



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

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January 10, 2024

Sen. Terry Rice, Co-Chair  
 Rep. Jeff Wardlaw, Co-Chair  
 Arkansas Legislative Council

Sen. Jonathan Dismang, Co-Chair  
 Rep. Lane Jean, Co-Chair  
 Joint Budget Committee

Re: Act 557 of 2023 Report: Litigation Resolved in 2023  
 Department of Finance and Administration --- Office of Revenue Legal Counsel

Dear Sens. Dismang and Rice and Reps. Jean and Wardlaw:

Act 557 of 2023 requires the Secretary of the Department of Finance and Administration to give notice of certain state tax litigation resolved during the prior calendar year. This report includes state tax litigation that meets the following requirements:

- (a) Originated in state circuit court;
- (b) Pertained to a tax administered by the division;
- (c) Made the secretary a defendant;
- (d) Reached a final resolution in the previous calendar year with no further right of appeal for either party; and
- (e) The amount in controversy exceeded twenty-five thousand dollars (\$25,000).

1. ***Raytheon Company et al v. Larry Walther***  
**Ouachita County Circuit Court, Case No. 52CV-18-228**

This was a corporation income tax matter. The plaintiff filed virtually identical state and federal complaints that alleged violations of the Supremacy Clause, the Commerce Clause, the Due Process Clause, and illegal exaction. The plaintiff challenged assessments of corporate income tax and denials of claim for refund of corporate income tax, alleging that state laws imposing double weighted sales factor apportionment and throwback were unconstitutional. The parties reached a settlement agreement wherein Raytheon would withdraw its refund claims (approximately \$3,663,242 plus interest) and pay the tax due (\$3,181,209) in exchange for a full waiver of penalties and interest (approximately \$3,631,302). The settlement was approved by ALC, and the plaintiff voluntarily dismissed both cases.

2. ***River Valley Landscaping & Design v. Larry Walther***  
**Pulaski County Circuit Court, Case No. 60CV-22-3530**

The plaintiff filed suit against the Department to oppose a sales tax assessment. The plaintiff claimed that sales of certain services were entitled to an exemption from sales tax as sales to the federal government. The parties reached a settlement agreement wherein River Valley would pay the entire tax due (approximately \$196,000) in exchange for a full waiver of penalties and interest (approximately \$166,000). The settlement was approved by ALC, and the plaintiff voluntarily dismissed the litigation.

3. ***Spring Valley Rod and Gun Club and Spring Valley Anglers v. Larry Walther***  
**Benton County Circuit Court, Case No. 04CV-22-1750**

The plaintiff filed suit against the Department to oppose a sales tax assessment. Plaintiff operates a hunting and fishing club in northwest Arkansas. The plaintiff offers its members access to various recreational facilities and related amenities. Arkansas law imposes a sales tax on fees for access to or the use of amusement, entertainment, athletic, or recreational facilities. Because the plaintiff did not collect and remit sales tax on the fees it charged its members, the Department assessed tax, penalty, and interest. Plaintiff claimed that the fees it charged were merely “membership dues” paid solely for the privilege of membership and, therefore, not subject to tax. The parties reached a settlement agreement wherein Spring Valley would pay the tax due (\$429,572) in exchange for a full waiver of penalty and interest (\$356,911). The settlement was approved by ALC, and the plaintiff voluntarily dismissed the litigation.

4. ***SYI Construction Company v. Larry Walther***  
**Pulaski County Circuit Court, Case No. 60CV-23-2**

The plaintiff filed suit against the Department to oppose a sales tax assessment and a withholding wage tax assessment. The plaintiff alleged that landscaping for new construction is not taxable and that it was not responsible for withholding tax because its employees were independent contractors. Following discovery, plaintiff filed a Motion to Dismiss Without Prejudice. The Court instead entered a Dismissal with Prejudice on October 2, 2023.

5. ***Fulton County Stone Works, LLC v. Larry Walther***  
**Fulton County Circuit Court, Case No. 25CV-22-102**

This was an appeal of a business closure order related to both sales and withholding taxes. The plaintiff asked the Court to dismiss the matter with prejudice, and the Court entered an Order of Dismissal with Prejudice on February 13, 2023.

**6.     *David Hayes v. Larry Walther***  
**Court of Appeals, Case No. 22-440**

This was an individual income tax case that involved an Arkansas resident who paid income tax on his gambling winnings derived from other states. Arkansas law allows a taxpayer to deduct gambling losses to the extent of gambling winnings. The Department disallowed plaintiff's attempt to claim a credit against his Arkansas income tax liability for the taxes paid to another state in excess of the Arkansas tax owed on the same gambling income. The Benton County Circuit Court, Case No. 04CV-20-2165, granted the Department's motion for summary judgment on December 1, 2021. The plaintiff appealed, but the appeal was dismissed for failure to file an appellant's brief.

Please do not hesitate to contact me if I can provide additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Hudson", with a stylized flourish extending to the right.

Jim Hudson, Secretary  
Arkansas Department of Finance and  
Administration