# Regulation 2003-3

## Exhibit A

## Arkansas Development Finance Authority
## and the
## Revenue Division of the Arkansas Department of Finance and Administration

## Tax Credit Registration and Claim Verification System

The following system has been developed and is hereby established and adopted by the Arkansas Development Finance Authority, a body politic and corporate and an independent instrumentality of the State of Arkansas ("ADFA"), and the Revenue Division of the Department of Finance and Administration ("DF&A"), an agency of the State of Arkansas, pursuant to the provisions of the Venture Capital Investment Act of 2001, Arkansas Code Annotated §§ 15-5-1401 et seq. (the "Act") and under the authority of the Arkansas Administrative Procedures Act, § 25-15-201 et seq. and § 26-18-301(a)(1) of the Arkansas Tax Procedure Act.

**Registration**:

Upon the transfer of Arkansas income tax credits pursuant to Section 15-5-1406 of the Act ("the Tax Credits") to the Arkansas Institutional Fund, LLC (successor to U.S. Partnership for State Investment, LLC), the Designated Investor Group ("DIG") selected by ADFA, a notification indicating the face amount of the Tax Credits and the state tax year in which the Tax Credits may first be claimed (which shall not limit the carry-forward provisions permitted under the Act) will be issued by ADFA with the original going to the DIG along with a copy for its files, a copy going to DF&A ,and a copy retained by ADFA. Upon the subsequent transfer or sale of Tax Credits by the DIG, the "Transfer of Certificate" section of the original certificate (the "Tax Credit Certificate" or "Certificate") will be issued by the DIG indicating the original ADFA notification information, the face amount of the Tax Credits and the State of Arkansas (the "State") tax year in which the Tax Credit may first be claimed (which shall not limit the carry-forward provisions permitted under the Act). The original Tax Credit Certificate will be given to the transferee or purchaser with a copy going to ADFA, a copy going to DF&A and a copy maintained by the DIG.

**Claims**:

Under § 15-5-1406, the Tax Credit is limited to reducing a taxpayer's reported Arkansas income tax liability. The allowable Tax Credit may not exceed a taxpayer's total reported income tax liability for any given tax year and is therefore non-refundable. Any unused Tax Credit may be carried forward for up to five additional tax years immediately following the tax year for which the Tax Credit was first claimed.

The Tax Credit is claimed when the Tax Credit Certificate holder files its state income tax return. The original Certificate must be filed with the return. The Tax Credit Certificate holder shall complete the “Credit Usage Tracking” portion of the Certificate for the applicable year to indicate the amount of Tax Credit to be used for that year. The holder files the Certificate, including the Credit Usage Tracking portion, with the tax return, and the holder retains a copy of both parts of the Certificate. For carry forward years the holder follows the same procedure utilizing the copies in place of the originals. DF&A will match the filed Certificate with the copy in their files and notify the DIG that the Tax Credit has been claimed. Discrepancies will be addressed in writing or by electronic mail (email) between DF&A and the DIG.

**Definitions**:

“Gross Tax Liability” means a taxpayer’s total income tax liability before the application of any state tax credits and prior to claiming any estimated income tax payments or individual income tax withholding payments, as shown on the tax return of the taxpayer for any year.

“Net Tax Liability” means a taxpayer’s income tax due the State after crediting all tax credits claimed by the taxpayer and before the application of estimated income tax payments or individual income tax withholding payments.

**Estimated Tax Payments**:

Arkansas requires that estimated tax payments be made quarterly in an amount equal to the total of the prior year's Net Tax Liability divided by four unless there is reason to believe that the current year's Net Tax Liability will be greater than or less than the prior year's, in which case a higher or lower amount may be paid. Taxpayers are penalized for incorrectly estimating their Net Tax Liability through assessment of penalties and interest on the amount underpaid. Amounts overpaid are refunded. Tax Credits claimed will reduce Net Tax Liability by the face value of the Tax Credit Certificate (assuming the Gross Tax Liability is greater than the face value of the Tax Credit Certificate - see below). A taxpayer may reduce a quarterly estimated payment by the face amount of the Tax Credit Certificate and not be subject to an assessment of a penalty or interest assuming that the balance (if any) of the estimated payment and subsequent estimated payments are greater than last year's Net Tax Liability less the Tax Credit or were greater than 90% of this year's Net Tax Liability. (See Annex 1 attached hereto for examples.) However, the Venture Capital Investment Act of 2001 does not authorize the use of the Tax Credit as an estimated income tax payment.

**Refunds**:

Estimated tax payments which in total exceed Net Tax Liabilities (which have been reduced by a Tax Credit) give rise to a refund. If there is no Gross Tax Liability, Tax Credits may not be claimed. If the available Tax Credit exceeds a taxpayer’s Gross Tax Liability and the taxpayer made estimated income tax payments, a refund would be allowable up to, but not exceeding, the amount of the taxpayer's estimated income tax payments. (See Annex 1 attached hereto for examples.)

**Transfers**:

A Tax Credit may be transferred by the registered holder at the offices of the DIG upon the surrender of the Tax Credit Certificate together with duly executed instruments of transfer. Upon presentation for transfer, the DIG shall record the transfer on the Certificate and issue a replacement Certificate in the amount of the prior Certificate to the transferee along with a copy for its files, with a copy going to DF&A and a copy to be retained by the DIG. The DIG shall indicate in the "Transfer of Certificate" section of the Certificate the State tax year in which the Tax Credit first may be claimed (which shall not limit the carry-forward provisions permitted under the Act) and which may (only with ADFA's permission) be different than the surrendered Certificate. The DIG shall give DF&A written notice of the "Transfer of Certificate".

**Replacements**:

A registered holder of a Tax Credit Certificate may deliver its Certificate to the DIG for the replacement of a Certificate or multiple Certificates that total in aggregate the same amount as the face value of the Tax Credit Certificate surrendered. The DIG shall cancel the surrendered Certificate and issue the replacement Certificates to the registered holder (or registered holder and transferee(s) or transferees in accordance with the paragraph above) along with a copy for the holder's files, with a copy of each going to DF&A and a copy of each to be retained by the DIG. The DIG shall indicate on the face of each Certificate the State tax year in which the Tax Credit may first be claimed (which shall not limit the carry-forward provisions permitted under the Act) and which may (only with ADFA's permission) be different than the surrendered Certificate. The DIG shall inform DF&A of the cancellation of the surrendered Certificate.

**Voluntary Cancellation At The Lesser of Face Value or Purchase Price**:

Under § 15-5-1406(a), the Tax Credit may be used to reduce a taxpayer's Arkansas income tax liability.

As an alternative to offset payment of reported State income tax liability, a registered holder of a Tax Credit Certificate purchased through the DIG may deliver, in conjunction with the filing of its State income tax return, to DF&A for voluntary cancellation its original Certificate along with evidence of the purchase price paid for the Tax Credit (the "Purchase Price"). DF&A will match the delivered Certificate with the copy in their files and notify the DIG that the Tax Credit Certificate has been surrendered. The DIG shall verify the Purchase Price and notify DF&A of the registered holder's tax year for which the Tax Credit may be claimed. Discrepancies will be addressed in writing or by electronic mail (email) between DF&A and the DIG. DF&A shall cancel the surrendered Certificate and treat the lesser of the Purchase Price or the face value of the Tax Credit Certificate as a payment of State income tax. Tax Credits voluntarily canceled shall be claimed on a State tax return as a tax payment in the amount of the lesser of the Purchase Price or the face value of the Tax Credit Certificate. Tax payments (including the lesser of the Purchase Price or the face value of the Tax Credit Certificate as a tax payment) which in total exceed Net Tax Liabilities give rise to a refund, provided that the refund may not exceed the amount of tax payments, excluding the Tax Credit Certificate as a payment (see refund paragraph above).

**Taxpayer Reliance**:

This document represents the manner in which the DF&A, ADFA and the DIG will deal with the Tax Credits transferred by ADFA pursuant to the provisions of the Venture Capital Investment Act of 2001. Arkansas taxpayers may rely on the provisions of the system contained herein. A copy of this document may be attached to and made part of a Tax Credit Purchase Agreement between the DIG and the participant named therein, and the rights and obligations described herein are subject in their entirety to the terms thereof.

This system is hereby approved and this explanatory bulletin is issued jointly by the undersigned on the 2nd day of September, 2003.

Arkansas Development Finance Authority

By: Gene Eagle
Vice President of Development Finance

Revenue Division, Department of Finance and Administration

By: Richard A. Weiss
Director

**Annex 1**

Prior Year Tax Liability is $100

| Quarter | Normal Estimated Payment | Tax Credits Purchased | Estimated Payment Made |
|---|---|---|---|
| 1 | $ 25 | 0 | 25 |
| 2 | 25 | 2 | 23 |
| 3 | 25 | 27 | 0 |
| 4 | 25 | 0 | 23 |
| Total | 100 | 29 | 71 |

| If actual gross tax liability (before application of credits) at year end winds up being: | Tax Credit Applied | Net Tax Liability | Estimated Tax Payments Made | Refund/ (Tax Due) |
|---|---|---|---|---|
| 100 | - 29 | = 71 | 71 | 0 |
| 90 | - 29 | = 61 | 71 | 10 |
| 50 | - 29 | = 21 | 71 | 50 |
| 10 | - 10* | = 0 | 71 | 71 |
| 105 | - 29 | = 76 | 71 | (5) |
| 135 | - 29 | = 106 | 71 | (35)** |

* Credits can only be applied to the extent of the liability.
** Penalties and interest would be due since 71 is less than 90% of 106.