

COMMERCIAL PERSONAL PROPERTY ASSESSMENT INFORMATION

The following information is intended to assist businesses in correctly assessing personal property in accordance with Arkansas law. All tangible personal property is potentially assessable, though some may be subject to exemption, as will be examined later in this document. Tangible personal property of businesses consists primarily of inventory and fixed assets.

INVENTORY

Inventory items are those good produced or held for sale in the normal course of business, with the intent of making profit thereon. The potential value of inventory lies in its ability to be exchanged for another asset, usually money. Inventory is valued for assessment purposes, according to Arkansas law, at its prior year average value. This value is best measured by the total of all costs necessary to bring inventory to a saleable condition. The average inventory figure for the prior year allows the offset of any seasonal highs and lows, and should reflect the inventory a business had on hand on a typical day of the year immediately prior to the assessment year.

Inventory will be possessed by any type of merchant, including manufacturers. The inventory of a manufacturer consists of raw materials, work-in-process, finished goods, and supplies and packaging. Raw materials are inventory items that will be used in the manufacturing process, while work-in-process items are those to which the process is being applied. Finished goods are items for which the process is completed and are in the state at which they will be sold. Of the average inventory on hand, that portion considered in transit under provision of A.C.A. §26-26-1102 is excluded from assessment. However, under Arkansas law, the assessor is entitled to require proof of this exclusion before applying it. Under the concept of a prior year average, all the above types of inventory will likely be in the possession of a manufacturer, since an item cannot at once be awaiting processing, in process, and finished processing.

Any businesses holding goods for sale are merchants under Arkansas law. Inventory assessable to merchants include goods owned outright, floor planned goods, and consignments, if the consignor is located outside Arkansas. The only inventory items likely to be in the possession of a merchant but not assessable to him would be goods consigned from within the state, in which situation the goods would be assessable to the consignor at the merchant's location. A merchant holding consigned goods should report them to the assessor, together with complete information regarding the content and value of the consigned goods, the identity and location of the consignor, and any other information required by the assessor.

FIXED ASSETS

Fixed assets are those items used in the course of business, but not held for sale. These include: furniture, fixtures, machinery, equipment, vehicles, tools, and any other non-inventory items. By definition, fixed assets are those items whose value is related to their usefulness and are assessed according to their value on a specific date, January 1. Unlike inventories, fixed assets suffer depreciation, a loss in value through use. The concept of depreciation used for income tax and related accounting functions is one of allocated cost recovery. However, for determination of market value, depreciation must be an actual loss in value. Tax accounting practices based on IRS standards, including relatively short asset lives and accelerated methods of depreciation, do not necessarily relate to those appropriate for determination of market value. Although an asset may be expected to provide service over a longer life than that recognized by the IRS, assessors typically use depreciation schedules that reflect IRS standard lives for the convenience of property owners. So long as the asset is in use, it will retain value. The tables with which the assessor is provided include asset lives and depreciation rates for application to an asset's historic or acquisition cost. These tables limit the extent to which an asset may depreciate in determining market value. All items, even those whose book value is zero, should be assessed. Such items may exhibit a minimal depreciated value, which will be determined by the assessor.

In assessing fixed assets, the owner should report total costs, including acquisition, freight, installation, and any other costs incurred in bringing the assets to a productive capability. The assessor will also require the owner's

estimation of assets' useful lives.

If sufficient space is not provided on the form, or if the owner prefers, a separate list of printout of fixed assets may be attached to the assessment form. If numerous assets exhibiting the same year of acquisition and useful life are to be assessed, they may be grouped accordingly and their costs reported as subtotals. They may also be grouped according to specific cost centers or production areas, but the above criteria should still be met. Any information reported to the assessor is subject to verification, and the owner should be prepared to substantiate the data upon request. In the above instance, the assessor might require a listing of items previously reported as a subtotal group.

LEASED PERSONAL PROPERTY

Personal property in the possession of a business but belonging to someone else should be assessed to its true owner (the lessor when a lease exists). To facilitate this, a section is provided on the assessment form to list leased or borrowed property. It is necessary to provide the assessor with this information to prevent the assessment of such property to the business in possession of it.

EXEMPTIONS FROM ASSESSMENT

No automatic exemption from assessment applies to tangible personal property of businesses. In two instances, personalty may be subject to exemption, but all property should be listed with the assessor. The potential exemption applies to some inventory of manufacturers and to certain fixed assets.

Manufacturers inventory qualifying as transient property gain no situs and thus are not taxable in that jurisdiction. Proof of such transience must be provided to the assessor upon request for such exclusion from assessment to be granted.

Fixed assets may be exempt from taxation if their purchase is financed by Act 9 Revenue Bonds. If so, they should be specifically mentioned in the bond agreement with the issuing authority, and provision made for in-lieu tax payments to the taxing unit involved. The Act 9 status is applicable only to capital improvements, that is, assets capitalized over time, and the implied exemption expires when the bond indebtedness is satisfied and title to the property is granted by the issuing body. Bond money cannot be used for the purchase of inventory or other short-lived assets, thus no exemption will apply. Items for which the business claims such exemption must be listed with the assessor and their status noted, since the assessor is entitled to proof of the claimed exemption.

Property commonly misunderstood to be exempted is that located within the area of port authorities and enterprise zones commonly held to be "freeports", which have no provision under Arkansas law. While both these entities provide certain state-level tax incentives, they have no bearing on local property taxation.

OTHER GENERAL PROVISIONS

All tangible personal property must be listed with the assessor no later than **May 31** each year. Property assessed after this date will be penalized in the amount of 10% of the taxes levied on the property. **Fixed assets acquired between January 1 and May 31 of each year must be added to that year's assessment**, even though an assessment may already be on file for the year. While all tangible personal property is to be listed and valued by its owner, the assessor is not required to accept the owner-rendered value. Rather, it is the responsibility of the assessor to assess all property based on its fair market value. To this end, the assessor may require of owners or other persons any necessary information to determine market value.

SELECTED ARKANSAS STATUTES

This section contains legislation enacted in the state of Arkansas and pertinent to the assessment of personal property in general and commercial personal property in particular.

26-1-101. Definitions. As used in this act, unless the context otherwise requires:

"Oath" means oath or affirmation;

"Person" means firm, company, or corporation;

"Personal Property" means:

Every tangible thing being the subject of ownership... and not forming a part of any parcel of real property as defined;... (Note: *The portions of this statute referring to real property and intangible personal property are not quoted herein.*)

26-2-104. Violations in assessments or equalization generally. Whoever shall violate any provision of law intended to secure the assessment or equalization of property, for which a penalty has not otherwise been provided, or neglects or refuses to obey any lawful requirement or order made by the county equalization board, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

26-2-107. Disposition of property to avoid assessment. If any person, for the purpose of avoiding listing for the payment of taxes any property subject to taxation, shall sell, give away, or otherwise dispose of the property, under or subject to any agreement expressed or implied or any understanding with the purchaser, donee, or recipient of the property that the property is to be reconveyed, restored, or redelivered to the person so disposing of the property, he or she shall be guilty of a violation and upon conviction be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1000).

26-3-201. Property subject to taxes generally. All property, whether real or personal, in this state... shall be subject to taxation. Such property ...shall be entered on the list of taxable property for that purpose. (*The deleted portion of this Statute referred to intangible personal property, which has since been exempted under A.C.A. 26-3-302.*)

26-3-302. Intangible personalty. All intangible personal property in this state shall be exempt from all ad valorem tax levies of counties, cities, and school districts in this state.

The exemption provided in this section shall be applicable with respect to the assessment and taxation of intangible personal property on and after January 1, 1976, and no ad valorem taxes shall be assessed or collected on such property for any period after January 1, 1976.

26-24-102. Power and authority generally. The Arkansas Public Service Commission shall have the full power and authority in the administration of the tax laws of this state to have and exercise general and complete supervision over:

The valuation, assessment, and equalization of all property, privileges, and franchises; and

The several county assessors, county boards equalization, and other officers charged with the assessment or equalization of property taxes throughout the state, to the end that all assessments on property, privileges and franchises in this state shall be made in relative proportion to the just and true value of the property privileges, and franchises, in substantial compliance with the law.

26-26-201. Delinquent assessments. There shall be a penalty of ten percent (10%) of all taxes due on all persons and property delinquent in assessment.

Where the penalty of ten percent (10%) of the amount of all taxes due shall amount to less than one dollar (\$1.00), the penalty shall be arbitrarily fixed at one dollar (\$1.00).

All persons and property not listed for assessment with the assessor on or before May 31 of the year in which the assessment is required, as provided

by this chapter, shall be deemed delinquent in assessment, and the assessor shall so designate it on his records that the clerk may know each item of property and all persons so delinquent.

It shall be the duty of the clerk to affix and extend the penalty provided in this section against each item of property and all persons so delinquent.

The penalty shall be collected by the county tax collector and shall be by him paid into the county general fund.

Between January 1 and June 5 of each year, each county assessor shall file with the State Treasurer a sworn statement that he will comply with subsection (a) of this section. If a county assessor fails to file the statement by June 5, then the State Treasurer shall withhold county turnback to that county until the statement is received by the State Treasurer.

If the neglect is willful, the delinquent shall be deemed guilty of a misdemeanor and shall be fined in any sum not more than one thousand dollars (\$1000).

In addition to the penalties for not assessing, delinquent persons shall be required to pay an additional fifty cents (\$.50) for each list, which shall go to the assessor.

This additional sum shall be collected by the tax collector in the usual manner.

26-26-303. Percentage of value to be used in appraisal. The appraisal and assessment shall be according to value as required by Arkansas Constitution, Article 16, Section 5.

The percentage of true and full market or actual value to be used in the appraisal and assessment shall be fixed and certified by the Arkansas Public Service Commission as provided by 26-24-104.

Until and unless a budget system is adopted with provisions for eliminating excessive and illegal tax rates and expenditures, the commission shall not fix and certify a percentage of true and full market or actual value in excess of twenty percent (20%).

26-26-901. Furnishing of forms. Upon the application of the property owner or other person required to file an assessment list, the assessor shall furnish appropriate blanks upon which to list and report the property required to be listed.

26-26-903. Owner to list property. Every person of full age and sound mind shall list the real property of which he is the owner, situated in the county in which he resides, the personal property of which he is the owner.

26-26-910. Valuations in listings not conclusive. The valuations as set out in any assessment list required under the provisions of this subchapter to be delivered to the assessor by the property owner shall not be held to be conclusive as to the value of the property so listed, and the assessor may make such assessment of the property as he may deem just and equitable.

The assessor, in each instance where he raises the valuation of any property which has been listed with him as by law required, shall deliver to the property owner or his agent a duplicate copy of the adjusted assessment list, or he shall notify the property owner or his agent by first class mail, which notice shall state separately the total valuation of real and personal property as listed by the property owner and as fixed by the assessor, and shall advise that the owner may, by petition or letter, apply to the Equalization board for the adjustment of the assessment as fixed by the assessor.

All applications shall be made to the board on or before the third Monday in August.

For the purpose of enabling the assessor to determine just and equitable values of property, he is authorized, and it shall be his duty, to enter upon and make such personal inspection thereof as he shall deem necessary.

Any person shall, when called upon by the assessor, be required to answer upon oath and furnish proof demanded as to purchases, sales, transfers, improvements,... or any and all other information requested and pertaining to the location, amount, kind, and value of his own property or that of another person.

26-26-1102. Place of assessment. All real estate and tangible personal property shall be assessed for taxation in the taxing district in which the property is located and kept for use.

Tangible personal property in transit for a destination within this state shall be assessed only in the taxing district of its destination.

Tangible personal property in transit through this state including raw materials from within or outside this state used in the manufacturing process and tangible personal property manufactured, processed, or refined in this state and stored for shipment outside the state shall, for purposes of ad valorem taxation, acquire no situs in this state and shall not be assessed for taxation in this state.

The owner of tangible personal property in transit through this state and of tangible personal property in transit for a destination within this state may be required by the appropriate assessor, to submit documentary proof of the in-transit character and the destination of the property.

"Tangible personal property in transit through this state" means, for the purposes of this section, tangible personal property:

Which is moving in interstate commerce through or over the territory of this state; or

Which is consigned to or stored in or on a warehouse, dock, or wharf, public or private, within this state for storage in transit to a destination outside this state, whether the destinations specified when transportation begins or afterward, except where the consignment or storage is for purposes other than those incidental to transportation of the property; or

Which is manufactured, processed, or refined within this state and which is in transit and consigned to, or stored in or on, a warehouse, dock, or wharf, public or private, within this state for shipment to a destination outside this state.

26-26-1201. Date of valuation. All property in this state shall be assessed by the authorized authorities according to its value on January 1. However, stocks of merchants and manufacturers shall be assessed at the value of the average stock in possession or under control during the year immediately preceding January 1 of the year in which assessment is required.

26-26-1202. Valuation procedures. Personal property of any description shall be valued at the usual selling price of similar property at the time of listing.

If any personal property shall have no well-fixed or determined value in that locality at the time, then it shall be appraised at such price as in the opinion of the assessor could be obtained at that time and place.

(The beginning and ending portions of this Statute refer to real property and intangible personal property respectively, and are not quoted herein.)

26-26-1203. Merchants. Any person owning or having in his possession or under his control, within this state, with authority to sell it, any personal property purchased with a view to its being sold at a profit, or which has been consigned to him from any place out of this state, to be sold within this state, shall be held to be a merchant for the purpose of this valuation.

The property shall be listed for taxation and in estimating the value the merchant shall take the average value of the property in his possession or under his control during the year immediately preceding January 1 of the year in which the assessment is made.

If the merchant has not been engaged in the business for one (1) year, then he shall take the average valuation during such time as he shall have been so engaged.

If the merchant is commencing business, he shall take the value of the property at the time of assessment.

26-26-1205. Manufacturers. Every person who shall purchase, receive, or hold personal property of any description for the purpose of adding to the value thereof by process of manufacturing, refining, rectifying, or by combination of different materials with a view of making a gain or profit by so doing, shall be held to be a manufacturer. He shall make out and deliver to the assessor a sworn statement of the amount of his other personal property subject to taxation, also including in his statement the average value, estimated as provided in 26-26-1203, of all articles purchased, received, or otherwise held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying, or refining which from time to time he shall have on hand during the year next previous to the time of making the statement, if so long he shall have been engaged in such manufacturing business, and, if not, then during the time he shall have been so engaged.

Every person owning a manufacturing establishment of any kind and every manufacturer shall list as a part of manufacturer's stock the value of all engines and machinery of every description, used or designed to be used for the indicated purpose.

26-26-1407. Procedure and forms. The Assessment Coordination Department shall prescribe the forms to be used for the assessment and collection of tangible personal property pursuant to the provisions of this subchapter. The Division of Legislative Audit shall assist and guide the various county officials in establishing an appropriate procedure to be followed in assessing and collecting tangible personal property taxes and other matters necessary to effectively carry out the purposes of this subchapter.

26-26-1408. Time for assessment and payment. A taxpayer shall annually assess his or her tangible personal property for ad valorem taxes during the period from January 1 through May 31.

Taxable tangible personal property of a new resident and a new business established between January 1 and May 31 and taxable tangible personal property acquired by a resident during the period from January 1 through May 31, except tangible personal property acquired during the period of May 2 through May 31, shall be assessable without delinquency within thirty (3) days following the date of its acquisition.

All taxable tangible personal property assessable during this period shall be assessed according to its market value as of: January 1 of the year of the assessment; or the date of acquisition if the tangible personal property was acquired during the period of January 2 through May 31 of the year of assessment.

The ten percent (10%) penalty for delinquent assessment shall not apply to tangible personal property becoming eligible for assessment through May 31, except that the tangible personal property acquired during the period of May 2 through May 31 shall be assessable without penalty within thirty (30) days following the date of its acquisition..

Taxable tangible personal property of a person moving his or her residence from Arkansas, and taxable tangible personal property disposed of by a resident and a business, during the period between January 1 and May 31, if assessed for that year, shall be removed from the assessment rolls, and if not assessed, shall not be deemed assessable for that year.

Before removal of the tangible personal property from the assessment rolls, it shall be the responsibility of the property owner to provide the county assessor with notification, and, upon request from the county assessor, proof of the disposal.

The tangible personal property referred to in subdivisions (a)(1)(4) of this section shall not include the inventory of commercial establishments because specific provisions for the assessment of the inventory of a commercial establishment is provided elsewhere in this Arkansas Code.

The county assessor may list, value, and assess tangible personal property for a period extending through July 31 of each year of assessment. Assessment of tangible personal property after July 31 shall be according to provision of existing law.

Personal property taxes are payable each year between the first business day in March and October 15 inclusive.

26-27-315. Equalization of assessments. (a) Immediately after the county assessor files his or her report of the assessment of real and personal property in the office of the clerk of the county court as required by law, the clerk of the county court shall present the report of the assessment to the county equalization board, and the county equalization board shall proceed to equalize the assessed valuation of the properties.

(b) For this purpose, the county equalization board shall observe the following rules:

(1)(A) It shall raise or lower the valuation of any property to bring about a complete equalization.

(B) It shall not raise or lower the valuation of any property without documenting the reason for raising or lowering the valuation of the property, and the documentation shall be attached to the appropriate property record card or cards.

(C) The reasons for lowering or raising the valuation of property shall be limited to:

(i) The assessment is unfair compared with other properties of the same kind similarly situated, evidenced by the fact that the property is assessed higher than neighborhood properties of the same use, size, materials, and conditions;

(ii) The assessment is clearly erroneous, evidenced by the fact that the appraisal relies on substantially inaccurate or insufficient information concerning the property; or

(iii) The assessment is manifestly excessive or greatly exceeds what willing and knowledgeable buyers will pay similarly motivated sellers for the property, evidenced by selling prices of similarly situated properties.

(D)(i) It shall not raise or lower the value of any property without reviewing values of similarly situated properties.

(ii) If the same reason for raising or lowering the value of the property exists for those similarly situated properties, the values for those properties shall also be raised or lowered, and the changes shall be documented.

(E) It shall not materially change the records of the county assessor's office, but may only direct that the assessed value of property be raised or lowered in keeping with its documented findings:

(2)(A) In each instance in which the county equalization board shall raise the valuation of any property, it shall immediately notify the owner or his or her agent by first class mail of the increase.

(B) However, all persons present before the county equalization board in person or by agent at the time the increase is ordered are there so notified and shall not be entitled to further notice.

(C) The notice shall state the valuation returned by the county assessor and the valuation fixed by the county equalization board and shall advise the owner or his or her agent that he or she may in person, by agent, petition, or the equalization board if the application shall be made on or before the first Saturday next preceding the third Monday in September if in regular session for equalization or before the first Saturday next preceding the third Monday of November if meeting in special sessions; and

(3) In each instance in which an assessment is raised and the owner or his or her agent has applied for consideration or hearing for an adjustment of his or her assessment, if the county equalization board has failed to take action on his or her application before adjourning its regular session or if it fails to convene in special session to consider the application, then the county equalization board shall reduce all such increases to the assessed levels of the previous year.

26-34-101. Preference of tax liens. Taxes assessed upon real and personal property shall bind them and be entitled to preference over all judgments, executions, encumbrances, or liens whatsoever created.

All taxes assessed shall be a lien upon and bind the property assessed from the first Monday of January of the year in which the assessment shall be made and shall continue until the taxes, with any penalty which may

accrue thereon, shall be paid. However, as between grantor and grantee, the lien shall not attach until the last date fixed by law for the county clerk to deliver the tax books to the collector in each year after the tax lien attaches.

c)(1) Failure to satisfy a personal property tax lien following a purchase of a business or a business's assets, goods, chattels, inventory, or equipment not in the ordinary course of business shall result in the assessment of an additional penalty under §26-36-201(c) except with respect to a purchase of the following:

(A) A vehicle subject to registration; or

(B) A manufactured home or a mobile home.

(2) A purchase of a business or a business's assets, goods, chattels, inventory, or equipment not in the ordinary course of business does not include the deed of property in lieu of foreclosure or the acquisition of title to property following a foreclosure sale.

26-36-201. Dates taxes are due and payable.

(a)(1) All taxes levied on real estate and personal property for the county courts of this state, when assembled for the purpose of levying taxes, are due and payable at the county collector's office between the first business day of March and October 15 inclusive.

(2) All taxed unpaid after October 15 are delinquent.

(b)(1) The county collector shall extend a penalty of ten percent (10%) against all delinquent taxpayers that have not paid their taxes within the time limit specified.

(2) The county collector shall collect the penalty provided in subdivision (b)(1)(A) of this section.

(c) The county collector shall extend an additional penalty of ten percent (10%) upon all delinquent taxpayers if the taxpayers' delinquent personal property taxes are not satisfied or paid in full by October 15 following the purchase of a business or the assets, goods, chattels, inventory, or equipment of a business not in the ordinary course of business.

(d) A penalty shall not be assessed against a taxpayer who is a member of the United States armed forces, reserve component of the armed forces, or the National Guard during the taxpayers's deployment plus one (1) tax year after the deployment ends.

(e) When October 15 falls on a Saturday, Sunday, or a holiday observed by the United States Postal Service, the taxes shall become due and payable the following business day that is not a holiday observed by the United States Postal Service.