



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

Assessment Coordination Division
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LEGAL NOTICE OF RULEMAKING

In compliance with Act 434 of 1967, the Administrative Procedures Act, as amended, notice is hereby given that the Assessment Coordination Division of the Department of Finance and Administration intends to adopt Rule 6.01–6.04 titled “Applications for Property Tax Exemptions.” The purpose of the rule is to regulate and equalize statewide exemptions from property taxation and is promulgated pursuant to the directive of the Arkansas General Assembly in Act 819, Acts of 2019.

A public comment hearing will be held on June 1, 2021, at 1:30pm in the first-floor conference room (102) of the DFA Building, 1509 West Seventh Street, Little Rock, Arkansas. All interested parties may attend and present their views on the subjects and issues involved. The proposed rule is available on the Assessment Coordination Division’s website: www.arkansasassessment.com. Interested persons and parties may submit written comments by or before May 31, 2021 to Sandra Cawyer, Director, Assessment Coordination Division, Post Office Box 8022, Little Rock, Arkansas 72203 or emailed to the following email: kayleigh.gilliam@dfa.arkansas.gov.

Assessment Coordination Division
Draft Rules on Property Tax Exemptions

Summary of Proposed Rules

In Act 819, Acts of 2019, the General Assembly directed the Assessment Coordination Division (ACD) to promulgate rules to aid the county assessors identifying property that is exempt from ad valorem property taxation. ACD has prepared draft rules governing applications by a property owner for a tax exemption under Arkansas law and the Constitution.

Under Arkansas's constitutionally mandated system, county assessors determine whether a property owner is entitled to an exemption from property taxes, and ACD's proposed rules will not change the county assessors' current authority to determine exemptions. Local assessors will continue to determine whether a property owner is entitled to an exemption.

Under the proposed rules, a property owner will be granted exemption upon approval of an application drafted as part of ACD's proposed rules and filed with the local county assessor, a process that is currently required by some, but not all, assessors for exemptions. After receiving the application, the assessor can thereafter (1) grant or deny the application, (2) seek ACD guidance on the application, or (3) submit the application to ACD for its determination of the exemption. The application is a one-time obligation. In other words, once an exemption is granted, the property will not have to thereafter reapply unless directed to do so by the local assessor or ACD based on an observed change in use of the property.

The proposed rules contemplate an initial application year to review all current exempt properties. ACD will in addition audit exemptions for compliance with the goal being statewide equalization and uniform application of the state's property tax laws. ACD will in addition report annually to the Governor and General Assembly showing the number of exempted parcels for each county.

CHAPTER 6: APPLICATIONS FOR PROPERTY TAX EXEMPTION

RULE 6.01: STATUTORY AUTHORITY & GENERAL SCOPE OF AUTHORITY

ARK. CODE ANN. § 26-24-104–26-24-123; ARK. CODE ANN. § 26-26-1125

Rule 6.01.01

The Assessment Coordination Division (ACD) is vested with full power and authority in the administration of the property tax laws of the State of Arkansas, including promulgation of rules consistent with Arkansas's constitutional mandate that property should be taxed consistently, equally, and uniformly throughout the state. Ark. Code Ann. § 26-24-104 et seq. These rules govern exemptions from ad valorem taxation in Arkansas.

Rule 6.01.02

Pursuant to Act 819, § 16, Acts of 2019, the General Assembly vested the ACD with authority to adopt rules necessary for (A) general guidance and assistance of county assessor in identifying property that is exempt from ad valorem taxation and assessing business inventory and (B) determining when a county is non-compliant with the rules thus promulgated. Ark. Code Ann. § 26-26-1125. Act 819's mandates take effect May 1, 2021.

Rule 6.01.03

The Arkansas Constitution provides that all real and tangible personal property subject to taxation shall be taxed according to its value and that the value is to be ascertained in such a manner as the General Assembly shall direct, making the same equal and uniform throughout the State. Ark. Const. Art. 16, § 5; *Strawn v. Campbell*, 226 Ark. 449, 291 S.W.2d 508 (1956); *Hutton v. King*, 134 Ark. 463, 205 S.W.296 (1918). These Rules are promulgated to guarantee consistent administration of the state's tax laws throughout the State and to ensure fair administration of the tax laws.

RULE 6.02 APPLICATIONS FOR PROPERTY TAX EXEMPTION

Rule 6.02.01

Actual use of the property determines eligibility for an exemption under Arkansas law, and the property owner claiming an exemption must prove in the owner's application as provided herein that the owner's use of the property qualifies the property owner for an exemption under Arkansas law. Property owned by the State of Arkansas and her instrumentalities (universities, Arkansas Highway Commission, AGFC, etcetera) and the federal government (national forests and parks, post offices, courthouses, and other federal buildings) are immune from taxation. The owner of property that is immune from taxation does not need to submit an application for an exemption under these rules in order to remain immune from taxation.

Rule 6.02.02

Eligibility of an application for an exemption from ad valorem taxation shall be determined as follows:

- A. A property owner must apply for an exemption as provided herein filed with the County Assessor for the county in which the property is located. Under guidance and supervision of ACD, County Assessors determine whether the owner of property is entitled under state law to an exemption from property taxation.

- B. The exemption may be partial or full as determined by the County Assessor or, ultimately, ACD. A parcel may be partially exempt if part, but not all, of the property is being used exclusively for an exempted purpose. In the case of a partial exemption, the County Assessor shall assess the non-exempt portion of the parcel consistent with all other property in the County while listing the exempt portion on the assessor's roll of property exempt from taxation. If a parcel is completely devoted to an exempt purpose, it is fully exempt and should thus be noted on the assessor's roll.
- C. The Initial Exemption Application shall be filed with the County Assessor for the county in which the property is located beginning January 1, 2023 and no later than May 1, 2023. Failure to timely file the Initial Exemption Application shall constitute a waiver of the exemption for that current assessment year. The County Assessor shall mark the application documenting the date of filing and assign the application a number. The number assigned to each application shall include the following in this order: the county's assigned Arkansas Courts e-filing Number, EX, the last two digits of the year, and the sequential number of the particular application. For example, when Madison County receives its twenty-seventh application in 2023, the application shall be numbered 44EX-23-27. All property owners claiming exemption for the assessment year 2023 must apply for the exemption for that assessment year. Each assessor shall send the application by mail along with instructions to the owner of each currently exempted parcel in the county by January 15, 2023. Each assessor shall hang in his or her office and prominently publish on his or her website an announcement that exemption applications are necessary and due by May 1, 2023. The instructions should advise the property owner to complete the application and return it to the assessor as soon as possible but at least by May 1, 2023 and that the property will be taxed if the property owner fails to timely file the application. Assessors shall forward a copy of all applications to ACD electronically within five days of when the assessor receives the application. ACD shall organize and store the 2023 Initial Applications electronically by county.
- D. New applications for property tax exemptions shall thereafter be filed with the County Assessor by May 1 of that assessment year. The County Assessor shall mark the application documenting the date of filing and assign the application a number. The number assigned to each application shall include the following in this order: the county's assigned Arkansas Courts e-filing Number, EX, the last two digits of the year, and the sequential number of the particular application. For example, when Jefferson County receives its tenth application in 2024, the application shall be numbered 36EX-24-10. Failure to file an application by May 1 of the assessment year shall constitute a waiver of the exemption for that assessment year. Applications submitted after May 1 may be considered for the following assessment year. County Assessors shall transmit electronically to ACD all applications for exemptions within five days of when the assessor receives the application.
- E. A property owner granted an exemption after the Initial Application in 2023 need not reapply and the property shall thereafter continue to be exempt from taxation unless the property owner is otherwise notified by the County Assessor or ACD of the need to reapply as provided in these Rules. Either the County Assessor or ACD may, by written order directed to the property owner, order the property owner to reapply for an exemption. Failure of the property owner to reapply as so directed will result in waiver of the previously granted exemption. Reapplications for exemptions shall be treated the same as a new application, and the property owner must therein prove entitlement to an exemption under Arkansas law.
- F. An application filed with the County Assessor shall be in the form of the General Property Tax Exemption Application, **Appendix 1**, with all of the supporting documents required

therein. Applications received after the deadline provided herein are void, and the property shall be taxed pursuant to law for that year.

- G. Only the owner of property or duly authorized agent of the owner may apply for an exemption.
- H. A single property owner claiming exemptions for multiple parcels of property dedicated to a single, exempted use shall file one application listing all parcels dedicated to a single exempted use.
- I. In order to claim the exemption, the applicant shall prove in its application and accompanying documentation the applicant's entitlement to exemption beyond a reasonable doubt under Arkansas law.
- J. Upon receipt of a timely-filed application, the County Assessor shall as soon as possible but at least by August 1, (1) grant the exemption, (2) deny the exemption, (3) request additional information from the applicant, or (4) forward the application to ACD for determination of the application. The County Assessor shall advise the applicant of his or her determination in writing by mailing to the applicant a copy of application signed by the assessor indicating the assessor's determination of the application.
- K. A property owner denied an exemption by a County Assessor may petition ACD for review of the County Assessor's determination by petition pursuant to ACD Rules. Any county official, an incorporated town or city within the county, a school district within the county, or any other political unit of the State may petition ACD to review a County Assessor's granting of an application. ACD may of its own accord order review a County Assessor's determination of an application for tax exemption. An individual property owner may not petition ACD to review an exemption granted to another property owner.
 - 1. ACD review shall be obtained by filing with ACD the Assessment Coordination Division Review Petition, **Appendix 2**. The Petition must be filed with ACD by September 1, must be submitted electronically only, and must include a copy of the application signed by the Assessor and all accompanying documentation. ACD may initiate its own review of any tax exemption by filing the Petition.
 - 2. The ACD shall assign the Petition a case number, shall file-mark the Petition noting the date and time of filing, and shall thereafter mail a copy of the Petition to the County Assessor, the property owner, and the Petitioner.
 - 3. ACD designates its Deputy Director as its "Agent" with full power and authority in the administration of the tax laws of the State of Arkansas to review applications for tax exemptions and, with his or her staff, make a Report and Recommendation on the exemption applications to ACD. Ark. Code Ann. § 26-24-114-15.
 - 4. Pursuant to Ark. Code Ann. § 26-24-115, ACD, acting through its Director, shall thereafter either accept the Report and Recommendation of its Deputy Director based on the examination of all testimony and records contained in the Report and Recommendation or order an ACD adjudicative hearing on the application pursuant to Rule 2.04 of ACD Rules.
- L. ACD shall advise the County Assessor of its ruling by written order directed to the County Assessor with a copy to the applicant by November 30th. ACD's order shall be the final ruling on the application and binding upon the County Assessor, County Judges, county clerks, and County Collectors, who shall act in accordance therewith unless directed otherwise by a court of competent jurisdiction. Ark. Code Ann. § 26-24-105-06.
- M. Property owners granted an exemption from property taxation may be required to reapply for an exemption if directed to do so in writing by either the ACD or a County Assessor.

- N. Changes in Use. A property owner granted an exemption has a duty to notify the County Assessor for the county in which the property is located if and when the owner no longer qualifies for the exemption and when there is a change in the use of the exempt property.
1. As used herein, a “change in use” of the exempt property means a deviation in the use of the property from the use approved in a property owner’s application for exemption.
 2. Changes in use require reapplication for an exemption as provided in these Rules.
 3. Each assessor shall in addition by personal investigation and examination of persons, property and records investigate usage of exempt property pursuant to Ark. Code Ann. § 26-26-715.
 4. Each Assessor shall notify the ACD of any change in use of exempt property reported by a property owner or found through investigation and examination by the Assessor.

RULE 6.03: COUNTY ASSESSOR ROLLS & INVESTIGATIONS OF EXEMPT PROPERTIES

- A. The County Assessors shall maintain a list of all exempted property in his or her County pursuant to Ark. Code Ann. § 26-26-1001 and shall deliver a copy of the list to ACD by the first Monday in July.
- B. Each County Assessor has a duty to keep assessment records, appraisal and assessment data, current so that his or her records will at all times show the valuation of property in his or her county. Ark. Code Ann. § 26-26-302.
- C. Each Assessor should identify property within his or her County that is immune from taxation because it is owned by the federal or state government. Ark. Code Ann. § 26-26-703; Ark. Code Ann. § 26-26-704(b). Each immune parcel shall be included in the County’s abstract, and each County Assessor shall keep a list of immune parcels.
- D. Each assessor shall by personal inspection and examination of persons, property, or records gather and record in writing any and all available data and information bearing upon the location, number, amount, kind and value of any and all property and persons which he or she is by law required to assess. Ark. Code Ann. § 26-26-715.
- E. Each assessment report must account for all real property in the county; where real property is exempt from taxation, either under the Arkansas Constitution or because the property is owned by the state, the assessor shall note the exemption on the assessment roll with an explanation for the exemption. Ark. Code Ann. § 26-26-718.
- F. At the time of making the assessment of real property, each assessor shall make a list of real property in his or her county that is exempt from taxation. The list should identify the tract of land that are exempt, the uses thereof and by whom and how the property is held. Ark. Code Ann. § 26-26-1001.

RULE 6.04: ACD OVERSIGHT OF COUNTY COMPLIANCE

- A. ACD is vested with full power and authority in the administration of the State’s property tax laws and shall oversee County Assessors, County Judges, and other county officials to ensure compliance with these Rules and Arkansas law governing property tax exemptions. Ark. Code Ann. 26-24-104–06.
- B. Each of the County Assessors shall electronically transmit to ACD all Initial Applications for exemptions by June 1, 2023. Each of the County Assessors shall electronically transmit to

ACD all subsequent applications for exemptions by June 1 of that assessment year and shall notify ACD of any reapplications ordered by the County Assessor.

- C. ACD shall audit the Initial Applications granted by the Assessors and every subsequent application for compliance with Arkansas law and conduct any necessary investigations to ensure uniform and equal application of the State's tax laws. Ark. Code Ann. § 26-24-116.
- D. ACD shall deliver to the Governor and Legislative Council an Annual Report due June 15. The Report shall include, among other requirements in law, the number of properties exempt from taxation and the assessed value thereof. Ark. Code Ann. § 26-24-121.