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Arkansas Sales Tax Exemption/Pollution Control: March 2016 Arkansas Department of Environmental Quality Determination Memorandum

04/04/2017

Arkansas provides exemption from the Gross Receipts Tax (also known as a “sales tax”) for a variety of expenditures.

An exemption relevant to those Arkansas facilities installing pollution control equipment is Ark. Code Ann. § 26-52-502(a)(c) which applies to machinery and equipment installed/utilized to reduce water or air pollution.

The Arkansas Department of Environmental Quality (“ADEQ”) is periodically asked to provide those seeking such an exemption a determination as to whether the machinery or equipment fit within the scope of the relevant descriptive language of the statute. However, note that the Arkansas Department of Finance and Administration (which administers the exemption) makes the final determination as to which specific items qualify as machinery or equipment used to prevent water or air pollution.

Whether a particular project or expenditure fits within the scope of this exemption may mean a significant difference in its cost. Therefore, the relevant Arkansas agencies’ view of which equipment or machinery qualifies for exemption is of interest.

A March 2016 ADEQ memorandum addressed a February 25th and 26th, 2016 request from the City of Hot Springs Wastewater Operations Manager for a sales tax determination for certain items being installed by the City of Hot Springs wastewater operations. The items for which the determination was requested included:

- Sludge belt press
- Brush and tree grinder for composting operation
- Compost mixer
- Back-up pump for Stokes Creek pump station

A March 24, 2016 letter from ADEQ Director Becky Keogh determined that none of the referenced equipment was tax exempt. Ms. Keogh noted:

DFA Gross Receipts Tax Rule GR-66(E)(1) states that machinery and equipment used in a city or county wastewater treatment plant are tax exempt if used to remove contaminants from the wastewater, and

that the treatment process begins when solids are first removed from the wastewater and ends when all solids are removed from the wastewater. GR-66(E)(2)(b) further states that the treatment process does not include disposal of solids removed from the wastewater. GR-66(E)(4) specifically lists pump stations and sludge dewatering equipment (belt press) as an example of a taxable item (not tax exempt). Although the Department certainly encourages the beneficial use of removed solids from wastewater such as dewatering and composting, the above listed equipment are not considered part of the wastewater treatment process under tax rule GR-66.

[A copy of the March 24th letter can be downloaded here.](#)