



**STATE OF ARKANSAS  
BUREAU OF  
LEGISLATIVE RESEARCH**

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***Claims Review/Litigation Reports Oversight Subcommittee  
of the Arkansas Legislative Council  
Claims Subcommittee of the Joint Budget Committee  
Statement of Redaction of Confidential Information***

Style of Case: Milam Oil Corporation v. Hudson, Case No. 70CV-24-225, in the Circuit Court of Union County, Arkansas

Docket Number: 70CV-24-225

Type of Matter (please circle one):

Claims Review

Litigation Reports Oversight

As indicated by my signature below:

- I acknowledge that all documents submitted to the Subcommittee may be considered a public record pursuant to Arkansas Code § 25-19-103(7)(A) and may be published or disseminated by the Subcommittee for purposes of its consideration.
- I further acknowledge that it is my responsibility to review each document submitted to the Subcommittee and make any necessary redactions.
- I certify that I have reviewed each document submitted herein and have redacted any information in which an individual may be considered to have a reasonable expectation of privacy under state or federal law or that is considered confidential and required to be redacted under state or federal law.

/s/ Bradley B. Young  
Signature

Bradley B. Young  
Name

Revenue Legal Counsel,  
Department of Finance and Administration  
Title and Agency

August 1, 2025  
Date



State of Arkansas  
Bureau of  
Legislative Research

Marty Garrity, Director  
Kevin Anderson, Assistant Director  
for Fiscal Services  
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## State Agency Litigation Notification Form

*Dear Agency Director:*

*Arkansas Code § 10-3-312 requires that any agency or institution that is not represented by the Attorney General shall notify the Director of the Bureau of Legislative Research of pending litigation so that the appropriate legislative committee may "determine the action that may be deemed necessary to protect the interests of the General Assembly and the State of Arkansas in that matter."*

*In order to submit a report regarding pending litigation pursuant to Arkansas Code § 10-3-312, please complete the following form for each pending lawsuit, along with a cover letter to the Director of the Bureau of Legislative Research, and submit to [desikans@blr.arkansas.gov](mailto:desikans@blr.arkansas.gov).*

DATE REPORTING:	
Agency:	Phone:
E-mail:	Contact:
1. STYLE OF THE CASE BEING LITIGATED	
2. IDENTITY OF THE TRIBUNAL BEFORE WHICH THE MATTER HAS BEEN FILED (COURT)	
3. BRIEF DESCRIPTION OF THE ISSUES INVOLVED	
3A. OTHER DESCRIPTION INFORMATION	
Docket Number	
Date Filed	
Defendant	
Defendant Attorney	
Plaintiff	
Plaintiff Attorney	
4. ANY OTHER RELEVANT INFORMATION	
4A. OTHER RELEVANT INFORMATION	
Case History	
Relief Sought	
Current Status	

## A.C.A. § 10-3-312

Current through all laws of the 2017 Regular Session and 2017 First Extraordinary Session, including changes and corrections by the Arkansas Code Revision Commission.

- Arkansas Code Annotated
- Title 10 General Assembly
- Chapter 3 Committees
- Subchapter 3-- Legislative Council

### 10-3-312. NOTIFICATION OF LAWSUITS AFFECTING STATE.

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- (a) In order that the General Assembly may take whatever steps it deems necessary concerning lawsuits which may affect the State of Arkansas, its officials, or its financial resources:
  - (1) The Attorney General shall notify the Director of the Bureau of Legislative Research who is the Executive Secretary to the Legislative Council as soon as possible after the Attorney General becomes involved in such litigation;
  - (2) **When any state agency or any entity which receives an appropriation of funds from the General Assembly becomes involved in litigation without representation by the Attorney General, the director or administrative head of the agency shall notify the Director of the Bureau of Legislative Research as soon as possible.**
- (b) The notice given by the Attorney General or by the director or administrative head of a state agency to the Director of the Bureau of Legislative Research shall include the style of the case being litigated, the identity of the tribunal before which the matter has been filed, a brief description of the issues involved, and other information that will enable the Legislative Council or the Joint Budget Committee to determine the action that may be deemed necessary to protect the interests of the General Assembly and the State of Arkansas in that matter.
- (c) Upon receipt of the notice, the Director of the Bureau of Legislative Research shall during the interim between legislative sessions transmit a copy of the notice to the cochair of the Legislative Council and to the cochair of the Joint Budget Committee during legislative sessions in order that those committees may schedule that matter upon their respective agendas at the earliest possible date.
- (d) During the interim between legislative sessions, the Legislative Council shall determine, and during legislative sessions the Joint Budget Committee shall determine, whether the General Assembly has an interest in the litigation and, if so, take whatever action deemed necessary to protect the General Assembly's and the state's interest in that matter.

### HISTORY

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Acts 1987, No. 798, §§ 1, 2.

Arkansas Code of 1987 Annotated Official Edition  
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A.C.A. § 10-3-312 (Lexis Advance through all laws of the 2017 Regular Session and 2017 First Extraordinary Session, including changes and corrections by the Arkansas Code Revision Commission)

## MEMORANDUM

TO: Arkansas Legislative Council  
Litigation Reports Oversight Subcommittee  
Sen. Jim Dotson, Co-Chair  
Rep. DeAnn Vaught, Co-Chair

FROM: Brad Young, Litigation Manager  
Office of Revenue Legal Counsel  
Arkansas Department of Finance & Administration

DATE: August 1, 2025

RE: *Milam Oil Corporation v. Hudson*, Case No. 70CV-24-225, in the Circuit Court of Union County, Arkansas

REQUEST FOR REVIEW AND APPROVAL OF SETTLEMENT BY  
THE LEGISLATIVE COUNCIL OF THE ARKANSAS GENERAL ASSEMBLY  
Ark. Code Ann. § 10-3-312(d)

## SETTLEMENT AGREEMENT

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The Department issued a sales and use tax assessment for tax years 2019-2020 in the amount of \$264,319.35 plus interest. Plaintiff filed a petition with the Tax Appeals Commission, which the Commission dismissed for failure to timely file. Plaintiff appealed to circuit court.

The plaintiff provided new information during discovery that reflected that approximately 70% of the sales were associated with the construction of a new building and initial installation, which would have been exempt. The settlement would result in the removal of these non-taxable services from the assessment and a corresponding interest deduction. The adjusted settlement amount is an assessment of \$91,714.16 plus interest.

The parties request that this matter be placed on the Legislative Council's agenda for review at the earliest possible date.

**SETTLEMENT AGREEMENT**

This Agreement is entered into by and between Milam Oil Corporation a/k/a Milam Construction Company, hereinafter referred to as "Taxpayer", and Jim Hudson, in his official capacity as Cabinet Secretary for the Arkansas Department of Finance and Administration, hereinafter referred to as "DFA." The terms of this Agreement are authorized by law, including Ark. Code § 26-18-705 of the Arkansas Tax Procedure Act.

WHEREAS, on March 12, 2024, DFA issued a Final Assessment with respect to Gross Receipts Tax, Compensating Use Tax, Special Excise Tax, and interest, audit ID number A90368000, for the period January 1, 2019 through and including December 31, 2020 (the "audit period");

WHEREAS, the tax amount of the final assessment was \$264,319.35 plus interest;

WHEREAS, no penalty was assessed;

WHEREAS, the Taxpayer has subsequently made, and DFA has applied, payments toward the tax balance in the amount of \$239,847.36;

WHEREAS, on or about May 14, 2024, Taxpayer filed a petition under the Arkansas Tax Procedure Act, Ark. Code Ann. § 26-18-101 et seq. in the Circuit Court of Union County, Arkansas, styled as *Milam Oil Corporation v. Jim Hudson, in his official capacity as Cabinet Secretary for the Arkansas Department of Finance and Administration*, hereinafter the "Suit";

WHEREAS, following discovery and negotiation, the parties have reached an agreement to resolve and settle the issues between them without the need for further proceedings or litigation;



AND WHEREAS, this agreement must be approved by the Legislative Council of the Arkansas General Assembly before the Department may make the additional tax adjustments described by this Agreement.

NOW, THEREFORE, in consideration of the terms set forth herein, it is agreed that:

1. Based on additional information provided by the Taxpayer, DFA will adjust the assessed tax amount to \$91,714.16. This adjustment to the tax will result in a corresponding adjustment to the assessed interest in accordance with the Arkansas Tax Procedure Act.
2. The Taxpayer and DFA agree that based on this Agreement, the payments and adjustments described above will result in an overpayment by the Taxpayer for the audit period. Upon approval of this settlement by the Legislative Council, DFA will refund the excess payments at the rate set forth in the Arkansas Tax Procedure Act until the date the refund is issued. Payment shall be made by draft or warrant of the State of Arkansas issued to Taxpayer.
3. This Agreement constitutes a settlement of the tax liability for the audit period. Any other assessment or request for refund for any other period is not included in this settlement. The parties understand and agree that this is a compromise settlement of disputed claims. Nothing in the terms of this Agreement constitutes an admission of liability or fault by either party.
4. Each party is responsible for its own attorneys' fees, costs, and expenses.
5. This agreement inures to the benefit of the Taxpayer, its agents, employees, officers, responsible parties, successors, and assigns.



6. The Taxpayer hereby acknowledges that this Agreement shall serve as a full settlement and satisfaction of all issues raised in the Suit, provided that the Legislative Council of the Arkansas General Assembly approves the terms of this Agreement.
7. The Taxpayer shall submit to the Court for consideration an agreed upon Order of Dismissal of the suit with prejudice within 30 days after approval of the Agreement by the Legislative Council of the Arkansas General Assembly.
8. The parties understand and agree that such legislative approval is a condition precedent to the enforceability of this Agreement. Pursuant to Ark. Code § 26-18-303(b)(5), Taxpayer authorizes disclosure of this Agreement and consents to disclosure of any confidential information subject to the Agreed Protective Order entered August 27, 2024 as may be required to obtain approval from the Legislative Council.
9. Each party recognizes that this is a legally binding contract and acknowledges and agrees that it has had the opportunity to consult with legal counsel of its choice. In any construction to be made of this Agreement, the parties agree that the Agreement shall not be construed against the party who drafted it.

[Remainder of Page Intentionally Left Blank]



SIGNED:

Jim Hudson, in his official capacity as  
Secretary of the Arkansas Department  
of Finance and Administration

By:

Charles S. Collins

Commissioner of Revenue,

Arkansas Department of Finance

and Administration

8/1/2025  
Date



SIGNED:

Milam Oil Corporation

By: Lisa Malone  
Lisa Malone, President  
Milam Oil Corporation a/k/a Milam  
Construction Company

7.30.25  
Date

FILED  
 5/14/24 @ 11:07 AM  
 CHERRY GOVAN, CLERK  
 BY J. Billings D.C.

IN THE CIRCUIT COURT OF UNION COUNTY, ARKANSAS  
 CIVIL DIVISION 6

MILAM OIL CORPORATION

PETITIONER

v.

No. 70CV-24- 225

JIM HUDSON, IN HIS OFFICIAL  
 CAPACITY AS CABINET SECRETARY  
 FOR THE ARKANSAS DEPARTMENT  
 OF FINANCE AND ADMINISTRATION

RESPONDENT

**PETITION**

Comes the Petitioner, Milam Oil Corporation, a/k/a Milam Construction Company, by and through its attorneys, Womack Phelps Puryear Mayfield & McNeil, P.A., and for its Petition states:

1. Milam Oil Corporation is an Arkansas corporation with its principal place of business in El Dorado, Union County, Arkansas, referred to herein as Milam Construction.
2. The Respondent, Jim Hudson, is the Cabinet Secretary of the Arkansas Department of Finance and Administration, a department of the State of Arkansas. He is the proper party in his official capacity to sue on behalf of the Department. The Department is an agency in the State of Arkansas charged with administering sales and use taxes.
3. This is an appeal under the Arkansas Tax Procedure Act by which the Court has subject matter jurisdiction under Arkansas Code Annotated § 26-18-406. Venue is proper under the same statute.
4. The filing of this suit is timely under Arkansas Code Annotated § 26-18-406.

5. The standard of review for an appeal of a decision is *de novo*. Arkansas Code Annotated § 26-18-406.

6. On March 12, 2024, Respondent, through the Department, issued a Notice of Final Assessment for Gross Receipts Tax, Compensating (Use) Tax and Special Excise Tax for the period beginning January 1, 2019, through and including December 31, 2020. The suit was filed within the time permitted pursuant to Ark. Code Ann. § 26-18-406(a)(1). Petitioner seeks to have such Final Assessment set aside and held for naught.

7. Before February 16, 2022, the Department initiated a review of Petitioner's transactions. Petitioner in good faith executed a waiver on February 16, 2022, giving the Department until August 31, 2022, to complete its work.

8. On August 12, 2022, Petitioner signed a second waiver extending the time until November 30, 2022.

9. Petitioner elected not to sign a third waiver of the statute of limitations, at which point the Department issued a Notice of Proposed Assessment on or after November 21, 2022. At this point, Petitioner is uncertain of the date of mailing and reserves all rights as to the statute of limitations. See Arkansas Code Annotated § 26-18-306

10. On or about March 8, 2023, the Department issued a second Summary of Findings substantially reducing the amount of tax, but including items that are either not taxable or that are exempt. Petitioner reserves all rights to claim the statute of limitations with respect to this summary.

11. Petitioner petitioned the Arkansas Independent Tax Appeals Commission to dispute the proposed assessment. At the time, some hearings and appeals before January 1, 2023, were being heard by the Office of Hearings and Appeals, the office that had formerly decided tax appeals. However, the Legislature established the Arkansas Tax Appeals Commission. Arkansas

Code Annotated § 26-18-1101 et seq. On September 18, 2023, the Arkansas Independent Tax Appeals Commission dismissed the taxpayer's claim without determining the substance of the issues on appeal.

12. On or about March 12, 2024, Respondent, through the Department, issued a Notice of Final Assessment, assessing sales tax on tangible personal property that was not taxable or exempt.

13. Petitioner paid sales taxes to vendors for certain items of tangible personal property and services.

14. The Department failed to give credit for the sales taxes previously paid in its assessment.

15. The Department should have credited sales taxes paid to the vendors.

16. Petitioner paid gasoline taxes to certain vendors.

17. The Department did not credit the taxes paid on gasoline.

18. The Department assessed taxes against Petitioner on the use of equipment, including cranes, owned by the Petitioner and the payment for an operator to perform services.

19. Services of crane operators are not otherwise taxable by the Sales and Use Tax law.

20. If tangible personal property is combined with operator services included, then the use of the equipment is not taxable so long as the service alone would not be taxable. GR-20.

21. In these instances, the services of crane operator, or operator of other equipment as the case may be would not be taxable, or alternatively are exempt from tax. Respondent nonetheless has unlawfully assessed tax for these invoices.

22. Petitioner performed the following services upon which no tax was owed, but tax was, nonetheless, assessed:

(a) installation of concrete paving;

- (b) installation of crushed stone;
- (c) grading;
- (d) erosion control and prevention;
- (e) installation of piping of various kinds, including components of piping and attachments to piping;

- (f) installation of electrical wiring and its components
- (g) installation of plumbing and its components;
- (h) service contracting;
- (i) installation of supports for various items such as piping, electrical, plumbing or cables;

- (j) installation of insulation.
- (k) installation of a building;
- (l) inspection of cylinders and tanks;
- (m) painting of cylinders and tanks;
- (n) contracting work related to concrete;
- (o) fabrication or refabrication of building and other structures;
- (p) testing services of cylinders and other items;
- (q) conducting site cleanup; and
- (r) other contractor services listed in the schedules (production of such schedules may violate confidential information of customers).

23. The following services are not subject to Gross Receipt or Compensating (Use) taxes:

(a) the initial installation, alteration, addition, cleaning, finishing, and replacement or repair of non-mechanical passive or manually operated components of building or other improvements of structures affixed to real estate; and

(b) the installation of mechanical or electrical equipment into a newly constructed or substantially modified building or other improvement to real estate. Ark. Code Ann. § 26-52-301 et seq.,

24. Further, with respect to contractor services, the Department clearly states that based on existing statutes:

(a) the installation or replacement or repair of pipes and non-mechanical plumbing fixtures are not taxable services;

(b) the installation or replacement or repair of non-mechanical materials which become part of a structure, such as wiring, breakers and light fixtures, is not a taxable service; and

(c) the installation or replacement or repair of customer standard sized cabinets, shelves or other built-in furnishings which become affixed to real property is not a taxable service. Ark. Code Ann. § 26-52-301 et seq., see GR-9.17.

25. Petitioner invoiced Apex Redi-Mixed Concrete Company, an affiliate, to recoup the costs of labor, or alternatively lease employees, to perform work for Apex. Such inter-company use of labor is not subject to Gross Receipts or Compensating (Use) Tax. Ark. Code Ann. § 26-52-301 et seq., GR-9.3.

26. Petitioner invoiced certain direct pay permit holders.

27. Direct pay permit holders are granted authority by the Department to collect and pay Gross Receipts Taxes and Compensating (Use) Taxes directly to the Department. Ark. Code Ann. § 26-52-509.

28. For direct pay permit holders, Petitioner was prohibited from charging Gross Receipts or Compensating (Use) taxes for tangible personal property or taxable services. Ark. Code Ann. § 26-52-509.

29. The Department wrongfully assessed Gross Receipts Tax or Compensating (Use) Tax on Petitioner's transactions with direct pay permit holders.

30. Petitioner performed services that included the construction and installation of manufacturing machinery and equipment.

31. The contracting work was for machinery and equipment in a new manufacturing plant or, alternatively, in an existing manufacturing plant that was being expanded.

32. The machinery and equipment were used directly in the producing, fabricating, manufacturing, assembling, processing, finishing and/or packaging of articles of commerce.

33. The machinery and equipment installed performed one or more essential functions.

34. The machinery and equipment were used between the stage where raw materials are first acted upon and changed in any essential respect through completion.

35. The machinery and equipment were not hand tools, transportation equipment, office machines, nor was it machinery or equipment used in administrative, accounting, sales or other such activity.

36. Petitioner installed, repaired and/or refurbished certain machinery and equipment involved in the reduction of pollution or contamination of water in a manufacturing facility.

37. The machinery and equipment, as well as the services provided, are exempt from taxation for either Gross Receipts or Compensating (Use) taxes. Ark. Code Ann. §§ 26-52-402, 26-53-114; GR-9.17, 9.18, 55, 57, 59, 66.

38. The Department assessed taxes for sales of ammonia nitrate used in agriculture.

39. Ammonia Nitrate is used as a fertilizer; sales of tangible personal property used in agriculture for the production of food or fiber are exempt from Gross Receipts Tax. Ark. Code Ann. § 26-52-404, GR-45.

40. Petitioner kept records of the claim of the agricultural exemption.

41. The Department wrongfully assessed tax on such transactions.
42. The Department wrongfully assessed tax on the sale of a fire truck purchase by Petitioner to an individual.
43. The Department wrongfully assessed tax on sales for resale.
44. Under Arkansas Code Annotated § 26-18-406, judicial relief is authorized from a Notice of Final Assessment.
45. Petitioner should not be required to pay taxes for services that are either not taxable or are exempt.
46. That respondent has asserted interest on the items that it has deemed taxable. Because these items are not taxable or otherwise exempt, no interest should be charged.
47. Petitioner requests the Court enter its finding that the services and items of tangible personal property herein be declared non-taxable or exempt as the case may be and that the Court enter any other necessary orders or rulings related to this.

WHEREFORE, PREMISES CONSIDERED, Petitioner prays it be granted the relief requested and that the Notice of Final Assessment of Respondent be overturned, for its costs and attorneys' fees herein, and for any and all other proper relief.

Respectfully submitted,

Mark Mayfield (93180)  
WOMACK PHELPS  
PURYEAR MAYFIELD & McNEIL, P.A.  
P.O. Box 3077  
Jonesboro, AR 72403  
Phone: (870) 932-0900  
Fax: (870) 932-2553  
[mmayfield@wpmfirm.com](mailto:mmayfield@wpmfirm.com)

By



Attorneys for Milam Oil Corporation  
a/k/a Milam Construction Company

**IN THE CIRCUIT COURT OF UNION COUNTY, ARKANSAS  
SIXTH DIVISION**

**MILAM OIL CORPORATION**

**PETITIONER**

**VS.**

**CASE NO.: 70CV-24-225**

**JIM HUDSON, IN HIS OFFICIAL CAPACITY  
AS CABINET SECRETARY FOR THE ARKANSAS DEPARTMENT  
OF FINANCE AND ADMINISTRATION**

**RESPONDENT**

**ANSWER**

Now comes Jim Hudson, Secretary of the Arkansas Department of Finance and Administration ("Department"), by and through his counsel of record, and files this, his Answer:

1. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1.
2. The Department admits the allegations in paragraph 2.
3. The text of Ark. Code Ann. § 26-18-406 speaks for itself. The Department denies any characterization of the law that goes beyond its text. The Department lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 3.
4. The text of Ark. Code Ann. § 26-18-406 speaks for itself. The Department denies any characterization of the law that goes beyond its text. The Department admits the remaining allegations in paragraph 4.

5. The text of Ark. Code Ann. § 26-18-406 speaks for itself. The Department denies any characterization of the law that goes beyond its text. The Department admits the remaining allegations in paragraph 5.

6. The Department admits that on March 12, 2024 it issued a Notice of Final Assessment for Gross Receipts Tax, Compensating (Use) Tax and Special Excise Tax for the period beginning January 1, 2019 through and including December 31, 2020. The Department admits that Petitioner's petition was timely filed under Ark. Code Ann. § 26-18-406(a)(1). The Department denies the remaining allegations of paragraph six.

7. The Department admits the allegations in paragraph 7.

8. The Department admits the allegations in paragraph 8.

9. The Department admits that Petitioner elected not to sign a third waiver of the statute of limitations and that a Notice of Proposed Assessment was issued November 21, 2022. The last sentence of Paragraph 9 contains a legal argument or reservation of rights to which no response is required.

10. The Department admits that a second Summary of Findings was issued on March 6, 2023. The Department denies that the original assessment of tax was made in error as it was based upon information made available to the Department prior to issuance of the Proposed Assessment. The last sentence of Paragraph 10 contains a legal argument or reservation of rights to which no response is required.

11. The Department admits the allegations in paragraph 11.

12. The Department admits that it issued a Notice of Final Assessment on March 12, 2024. The Department denies the remaining allegations in paragraph 12.

13. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13.

14. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14.

15. Paragraph 15 contains a conclusion of law to which no response is required. However, to the extent a response is required, the Department denies the allegations in paragraph 15.

16. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16.

17. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17.

18. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18.

19. Paragraph 19 contains a conclusion of law to which no response is required. However, to the extent a response is required, the Department denies the allegations in paragraph 19, noting that services rendered as a component part of a sale of a taxable service are likewise taxable. *See* Ark. Code Ann. § 26-52-103(19)(A)(iii).

20. In response to the allegations of paragraph 20, the text of Arkansas Gross Receipts Tax Rule GR-20 speaks for itself. The Department denies any characterization of the law that goes beyond its text.

21. Paragraph 21 contains a conclusion of law to which no response is required. However, to the extent a response is required, the Department denies the allegations in paragraph 21.

22. Paragraph 22 initially contains conclusions of law to which no response is required. To the extent that a response is required, it is denied. Further, the Department lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 22.

23. In response to the allegations of paragraph 23, the text of the Arkansas Gross Receipts and Arkansas Compensating (Use) Tax laws speak for themselves. The Department denies any characterization of the laws that goes beyond their text.

24. In response to the allegations of paragraph 24, the text of Arkansas Code Ann. § 26-52-301 *et seq.* and Arkansas Gross Receipts Tax Rule GR-9.17 speak for themselves. The Department denies any characterization of the laws that goes beyond their text.

25. Paragraph 25 contains conclusions of law to which no response is required. Further, the text of Arkansas Code Ann. § 26-52-301 *et seq.* and Arkansas Gross Receipts Tax Rule GR-9.3 speak for themselves. The Department denies any characterization of the laws that goes beyond their text. The Department further lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 25.

26. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 26.

27. In response to the allegations of paragraph 27, the text of Ark. Code Ann. § 26-52-509 speaks for itself. The Department denies any characterization of the law that goes beyond its text.

28. In response to the allegations of paragraph 28, the text of Ark. Code Ann. § 26-52-509 speaks for itself. The Department denies any characterization of that law that goes beyond its text.

29. Paragraph 29 contains conclusions of law to which no response is required. However, to the extent a response is required, the Department denies the allegations in paragraph 29.

30. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30.

31. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31.

32. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32.

33. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33.

34. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34.

35. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 35.

36. The Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 36.

37. In response to the allegations of paragraph 37, the text of Ark. Code Ann. §§ 26-52-402 and 26-53-114 and Arkansas Gross Receipts Tax Rules GR-9.17, 9.18, 55, 57, 59, and 66 speak for themselves. The Department denies any characterization of those laws that goes beyond their text. Paragraph 37 also contains conclusions of law to which no response is required. However, to the extent a response is required, the Department denies the allegations in paragraph 37.

38. The Department admits that sales of ammonia nitrate occurred and were assessed. The Department, however, lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 38.

39. The text of Ark. Code Ann. § 26-52-404 and Arkansas Gross Receipts Tax Rule GR-45 speak for themselves. The Department denies any characterization of the laws that goes beyond their text. The Department lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 39.

40. With regards to paragraph 40, the Department admits that the Petitioner retained some copies of agricultural tax exemption claims but lacks knowledge or information sufficient to confirm or deny any such records were related to the any assessed transactions.

41. Paragraph 41 contains conclusions of law to which no response is required. However, to the extent a response is required, the Department denies the allegations in paragraph 41.

42. Paragraph 42 contains conclusions of law to which no response is required. However, to the extent a response is required, the Department lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42.

43. Paragraph 43 contains conclusions of law to which no response is required. However, to the extent a response is required, the Department denies the allegations in paragraph 43.

44. The text of Ark. Code Ann. § 26-18-406 speaks for itself. The Department denies any characterization of the law that goes beyond its text.

45. Paragraph 45 contains a conclusion of law to which no response is required.

46. The Department admits that interest was assessed based on the tax deficiencies but denies the remaining allegations in paragraph 46.

47. Paragraph 47 contains a request for relief to which no response is required. However, to the extent a response is required, the Department denies that Petitioner is entitled to the requested relief.

48. The paragraph that begins with the word “WHEREFORE” contains a request for relief to which no response is required. However, to the extent a response is deemed necessary, the Department denies that Petitioner is entitled to the requested relief.

49. The Department denies each and every material allegation contained in the Petitioner’s complaint that the Department has not specifically admitted.

50. The Department objects to Petitioner’s claim for attorney’s fees and costs because the complaint fails to allege facts entitling the Petitioner to attorney’s fees under Ark. Code Ann. § 26-18-406(e) or any other statute. *E.g. State ex rel. Bryant v. McLeod*, 318 Ark. 781, 786-787 (1994). In the alternative, see also *Lake View Sch. Dist. No. 25 v. Huckabee*, 359 Ark. 49 (2004) (noting that the State may not be held liable for attorney’s fees under the Doctrine of Sovereign Immunity [Ark. Const. art. 5, § 20] absent a waiver). No such waiver has been pleaded by the Petitioner in this matter.

51. The facts having not been fully developed, the Department reserves the right to supplement its answer with any additional affirmative defenses or other information that might later become known.

#### PRAYER

FOR THESE REASONS, Respondent, Jim Hudson, Secretary of the Arkansas Department of Finance and Administration, prays that the Court deny the Petitioner’s Complaint in all respects and for all other just and proper relief to which the Department may be entitled.

Respectfully Submitted,

Arkansas Department of Finance and  
Administration  
Office of Revenue Legal Counsel  
P.O. Box 1272, Room 2380  
Little Rock, AR 72203  
(501) 682-7030

By: 

Todd R. Evans  
Arkansas Bar No. 2011026  
[todd.evans@dfa.arkansas.gov](mailto:todd.evans@dfa.arkansas.gov)  
Bradley B. Young  
Arkansas Bar No. 2015028  
[brad.young@dfa.arkansas.gov](mailto:brad.young@dfa.arkansas.gov)

#### CERTIFICATE OF SERVICE

On June 26, 2024, I served a copy of this document on the person(s) listed below through  
electronic mail:

Mark Mayfield  
[mmayfield@wpmfirm.com](mailto:mmayfield@wpmfirm.com)  
Womack Phelps Puryear Mayfield & McNeil, P.A.  
P.O. Box 3077  
Jonesboro, Arkansas 72403  
Phone: (870) 932-0900  
Fax: (870) 932-2553

*Attorney for Plaintiff*

  
\_\_\_\_\_  
Todd R. Evans