



STATE OF ARKANSAS  
**Department of Finance  
and Administration**

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October 12, 2015

Larry W. Walther, Director  
Arkansas Department of Finance & Administration  
1509 West 7<sup>th</sup> Street, Room 401  
Little Rock, AR 72201

RE: *H & S Maintenance, Inc. v. Larry Walther, et al.*  
Pulaski County Circuit Court Case No. 60CV-15-2379  
Settlement Recommendation

Dear Director Walther:

This letter is sent to request approval to settle the above referenced matter according to the terms of the attached Full and Final Release and Settlement Agreement ("Agreement"). Settlement is recommended on the basis that the Department has determined that the service of initial installation and repair of lawn irrigation sprinkler systems should not be considered a specifically enumerated taxable service. Instead, it has been determined that a court would likely find that the installation and repair of lawn irrigation sprinkler systems to be non-taxable initial installation or repair of sprinklers under the provisions of Ark. Code Ann. § 26-52-301(3)(B)(vii)(18) (Repl. 2014).

Under the terms of the attached Agreement, the Department will refund to H & S Maintenance, Inc. ("H & S") the amount of \$97,145.19, plus applicable interest from the date that amount was paid to and received by the Department, which was May 11, 2011. The amount was paid by H & S as a result of a notice of proposed assessment that related to the initial installation and repair of lawn irrigation sprinkler systems. The amount would be paid in the form of a refund check. However, no refund would be issued until both parties have signed the attached agreement, legislative review and approval is obtained, and the case is dismissed.

If you approve of the terms of the attached Agreement, I respectfully request that you forward the attached Agreement to the Litigation Reports Oversight Subcommittee for review and approval.

Sincerely,

Paul Gehring, Chief Counsel  
Revenue Legal Counsel

Attachment: Full and Final Release and Settlement Agreement