

Railroad Modernization Act of 2021 Rule

I. Overview

Acts 2021, No. 967 created the Railroad Modernization Act of 2021. Acts 2021, No. 967 authorizes eligible taxpayers to claim an income tax credit in the amount of fifty percent (50%) of railroad track maintenance expenditures up to the limits set forth in Acts 2021, No. 967.

In accordance with Arkansas Code Section 26-51-2804(b), the Department of Commerce is adopting this rule to:

- i. Permit verification of an eligible taxpayer's railroad track maintenance expenditures for purposes of claiming the income tax credit allowed under Acts 2021, No. 967;
- ii. Provide for the approval of railroad track maintenance expenditures before a project commences; and
- iii. Provide for a certificate of verification upon the completion of a project that uses railroad track maintenance expenditures.

II. Definitions

- a. "Eligible taxpayer" means a railroad that is classified as a Class II or Class III railroad by the United States Surface Transportation Board.
- b. "Railroad track maintenance expenditures" means gross expenditures for maintenance, reconstruction, or replacement of railroad track, including without limitation roadbed, bridges, industrial leads and side track, and related track structures, to the extent the expenditures are on a railroad track that:
 - i. Is located in Arkansas;
 - ii. Is owned or leased by an eligible taxpayer; and
 - iii. Existed as of July 28, 2021

III. Pre-Approval of Railroad Track Maintenance Expenditures

- a. An eligible taxpayer seeking pre-approval of railroad track maintenance expenditures prior to incurring the expense may submit a preapproval application to the Department of Commerce on a form provided by the Department for that purpose. The application shall include:
 - i. An estimated amount of qualified railroad track maintenance

- expenditures for the year;
 - ii. A description of the qualified railroad track maintenance expenditures expected for the year;
 - iii. The miles of railroad track owned or leased in Arkansas; and
 - iv. Any other information that the Department may request.
 - b. Following receipt and review of the application, the Department of Commerce will notify the eligible taxpayer in writing as to whether the proposed railroad track maintenance expenditures set forth on the application constitute railroad track maintenance expenditures under Acts 2021, No. 967.
 - c. An eligible taxpayer is not required to apply for pre-approval of railroad track maintenance expenditures under this Section III in order to claim a tax credit for the expenditures under Acts 2021, No. 967.

IV. Certificate of Verification of Railroad Track Maintenance Expenditures

- a. The eligible taxpayer shall submit to the Department of Commerce a verification of railroad track maintenance expenditures on a form provided for that purpose by the Department. The verification shall include a statement certifying:
 - i. The status of the railroad as an eligible taxpayer;
 - ii. The project work has been completed;
 - iii. A description and amount of the qualified railroad track maintenance expenditures incurred
 - iv. The miles of railroad track owned or leased in Arkansas; and
 - v. Any other information that the Department may request.
- b. The verification shall be submitted to the Department no later than ninety (90) days following the end of the tax year in which the railroad track maintenance expenditures were incurred.
- c. Following receipt and review of the verification, the Department shall issue a certificate setting forth the amount of railroad track maintenance expenditures verified by the Department as being eligible to be claimed for a tax credit under Arkansas Code Section 26-51-2803 of Acts 2021, No. 967.
- d. The certificate of verification of railroad track maintenance expenditures issued by the Department under this rule shall satisfy all requirements of the Department of Finance and Administration with respect to determining:

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- i. The eligibility of the taxpayer to claim the tax credit under Acts 2021, No. 967; and
 - ii. The amount of railroad track maintenance expenditures which may be claimed as a tax credit.
- e. The certificate of verification shall be submitted by the eligible taxpayer to the Department of Finance and Administration for issuance of the tax credit in accordance with its rules.

V. Rulemaking Authority

The Department of Commerce has authority under Arkansas Code Section 26-51-2804(b) of Acts 2021, No. 967 to promulgate this rule.

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1456

5 By: Representatives Wardlaw, Christiansen, Barker, Beaty Jr., Bentley, M. Berry, S. Berry, Bragg,
6 Brown, Cloud, Cozart, Deffenbaugh, Eaves, Evans, Fielding, V. Flowers, Fortner, Gonzales, M. Gray,
7 Haak, Hillman, Holcomb, Jean, Jett, L. Johnson, Love, Lowery, Maddox, Magie, McClure, M. McElroy,
8 Nicks, Payton, Richmond, Rye, Scott, Slape, Tollett, Tosh, Vaught, Watson, Womack
9 By: Senators Rice, Beckham, L. Chesterfield, J. English, T. Garner, Gilmore, Hill, K. Ingram, M.
10 Johnson, Rapert, B. Sample, D. Wallace
11

For An Act To Be Entitled

12 AN ACT TO CREATE THE RAILROAD MODERNIZATION ACT OF
13 2021; TO ALLOW AN INCOME TAX CREDIT FOR CERTAIN
14 RAILROAD TRACK MAINTENANCE EXPENDITURES; AND FOR
15 OTHER PURPOSES.
16

Subtitle

17
18
19 TO CREATE THE RAILROAD MODERNIZATION ACT
20 OF 2021; AND TO ALLOW AN INCOME TAX
21 CREDIT FOR CERTAIN RAILROAD TRACK
22 MAINTENANCE EXPENDITURES.
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25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code Title 26, Chapter 51, is amended to add an
29 additional subchapter to read as follows:

30 Subchapter 27 – Railroad Modernization Act of 2021

31
32 26-51-2701. Title.

33 This subchapter shall be known and may be cited as the "Railroad
34 Modernization Act of 2021".
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36 26-51-2702. Definitions.



1 As used in this subchapter:

2 (1) "Eligible taxpayer" means a railroad that is classified as a
 3 Class II or Class III railroad by the United States Surface Transportation
 4 Board; and

5 (2) "Railroad track maintenance expenditures" means gross
 6 expenditures for maintenance, reconstruction, or replacement of railroad
 7 track, including without limitation roadbed, bridges, industrial leads and
 8 side track, and related track structures, to the extent the expenditures are
 9 on railroad track that:

10 (A) Is located in the state;

11 (B) Is owned or leased by an eligible taxpayer; and

12 (C) Existed as of the effective date of this act.

13
 14 26-51-2703. Tax Credit – Transferability.

15 (a)(1) Subject to the limitation stated in subdivision (a)(2) of this
 16 section, there is allowed an income tax credit against the income tax imposed
 17 by this chapter in an amount equal to fifty percent (50%) of an eligible
 18 taxpayer's railroad track maintenance expenditures.

19 (2) The amount of the income tax credit allowed an eligible
 20 taxpayer under this subsection shall not exceed the product of:

21 (A) Five thousand dollars (\$5,000); and

22 (B) The number of miles of railroad track owned or leased
 23 within the state by the eligible taxpayer at the close of the taxable year.

24 (b) The amount of the income tax credit under this section that may be
 25 claimed by a taxpayer in a tax year shall not exceed the amount of income tax
 26 due by the taxpayer.

27 (c) Any unused income tax credit under this section may be carried
 28 forward for five (5) consecutive tax years following the tax year in which
 29 the income tax credit was earned.

30 (d)(1) The income tax credit allowed under this section may be
 31 transferred:

32 (A) By written agreement to a taxpayer subject to the
 33 income tax imposed by this chapter; and

34 (B) At any time during the five (5) years following the
 35 year the income tax credit was originally earned by the eligible taxpayer.

36 (2) The written agreement required for a transfer under this

1 subsection shall:

2 (A) Be filed jointly by the transferor and the transferee
 3 with the Department of Finance and Administration within thirty (30) days of
 4 the transfer; and

5 (B) Contain the following information:

6 (i) The name, address, and taxpayer identification
 7 number for the transferor and the transferee;

8 (ii) The amount of the income tax credit being
 9 transferred;

10 (iii) The year the income tax credit was originally
 11 earned by the eligible taxpayer under this section; and

12 (iv) The remaining tax years for which the income
 13 tax credit may be claimed.

14
 15 26-51-2704. Rules.

16 (a) The Department of Finance and Administration may adopt rules to
 17 implement and administer this subchapter and to enable the certification of
 18 the income tax credit amount earned by each eligible taxpayer.

19 (b) The Department of Commerce shall adopt rules to:

20 (1) Permit verification of an eligible taxpayer's railroad track
 21 maintenance expenditures for purposes of claiming the income tax credit
 22 allowed under this subchapter;

23 (2) Provide for the approval of railroad track maintenance
 24 expenditures before a project commences; and

25 (3)(A) Provide for a certificate of verification upon the
 26 completion of a project that uses railroad track maintenance expenditures.

27 (B) The certificate of verification provided for by rule
 28 under this subsection shall satisfy all requirements of the Department of
 29 Finance and Administration pertaining to the eligibility of the person
 30 claiming an income tax credit under this subchapter.

31
 32 SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective for tax
 33 years beginning on or after January 1, 2021.

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 35 **APPROVED: 4/27/21**