00	10. Food Tax	0.00	0.00	11. Mfg. Utility Tax	0.00	0.00	12. Aviation Tax	0.00	0.00	Elect. Mfg. Tax	0.00	0.00	13. 3.5% Mfg. Repair	0.00	0.00	0.625% Mfg. Repair	0.00	0.00	<p>Transaction Based Taxes</p> <p>14. Prepaid Wireless Public Safety Charge 0.00</p> <hr/> <p>Special Additional Excise Taxes</p> <table style="width: 100%;"> <tr> <th></th> <th style="text-align: center;">A. Taxable Sales & Purchases</th> </tr> <tr><td>15. Tourism</td><td style="text-align: right;">0.00</td></tr> <tr><td>16. Short Term Rental</td><td style="text-align: right;">0.00</td></tr> <tr><td>17. Short Term Rental Vehicle</td><td style="text-align: right;">0.00</td></tr> <tr><td>18. For Future Use</td><td style="text-align: right;">0.00</td></tr> <tr><td>19. Residential Moving</td><td style="text-align: right;">0.00</td></tr> <tr><td>20. Wholesale Vending</td><td style="text-align: right;">0.00</td></tr> </table> <hr/> <p>Alcoholic Beverage Taxes</p> <table style="width: 100%;"> <tr> <th></th> <th style="text-align: center;">A. Taxable Sales</th> </tr> <tr><td>21. Mixed Drink</td><td style="text-align: right;">0.00</td></tr> <tr><td>22. Additional Mixed Drink</td><td style="text-align: right;">0.00</td></tr> <tr><td>23. Liquor Excise</td><td style="text-align: right;">0.00</td></tr> <tr><td>24. Beer Excise</td><td style="text-align: right;">0.00</td></tr> </table> <hr/> <p>Manufacturing Repair Rebate</p> <p>Manufacturing Repair Rebate 0.00</p>		A. Taxable Sales & Purchases	15. Tourism	0.00	16. Short Term Rental	0.00	17. Short Term Rental Vehicle	0.00	18. For Future Use	0.00	19. Residential Moving	0.00	20. Wholesale Vending	0.00		A. Taxable Sales	21. Mixed Drink	0.00	22. Additional Mixed Drink	0.00	23. Liquor Excise	0.00	24. Beer Excise	0.00
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11. Mfg. Utility Tax	0.00	0.00																																																																													
12. Aviation Tax	0.00	0.00																																																																													
Elect. Mfg. Tax	0.00	0.00																																																																													
13. 3.5% Mfg. Repair	0.00	0.00																																																																													
0.625% Mfg. Repair	0.00	0.00																																																																													
	A. Taxable Sales & Purchases																																																																														
15. Tourism	0.00																																																																														
16. Short Term Rental	0.00																																																																														
17. Short Term Rental Vehicle	0.00																																																																														
18. For Future Use	0.00																																																																														
19. Residential Moving	0.00																																																																														
20. Wholesale Vending	0.00																																																																														
	A. Taxable Sales																																																																														
21. Mixed Drink	0.00																																																																														
22. Additional Mixed Drink	0.00																																																																														
23. Liquor Excise	0.00																																																																														
24. Beer Excise	0.00																																																																														

- d. Line we need to fill out are below:

STEP 1

- Line 9A – get this amount from column Taxable for Regular Purchases on the SUMMARY tab (Cell D4)
- Line 13A – get this amount from column Taxable for Mfg Repair Purchases on the SUMMARY tab (Cell D6)
- “Manufacturing Repair Rebate” field located on the right bottom corner of ET-1 Form, we get this number from Less: Rebate paid to vendors on the SUMMARY tab (Cell G8)
- Once these are filled out, click “OK”.
- Click on “Review” besides Non-Reported Taxes. Check on the box for Report Zero. This is because we do not have unusual items that need to be taxed (alcohol cigarettes, rental car business, etc.)

STEP 2

- Select “Local Sales and Use Selection”.

The screenshot shows the 'File Excise Tax Return' web application. At the top, there is a navigation bar with a hamburger menu, the title 'File Excise Tax Return', a 'Welcome' message, 'Settings', and a 'Log Off' button. Below this is a breadcrumb trail: 'Home > Account > SLS > File Excise Tax Return'. A blue bar labeled 'Attachments' with an 'Add' button is also present. The main content area is titled 'Excise Tax Return' and includes fields for 'Legal Name', 'Account ID', 'Filing Period' (12/31/2019), and 'Due Date' (1/21/2020). A link for 'Form Instructions' is provided. The 'ET-1 Form' section is divided into three steps: Step 1: Enter Tax Information (with sub-items like Gross Receipts, Vendor Use, Consumer Use, Special Add-onal Excise, Alcoholic Beverage, and Mfg. Repair Rebate, each with a value of 0.00); Step 2: Local Sales and Use Selection (with a 'View/Edit Local Sales and Use Table' link and a 'Remove Local Discount' checkbox); and Step 3: Summary - Net Tax Due (with sub-items like Total Tax Due, Less Prepayments, Net Tax Due, Discount, Previous Discount if Amending, and Discounted Net Tax Due, all showing 0.00). At the bottom right, there are buttons for 'Import', 'Submit', 'Save', and 'Cancel'.

- A small window will pop up and check the box for “Select Local from a List”, then click “OK”.
- Once you are back on the home page, select the “Enter Local Sales and Use”.
- Under City/County, please enter Washington as the County and Springdale as the City. The local code should appear for both of them automatically.

Manufacturing exemption

- Pollution Control exemption:
 - Machinery and equipment
 - Repair parts
 - Chemicals
 - The regulation states that the equipment must be required by the US EPA or AR Dept of Environmental Quality

Agricultural Exemption

- Agricultural Exemption
 - Complete machinery used in agricultural production (includes timber harvesting) is exempt
 - Repairs are not exempted

Agricultural Exemption

- Utilities used for qualifying agricultural structures (dairy, poultry or livestock), qualifying aquaculture and horticulture (field crops, trees, etc.), and grain drying and storage are exempt

Oil & Gas and Mining Exemption

- GR 57 – Exempt – new wells or deepened wells:
 - Drilling rigs, centrifuges, shakers used in drilling process; downhole tubulars, pumps, etc.
 - Wellhead equipment (“Christmas tree”)
 - Auxiliary equipment: compressors or generators; separators, dehydrators – (excluding storage tanks)
 - Drilling mud
 - Labor to drill, recomplete (change zones), or re-drill (deeper)

Oil & Gas and Mining Exemption

- GR 66/57.G (Pollution Control) - Exempt:
 - Surface casing and concrete used to enclose the casing, down hole casing, injection tubing, and well bottom packer;
 - Brine disposal well, including the inline pipeline pumps and wellhead booster pumps, valves and pipes used to transport the brine to a brine disposal well; and
 - Pit liners.

Oil & Gas and Mining Exemption

- AR: GR 57 – **Taxable**:
 - Workovers and repairs to wells
 - Repair parts to well equipment
 - Storage tanks
 - Water, sand, proppants, explosives, chemicals, etc. used by oil and gas service providers
 - Piping after separator for oil, or for gas, after discharge from compressor at gathering location

Exemptions – Car Wash Operations

Act 822 of 2019:

- Exempts the sale of car wash services and ancillary services when provided through an “automatic car wash”, a “car wash tunnel” or a “self-service bay”
- Provides an exemption for goods and services purchased by car washes for use in an automatic car wash, a car wash tunnel, or a self-service bay or as part of an ancillary service
- Levies fees on car wash operators based on water consumed by “Car Wash Tunnels” and “Automatic Car Washes”. This tax does not apply to water consumed in self-service bays

Occasional Sale Exemption

- GR-49
 - A. The gross receipts or gross proceeds derived from **isolated sales** not made by an established business or in an established manner are exempt from the tax.
 - B. “**Isolated sale**” means the one-time **sale** of an item, or group of items not made by an established business of any kind of character.

- Exemptions: MY FAVORITE

GR-34.B

- Gross receipts and gross proceeds derived from the sale of **new automobiles** to a **veteran** of the United States Armed Services **who is blind** as the result of a service connected injury shall be exempt from the Arkansas Gross Receipts Tax.

AGENDA

- 1) Sales and Use Taxes and the Difference Between Them
- 2) Transactions on Which These Taxes are Imposed
- 3) Temporary Storage in Arkansas
- 4) Exemptions
- 5) [Basis of The Tax](#)
- 6) Local Tax
- 7) Contractors
- 8) Doing Business in Other States
- 9) Sales of Business Assets

Basis of The Tax

The amount of a sale subject to sales tax includes:

- The total cost of the item ...
- Includes freight and installation
- Credit for trade-ins does not reduce the taxable basis.
- Manufacturer's coupons and rebates do not reduce the taxable basis
- For services – includes cost of expense reimbursements

Basis of The Tax

Basis subject to sales tax excludes:

- Net of discounts, including prompt payment discount
- Interest/finances charges
- Any tax separately stated on the invoice

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Local Tax

- Jurisdiction is based on location delivery or rendering of service
- Rebates of local tax are available to business purchasers where the taxable amount per a single invoice >\$2,500
 - Purchaser is not required to be registered
 - Rebates can be maximized ...
 - 1 year SOL
 - Rebates are claimed by filing with the DF&A or ATAP

AGENDA

- 1) Sales and Use Taxes and the Difference Between Them
- 2) Transactions on Which These Taxes are Imposed
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Contractors are Consumers

- Contractors – are deemed to be consumers of materials purchased:
 - Contractors are treated as consumers of the TPP that they either incorporate into real property or consume during construction. As such, they must pay tax on the materials they use. Their billings are not taxable.
 - Consumers use tax may be due on **equipment brought into the state**

Contractors – Pass Through Exemptions

- Normally, the exempt status of customers DO NOT pass through to contractors in AR
- Contracts performed for the US Government do NOT allow contractor to purchase materials tax free
Contractors must pay tax on materials used in these projects.
- The manufacturing exemption does pass through to contractors

Contractors – Pass Through Exemptions

- Pass-through exemptions
 - Note: Contractor rules vary widely between states:
 - OK – numerous pass-through exemptions
 - TX – residential v. commercial; separated v/ lump-sum; new v. remodeling
 - MS – Contractor tax on general; purchases tax free w “MPC”

Contractors – Multi-role

- Contractors sometimes “wear multiple hats” – functioning both as a contractor, and also as retailer, fabricator or service provider.
- Examples:
 - Fencing contractors who also sell fencing materials over the counter = retailer
 - HVAC contractors who fabricate ductwork and sell it to other parties = fabricator/retailer
 - HVAC contractors who repair furnaces, etc. = taxable service provider

Contractors: providing taxable services

- Contractors: providing taxable services(see GR 9.17.B,C, and D)
 - Initial installation, replacement or repair of
 - mechanical equipment
 - flooring – includes hard flooring and flooring covers
 - Includes the initial installation of mechanical units in an existing building

Contractors: providing taxable services

- Exemptions to taxable services
 - New building or substantially modified building
 - Service pertaining to manufacturing equipment
 - Installing passive/non-mechanical components like ductwork or structural components

Contractors: who also provide taxable services

- If both taxable and nontaxable services are provided, the nontaxable charges must be separately stated on the invoice. Otherwise, the entire charge will be taxable.
- The resale exemption could apply
- Sales to exempt entities can be exempted

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Nexus

- “**Nexus**” (think *connection*) is what determines whether or not sellers must collect tax in a particular taxing jurisdiction

Nexus – Traditional Basis

- Traditionally: Nexus required that the taxpayer have at least more than a minimal amount of **physical presence** in a state.
- Previous US Supreme Court Rulings

Physical Nexus Factors

- Factors creating nexus include payroll or property located in a state.
- Temporary presence in a state constitutes nexus.
- True regardless of employee versus contract worker

Physical Nexus Factors

- Sellers need to be aware of changes in business that could create nexus:
 - Sales activities into additional states
 - Deliveries in company vehicles
 - Repairs or installations
 - Employees in additional states
 - Inventory or facilities in additional states

Nexus – Other Bases:

- Factor presence
- Affiliate nexus
- Click through nexus
- Economic nexus

Economic Nexus

Sales Tax Tsunami:

The U S Supreme Court's Wayfair Decision

June 21, 2018
MultiState, Sellerland USA



Why do we refer to the result of this decision being a “Tsunami”?

- States now can impose their sales tax laws on vendors who have no physical presence in their state
- This effect of this change extends far beyond large e-commerce sellers

What Was the “Wayfair” Case about?

- Resulted from a SD audit of Wayfair, Inc., an e-commerce seller with no presence in SD
- SD law asserted nexus for sales tax based on either:
 - (1) sales values totaling over \$100,000 annually, or
 - (2) 200 transactions annually.
- The Court decided by a 5-4 count that the SD could impose their sales tax laws on Wayfair

Economic Nexus: Current Status

- As of July 1, 2020, 43 states are imposing economic nexus standards (All states except: FL and MO)
- Most states have established an annual sales threshold of \$100,000 (10 states are higher: TX is \$500K)
- The measurement of “sales” varies by state:

Nexus and Local Taxes

- Nexus also applies to “home-ruled” jurisdictions separately in AL, AK, CO, and LA
- For the home-ruled jurisdictions, nexus exists in each specific location based on presence in that jurisdiction
- AK Note: jurisdictions are attempting to establish a mechanism to establish economic nexus

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BULK SALE RULE

- AR, like most states, may hold the purchaser of a business liable for the seller's unpaid taxes, including sales and use and payroll taxes.
- Purchasers should request that the seller furnish a tax clearance certificate from the DF&A stating that no unpaid taxes are on record.

OCCASIONAL/ISOLATED/CASUAL SALES

Gross receipts derived from occasional or isolated sales not made by an established business are exempt from the gross receipts tax. (Sec. 26-52-401(17), A.C.A.)

QUESTIONS

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Thanks for your attendance today.

You are welcome to call anytime we can help.

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