

Legislative Changes to Taxation of Car Washes Under Act 822 of 2019



City, County, and Local Affairs Committees

December 10, 2019

Arkansas Department of Finance and Administration

Tax Reform and Relief Legislative Task Force

- Act 822 of 2019 was a bill containing major business tax reforms resulting from recommendations of the Arkansas Tax Reform and Relief Legislative Task Force.
- Acts 78 and 79 of 2019 created the Task Force to examine and identify areas of potential reform within the tax laws of the State of Arkansas and to recommend legislation to the General Assembly for consideration during the 2019 regular session.

Task Force Goals for Potential Reforms to Arkansas Tax Law

- Modernize and simplify the Arkansas tax code
- Make the Arkansas tax laws competitive with other states in order to attract businesses to the state
- Create jobs for Arkansans
- Ensure fairness to all individuals and entities impacted by the tax laws of the State of Arkansas

Overview of Act 822 of 2019 (SB 576)

- Act 822 made the following changes to Arkansas tax laws:
 - Collection of sales and use tax from online retailers and marketplace facilitators - Effective July 1, 2019
 - Single sales factor apportionment for corporation income tax purposes – Effective for 2021 and following tax years
 - Reduction of top corporation income tax rate to 6.2% effective for the 2021 tax year and 5.9% for the 2022 and following tax years
 - Increased the net operating losses carryforward from 5 years to 8 years for losses occurring in tax years beginning on or after January 1, 2020 and to ten years for losses occurring in tax years beginning on and after January 1, 2021
 - Taxation of accommodations intermediaries – Effective October 1, 2019
 - Car wash water usage fee and corresponding sales and use tax exemption – Effective October 1, 2019

Taxation of Car Washes Prior to Act 822

- Sales of the service of cleaning a motor vehicle subject to gross receipts tax (sales tax) under Arkansas law.
- However, sales tax did not apply to the sale of service provided by a coin-operated car wash where the car-washing equipment is activated by the insertion of a coin or coins into a slot or receptacle and where the labor of washing the exterior of the car or motor vehicle is performed solely by the customer or by mechanical equipment.
- The exemption was not available to the sale of a car wash where an attendant assists in cleaning the vehicle.
- No general sales or use tax exemption for purchases of a car wash operator under Arkansas law.

Taxation of Car Washes Under Act 822 – Defined Terms

- **Automatic car wash** - A car wash bay that provides a car wash using mechanical equipment that cleans the motor vehicle while the motor vehicle remains stationary.
- **Car wash operator** - A person that operates one or more automatic car washes, car wash tunnels, self-service bays, or any combination of automatic car washes, car wash tunnels, self-service bays.
- **Car wash tunnel** - A car wash bay that provides a fully automated car wash in which the motor vehicle is moved through a tunnel by a conveyor system.
- **Public water system** - A water system subject to regulation under the Safe Drinking Water Act, 42 U.S.C. § 300f, as existing on January 1, 2019, which is owned by a municipal corporation, a governmental corporation, or a nonprofit corporation, including without limitation: (A) a municipality; (B) a public facilities board; (C) a public water authority; (D) a water association; (E) a regional water distribution district; (F) a rural development authority; (G) a sanitation authority; (H) an improvement district; (I) a regional wastewater treatment district; or (J) a consolidated waterworks.
- **Note:** Although “self-service bay” is mentioned in Act 822, it is not a specifically defined term.

Taxation of Car Washes Under Act 822 – Water Usage Fee

- **Car wash tunnels** - The car wash operator shall calculate the monthly fee due as follows:
 - Multiply by eight-tenths (0.8) the total aggregate number of gallons of water the car wash operator used during the preceding month for all of the car wash operator's car wash tunnels; and
 - Multiply the product obtained by four-tenths of one cent (0.4¢).
- **Automatic car washes** - The car wash operator shall calculate the monthly fee due under this subsection as follows:
 - Multiply by eight-tenths (0.8) the total aggregate number of gallons of water the car wash operator used during the preceding month for all of the car wash operator's automatic car washes; and
 - Multiply the product obtained by two-tenths of one cent (0.2¢).
- **Self-service bays – Not subject to the water usage fee.**

Taxation of Car Washes Under Act 822 – Sales and Use Tax Exemption

- Act 822 exempts from sales or use tax:
 - Tangible personal property, specified digital products, or a digital code by or to a car wash operator for use in an automatic car wash, a car wash tunnel, or a self-service bay or as part of an ancillary service;
 - Services to a car wash operator; and
 - Ancillary services by a car wash operator.

DFA Revenue Legal Counsel Guidance

- **Opinion 20190614** – For a car wash operator that had one water meter providing water to a business that had an automatic car wash subject to the fee, but also a convenience store, laundry and self-service bays, “best practices would be to implement separate metering that would allow [the taxpayer] to track water usage by the automatic car wash subject to the fee.”
- **Opinion 20190814** - A truck wash operator’s services of washing trucks continue to be a taxable service under Arkansas law. The truck wash was not an “automatic car wash,” “car wash tunnel,” or “self-service bay.” The taxpayer’s employees manually wash the motor vehicles. Also, the taxpayer’s purchases that are used in its washing services would not be exempt under Act 822.
- Proposed rules are being finalized.

Questions?

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