TAX ADVISORY COUNCIL

2013 YEAR-ENDING REPORT

(Meetings Chaired by Jane Strike, Arkansas Bar Association)

Definition

Purpose: The Tax Advisory Council (TAC) was created by Act 998 of 1991. It consists of tax professionals and representatives of interested public and professional groups, including the Arkansas Bar Association Tax Section, the Arkansas Society of Accountants, the Arkansas Society of Certified Public Accountants, and employees of the Department of Finance and Administration's Revenue Division. The Council provides input to the General Assembly during the legislative process by studying and recommending changes to tax laws. It also promotes a better understanding of those tax laws and changes. At the end of every calendar year, a report summarizing discussions and decisions made by the TAC is prepared to inform the chairmen of the Revenue and Taxation Committees and members of the State's House of Representatives and Senate.

Membership
(Arranged by Organization)

Arkansas Bar Association:
Joshua Osborne, Michael Parker, and Jane Strike

Arkansas Society of Accountants:
A.W. Bailey

Arkansas Society of Certified Public Accountants:
Bruce Alt, Phyllis Holifield, Stan Kozij, and Mike Watts

Arkansas Department of Finance and Administration (DFA), Revenue Division:
David Foster, Assistant Commissioner of Operations and Administration (Retired as of October 31, 2013);

Walter Anger, Assistant Commissioner of Operations and Administration (As of November 1, 2013)

John H. Theis, Assistant Commissioner of Revenue for Policy and Legal;
Martha Hunt, Chief Counsel, Revenue Legal Counsel;
Tom Atchley, Administrator, Excise Tax;
Deanna Munds-Smith, Administrator (As of November 1, 2013), Field Audit;
Michael Almond, Tax Audit Supervisor, Field Audit;
Warren Fagan, Administrator, Income Tax;
Jim Branham, Manager, Collections;
Roberta Overman, Manager, Sales and Use Tax;
Scott Fryer, Manager, Corporation Income Tax;
Rob Allen, Tax Auditor, Individual Income Tax;
Robert Pugh, Audit Manager, Individual Income Tax
Matthew Turner, Manager I, Individual Income Tax;
Travis Venable, Tax Division Manager, Arkansas Integrated Revenue System (AIRS);

David Rector, Problem Resolution Officer;
Lynne Reynolds, Problem Resolution Officer; and

Monica Carmichael, Public Information Specialist.

KPMG LLP
Lori Wiseman, Arkansas Income Tax Specialist

Meetings

Members of the TAC met three times during 2013 on the following dates:

Meeting dates	Total Present
May 14, 2013	16
August 13, 2013	18
November 12, 2013	17

These meetings were held in Conference Room 2330 of the Joel Ledbetter Building. Meetings averaged one (1) to one and one-half (1 ½) hours in length and were open to the public and to all representatives of the State Senate and House of Representative Revenue and Taxation Committees. The TAC Meeting scheduled for February 12, 2013 was cancelled due to the Arkansas Regular Legislative Session.

Summary

Tax Advisory Council Activities: The following is a brief summary of what transpired during the TAC's 2013 meetings.

Office of Revenue Legal Counsel:

Summary of litigation:

Status of Lawsuits Filed:

Gary Sanford et al. v. Weiss, Pulaski County Circuit Court, 5th Division, Case Number: 60CV-10-3462—This case was discussed and updated during the November 12, 2013 TAC Meeting. Ms. Hunt stated this case is a challenge to the interest that is assessed on tax delinquencies after a Certificate of Indebtedness has been filed. The case was filed as an "illegal exaction" challenge and civil rights claim. The plaintiff alleges the collection of interest violates Article 19, § 13 which is the constitutional usury provision as made applicable by Ark. Code Ann. § 16-65-114 which is the statute that governs the interest rates on judgments. The relief requested seeks an injunction against the continued collection of the interest and a mandatory injunction for the escrow of funds that are collected and for attorney's fees. Also, as of the November 12, 2013 TAC Meeting, Ms. Hunt stated Arkansas Department of Finance and Administration's motion to dismiss hearing was held on July 13, 2011. At that time, the judge dismissed the civil rights claim, but he left the "illegal exaction" challenge pending. She further added the order has not been entered, and DFA has not answered. During the November 12, 2013 TAC Meeting, Ms. Hunt also stated the Legal Section had recently received an amended complaint on this case.

L.A. Darling Company v. Weiss, Greene County Circuit Court, Case Number: CV-2012-173—This case was discussed and updated at all the 2013 TAC meetings. During the November 12, 2013 TAC Meeting, Ms. Hunt recapped and updated the council with the case. She stated the plaintiff was a direct pay taxpayer, and one of the issues in the taxpayer's complaint concerns some transactions in which the taxpayer paid tax to the vendor and also accrued and paid tax on some of those same transactions but never submitted a refund request or a vendor assignment request for refund of the tax on these transactions. A second issue involved in the complaint was whether machinery and equipment purchased by the plaintiff is exempt as manufacturing machinery and equipment. Ms. Hunt stated the case was set for trial in October 2013, but discovery was ongoing at that time. She stated the case has been continued to August 2014.

Theresa Holbrook v. Healthport, Inc., Pope County Circuit Court, Case Number CV2010-588—This case was discussed and updated at all the 2013 TAC meetings. During the November 12, 2013 TAC Meeting, Ms. Hunt recapped and updated the council with the case. She stated the original complaint in this lawsuit was filed by Holbrook against Healthport requesting a refund of sales tax collected by Healthport in connection with providing medical records to Holbrook for a fee. The lawsuit also requested certification of a class of persons or entities who had paid tax to medical records providers. The lawsuit eventually proceeded procedurally on only the legal issue of whether the medical records are subject to tax. The circuit court held that records are taxable when provided in tangible form (paper copies). The plaintiff appealed the case to the Arkansas Supreme Court. The Arkansas Supreme Court held that the order did not comply with the requirement of specific factual findings of danger or hardship in Rule 54(b) of the Arkansas Rules of Civil Procedure to allow an appeal and dismissed the appeal without prejudice on February 28, 2013 in Case Number 12-457. Ms. Hunt stated an amended order was entered, and a notice of appeal was filed on August 1, 2013. During the November 12, 2013 TAC Meeting, Ms. Hunt stated the plaintiffs and DFA have filed their briefs with the Arkansas Supreme Court. She stated Healthport, Inc.'s brief would be filed in the coming week. After all briefs have been filed, Ms. Hunt stated the plaintiffs have 15 days to respond. She anticipates the case will go before oral arguments because it had in the past. If the case goes before oral arguments, Ms. Hunt anticipates it should happen in Spring 2014.

Weatherford Artificial Lift Systems, Inc. v. Weiss, Pulaski County Circuit Court, 6th Division, Case Number: 60CV-11-3290—This case was discussed and updated at all the 2013 TAC meetings. During the November 12, 2013 TAC Meeting, Ms. Hunt recapped and updated the council with the case. She stated the plaintiff in this case alleges three alternative causes of action, all relating to the purchase of various tangible personal property (including silicon dioxide, silicon dioxide coated with resins, and aluminum silicate and aluminum oxide based ceramics) that was used by the plaintiff in the services it provides to the natural gas extraction industry in areas where the gas is extracted from areas of shale. Ms. Hunt added the issue in the case centers around the taxability of various materials used as proppants in natural gas extraction. The three alternative causes of action are:

1. Refund of sales tax paid following an assessment based upon the claim that the property that was used and installed as propping agents to complete new wells are exempt as equipment under Ark. Code Ann. § 26-52-402.

2. The property used as propping agents are exempt as chemicals used in manufacturing under Ark. Code Ann. § 26-52-401 (35).

3. The withdrawals from stock were not taxable from January 1, 2008 to March 10, 2009.

Ms. Hunt stated the trial date is still set for February 5-6, 2014.

H & S Maintenance, Inc. v Weiss, Pulaski County Circuit Court, Case Number: 60CV-011-4268—This case was discussed and updated during the August 13, 2013 and the November 12, 2013 TAC Meetings. At the most recent meeting, Ms. Hunt stated the issue in this case concerns the taxability of initial installation of lawn sprinkler systems. She stated the taxpayer filed the original lawsuit as an illegal exaction. Ms. Hunt stated the complaint has been amended several times by the plaintiff in response to motions to dismiss the illegal exaction claim. Ms. Hunt stated the latest pending motion to dismiss has not gone to hearing yet.

New Cases

McAllister Case—During the May 14, 2013 TAC Meeting, Ms. Hunt stated this was a hotel case filed in Saline County. She stated the defendants in the case filed a motion to dismiss, and the case had been filed as an illegal exaction. Ms. Hunt stated the trial court granted the motion to dismiss and found that it was not an illegal exaction. Ms. Hunt added the judge sent a letter to the parties stating the defendant's motion to dismiss had been granted.

Alert Alarm Systems, Inc. v Weiss, Sebastian County Circuit Court, Case Number: CV-13-0323—This case was discussed and updated at all the 2013 TAC meetings. During the November 12, 2013 TAC Meeting, Ms. Hunt recapped and updated the council with the case. She stated the issue in this case concerns the taxability of materials that the plaintiff purchased and installed in connection with its alarm installation and monitoring business. Ms. Hunt stated the complaint has been amended three times in response to DFA's motions to dismiss. She added the most recent motion to dismiss was denied, and DFA answered. Ms. Hunt stated there have been a number of procedural issues with this case, and no merits have been reached on this case.

Lion Oil Company v. Richard Weiss, Union County Circuit Court, Case Number: CV2012-0021-4—This case was first discussed at the May 14, 2013 TAC Meeting. During the November 12, 2013 TAC Meeting, Ms. Hunt recapped and updated the council with the case. She stated the issue in this case centers around whether purchases of machinery and equipment by Lion Oil Company qualify for the exemption for machinery and equipment required by state or federal law or regulations to prevent or reduce air or water pollution. (Act passed in 2013 Regular Session that will specifically exempt the equipment at issue in this case, but DFA will argue that it does not apply retroactively to this equipment). She stated DFA was served in May 2013, and the complaint has been answered. Ms. Hunt stated the case was in discovery.

DM Apparel, Inc. v. DFA, Calhoun County Circuit Court, Case Number: CV2013-27-6—During the November 12, 2013 TAC Meeting, Ms. Hunt stated this case was a challenge to debt from an audit that was protested in the past. Ms. Hunt stated previously DFA received a power of attorney from an attorney who allegedly represented the taxpayer and who corresponded with DFA and stated the case did not need to go to hearing. Recently, after some time had passed and liens had been filed, she stated the taxpayer filed a lawsuit and alleged the power of attorney lacked authority to represent them. Ms. Hunt stated DFA has answered the lawsuit.

McLane Southern, Inc. et al v. Richard Weiss, Director of DFA, and J. R. Thomas, Director of Arkansas Tobacco Control, Pulaski County Circuit Court, Case Number: 60V-13-3719—During the November 12, 2013 TAC Meeting, Ms. Hunt stated this case is a challenge to Act 631 of 2013. Act 631 amended the levies on the tax on other tobacco products. This lawsuit challenges the amendments to both levies alleging the levies are now unconstitutional as a levy on property. She stated the case has just been filed and answered, and there are no further developments on the case.

Dwight Ellis Brooks v State et al., Pulaski County Circuit Court, Case Number***:*** 60V-13-2742—During the November 12, 2013 TAC Meeting, Ms. Hunt stated this case was filed by a pro se plaintiff. She stated it is difficult to determine the type of relief the taxpayer is requesting. *S*he stated DFA has filed a tax lien against the taxpayer. She stated the primary complaint in the case appears to arise out of a foreclosure. Ms. Hunt stated there are a variety of defendants such as various lending institutions, Internal Revenue Service, and DFA. She stated the case was filed in State Court, and she anticipated a number of procedural actions would take place. Ms. Hunt added the IRS may attempt to move the case to federal court if the IRS remains in the lawsuit. She stated it was filed recently, and the Legal Section had not received any answers from the other defendants at that time.

Office of Field Audit Administration:

Policy for Audit Periods (Six Years Versus Three Years)—During the May 14, 2013 TAC Meeting, Ms. Munds-Smith stated the Audit Section's general policy is to employ a three year audit period. She stated the only time that period is extended to a maximum of six years is if the taxpayer has underreported by 25% or more for the tax period.

Voluntary Disclosure Program—During the May 14, 2013 TAC Meeting, Ms. Munds-Smith stated that in 2012 the Nexus Discovery Unit received 93 signed voluntary disclosures, and a total number of 88 of those disclosures have been registered with a total of $2.4 million collected. Mr. Parker asked if these totals were from the Multistate Tax Commission (MTC). Ms. Munds-Smith answered by stating no. She added the amounts were from Arkansas, but the Audit Section does handle the MTC accounts.

Form ST-391, Exemption Certificate in the Audit Process—During the May 14, 2013 TAC Meeting, Ms. Munds-Smith stated the Audit Section frequently has a problem with retailers who do not have current exemption certificates on file. Ms. Munds-Smith added the Audit Section allows the retailer 120 days to obtain a current exemption certificate from the Sales Tax Section. She stated the certificate is only valid for 12 months. Mr. Parker stated the 12 month validity on the exemption certificates seems too short, and he has not seen any specific provisions limiting the effectiveness listed on the exemption certificate. Ms. Munds-Smith stated this policy is done in order to maintain updated exemption certificates.

Ms. Overman added the Sales Tax Section has received numerous comments on exemption certificates concerning whether or not the resell certificate on file is good for all purchases or just limited to specific purchases. She stated the purchaser needs to verify this information with the sellers.

Act 160-Update on Installment Agreements—During the August 13, 2013 TAC Meeting, Mr. Branham stated Act 160 of 2013 updated a previous act that allowed the Collection Section to set up payment plan agreements without filing a lien. He stated the previous stipulation on payment plan agreements was to allow a taxpayer who had an Arkansas delinquent individual income tax liability for a total of less than one thousand dollars ($1,000) to enter into an agreement that only allowed the taxpayer six months to pay the delinquent tax in full in installments. Mr. Branham stated Act 160 changed the payment plan agreement amount requirement to $2,000 for 12 months with the stipulation the payments are made electronically. He stated the electronic payments may be made by credit card or through Arkansas Taxpayer Access Point (ATAP). When the Collection Section sets up the payment plan agreement with the taxpayer, Mr. Branham stated the taxpayer is told that the payments must be paid electronically each month, and then in return a lien will not be filed. Before Act 160 was implemented, Mr. Branham stated the Collection Section received complaints from accountants stating their clients did not appreciate a lien being filed automatically on a small amount of tax debt. Mr. Branham stated Act 160 will allow taxpayers a chance to keep a good credit rating.

Ms. Hunt stated Act 160 will be effective August 16th. Mr. Theis stated Act 160 will be monitored carefully between now and the 2015 Arkansas Regular Session for the ability in the future to possibly increase the dollar amounts on the payment plan agreement and lengthening the duration of the payment plan agreement in order to reach more taxpayers. Mr. Parker asked Mr. Branham if the payment plan agreements were on individual income tax amount due only. Mr. Branham answered by stating yes. He stated the payment plan agreements for $1,000 for six months have been one of the most popular payment plan agreements. He reiterated the Collection Section offers this type of payment plan agreement to any taxpayer who is eligible.

Office of Excise Tax Administration:

Update on New Members to the Streamlined Sales Tax Agreement—During the August 13, 2013 TAC Meeting, Mr. Atchley stated there are no new members to the Streamlined Sales Tax Agreement. He stated currently there are still 22 full-time and two associate member states in the Streamlined Sales Tax Agreement. Mr. Atchley stated there are no states currently petitioning for membership, although Massachusetts has shown some interest in streamline sales tax legislation.

He stated Missouri had adopted legislation for purposes of streamline compliance this year through the Missouri State Legislature, but the legislation was vetoed by Governor Nixon. After reviewing news stories on the Missouri legislation, Mr. Atchley stated the legislation was not strictly streamlined compliance only.

Mr. Atchley provided an Arkansas Streamline Sales Tax Collections handout for the TAC Members. The handout listed streamline sales tax collections from November 2005 to May 2013. Based on current streamline sales tax collections, Mr. Atchley anticipated another $10 million in combined local and state streamline sales tax collections for 2013. Mr. Atchley stated currently there are a total of 2,002 out of state registered businesses which strictly volunteered to register with Arkansas. He added these businesses report to the Arkansas DFA Sales Tax Section only when they owe sales tax. Once a business registers with the Streamlined Sales Tax Agreement, Mr. Atchley explained that business also signs up with the other states who are members of the Streamlined Sales Tax Agreement. He added the number of business registrations increase from month to month and from year to year. Mr. Atchley stated Arkansas has submitted documentation for compliance review for 2013. He added that he serves on the Streamlined Sales Tax Governing Board's Compliance Review and Interpretations Committee (CRIC). Mr. Atchley stated the committee will begin reviewing all the member states in September 2013 with the goal of the reviewing process being completed by November 2013. He explained the review process is accomplished through a series of meetings where tax laws of the member states are analyzed to determine if any issues exist and to make sure the states are still in compliance. Mr. Atchley also stated that he has been on the Streamlined Sales Tax Governing Board's Compliance Review and Interpretations Committee (CRIC) since it was initially created.

Act 1441 of 2013 Regular Session—During the August 13, 2013 TAC Meeting, Mr. Atchley stated Act 1441 of 2013 will exempt utilities used for qualifying agricultural structures and qualifying aquaculture and horticulture equipment. He added it is a 100% exemption from state and local tax, and the utilities that are eligible for exemption are electricity, liquefied petroleum gas, and natural gas. Mr. Atchley added Act 1441 will become effective January 1, 2014. He also stated the Sales and Use Tax Section is in the process of sending out letters to the farm community to allow them to register for an exemption certificate. He stated they will also be mailing out letters to the farming associations that have inquired about the certificates for them to spread the word to farmers to access the exemption certification form online. Mr. Atchley stated he wants the Sales Tax Section to start receiving the forms during the early part of Fall 2013. Mr. Atchley stated he anticipated farmers would receive the exemption certificates back by December 2013 in order for them to submit the exemption certificate to their utility company to claim the exemption.

Arkansas Sales Tax Holiday (August 3 & 4 2013)—During the August 13, 2013 TAC Meeting, Mr. Atchley stated the third Arkansas Sales Tax Holiday took place on August 3-4, 2013. Mr. Atchley stated the Sales Tax Section received a lot of press contact across the state from radio stations and newspapers. He stated he did not see any articles concerning the Arkansas Sales Tax Holiday in the local papers from the retailer perspective. Mr. Atchley added the Sales Tax Section received very few questions and concerns during the 2013 Arkansas Sales Tax Holiday.

Act 1392 of 2013 Regular Session—During the August 13, 2013 TAC Meeting, Mr. Theis discussed some misinformation that had been circulating about Act 1392 of 2013. Act 1392 is a farming credit that exempts farmers engaged in commercial farming operations from state and local sales and use tax on the purchase of baling twine, net wrap, silage wrap, and other similar products that are used for baling, packaging, tying, wrapping, or sealing animal feed products. Mr. Theis stated a farming organization informed its members incorrectly by stating Act 1392 would become effective on July 1, 2013. Mr. Theis stated the correct effective date for Act 1392 is October 1, 2013. He stated the farming organization has sent notices that include the correct effective date to their members.

Act 1164 of 2013 Regular Session—During the August 13, 2013 TAC Meeting, Mr. Parker had a question concerning Act 1164 of 2013 Regular Session which levies state, local, and long term motor vehicle leasing tax on vehicles leased for more than thirty (30) days regardless of whether the tax was paid at the time of registration. Act 1164 will become effective on October 1, 2013. Mr. Parker asked a question concerning long-term leased vehicle tax and the transition issue regarding rental vehicles that are already registered with the tax paid on the front end and the tax being charged on the entire lease stream as of October 1, 2013. Mr. Atchley stated Act 1164 was not sponsored by any state agency, but rather was sought by the automotive industry. He explained Act 1164 has the same time constraints as in the past with short term motor vehicle leasing tax. Mr. Atchley stated tax will be due on the lease stream regardless of whether or not the tax was paid at the time of acquisition and licensing of the vehicle. He stated the Sales Tax Section has received questions from the public concerning Act 1164, but at this time, Mr. Atchley stated the Sales Tax Section has not issued any official responses to those questions. Mr. Theis also answered Mr. Parker's question by stating the Sales Tax Section has not received any written opinion requests concerning Act 1164, but both Mr. Theis and Mr. Atchley anticipate written opinion requests from the leasing company representatives in the near future.

Act 623 of the 2013 Regular Session)—During the November 12, 2013 TAC Meeting, Ms. Overman discussed Act 623 that will become effective January 1, 2014. Ms. Overman stated the Sales Tax Section will start collecting a sixty-five cents ($0.65) fee per transaction from all retailers for prepaid wireless cards and phones. She stated this fee was previously paid by the service provider, and it will now be the retailer's responsibility to collect and pay this fee.

Sales Tax Changes Effective July 1, 2014 (Passed During 2013 Regular Session)—During the November 12, 2013 TAC Meeting, Ms. Overman discussed the following acts that will become effective July 1, 2014:

Act 1401

Ms. Overman stated this act exempts utilities for commercial grain drying and storage. She stated purchasers will need to obtain a certificate from the Sales Tax Section in order to claim the exemption.

Act 1402

Ms. Overman stated this act exempts eligible purchases of timber harvesting equipment from state and local sales and use tax.

Act 1404

Ms. Overman stated this act establishes a partial refund of 1% for state sales and use tax paid on the purchase of machinery and equipment or eligible repair or replacement parts. In order to claim the refund, Ms. Overman stated the taxpayer must obtain a direct pay permit from the Sales Tax Section and claim the refund on the monthly tax return.

Act 1411

Ms. Overman stated that several state sales tax rate changes will go into effect for manufacturing utilities as a result of this act. The next rate change concerns the state rate for manufacturers under NAICS code section 31 through 33 and cotton gins under NAICS code 115111. They will have a state rate of 1.625% beginning July 1, 2014. Ms. Overman also stated tax rates for eligible electricity generators will have a state rate of 3.25% beginning January 1, 2014 through December 31, 2014.

For other future rate changes as a result of this act, please go to the following link for more information:

http://www.dfa.arkansas.gov/offices/exciseTax/salesanduse/Documents/whatsnew2013.pdf.

Act 1414

Ms. Overman stated this act exempts the sale of dental appliances to or by a dentist, orthodontist, oral surgeon, maxillofacial surgeon, or endodontist from state and local sales and use tax. She stated this exemption does not require the dentist, orthodontist, oral surgeon, maxillofacial surgeon, or endodontist to write a prescription or sell a certain item to a specific patient as other medical exemptions have required adaptive medical equipment under other acts.

Contractor Tax Rate Change Rebate—During the November 12, 2013 TAC Meeting, Ms. Overman reviewed contractor tax rate change rebate information with TAC members. She stated the Sales Tax Section received a lot of feedback from contractors when the state sales and use tax rate increased to 6.5%. Contractors can request tax rebates from the Sales Tax Section for contracts that were signed prior to July 1, 2013 and for purchases that were used in the contract. She provided TAC members with handouts that included the Arkansas statute §26-52-427 and the Contractor Tax Rate Change Rebate Form, ET-180A. She stated the rebate would continue for five years from the effective date of the change. Ms. Overman stated this rebate does not apply to cost plus contracts which allow the contractor to pass any additional tax on to the principal as a part of the contractor's costs. Ms. Overman stated contractors must complete and submit the ET-180A Form. She also admonished TAC members to instruct their clients who are contractors to also submit a copy of the contract in order to receive the rebate.

Aviation Sales and Use Tax Remittance Form, AV-1—During the November 12, 2013 TAC Meeting, Ms. Overman stated the AV-1 Form is a new form for sellers and purchasers of airplanes to report sales and use tax directly to the Sales Tax Section. She stated the tax could no longer be paid at local revenue offices. Ms. Overman added the AV-1 Form must be completed and submitted along with the sales and use tax payment and any supporting documents directly to the Sales Tax Section. She said this would assist the Field Audit Section because they verify the taxes have been paid on all airplanes.

Special Events Promoter's Sales Tax Information—During the November 12, 2013 TAC Meeting, Ms. Overman stated the Sales Tax Section had been receiving a lot of calls from CPAs and organizations concerning special events. She stated the Sales Tax Section has become more proactive with special events. She gave TAC members handouts that included a copy of Arkansas statute §26-52-518 that concerns special events along with the special event promoter's sales tax information document.

Ms. Overman stated a special event promoter is required to register for sales tax collection with the Sales Tax Section. She added the promoter is also required to provide each vendor with special event tax reporting forms and any other information that is required. Ms. Overman stated it does not matter if the promoter is a charitable organization, and if their activity for admission is not subject to tax. She stated the charitable organization has a duty to follow the state statue on the guidelines of being a promoter.

Ms. Overman also stated the special event vendors are required to file daily reports with the promoter or organizer and remit the daily sales tax along with their completed forms. If a promoter or organization needs assistance during a large event, Ms. Overman stated the Sales Tax Section is available to provide assistance.

Arkansas Excise Tax Return Test Form (ET-1 Form)—During the November 12, 2013 TAC Meeting, Ms. Overman stated the Sales Tax Section is receiving questions from groups on why there was not a sample test form on the Sales Tax Section's website. She stated the Sales Tax Section placed the Arkansas Excise Tax Return Test Form, ET-1 Form, on their website, and taxpayers started completing the test form and mailing it to the Sales Tax Section which has a test scanning code that is placed at the bottom of the form. She urged the TAC members to tell their clients to not submit the test form or make copies of the test form to submit to the Sales Tax Section. When the scan line at the bottom of the page is scanned along with the payment being submitted, Ms. Overman stated the test coupon will go to the test account address located at the top of the page which will kick out in the system and sit in suspense. Unless the taxpayer paid in cash in the Cash Control Section, she stated the Sales and Tax Section will have a copy of the check, and the check can be traced to where it came from. Due to all the errors, the test form has been taken off of the website.

Ms. Overman stated the 911 Fee was added to Line 20 on the ET-1 Form. She stated the 911 Fee is 65¢ per transaction. Ms. Overman stated the 911 fee prompt payment discount is 3% not 2%. If TAC members had any questions, she stated they could call the Sales Tax Section at 501-682-7104 for assistance.

Arkansas Integrated Revenue System:

AIRS DS-MV-Launch of Driver Services and Motor Vehicle Rollout—During the August 13, 2013 TAC Meeting, Mr. Foster stated the AIRS DS-MV Rollout I happened last year on September 17, 2012. He stated it is based on the same core software system that is utilized in AIRS to upgrade the Driver Services Section's system into a new environment which is web enabled. He stated it was the first successful driver services system rollout in any state in 14 years. Mr. Foster stated the AIRS DS-MV Rollout 2 implementation would begin on September 30, 2013. He stated Rollout 2 will upgrade, enhance, and improve the Motor Vehicle Section's system. Mr. Foster also stated it would increase the security in the Motor Vehicle Section's system.

Mr. Venable stated AIRS DS-MV Rollout 2 would allow the system to become more efficient when exchanging data with other agencies. Mr. Foster added that all Arkansas DFA Revenue accounting systems will be transferred to the General Ledger Account in the AIRS DS-MV Rollout 2. He stated this will allow for more internal electronic fund transfers from remote offices into Little Rock in a more efficient manner. Since all Arkansas DFA Revenue systems are based on the same core software package, Mr. Foster stated employee training time will be decreased when an employee transfers from one revenue office to another one.

Update on Real Estate Transfer Stamp Project (Act 700 of 2011)—During the November 12, 2013 TAC Meeting, Mr. Venable briefly discussed Act 700 of 2011 which directed DFA to review the concept of real estate document stamp issuance and to give a report to the Arkansas Legislative Council in 2012. The real estate adhesive documentary stamps have now been replaced with a one page real estate documentary stamp. He stated the real estate documents are 8 X 11 in size and contain the grantor and grantee information, purchase price, tax amount, and the town where the property is located. Although the real estate document stamps can still be purchased at local revenue offices, Mr. Venable stated the major change is that the real estate document stamps can be purchased online on Arkansas Taxpayer Access Point (ATAP) as of September 30, 2013.

He stated 269 people had registered to purchase real estate document stamps on ATAP at 364 locations. Mr. Venable stated mainly title companies and attorneys have registered to purchase real estate document stamps online. He stated 77% of real estate revenue stamps are currently being purchased online.

Mr. Venable stated the ATAP Section has implemented a fraud prevention section that allows circuit clerks to verify if the real estate document stamps have been counterfeited. He stated the circuit clerks can enter the stamp identification number to validate the stamp. He also stated no major issues have arisen since the rollout on September 30, 2013.

Office of Income Tax Administration:

2012 Individual Income Tax Filings to Date and Update on Processing— During the May 14, 2013 TAC Meeting, Mr. Fagan stated there was a record amount of collections in April 2013 due to increased efficiency in processing payments. He stated that 1.1 million 2012 tax year returns had been processed as of April 30, 2013 compared to 1.15 million for the 2011 tax year. He added processing had decreased by 50,000 from the 2011 tax year. Mr. Fagan stated e-file tax returns increased by 1,700 from the 2011 tax year, and he stated paper returns decreased by 51,000 from the 2011 tax year. Mr. Theis added one of the reasons for the increase in Arkansas' revenue in April 2013 was due to taxpayer's reaction to tax policy at the federal level, and he stated extension payments were higher because some taxpayers did not know how the federal legislation would change in late 2012. Mr. Fagan agreed by stating a large number of dividend payments were paid by corporations to shareholders in December instead of January.

He stated a process has been implemented with the assistance of Mr. Foster where all tax payments can be processed in the Cash Control Section. Mr. Kozij asked if there was still a problem with vouchers not being sent in correctly. Mr. Fagan stated there will always be a problem where taxpayers have not mailed in a voucher with the payment or a wrong voucher has been mailed in with a payment. With the implementation of a new research method, Mr. Fagan stated many of the payment vouchers issues have been eliminated.

DFA Signature Policy for Form AR8453-OL, Declaration for Electronic Filing—During the May 14, 2013 TAC Meeting, Mr. Fagan stated Form AR8453-OL, Declaration for Electronic Filing, was required to be mailed to DFA for income tax year 2010. From tax year 2011 and beyond, he stated the taxpayer can keep the form, and the Income Tax Section only requests it if needed. Mr. Fagan stated the Income Tax Section does require that Form AR8453-OL be submitted to the Income Tax Section if the taxpayer is claiming a state tax credit for tax paid to another state or the credit for individuals with developmental disability.

Mr. Kozij stated his question concerning Form AR8453-OL centered on whether original signatures are required in the file copy. Mr. Fagan stated the taxpayer keeps Form AR8453-OL with the original signature, and if the Income Tax Section needs the original signature, they will request it. Mr. Kozij stated typically the tax preparer keeps Form AR8453-OL with the original signature before he files it with the Arkansas income tax return, and he states the Internal Revenue Service accepts an email or faxed copy of Form AR8453-OL. Mr. Kozij added he will not have the original signature from the taxpayer if Arkansas requires the original signature copy of Form AR8453-OL when filing the taxpayer's income tax return, and he also states in some instances he may never receive an original signature from a taxpayer due to the fact that in many instances taxpayers' signatures are received through an electronic portal. Mr. Fagan deferred Mr. Kozij's question to Ms. Hunt to answer.

In response to a question regarding electronic signatures, Ms. Hunt stated there is legislation that states the goal of the State of Arkansas is to move towards accepting electronic signature copies as original signature copies, but she stated this law is slowly being implemented. Ms. Hunt stated as far as the tax sections are concerned, employees of those sections are attempting to resolve the issue using a reasonable approach regarding whether an electronic signature is acceptable based upon the specific circumstances for which the signature is to be used. Mr. Kozij stated it is an important issue when field audit representatives request original signatures from the taxpayer.

Name Mismatch for Individual Income Tax—During the May 14, 2013 TAC Meeting, Mr. Fagan stated he and Mr. Bailey recently discussed some issues that involved his clients' names being processed in error. He stated the issue has been resolved, and there should not be any future issues concerning name mismatch.

2011 Non-Filer and CP2000 Notices—During the August 13, 2013 TAC Meeting, Mr. Turner stated the Income Tax Section will mail out approximately 22,000 2011 non-filer notices. He stated the non-filer notices are mailed out in bundles of 5,000 at a time. Mr. Turner stated the first bundle of 5,000 non-filer notices were mailed on July 25, 2013, and another 5,000 non-filer notices were mailed on August 5, 2013. As of the date of this meeting, he added another 5,000 non-filer notices would be mailed on August 14, 2013 and the remaining non-filer notices would be mailed during the week of August 19, 2013. He stated all the non-filer notices should be for 2011 unless the taxpayer filed late returns with the IRS, and then some prior year tax returns could be included. Mr. Turner stated the Income Tax Section is attempting to be as current as possible. He stated the Income Tax Section is setting a tentative deadline of sending non-filer notices in the late summer of each year to develop a schedule that tax preparers can become accustomed to in the future.

Mr. Turner stated there are different criteria which are used for determining who receives a non-filer notice such as a taxpayer's income. If a taxpayer files as a part-time year resident for a year after the non-filer notice, he stated the taxpayer can call the Income Tax Section, and the open assessment will be closed at that time. For military personnel taxpayers, Mr. Turner stated the Income Tax Section places an indicator on the AIRS system that prevents any future non-filer notices from being mailed.

Mr. Turner stated a new section that includes the spouse's withholdings on the return was added to this year's non-filer notices. He stated this will allow married couples more credit and due to this, their initial tax liability would not be nearly as high. If a taxpayer receives a refund after filing their tax return, Mr. Turner stated interest will be paid on the refund. He added lien releases will identify the lien filing as erroneous if the tax return is a refund, no tax due, not required to file, or by mistake of the Department's Income Tax Section.

Mr. Pugh stated that about 55,000 CP2000 notices will be mailed after the remaining non-filer notices are mailed. He estimated the CP2000 notices will be mailed in the next one to two months. Mr. Pugh stated the Income Tax Section is attempting to mail the CP2000 notices before the Thanksgiving and Christmas holiday season. He stated the CP2000 notice is a standard letter that encourages the taxpayer to file an amended return if they have not already done so. He added that potentially there is information the Income Tax Section may have received from the IRS that may be beneficial to the taxpayer. Mr. Theis wanted Mr. Pugh to explain CP2000 notices in more depth. Mr. Pugh stated that CP2000 notices are for amended income. He stated the most common reasons taxpayers receive CP2000 notices are included in the following:

- When taxpayers leave W-2s off of their income tax return.
- 1099-R for retirement income is left off of the return.

Mr. Theis commended the efforts of Mr. Turner, Mr. Pugh, and the entire Income Tax Section because at one point the Income Tax Section was behind three years on processing the non-filer notices. Mr. Theis added the Income Tax Section has made great strides in being consistent on processing non-filer notices, and he added 2011 is the most recent year for which non-filer notices could be issued.

Update on Southeastern Association of Tax Administrators (SEATA) Conference—During the August 13, 2013 TAC Meeting, Mr. Fryer stated that he and four other Arkansas DFA employees attended the 63rd Annual SEATA Conference on July 28th through July 31st in Hilton Head, South Carolina. He stated it was a four day conference. Mr. Fryer stated the first day of the conference consisted of introductory programs, and the last day consisted of executive and information exchange committees. He stated the two days in between (Monday, July 29th and Tuesday, July 30th) consisted of a number of general and breakout sessions on a variety of topics of interest to Southeastern states. Mr. Fryer stated one topic of discussion focused on being a victim of hacking. One session was titled, “The Art of the Hack,” by Marshall Hellman from the *Mandiant* which is an American cybersecurity firm. The other session on hacking was titled, “Breached: “How to Survive a Hacking” by Harry Cooper, Jr. from the *South Carolina Department of Revenue*. Mr. Fryer stated South Carolina’s Department of Revenue had been a victim of hacking about a year ago. He stated the main lesson from the hacking sessions is not opening any attachment from people that you do not know because terrible things can happen to your employer’s computer system, and the other lesson is there are steps that can be taken to try to minimize and contain the damage of becoming a victim of hacking. Mr. Fryer also stated a number of the sessions focused on income and sales tax cases that were currently going through the litigation process throughout the United States. He stated many of the tax cases involved corporate income tax, but some included non-business and Nexus cases. Mr. Fryer stated some of the big cases focused on apportionment methods such as the *International Business Machines Corp (IBM) v. Department of Treasury* case in Michigan and *The Gillette Company, et al., v. California Franchise Tax Board* case in California which centered around whether states are able to modify the original Multistate Tax Compact. He stated there was a discussion on the “Market Street Fairness Act” and issues surrounding it. Mr. Fryer stated there were sessions on revenue trends in Southeastern states and nationally. He stated there were sessions on business incentive programs to recruit businesses in your respective state. Mr. Fryer mentioned that Joe Huddleston from the Multistate Tax Commission had an interesting session titled, “The Multistate Tax Commission Situation”. He stated the SEATA Conference is a great forum to connect with other Southeastern states, counties, and legal communities to discuss sales and corporate income tax issues that affect us all.

General Individual Income Tax Updates for 2014—During the November 12, 2013 TAC Meeting, Mr. Allen discussed the following and also gave TAC members a copy of the *2013 State of Arkansas Individual Income Tax Highlights Booklet*.

Mr. Allen stated DFA has retroactively adopted Internal Revenue Code §163 and §408 as a part of the American Taxpayer Relief Act of 2012. These sections allow deductions of mortgage insurance premiums (PMI) and tax free distributions from an IRA for charitable purposes. He urged TAC members who have clients that have mortgage insurance premiums in 2012 and tax free distributions from an IRA for charitable purposes to make sure those clients are aware that they can amend their 2012 Arkansas income tax return to claim these tax provisions.

Mr. Allen also stated new setoffs had been added for tax year 2013. He listed the Arkansas Real Estate Commission and the Arkansas Public Defender Commission as new agencies authorized to participate in the setoff program as a result of Act 158 of 2013 and Act 961 of 2013. When a taxpayer owes these respective agencies and files a tax return with an overpayment, Mr. Allen states the overpayment will go to that prospective agency.

He stated Act 1254 of 2013 adopted some of the recent changes from the IRS. Mr. Allen stated that if any of the TAC members needed clarification on Act 1254, they could access Act 1254 on the Arkansas State Legislature 89th General Assembly’s website at the following link: http://www.arkleg.state.ar.us/SearchCenter/Pages/historicalact.aspx.

Mr. Watts asked Mr. Allen a question concerning Section 179 of the IRS tax code. He stated the Arkansas Income Tax Section has not adopted new federal guidelines as it relates to Section 179. Mr. Allen added the Income Tax Section is accepting returns with IRC Section 179 as in effect on January 1, 2009.

Mr. Allen stated there were a few changes on the AR1000F Form (Arkansas Individual Income Tax Return) for the 2013 tax year. He stated on Line 7A the personal credit has been increased to $26 from $23 for inflation purposes.

Mr. Allen stated the AR2 Form had changes in the top left hand corner which now includes a space for the taxpayer’s social security number. He stated one reason for the added space for the social security number is the Income Tax Section receives many income tax returns where the pages are not attached to one another. Mr. Allen stated having space for the social security number at the top of the page helps if the first page of the income tax return gets lost by now allowing the Income Tax Section to send a letter to the taxpayer requesting the additional pages.

Mr. Bailey asked if the barcodes located on the top of the income tax return were for in house purposes or if different software will be needed when e-filing the tax return because of the barcodes. Mr. Pugh answered by saying he will research this information and respond back to Mr. Bailey.

He stated a direct deposit check box has been added on Line 48 of the AR2 Form. For the first time, Mr. Allen stated taxpayers who file paper returns will be allowed to receive their refunds by direct deposit for tax year 2013. He stated the direct deposit box on Line 48 must be checked, and a completed ARDD Form must be attached to the income tax return in order to receive the refund.

Mr. Allen stated the ARDD, Direct Deposit, is a new form for 2013. He stated a question concerning if the refund is going to an account outside the United States has been included on the ARDD Form. Mr. Allen said this was added as a fraud preventive measure because refunds are not allowed to be deposited in accounts outside the U.S. He added taxpayers must attach the ARDD Form to the AR1000F/AR1000NR Form as a third page. If the direct deposited refund is unable to be sent because the taxpayer enters an account or routing number incorrectly, Mr. Allen states the payment will default, and a paper check will be generated and mailed to the address on the income tax return. Mr. Bailey asked Mr. Allen what percentage of taxpayers are e-filing their tax returns. Mr. Pugh answered by stating about 70% of taxpayers e-file their tax returns. Mr. Kozij stated the disclaimer on the bottom of Form ARDD concerning AR1000S needs to be rewritten. Mr. Allen noted Mr. Kozij's suggestion.

Mr. Allen noted on Line 3A and 3B of the AR3 Form (Itemized Deduction Schedule) the limitations on medical and dental expenses. He stated the Income Tax Section is following the 2011 IRC guidelines by raising the limitation to 10% if the taxpayer and/or spouse file a joint return and were under 65 at the end of 2013. Under Line 3B, Mr. Allen stated the limitation is 7.5% if the taxpayer and/or spouse file a joint return and were 65 or over at the end of 2013. Mr. Osborne questioned the reasoning behind increasing the percentage on limitations on medical and dental expenses in response to Mr. Allen's previous statement that the Arkansas Income Tax Section follows the 2011 IRC guidelines. Mr. Allen stated the Income Tax Section reviewed the 2011 IRC guidelines, and the IRS made provisions for going forward in 2013 with the limitation on medical and dental expenses would increase to 10%.

Mr. Osborne questioned how the United States Supreme Court's decision on Section 3 of the Defense of Marriage Act (DOMA) in the case of *United States v. Windsor, 570 U.S., 133 S. Ct. 2675 (2013)* will be addressed by DFA. Mr. Osborne stated the need to obtain an understanding of how the state statues apply when the state statues state the IRC was adopted as of a particular date. He asked if the IRS code is adopted as state law as of 2011, will additional guidance such as federal revenue rules and other clarifying guidance issued post 2011 apply for state purposes. Mr. Pugh added that Arkansas does not comply with DOMA, and same-sex couples cannot file a joint income tax return in Arkansas. Mr. Osborne stated that he understands that same-sex couples cannot file a joint income tax return in Arkansas, but he wanted to know if DOMA affects deductions and exclusions from gross income. Mr. Pugh told Mr. Osborne that he would forward him his business card and will contact him after he researches this matter. Mr. Osborne also asked if these health care benefits, etc. are automatically pre-tax for federal purposes, how one would know if they are pre-tax for state purposes. Mr. Osborne stated he was not looking for answers at this time, but he just wanted DFA's Income Tax Section to be aware of some of the issues he is encountering with some of his clients who may operate in multiple states or clients who may operate only in Arkansas but want to make sure they are following the law according to the IRS and state statues. Mr. Osborne stated he had spoken to an IRS representative, and he stated the IRS' position for pre-tax health benefits under Section 125, 105, 106, and 129 code provisions is if the employer provides pre-tax health benefits to same sex spouses then the IRS must follow the code provisions by recognizing a same sex spouse wherever the marriage ceremony occurred. Mr. Bailey responded by stating that is the IRS' interpretation of the law and Arkansas' interpretation of the law is opposite of that. Mr. Fryer responded by stating DFA's Income Tax Section has only addressed the issue of joint income tax returns concerning a same sex spouse and that line items on income tax returns have not been addressed at this time. Mr. Osborne asked where guidance issued on same sex joint returns can be reviewed. Ms. Hunt responded by stating guidance on same sex spouse joint returns has not been officially issued in writing.

On Line 8B of the AR3 Form, Mr. Allen stated a line had been added back for mortgage insurance premiums (PMI).

On the AR1000TC Form the Arkansas individual income tax schedule of tax credits, Mr. Allen stated the recycle equipment for steel manufacturer tax credit had been added as an additional business incentive tax credit at the bottom of the page. On the AR1000TC Instructions, he stated people can contact the Tax Credits/Special Refunds Section at 501-682-7106 for more information on how to qualify for the business incentive tax credits or if they have questions.

On AR1000-CO Form, Schedule of Check-Off Contributions, Mr. Allen stated there were not any changes, but there were changes to the instructions. He stated the following websites had been added to the instructions page:

- Arkansas Disaster Relief Program: www.adem.arkansas.gov
- U.S. Olympic Committee Program: www.teamusa.org
- Arkansas School for the Blind: www.arkansasschoolfortheblind.org
- Arkansas School for the Deaf: www.arschoolforthedeaf.org
- Baby Sharon's Children's Catastrophic Illness Program: www.babysharonfundofarkansas.org.

- Organ Donor Awareness Education Program: www.arora.org.
- Area Agencies on Aging Program: www.daas.ar.gov/aaamap.html.
- Military Family Relief Program: www.arguard.org/Family/docs/MFRTF.pdf.
- Newborn Umbilical Cord Blood Initiative: www.cordbloodbankarkansas.org/
- Arkansas Tax Deferred Tuition Savings Program: www.arkansas529.org.

On AR1075 Form, Deduction for Tuition Paid to Post-Secondary Educational Institutions, Mr. Allen stated there were not any major changes to this form, but he stated on Line 4 the weighted average tuition and 50% of weighted average tuition amounts were increased.

Mr. Allen stated the Non-Resident Military Personnel Exemption Form is a new form. He stated this form allows military families who move into Arkansas to submit this form, their leave and earnings statement, and W-2s in order to notify the Income Tax Section that they are non-resident military personnel, and they are not required to file an Arkansas income tax return. Mr. Allen stated this would prevent non-resident military personnel from receiving a non-filer notice. Mr. Kozij had a question concerning the "permanent exemption" statement in the disclaimer at the top of the form. Ms. Hunt stated the "permanent exemption" statement is incorrect language, and it should be changed to "exclusion".

On the Individual Income Tax Account Change Form, Mr. Allen stated there are not any current changes to this form. He stated he wanted to reiterate that taxpayers cannot update an address over the phone; the change form must be received and signed by the taxpayer. Mr. Allen added a taxpayer can also add the last name of a spouse, change or update partnerships and/or fiduciary returns by using the Individual Income Tax Account Change Form. He stated the Lost or Stolen Check and Remail Check Box Section is a way the taxpayer can notify the Income Tax Section if a refund check has been lost, stolen, or needs to be remailed.

Mr. Allen stated the AR4506 Form, Request for Copies of Arkansas Tax Returns and W-2s, is a new form that allows the taxpayer to mail in and request copies of Arkansas income tax returns and W-2s. He added there is a $2.00 fee for copies of the Arkansas tax returns and W-2s. Mr. Allen stated taxpayers must send a check or money order with the completed AR4506 Form because the Income Tax Section does not accept cash. For taxpayers who live locally, Mr. Allen stated they can come into the Income Tax Section and complete and pay for requested copies in person. He stated taxpayers can still request a copy of tax returns and W-2s by writing to the Income Tax Section.

Mr. Bailey asked Mr. Allen how far back taxpayers can request W-2s. Mr. Allen answered by stating 10 years, but he stated it varies on the taxpayer's situation.

Mr. Allen stated the following acts will affect future tax years:

- Act 1408—100% exemption from income tax for service pay or allowance received by an active duty military member of the Armed Forces which includes National Guard and Reserve Units. Effective January 1, 2014.
- Act 1452—It is a deduction for firefighters. It allows for a deduction not to exceed a $1,000 a year for equipment or loss of personal property. Effective January 1, 2014.
- Act 1488—It creates a 50% exemption on net capital gains which is an increase from 30% beginning in 2015 and beyond. It created a 100% exemption for net capital gain in excess of $10 million beginning in 2015 and beyond. It increases the standard deduction to $2,200 which is an increase from $2,000 beginning in 2015 and beyond.

General Corporate Income Tax Updates for 2014 (2013 Legislative Highlights)—During the November 12, 2013 TAC Meeting, Mr. Fryer discussed the following acts:

He stated Act 755 of 2013 increases the hourly instructional rate from $80 to $100 for the Existing Workforce Training Act.

He stated Act 1476 of 2013 increases the carryforward period for Recycle Solid Waste credits from three years to fourteen years, and Act 1084 authorizes a $125 million bond issue for the Big River Steel Project.

Mr. Fryer stated Act 1254 of 2013 was the Technical Corrections Act for income tax. It adopts most of the federal changes included in the American Taxpayer Relief Act of 2012. However, there are a number of provisions of the Taxpayer Relief Act that Arkansas did not adopt. Most notably were the extension of federal bonus depreciation and also Section 179. Arkansas Section 179 expense limitation for 2011, 2012, and 2013 is $25,000 with phase out starting at $200,000. Federal limit is $500,000 with phase out starting at $2,000,000 for 2011, 2012, and 2013.

He stated Act 1418 of 2013 creates an income tax exemption for qualified Drop-in Biofuels Manufacturing. Taxpayers must receive approval from the Arkansas Economic Development Commission (AEDC) for the exemption, and there is a complicated formula that determines the number of years the exemption is allowed with a maximum of 20 years. Mr. Fryer stated the taxpayer needs to complete the AR1023 Form to register as a tax exempt organization with the Corporate Income Tax Section.

General Corporate Income Tax Updates for 2014—During the November 12, 2013 TAC Meeting, Mr. Fryer stated the 2014 Arkansas C Corporation Income Tax Instruction Booklets will have line by line instructions for the first time. The previous booklets had almost line by line instructions for corporations operating only in Arkansas, but there was little guidance for multi-state taxpayers. In addition, there will be expanded descriptions of the Consolidated Incentive Act tax credit programs and in other areas as well. There will also be a new form, AR1100NOL, for taxpayers to better track their Arkansas net operating loss deductions. This form may not be available for efile other than as a PDF attachment.

He stated improper classification of payments by taxpayers in ATAP is resulting in increased work by DFA to properly apply payments and is resulting in unintended refunds to taxpayers with possible subsequent assessments including penalties and interest. He told TAC members who have clients to remind them to make sure they enter their tax identification information, period, and payment type correctly on ATAP.

Consolidated returns must include a separate AR1100CT Form for each subsidiary included in the Arkansas consolidated return. Spreadsheets are no longer acceptable substitutes.

Mr. Fryer stated the Corporate Income Tax Section has received a number of efile returns without the federal Form 4562 in the beginning of September 2013, which should be included with the federal return when depreciation is claimed. He stated there are at least three software vendors that are routinely omitting Form 4562 even though the taxpayer or CPA is providing them to vendors. He stated DFA does not have a stop error in efile for this and software vendors are mistakenly under the impression that means Arkansas does not require Form 4562.

He stated the Corporate Income Tax Section has received a number of Sub-S elections showing corporations as shareholders. Mr. Fryer stated the IRS has acknowledged this is improper, but the Corporate Income Tax Section is not aware that the IRS has revoked the Sub-S elections of the specific taxpayers. DFA will not honor these Sub-S elections, and the taxpayers will be classified as C corporations in Arkansas. The Corporate Income Tax Section also has several taxpayers who have filed for Arkansas Sub-S status and attached Form 8832 to the Arkansas election rather than Form 2553. These Sub-S elections will also be rejected by DFA.

Mr. Fryer stated that efile returns for corporation income tax is approximately 42% up from 35% in 2012 and 20% in 2011 which was the first year the Corporation Income Tax Section processed returns by efile. He stated the Corporation Income Tax Section received 16,000 e-file returns in 2011. Currently, he stated the Corporation Income Tax Section received over 30,000 e-file returns so far this year.

He stated the Corporation Income Tax Section will be running non-filer notices in early December 2013, and Revenue Agent Report (RAR) notices will be running in spring 2014.

Mr. Kozij asked if anything thing was being done to resolve the continuing ATAP issues. Mr. Venable answered by stating the ATAP Section will continue to educate ATAP users on how to enter information on the system.

Ms. Reynolds asked Mr. Fryer if an Arkansas Corporation Income Tax Forms and Instructions Booklet will be mailed to taxpayers this year. He answered and stated no, and the Corporation Income Tax Section stopped mailing the booklets in 2012. Mr. Fryer stated the booklets will be available in the Corporate Income Tax Section, on the Corporate Income Tax Section's website at the following link: http://www.dfa.arkansas.gov/offices/incomeTax/corporation/Pages/corpForms.aspx, and by phone request at 501-682-4775. Mr. Pugh stated the Individual Income Tax Section is still mailing the Arkansas Individual Income Tax Forms and Instruction Booklet to taxpayers. He stated only the taxpayers that filed a paper return the previous year will be mailed an Arkansas Individual Income Tax Forms and Instruction Booklet this year.

Old Business:

"Marketplace Fairness Act"—During the May 14, 2013 TAC Meeting, Mr. Theis stated the United States (U. S). Senate Bill S. 1832 aka "Marketplace Fairness Act" passed in the U. S. Senate by an overwhelmingly majority, but he stated there is not much support for Senate Bill S. 1832 in the U. S. House of Representatives. Mr. Theis added there are many amendments being proposed to Senate Bill S. 1832 in the U.S. House of Representatives.

New Business:

Acts Passed During the 2013 Arkansas Regular Session—During the May 14, 2013 TAC Meeting, Mr. Theis discussed the following Acts:

ACT	Description
Act 233	Amends the sales and use tax exemption for pollution control machinery and equipment required by state and federal law used in the refining of petroleum based products to remove sulphur pollutants from the refined product. Repair parts and labor for this machinery and equipment are also exempt from tax. Effective October 1, 2013.
Act 1084	Companion bill to Act 1476. To authorize economic development incentives and the issuance of general obligation bonds in connection with a steel mill project under Amendment 82 to the Arkansas Constitution. Effective April 11, 2013.
Act 1476	Companion bill to Act 1084. To authorize economic development incentives and the issuance of general obligation bonds in connection with a steel mill project under Amendment 82 to the Arkansas Constitution. Effective August 16, 2013.
Act 1392	Creates an exemption from the sales and use tax for expendable supplies for farm machinery. Effective October 1, 2013.
Act 1398	Companion bill to Act 1450. Reduces the state sales and use tax on food and food ingredients if certain fund balances exist. Levies the sales tax on food and food ingredients at a zero rate. Local sales tax and 1/8 percent conservation tax will still be paid.
Act 1450	Companion bill to Act 1398. Reduces the state sales and use tax on food and food ingredients if certain fund balances exist.
Act 1401	Sales and use tax exemption for utilities used by a grain drying and storage facility. Effective July 1, 2014.
Act 1404	Reduces the sales and use tax relating to the partial replacement and repair of machinery and equipment used directly in manufacturing. The director of the Arkansas Economic Development Commission (AEDC) can authorize a full refund of certain sales and use taxes if the taxpayer meets certain qualifications. The AEDC wanted to be able to encourage existing manufacturing companies to invest in their Arkansas facilities. Effective July 1. 2014.
Act 1411	Reduces the sales and use tax on natural gas and electricity used in manufacturing by eligible manufacturers. In this act, cotton gins were added as manufacturers.
Act 1414	Exemption from sales and use tax for dental appliances and/or equipment sold by or to dentists or certain other professionals. Effective July 1, 2014.
Act 1419	Sales and use tax exemption for nonprofit blood donation organizations. Effective October 1, 2013.
Act 1441	Sales and use tax exemption for utilities used by qualifying agricultural structures and qualifying aquaculture and horticulture equipment. Types of facilities that can utilize this exemption are poultry houses, cattle and dairy farms, and greenhouses. Effective January 1, 2014.
Act 510	Ensures the long-term funding of certain health care programs by encouraging in-state purchases of certain tobacco products. This act sets a maximum of the tax on cigars to 50 cents per cigar. Effective October 1, 2013.

Mr. Theis discussed the following income tax acts as well:

Act 1284 To adopt current internal revenue code provisions concerning the computation of income tax when a taxpayer restores an amount held under a claim of right allows the taxpayer to receive a refund of taxes paid if they have to repay the income even though they are outside the three year statute of limitation. Effective January 1, 2013.

Act 1408 Full income tax exemption for service pay or allowances received by active duty pay members of the armed services, including the National Guard, and Reserves. Effective for tax years beginning January 1, 2014.

Act 1452 Volunteer Firefighter Tax Protection Act. It is an income tax deduction for volunteer firefighters for out of pocket expenses such as items the firefighter has to buy for fire suppression activities as well as for the loss of value of personal items they use while firefighting. Mr. Theis stated the deduction is limited to $1,000.00 per year per firefighter. Effective January 1, 2014.

Act 1459 Amends the income tax rates and brackets and adjusts the minimum and maximum dollar amounts in certain income tax brackets. As openly enacted, this act reduces the current one percent income tax rate by one tenth of one percent for tax year beginning January 1, 2014. Each of the remaining tax rates from two and half percent to seven percent will be reduced one tenth of one percent for tax year beginning January 1, 2015.

Act 1488 It has three components that centered around the standard deduction and the income tax on capital gains: (1) increased standard deduction from $2,000 to $2,200 per person effective January 1, 2015, (2) increases income tax exclusion for capital gains from the current 30 percent to 50 percent for all tax on all capital gain effective beginning on January 1, 2015, and (3) if a taxpayer has capital gain in excess of $10 million, the incremental portion of capital gain above $10 million is fully exempt from Arkansas income tax. Effective January 1, 2015.

Act 1254 The Income Tax Correction Act adopts recent changes to the internal revenue code and makes technical corrections to the income tax laws. All the federal changes were added except the Section 179 deduction and the itemized deduction phase out. Some of the federal changes enacted by Congress the first week of January 2013 were retroactive to tax year 2012. Sections 5-8 and 10 of this act were effective beginning on or after January 1, 2012. Sections 1-4, 9, and 11-16 of this act were effective beginning on or after January 1, 2013.

Act 160 This act allows a taxpayer who has Arkansas delinquent individual income tax for a total of less than two thousand dollars ($2,000) to enter into an agreement to allow the taxpayer to pay the delinquency in installments. The following criteria must be met in order to allow the agreement:

- The installment agreement is for twelve (12) months or less.
- The installments are to be paid electronically.
- Under Act 160, the director has discretion on whether or not to issue a certificate of indebtedness (lien) during the installment agreement period.

Act 160 amends that portion of the Arkansas Tax Procedure Act that allowed a taxpayer who had Arkansas delinquent individual income tax liability for a total of less than one thousand dollars ($1,000) to enter into an agreement that only allowed the taxpayer six months to pay the delinquent tax in full in installments. Effective August 16, 2013.

During the May 14, 2013 TAC Meeting, Mr. Kozij asked if Act 1408 allowed for a full tax exemption for all active duty pay. Mr. Theis answered by stating yes.

Also, Mr. Parker had a question concerning Act 1408. He asked if there is active duty versus some other type of classification for the National Guard and Reserve. Mr. Theis stated the law does not focus on active duty pay, but it focuses on service pay and allowances by an active duty member of the military. Mr. Theis stated Arkansas DFA interprets that as all pay and allowances received including training as well as being activated for their two week annual basic training.

Mr. Bailey asked where on the individual income tax return the firefighter's income tax deduction could be taken. Mr. Theis answered and said that it would be an itemized deduction. Mr. Bailey asked if the deduction would be under the two percent limitation. Mr. Foster answered and stated it would be under other Miscellaneous Deductions not subject to the two percent limitation.

Mr. Theis stated the cost of the entire revenue package will cost $11 million for Fiscal Year 2014, $97 million for Fiscal Year 2015, and $160 million for Fiscal Year 2016. Act 1459 was the single largest cost. Ms. Strike asked for a summary of Mr. Theis' discussion on acts that passed during the 2013 Arkansas Regular Session. Mr. Theis stated he would email TAC members a copy of the list after revisions are made to the act summary list.

Arkansas DFA Implementations after 2013 Regular Session—During the August 13, 2013 TAC Meeting, Mr. Theis stated that the Arkansas DFA and the Arkansas Department of Workforce Services (DWS) have started exchanging business information to make sure they have the same businesses registered. During the 2013 Regular Session, he stated a law was passed requiring Arkansas DFA and Arkansas Department of Human Services (DHS) to share information on Medicaid providers. Before a Medicaid provider can be renewed each year by DHS as a service provider, Mr. Theis stated the business must have filed a current income tax return. He stated the Income Tax Section is currently implementing this system. Mr. Theis also stated Arkansas DFA is currently working on a system with the Arkansas Insurance Department where the Insurance Department can check to see if a person applying for an insurance license has any liens. He stated more state agencies are asking for access to Arkansas DFA records.

Announcement of Personnel Changes—During the August 13, 2013 TAC Meeting, Mr. Foster stated he would be retiring as Assistant Commissioner of Operations and Administrations effective October 31, 2013. Mr. Theis stated Mr. Walter Anger, current Office of Field Audit Administrator, will become the new Assistant Commissioner of Operations and Administrations effective November 1, 2013. Ms. Deanna Munds-Smith, current Office of Field Audit Assistant Administrator, will become the Interim Office of Field Audit Administrator effective November 1, 2013.

Federal Tax Issues—During the August 13, 2013 TAC Meeting, Mr. Parker stated he discussed House Bill H.R. 3179 of the 112th Congress aka "Marketplace Equity Act of 2011" and aka the "Womack Bill" with Adrielle Churchill, aide of U.S. Representative Steve Womack from Arkansas' 3rd Congressional District. He also stated Representative Womack is the primary sponsor of H.R. 3179. Mr. Parker stated Ms. Churchill asked him to review H.R. 3179, and he stated H.R. 3179 has many problems. Mr. Parker encouraged members of the TAC Council who are administrators for Arkansas DFA to discuss H.R. 3179 with the Streamlined Sales Tax Project and contact Mr. Womack's office. He stated there are two vehicles for qualifying for streamline sales tax for out of state vendors under H.R. 3179. One is a state has to be a member of the streamline sales tax project, or if the state is not a member, the state can give notice providing the state's laws meet the streamlined sales tax requirements. Mr. Parker's stated his issue with H.R. 3179 is that there is no transition rule to let a streamline state switch to an alternate compliance method. He also stated that Arkansas DFA should leave the Streamlined Sales Tax Project if there is an alternate compliance method included in H.R. 3179 because the Streamlined Sales Tax Project is too oppressive on state legislatures in his opinion. Mr. Parker stated one of the components in the H.R. 3179 would require another three to six months hiatus before a state can switch to the alternate compliance method. In Mr. Parker's opinion since the requirements have already been met under streamline sales tax requirements, he stated this hiatus does not make sense.

Mr. Parker stated Nexus is his other issue with H.R. 3179. He stated the bill as it stands will have no effect on Nexus. If this is the case, Mr. Parker stated Congress will authorize the states to require out of state vendors to register. States will then pass laws that require out of state vendors to register, but the states cannot enforce it. Mr. Parker added that a state cannot audit an out of state vendor and bring them into your jurisdiction if there is no Nexus. He stated this provision in H.R. 3179 needs to be clarified at a minimum. As it pertains to the state revenue level, Mr. Parker does not believe enough focus has been placed on the technical provisions of H.R. 3179. Mr. Parker asked Mr. Atchley if he could forward a copy of his critique of H. R. 3179. Mr. Atchley agreed to receive a copy of Mr. Parker's critique of H.R. 3179.

Appointment of New Tax Advisory Council Chairperson (from Arkansas Society of Accountants) for 2014/2015—During the November 12, 2013 TAC Meeting, Ms. Strike stated the appointment of the new TAC Chairperson must come from the Arkansas Society of Accountants (ASA). Mr. Bailey volunteered to be the TAC Chairperson for the 2014/2015.