

**ADVERTISING & PROMOTION COMMISSION
OF THE CITY OF LITTLE ROCK, ARKANSAS**
101 South Spring Street, Fourth Floor
Post Office Box 1763
Little Rock, Arkansas 72203

A&P TAX RULES AND REGULATIONS

TABLE OF CONTENTS

GENERAL..... 6

REGULATION A - A&P TAX..... 12

REGULATION B - A&P TAX PERMITS..... 15

REGULATION C - COLLECTION OF A&P TAX..... 24

REGULATION D - RECORDKEEPING BY SELLERS; AUDITS..... 28

REGULATION E - ENFORCEMENT 32

REGULATION F - CIVIL AND CRIMINAL PENALTIES..... 53

APPENDIX

**Item 1
[Reserved]**

**Item 2
Application for Exemption from A&P Tax – Sellers of Hotel and Motel Accommodations /
Lodging Services**

**Item 3
Application for Exemption from A&P Tax – Sellers of Prepared Food and Beverages**

**Item 4
Approval of Exemption from A&P Tax**

Item 5
Denial of Exemption from A&P Tax

Item 6
A&P Tax Permit – Traditional

Item 7
A&P Tax Permit – Special Event

Item 7A
A&P Tax Permit – Facilitating Platform

Item 8
Application for A&P Tax Permit – Traditional

Item 9
Application for A&P Tax Permit – Special Event

Item 9A
Application for A&P Tax Permit – Facilitating Platform

Item 10
Denial of A&P Tax Permit

Item 11
Notice of Expiration of A&P Tax Permit

Item 12
Approval of Petition to Retain A&P Tax Permit

Item 13
Denial of Petition to Retain A&P Tax Permit

Item 14
Notice of Intent to Revoke A&P Tax Permit

Item 15
Denial of Hearing on Intended Revocation of A&P Tax Permit

Item 16
Notice of Hearing on Intended Revocation of A&P Tax Permit

Item 17
Finance Committee Decision on Revocation of A&P Tax Permit

Item 18
Notice of Reinstatement of A&P Tax Permit

Item 19
[Reserved]

Item 20
A&P Tax Return

Item 20A
Annual Certification

Item 21
Notice of Incomplete or Illegible Tax Return

Item 22
Notice of Insufficient Funds and Dishonored Check

Item 23
Notice of Examination

Item 24
Notice of Random Annual Audit

Item 25
Notice of Third-Party Summons

Item 26
Notice of Additional Examination

Item 27
Payment Demand Notice

Item 28
Payment Demand Notice – Discount Taken But Not Allowed

Item 29
Notice of Delinquency

Item 30
Notice of Proposed Assessment of A&P Tax

Item 31
Denial of Hearing on Proposed Assessment

Item 32
Notice of Hearing on Proposed Assessment

Item 33
Finance Committee Decision on Protest of Proposed Assessment

Item 34
Denial of Commission Review of Proposed Assessment

Item 35
Commission Decision on Revision of Proposed Assessment

Item 36
Notice of Final Assessment of A&P Tax

Item 37
Certificate of Indebtedness

Item 38
Satisfaction of Indebtedness

Item 39
Notice of Action Required to Release Certificate of Indebtedness

Item 40
Application for Installment Payment Agreement

Item 41
Installment Payment Agreement

Item 42
Denial of Application for Installment Payment Agreement

Item 43
Application for Relief from Penalty on A&P Tax

Item 44
Notice of Penalty Waiver

Item 45
Denial of Penalty Waiver

Item 46
Application for Relief from Interest on A&P Tax

Item 47
Notice of Interest Waiver

Item 48
Denial of Interest Waiver

Item 49
Offer in Compromise

Item 50
Compromise and Closing Agreement

Item 51
Rejection of Offer in Compromise

Item 52
Notice of Credit

Item 53
Notice of Refund

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A&P TAX RULES AND REGULATIONS

Pursuant to the authority vested in the Commission by Ordinance Nos. 18,529 and 18,992 of the City of Little Rock, adopted August 7, 2001, and November 25, 2003, respectively, and Act 185, Acts of Arkansas of 1965, as amended, the Little Rock Advertising & Promotion Commission does hereby promulgate and adopt the following rules and regulations for the administration and enforcement of Ordinance Nos. 12,353, 13,527, 18,529, 18,992, 21,140, 21,141, and 21,551 and the Chief Executive Officer of the Little Rock Convention & Visitors Bureau hereby approves of and assents to the provisions herein, on this 21st day of April, 2020, to become effective on May 1, 2020.

GENERAL

GR-1.1. EFFECTIVE DATE.

All rules and regulations previously promulgated by the Commission related to the enforcement and collection of the tax levied by the City of Little Rock pursuant to Ordinance Nos. 12,353, 13,527, 18,529, 18,992, 21,140, and 21,141 are hereby specifically repealed as of the effective date of these rules and regulations. These rules and regulations shall be effective as of May 1, 2020.

GR-1.2. PURPOSE OF THE RULES AND REGULATIONS.

The following rules and regulations are promulgated for the Commission's administration of the enforcement and collection of the tax levied by the City of Little Rock pursuant to Ordinance Nos. 12,353, 13,527, 18,529, 18,992, 21,140, 21,141, and 21,551. All Persons affected by these rules and regulations are advised to read them in their entirety because the meaning of the provisions of one rule may depend on the provisions contained in another rule.

GR-1.3. DEFINITIONS.

For purposes of these rules and regulations, unless otherwise provided or required by their context, the following definitions apply:

- A. *A&P Tax*: “A&P Tax” means the tax levied by Ordinance Nos. 12,353, 13,527, 18,529, 18,992, 21,140, 21,141, and 21,551, as amended from time to time.
- B. *A&P Tax Permit*: “A&P Tax Permit” means the permit as required by Section 5 of Ordinance No. 18,529 and encompasses both a Traditional A&P Tax Permit, a Special Event A&P Tax Permit, and a Facilitating Platform A&P Tax Permit as described in Rule GR-3.1.
- C. *Assessment*: “Assessment” means, with respect to a given Seller, that monetary amount, recorded in the Commission’s records as the A&P Tax liability of a Seller, due to the Commission.
- D. *City*: “City” means the City of Little Rock, Pulaski County, Arkansas, the geographic boundaries of which may be fixed from time to time in accordance with state and local law and which boundaries are in effect at the time of the Sale for which the A&P Tax is due.
- E. *Code*: “Code” means the Little Rock City Code, as amended from time to time.
- F. *Commission*: “Commission” means the Little Rock Advertising & Promotion Commission and any of its authorized agents.
- G. *Customer*: “Customer” is synonymous with “Consumer” or “Purchaser” and means a Person to whom a Sale that is subject to the A&P Tax is made.
- H. *Delinquency Date*: “Delinquency Date” means the first calendar day of the month immediately following a Taxable Period’s Due Date.
- I. *Delinquent Seller*: “Delinquent Seller” means a Seller who has not fully and timely paid any amounts demanded in a Final Assessment and who is not engaged in pursuing judicial relief as permitted by Rule GR-6.4.
- J. *Doing business*: “Doing business” is synonymous with “engaging in business” and “engaged in the business” and means any and all activity pursued or undertaken by a Seller or a Seller’s agents, employees, or representatives, with the object of gain, profit, or advantage, and which results in a Sale, delivery, and/or the transfer of the possession of any Prepared Food and Beverage or the providing or furnishing of Lodging Services to the Customer, at or from any point in the City.

- K. *Due Date*: “Due Date” means the twentieth calendar day of the month immediately following a given Taxable Period.
- L. *Executive Director*: “Executive Director” means the Executive Director, the Chief Executive Officer, or the individual holding such title as may be given for the position of executive director or chief executive officer of the Little Rock Convention Center & Visitors Bureau, as authorized by the Commission, and his or her authorized designees.
- M. *Facilitating Platform*: A Person that provides a platform, online or offline, which (i) advertises and offers to Purchasers Lodging Services in the City, Prepared Food and Beverage prepared in the City, or both, and (ii) accepts payment from Purchasers for such Lodging Services, Prepared Food and Beverage, or both, to be furnished to the Purchaser or the Purchaser’s designated recipient.
- N. *Failure to File and Pay Penalty*: “Failure to File and Pay Penalty” has the meaning described in Rule GR-4.4(A).
- O. *For consumption on or off the premises*:
1. “For consumption on or off the premises” is synonymous with “for on-premises or off-premises consumption” and means that Customers:
 - a. have access to seating within the vicinity of the Seller’s location, including, but not limited to, the arrangements commonly found at fairs, festivals, food courts, exposition halls and convention centers where food vendors are present; or
 - b. may purchase Prepared Food and Beverage to be picked up by the Customer, the Customer’s designee, or the Seller’s designee at the Seller’s location and carried off the premises for consumption or to be delivered or served by the Seller or the Seller’s agent to the Customer or the Customer’s designee at a location other than the Seller’s location.
 2. “For consumption on or off the premises” includes Prepared Food and Beverage served for banquet services, room service meals and similar types of food services provided by hotels and motels.
- P. *For profit*: “For profit” means operating (1) as an entity (a) without federal tax-exempt status under 26 U.S.C. § 501(c)(3) or (b) that is not organized

pursuant to Chapter 28 of Title 4 of the Arkansas Code Annotated, as amended from time to time, or (2) with the intention of achieving financial gain for the sole proprietor.

- Q. *Gross receipts*: “Gross receipts” is synonymous with “gross proceeds” and means the total amount of consideration for the Sale of Prepared Food and Beverage or Lodging Services, whether the consideration is in money or otherwise, without any deduction therefor on account of the cost of the property sold, labor services performed, interest paid by the Seller, losses or any expenses whatsoever. “Gross receipts” includes the value of any property taken in lieu of or in addition to money as consideration for a Sale subject to the A&P Tax.
- R. *Hearing Body*: “Hearing Body” has the meaning described in Rule GR-3.6(D)(1) and Rule GR-6.4(C)(1).
- S. *Hotel or Motel Accommodations*: “Hotel or Motel Accommodations” means accommodations used for sleeping or overnight stay, meetings, banquets, or parties, furnished on a short-term basis by hotels, motels, houses, cabins, tourist courts, bed and breakfast properties, campgrounds, condominiums, apartments, hostels, property management entities or other similar providers of such accommodations.
- T. *Lodging Services*: “Lodging Services” means the renting, leasing or otherwise furnishing of Hotel or Motel Accommodations for periods of less than thirty (30) consecutive days.
- U. *Permittee*: “Permittee” means the Person to whom an A&P Tax Permit was issued by the Commission.
- V. *Person*: “Person” means any natural person, sole proprietorship, fiduciary, firm, corporation, limited liability company, partnership, joint venture, association (mutual or otherwise), estate, trust, receiver, trustee appointed by any State or Federal Court, or any other entity.
- W. *Prepared Food and Beverage*: “Prepared Food and Beverage” means:
- (1) Food sold in a heated state or heated by or on behalf of the Seller;
 - (2) Two (2) or more food ingredients mixed or combined by or on behalf of the Seller for sale as a single item; or

(3) Food sold with an eating utensil provided by or on behalf of the Seller, including a plate, knife, fork, spoon, glass, cup, napkin, or straw. However, a “plate” does not include a container or packaging used to transport the food.

“Food” and “food ingredients” shall mean that defined in the Arkansas Gross Receipts Act, Ark. Code Ann. § 26-52-101 *et seq.*, as amended.

- X. *Prompt Payment Date*: “Prompt Payment Date” means the 20th calendar day of the month immediately following a given Taxable Period.
- Y. *Purchaser*: “Purchaser” is synonymous with “Consumer” or “Customer” and means a Person to whom a Sale that is subject to the A&P Tax is made.
- Z. *Revenue Director*: “Revenue Director” means the Director of Revenue or the individual holding such title as may be given for the position of director of the Revenue Division of the Little Rock Advertising & Promotion Commission and his or her authorized designees.
- AA. *Sale*: “Sale,” “Sales,” or “selling of” means any transaction resulting in (1) the transfer of possession of Prepared Food and Beverage for consumption on or off the premises or (2) the providing of Lodging Services. The terms “Sale” and “Sales” include any of the aforementioned transactions involving the exchange or barter of anything of value in lieu of the exchange of traditional currency.
- BB. *Seller*: “Seller” means any Person making Sales that are subject to the A&P Tax, as well as his, her, or its authorized agents and representatives, including a Facilitating Platform. With respect to remedies pursued under these rules and regulations as against a Seller that is a business entity, a Seller may also include its owners, officers, and employees whose duties include filing any tax return required by these rules and regulations, or accounting for or remitting the proper amount of A&P tax, penalty, or interest required by these rules and regulations.
- CC. *Taxable Period*: “Taxable Period” means a calendar month. Relative to the A&P Tax that is due to the Commission, each Taxable Period will have its own corresponding Due Date and Delinquency Date.

GR-1.4. NOTICES.

- A. *In General*. Except as otherwise provided in these rules and regulations, all notices under these rules and regulations required to be given by the

Commission shall be in writing and shall be personally served on the Seller or sent to the Seller by certified U.S. mail, return receipt requested, or by other traceable commercial delivery service, at the address listed on the Seller's application for A&P Tax Permit or, if the Seller has provided a subsequent address, the Seller's last address on record with the Commission. For purposes of this rule, "Commission" shall include the Commission's Finance Committee, Executive Director, Revenue Director and any of their authorized designees, or any other authorized designee of the Commission. For purposes of this rule, "Seller" shall include a Permittee.

- B. *Notices Returned Unclaimed or Refused.* If a mailed notice is returned as unclaimed or refused, delivery of the notice shall be deemed made and the notice shall be deemed to have been served and given as of the notice's postmarked date, and the Commission, its Finance Committee, or Revenue Director may take any action permitted by the Code and these rules and regulations.
- C. *Confirmation of Receipt.* The Commission may obtain confirmation of the receipt, return or refusal of any such notice through the Commission's actual receipt from the U.S. Postal Service or other traceable commercial delivery service of the returned mail or the return receipt acknowledged by the Seller, or through tracking records of the U.S. Postal Service or other traceable commercial delivery service accessible by the Commission online, by telephone, in person or otherwise.

GR-1.5. FILINGS WITH COMMISSION; ILLEGIBLE POSTMARK DATE.

- A. *In General.* Any item to be filed with the Commission by a Seller or Permittee or any third party as required or permitted under the Code or these rules and regulations that is sent to the Commission by mail shall, unless otherwise provided in these rules and regulations or in any form included as an Appendix Item hereto, be mailed to the Little Rock Advertising & Promotion Commission, Attn: Revenue Division, Post Office Box 1763, Little Rock, Arkansas, 72203. For purposes of this rule, the "Commission" shall include the Revenue Director and any other authorized agent of the Commission.
- B. *Date Filed Is Date of Delivery or Postmark.* Unless otherwise provided in these rules and regulations or in any form included as an Appendix Item hereto, any item to be filed with the Commission as required or permitted by the Code or these rules and regulations that is personally served or delivered to the Commission other than by mail shall be deemed filed with the Commission

on the date it is received at the offices of the Commission. Unless otherwise provided in these rules and regulations or in any form included as an Appendix Item hereto, any item sent to the Commission by mail from a Seller, Permittee or third party shall be deemed filed with the Commission on the date of the postmark stamped on the item by the United States Postal Service.

- C. *Illegible Postmark Date.* If the Commission receives any item from a Seller, Permittee or third party sent by mail for which, in the sole and reasonable judgment of the Commission, the date of the United States Postal Service postmark is illegible, the document shall be deemed filed with the Commission three (3) business days prior to the date the item was received at the offices of the Commission.

REGULATION A – A&P TAX

GR-2.1. AMOUNT AND NATURE OF TAX.

- A. The A&P Tax is
1. four percent (4%) of the gross receipts from the renting, leasing, or otherwise furnishing of Hotel and Motel Accommodations or Lodging Services in the City for profit for periods of less than thirty (30) days; and
 2. two percent (2%) of the gross receipts from the Sale of Prepared Food and Beverage in the City for consumption on or off the premises of the location identified on the A&P Tax Permit received by:
 - (i) restaurants,
 - (ii) cafes,
 - (iii) cafeterias,
 - (iv) delicatessens,
 - (v) drive-in restaurants,
 - (vi) caterers,
 - (vii) carry-out delivery restaurants,

- (viii) concession stands,
- (ix) convenience stores,
- (x) grocery store-restaurants,
- (xi) mobile retail food establishments c/k/a food trucks,
- (xii) bars,
- (xiii) taverns,
- (xiv) private clubs,
- (xv) private chefs,
- (xvi) private residences, and
- (xvii) Facilitating Platforms.

GR-2.2. PERSONS LIABLE FOR COLLECTING, REPORTING, AND REMITTING A&P TAX.

- A. Any Seller, including any Facilitating Platform, not determined to be exempt pursuant to Rule GR-2.3, shall (i) timely file tax returns with the Commission and (ii) timely remit the A&P Tax to the Commission, all in accordance with these rules and regulations.
- B. If a Seller is a corporation, partnership, or a limited liability company that fails to account for, file any tax return required by these rules and regulations, or remit the proper amount of A&P Tax then an officer, director or employee of the corporation, a partner or employee of the partnership, and a member, manager, or employee of a limited liability company who, as an officer, director, employee, partner, member or manager, is under a duty to perform the act in respect to which a violation of these rules and regulations has occurred, each shall be liable to a penalty equal to the amount of A&P Tax evaded or not accounted for and paid over.

GR-2.3. EXEMPTIONS FROM A&P TAX.

- A. *Presumption Against Exemption – Must File Application for Exemption.*

1. Except as provided in subparagraph (B)(2), any Person engaged in the business of renting, leasing or otherwise providing or furnishing Hotel or Motel Accommodations in the City for periods of less than thirty (30) days or in selling Prepared Food and Beverage in the City for on-premises or off-premises consumption shall be presumed to be subject to the A&P Tax. Such presumption shall be rebutted only by obtaining from the Commission written approval of A&P Tax exemption in accordance with this rule.
 2.
 - a. Except as provided in subparagraph (B)(2), any Person claiming to be exempt from the A&P Tax under paragraph (B) of this rule shall file with the Revenue Director an application for exemption on such applicable form as provided in Appendix Item 2 or 3 to these rules and regulations or as may be prescribed from time to time by the Commission.
 - b. The Finance Committee of the Commission shall issue a written approval or denial of any application for exemption from A&P Tax no later than forty-five (45) days after the completed application is received by the Revenue Director, except that this time limit may be extended by the Finance Committee upon reasonable cause. The Finance Committee's written approval or denial of any application for exemption of A&P Tax shall be on such applicable form as provided in Appendix Item 4 or 5 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the applicant by personal service or first class U.S. mail.
 - c. The Finance Committee or the Revenue Director may request from the applicant any additional information or documentation as may be reasonably necessary for the Finance Committee to properly consider the application.
 - d. Any exemption from A&P Tax granted by the Finance Committee shall expire on the earlier of the applicant operating for profit or, if applicable, the applicant's loss of its status as a 501(c)(3) organization as determined by the Internal Revenue Service of the United States Treasury Department.
- B. *Exemptions.* The following Persons shall be exempt from the collection, reporting, and remitting of A&P Tax:

1. *In General.*
 - a. Any Person engaged in renting, leasing or otherwise furnishing Hotel or Motel Accommodations for periods of less than thirty (30) days (i) on a strictly not-for-profit basis or (ii) who has been deemed tax exempt under section 501(c)(3) of the Internal Revenue Code by the Internal Revenue Service of the United States Treasury Department.
 - b. Any Person engaged in the business of selling Prepared Food and Beverage for on-premises or off-premises consumption who has been deemed tax exempt under section 501(c)(3) of the Internal Revenue Code by the Internal Revenue Service of the United States Treasury Department.
2. *Schools.* Sales of Prepared Food and Beverage in public, common, high school, or college cafeterias and lunchrooms that are operated primarily for teachers and pupils and not for the general public and that are not operated for profit are exempt from the A&P Tax. Any school serving students in any grades from pre-kindergarten through twelfth grade or college that operates a cafeteria that is not for profit and that is primarily for teachers and pupils and not for the general public is not required to apply for an A&P Tax Permit or exemption, or to collect, report or remit the A&P Tax.

REGULATION B – A&P TAX PERMITS

GR-3.1. PERMIT REQUIRED.

- A. Every Person who derives or receives gross receipts which are subject to the A&P Tax or engages in Sales that are or may be subject to the A&P Tax, who has not otherwise been deemed exempt by the Finance Committee under these rules and regulations, shall obtain an A&P Tax Permit before deriving or receiving such gross receipts or attempting to make such Sales. The requirement to obtain an A&P Tax Permit applies regardless of whether a Person's Sales come from a fixed structure, a moveable device, or an informational online or offline platform. It shall be unlawful for any Person who engages in Sales that are or may be subject to the A&P Tax to transact business in the City prior to the issuance and receipt of an A&P Tax Permit from the Commission.

- B. A separate A&P Tax Permit shall be obtained for each physical location from which a Person derives or receives gross receipts which are subject to the A&P Tax or engages in Sales that are or may be subject to the A&P Tax. An A&P Tax Permit may be issued to more than one Person for Sales occurring at, from, or for the same physical location.
- C. An A&P Tax Permit shall have no stated term. An A&P Tax Permit is not assignable and shall be valid only for the Permittee in whose name it is issued and for the location designated on the permit. An A&P Tax Permit shall be conspicuously displayed at the location designated on the permit.
- D. A&P Tax Permits come in three forms: a Traditional A&P Tax Permit (Appendix Item 6), a Special Event A&P Tax Permit (Appendix Item 7), and a Facilitating Platform A&P Tax Permit (Appendix Item 7A). Special Event A&P Tax Permits may be issued for any Seller who intends to make Sales from a temporary location in conjunction with a special event of 14 continuous days or fewer.

GR-3.2. PERMIT APPLICATIONS.

- A. Every Seller shall submit an application for an A&P Tax Permit to the Revenue Director on such applicable form as provided in Appendix Item 8 , 9, or 9A to these rules and regulations or as otherwise prescribed from time to time by the Commission or utilizing substantially similar electronic versions that may be available on the Commission’s website. The Revenue Director shall require, prior to the issuance of any new A&P Tax Permit, the payment of a uniform, non-refundable fee of no more than seventy-five dollars (\$75.00), which shall be remitted with each new application for a permit.
 - 1. *Traditional A&P Tax Permit.* An application must be completed in all relevant respects and must be signed by the Person making application for the permit or an authorized agent of the Person making application for the permit. If an agent, other than an officer, makes an application for an A&P Tax Permit on behalf of a Seller, a copy of the document authorizing him or her to act on behalf of the Seller signed by a principal, owner, or officer of the Seller must be attached to the application. Applicants must submit the completed application to the Revenue Director at the address included on the application form.
 - 2. *Special Event A&P Tax Permit.* An application must be completed in all relevant respects and must be signed by the Person making

application for the permit or an authorized agent of the Person making application for the permit.

3. *Facilitating Platform A&P Tax Permit.* An application must be completed in all relevant respects and must be signed by the Person making application for the permit or an authorized agent of the Person making application for the permit.
- B. The Revenue Director must issue or deny the A&P Tax Permit no later than ten (10) business days after the completed application is received by the Revenue Director, except that this time limit may be extended by the Revenue Director upon reasonable cause. Any denial of an A&P Tax Permit shall be in writing on such form as provided in Appendix Item 10 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the applicant by personal service or first class U.S. mail.
 - C. The Revenue Director may request additional information from the applicant as necessary to properly consider the application, and may reject any application that is not completed or submitted in accordance with this rule or the application. Any applicant whose application is incomplete or improperly filed may resubmit the completed application in accordance with this rule, at which time a new review period under paragraph (B) above shall begin.
 - D. Permittees are under an affirmative obligation to provide written notice to the Revenue Director of any changes to the information contained in a completed application upon which an A&P Tax Permit was issued.

GR-3.3. CROSS-CHECKING OF LICENSE OR PERMIT DATABASES.

To further ensure a Seller's compliance with Rule GR-3.1 and on a routine or common basis, the Director shall cause to be cross-checked as against the Commission's database of Permittees:

- A. a listing of Persons within the City who have secured or renewed a City business license required pursuant to the Code within the last quarter;
- B. a listing of Persons within the City who have secured or renewed the permit required pursuant to Ark. Code. Ann. § 20-57-204(a) within the last quarter; and

- C. a listing of Persons within the City who have secured or renewed the gross receipts tax permit required pursuant to Ark. Code. Ann. § 26-52-201 within the last quarter.

GR-3.4. SURRENDER OF A&P TAX PERMIT.

- A. *Traditional A&P Tax Permit.* A Traditional A&P Tax Permit shall expire at the time of the sale, transfer of ownership, or cessation of the business of the Permittee at the location designated on the permit. Every Traditional A&P Tax Permit obtained must be surrendered to the Commission within thirty (30) days of the sale, transfer of ownership, or cessation of business at the location for which the permit was issued, and all unpaid and accrued A&P Taxes must be paid pursuant to a completed and filed return (as required by Rule GR-4.2) at the time of the permit's surrender. Failure to timely surrender the permit, file the necessary return, or pay any and all unpaid and accrued A&P Taxes, penalty, and interest following any sale, transfer of ownership, or cessation of business shall constitute sufficient cause to subsequently refuse the Permittee any future A&P Tax Permit.
- B. *Special Event A&P Tax Permit.* A Special Event A&P Tax Permit shall expire at the earlier of the cessation of the business of the Permittee at the location designated on the permit or the conclusion of the special event for which the permit was issued. Every Special Event A&P Tax Permit obtained must be surrendered to the Commission by the conclusion of the special event for which it was issued or the cessation of business at the location for which the permit was issued, and all unpaid and accrued A&P Taxes must be paid pursuant to a completed and filed return (as required by Rule GR-4.2) at the time of the permit's surrender. Failure to timely surrender the permit, file the necessary return, or pay any and all unpaid and accrued A&P Taxes, penalty, and interest following any cessation of business or the conclusion of the special event for which the permit was issued shall constitute sufficient cause to subsequently refuse the Permittee any future A&P Tax Permit.
- C. *Facilitating Platform A&P Tax Permit.* A Facilitating Host A&P Tax Permit shall expire at the time of its cessation of Sales at the location designated on the permit. Every Facilitating Platform A&P Tax Permit obtained must be surrendered to the Commission within thirty (30) days of the Permittee's cessation of Sales at the location designated on the permit, and all unpaid and accrued A&P Taxes must be paid pursuant to a completed and filed return (as required by Rule GR-4.2) at the time of the permit's surrender. Failure to timely surrender the permit, file the necessary return, or pay any and all unpaid

and accrued A&P Taxes, penalty, and interest following Permittee's cessation of Sales at the location designated on the permit shall constitute sufficient cause to subsequently refuse the Permittee any future A&P Tax Permit.

- D. In the case of the sale or transfer of ownership of any business which has received gross receipts which are subject to the A&P Tax, the A&P Tax shall be deemed to be due and payable at the time of the sale or transfer of ownership of fixtures and equipment incident to the business and shall constitute a lien against said fixtures and equipment in the hands of the purchaser or transferee of the business until all A&P Taxes have been paid.

GR-3.5. AUTOMATIC EXPIRATION OF A&P TAX PERMITS.

- A. The Traditional A&P Tax Permit and the Facilitating Platform A&P Tax Permit for any Permittee who, when required, has failed to file a tax return under these rules and regulations for six (6) consecutive Taxable Periods or has filed six (6) consecutive tax returns reporting zero gross receipts shall automatically expire on the Delinquency Date for the sixth Taxable Period. The Revenue Director shall notify the Permittee in writing that its permit has expired on such form as provided in Appendix Item 11 to these rules and regulations or as may be prescribed from time to time by the Commission. The Permittee shall return its Traditional A&P Tax Permit or Facilitating Platform A&P Tax Permit to the Revenue Director within thirty (30) days of the date of the notice.
- B. Any Permittee who has received the notice permitted in paragraph (A), but reasonably expects to engage in Sales subject to the A&P Tax within a six (6) month period following the notification may petition the Revenue Director in writing to retain its Traditional A&P Tax Permit or its Facilitating Platform A&P Tax Permit. The Revenue Director may allow any Permittee who demonstrates to the Revenue Director's satisfaction that it will require a Traditional A&P Tax Permit or Facilitating Platform A&P Tax Permit to retain it.. The Revenue Director shall issue a written decision on whether the Permittee may retain its Traditional A&P Tax Permit or Facilitating Platform A&P Tax Permit within ten (10) business days after receipt of the Permittee's petition. The Revenue Director's written decision shall be on such applicable form as provided in Appendix Item 12 or 13 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Permittee by personal service or first class U.S. mail. No appeal rights lie from any decision of the Revenue Director taken in connection with this rule.

GR-3.6. REVOCATION OF A&P TAX PERMIT.

- A. *In General.* The Revenue Director shall have authority to revoke the A&P Tax Permit of any Permittee who has failed to comply with any provision of the Code, as it applies to the levy, collection and enforcement of the A&P Tax, or these rules and regulations. Any A&P Tax Permit subject to revocation pursuant to this rule shall be revoked as of the date stated in the Notice of Intent to Revoke furnished to the Permittee under paragraph (B) below, unless the Permittee, within ten (10) business days after receipt of or the service of such notice, removes the cause for revocation to the satisfaction of the Revenue Director or files a written protest in accordance with the provisions of this rule.
- B. *Notice of Intent to Revoke.*
1. The Revenue Director shall give written notice to the Permittee of the Revenue Director's intention to revoke an A&P Tax Permit at least ten (10) business days prior to revoking such permit.
 2. The Notice of Intent to Revoke shall be on such form as provided in Appendix Item 14 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Permittee in accordance with the procedures described in Rule GR-1.4.
- C. *Protest of Intended Revocation.*
1. Within ten (10) days after receipt of or the service of any Notice of Intent to Revoke, a Permittee may file with the Revenue Director a written request signed under oath by the Permittee or his or her authorized agent for a hearing to protest the intended revocation. The Permittee's written protest shall set forth the Permittee's reason(s) for protesting the intended revocation and shall designate the form of hearing the Permittee seeks as described in subparagraph (D)(3) below. Any written protest by a Permittee shall be mailed to the address set forth in the Notice of Intent to Revoke.
 2. A Permittee whose written protest under this rule requests that the Finance Committee render its decision based solely on documentation and written arguments is not entitled by law to any other administrative hearing prior to the Finance Committee's rendering of its decision.

3. The Finance Committee may, in its discretion, extend the time for filing a protest for any period of time not to exceed an additional ninety (90) day period.
4. Upon the proper filing of a written protest under subparagraph (C)(1) above, the Chair of the Finance Committee shall promptly schedule and cause to be conducted a hearing in accordance with paragraph (D) below. The Chair of the Finance Committee shall have the right to refuse to grant a hearing to any Permittee who fails to properly file his or her written protest in accordance with subparagraph (C)(1). If the Chair of the Finance Committee refuses to grant a hearing pursuant to this subparagraph (C)(4), he or she shall notify the Permittee in writing on such form as provided in Appendix Item 15 to these rules and regulations or as may be prescribed from time to time by the Commission. Any such notice shall be delivered to the Permittee by personal service or by first class U.S. mail.

D. *Hearings.*

1. *Hearing Body.* Any hearing on a written protest granted pursuant to paragraph (C) of this rule shall take place before the Finance Committee of the Commission. The Finance Committee's hearing on a written protest of an intended revocation of A&P Tax Permit and its decision made following the hearing shall not be subject to the provisions of the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 *et seq.*
2. *Time, Place and Notice of Hearing.* The Chair of the Finance Committee shall set the date and time of the hearing granted pursuant to paragraph (C). The hearing shall take place at the offices of the Commission. A Notice of Hearing on Intended Revocation of A&P Tax Permit, on such form as provided in Appendix Item 16 to these rules and regulations or as may be prescribed from time to time by the Commission, shall be delivered to the Permittee in accordance with the procedures described in Rule GR-1.4. Such Notice shall state the date, time and place of the hearing and, if the Permittee requests a documentary hearing, the deadline and place for submission of documentation or written arguments to be considered at the hearing.
3. *Hearing Options Available to Permittee.* The Permittee has the option of the following forms of hearing:

- a. *In-Person Hearing.* A hearing where the Permittee and/or the Permittee’s attorney or authorized representative appear(s) in-person and the Permittee represents himself or herself or is represented by his or her attorney or authorized representative for the presentation of evidence or argument against the intended revocation, and the Hearing Body renders its decision based upon the evidence and arguments presented at the hearing; or
 - b. *Documentary Hearing.* A hearing where the Permittee does not personally appear and is not represented by his or her attorney or authorized representative at the hearing but submits documentation and/or written arguments in support of his or her protest, and the Hearing Body renders its decision solely on the basis of the documentation and written arguments submitted.
4. *Presentation of Evidence at the Hearing.*
 - a. In any in-person hearing held under this rule, both the Permittee, by his or her attorney or authorized representative, if any, and the Commission, by its attorney or authorized representative, if any, may offer evidence and legal arguments in support of their respective positions regarding the revocation of the Permittee’s A&P Tax Permit.
 - b. For any documentary hearing held under this rule, both the Permittee, by his or her attorney or authorized representative, if any, and the Commission, by its attorney or authorized representative, if any, may submit prior to the hearing documentation and written legal arguments in support of their respective positions regarding the revocation of the Permittee’s A&P Tax Permit. No evidence or legal arguments may be presented at or during a documentary hearing.
5. *Failure to Appear.* The failure of any Permittee to appear at a hearing granted pursuant to this rule shall be grounds for the Finance Committee to render a decision to revoke the Permittee’s A&P Tax Permit. The following shall constitute “failure to appear at a hearing” for purposes of this rule:

- a. Failure to appear in-person or through an authorized representative who appears in-person, if the Permittee has requested an in-person hearing under subparagraph (D)(3) above.
 - b. Failure to timely submit documentation or written arguments supporting his or her protest, if the Permittee has requested a documentary hearing under subparagraph (D)(3) above.
6. *Decision of the Finance Committee of the Commission.* Following completion of a hearing conducted pursuant to this rule and review of the evidence and arguments presented or submitted, as applicable, the Finance Committee shall render a written decision on such form as provided in Appendix Item 17 to these rules and regulations or as may be prescribed from time to time by the Commission. If the Finance Committee's decision is in favor of revocation, the Finance Committee's written decision shall state that the permit will be revoked effective ten (10) days after the date of the decision unless the Permittee's violation is remedied. The Finance Committee's written decision shall be delivered to the Permittee in accordance with the procedures described in Rule GR-1.4. The decision of the Finance Committee shall be final, subject to a Permittee's right to seek judicial relief as provided in this rule.
- E. *Judicial Relief.* A Permittee may seek judicial relief from any decision revoking its A&P Tax Permit within thirty (30) days after the date of decision of revocation by filing suit in Pulaski County Circuit Court, where the action shall be tried *de novo*. An appeal shall lie from the Circuit Court to the Supreme Court of Arkansas as in other cases provided by law.
- F. *Surrender of Revoked Permit.* Any A&P Tax Permit revoked pursuant to this rule must be surrendered to the Commission within thirty (30) days after its revocation in accordance with Rule GR-3.4(A).
- G. *Reinstatement of Permit.* The Revenue Director may reinstate or reissue any revoked A&P Tax Permit upon filing by the Permittee of all necessary and complete tax returns, payment of all A&P Taxes due, including penalty, interest and fines, if any, or execution of an Installment Payment Agreement, or upon the Permittee's removal of any other cause for the revocation to satisfaction of Revenue Director. A Notice of Reinstatement of A&P Tax Permit on such form as provided in Appendix Item 18 to these rules and

regulations or as may be prescribed from time to time by the Commission shall be delivered to the Permittee in accordance with the procedures described in Rule GR-1.4. If the Permittee has surrendered its A&P Tax Permit in accordance with this rule, the Revenue Director shall enclose the Permittee's previously surrendered permit or a newly issued permit with the Notice of Reinstatement of A&P Tax Permit.

GR-3.7. PERMITS ISSUED PRIOR TO EFFECTIVE DATE OF THESE RULES AND REGULATIONS VALID.

These regulations shall not affect the validity of any outstanding A&P Tax Permits issued prior to the effective date of these regulations.

GR-3.8. LIABILITY FOR FAILURE TO OBTAIN A&P TAX PERMIT.

It shall be unlawful for any Person who derives or receives gross receipts which are subject to the A&P Tax to transact business in the City prior to the issuance and receipt of an A&P Tax Permit or a finding of exemption by the Finance Committee as provided in Rule GR-2.3. Any Person's failure to abide by the terms of these rules and regulations shall subject him or her self to either civil or criminal sanctions, or both, as provided by the laws of the State of Arkansas and the Code, including but not limited to Section 1-9 of the Code which provides that a conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or double such sum for each repetition thereof. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed five hundred dollars (\$500.00) for each day that the same is unlawfully continued.

REGULATION C – COLLECTION OF A&P TAX

GR-4.1. TAX COLLECTED, REPORTED AND PAYABLE BY SELLER – CALCULATION OF TAX.

A. A&P Tax Collected by Seller.

1. The A&P Tax shall be paid by the Person liable therefor.
2. The amount of tax to be paid by the Seller is either (i) four percent (4%) of the gross receipts which are subject to the A&P Tax in the case of the renting, leasing, or otherwise furnishing of Hotel and Motel Accommodations or Lodging Services in the City for profit for periods

of less than thirty (30) days, (ii) two percent (2%) of the gross receipts which are subject to the A&P Tax in the case of a Sale of Prepared Food and Beverage in the City for consumption on or off the premises of the Seller's location, or (iii) both as the case may be.

B. *A&P Tax Reported and Payable to Commission.*

1. A Seller is liable for reporting and remitting to the Commission the A&P Tax derived from all Sales that are subject to the A&P Tax during any Taxable Period in which the Seller possesses or is required to possess an A&P Tax Permit.
2. The amount of A&P Tax payable to the Commission by a Seller for a given Taxable Period must be computed by multiplying the tax rate, four percent (4%) or two percent (2%) as the case may be, times the total amount of gross receipts received by the Seller during the Taxable Period that are subject to the A&P Tax.

GR-4.2. RETURNS AND REMITTANCES.

A. *Date A&P Tax Payment is Due.* Any A&P Tax due and owing to the Commission from a Seller for any Taxable Period shall be due on its Due Date.

B. *Submission of Tax Return and Payment.*

1. *Monthly Return and Remittance Required.*
 - a. A Seller shall deliver to the Revenue Director, prior to each Taxable Period's Delinquency Date, a tax return under oath for the given Taxable Period. A Seller's tax return shall utilize such applicable form as provided in Appendix Item 20 to these rules and regulations, or as otherwise designated from time to time by the Commission, or a substantially similar electronic version that may be accessible via the Commission's website. Incomplete or illegible tax returns will be returned to the Seller as unaccepted with a notice from the Revenue Director stating that the tax return is being returned as incomplete or illegible and that a completed and legible tax return must be filed in accordance with these rules and regulations. Such notice shall be on the form provided in Appendix Item 21 to these rules and regulations or as may be prescribed from time to time by the

Commission and shall be delivered to the Seller in accordance with the procedures described in Rule GR-1.4.

- b. If a tax return is submitted by mail, the date of the postmark of the United States Postal Service is deemed to be its date of delivery in accordance with Rule GR-1.5. Faxed tax returns will not be accepted.
 - c. A Seller's obligation to file a tax return for each Taxable Period, as outlined above, continues until such time as the Seller has surrendered its A&P Tax Permit, even if no tax may be due.
 - d. Payment of the amount of A&P Tax due and payable for a Taxable Period as reflected on a return must accompany the return filed in accordance with this rule. Payments shall be made by check made payable to "Little Rock Advertising & Promotion Commission" in accordance with the instructions on the return, cash, or by alternate methods accessible via the Commission's website.
 - e. Payments received from or on behalf of a Seller that have no accompanying tax return or discernable designation will be applied to the oldest indebtedness of the Seller, if any, and in the following order: Lodging Services tax, Prepared Food and Beverage tax, penalties, interest, and fines. Any resulting overpayment shall be subject to the provisions of Rule GR-6.7.
2. *Separate Tax Return Required for Each Location.* A Seller shall file a separate tax return for each physical location from it derives or receives gross receipts which are subject to the A&P Tax or engages in Sales that are or may be subject to the A&P Tax. Separate tax returns may be filed by multiple Permittees for Sales occurring at, from, or for the same physical location.
3. *Exemption from Monthly Return Filing Requirement.* A Seller who signs and files with the Commission during the month of December a completed Annual Certification, in the form as provided in Appendix Item 20A to these rules and regulations or as may be prescribed from time to time by the Commission, shall be exempt from the monthly filing and remittance requirements of Rule GR-4.2(B)(1) for the following calendar year so long as (i) the information contained in the

completed Certification remains unchanged and (ii) the Facilitating Platform(s) identified in the Annual Certification fully complies with the monthly filing and remittance requirements of Rule GR-4.2(B)(1) with respect to the Seller's permitted location.

GR-4.3. DISCOUNT FOR PROMPT PAYMENT.

If a Taxable Period's tax return and all tax due associated with the return are filed and remitted to the Revenue Director on or before its applicable Prompt Payment Date, a Seller is entitled to deduct and retain two percent (2%) of the tax due under the return as a discount for prompt payment of the tax. Failure to remit all tax due associated with the return on or before the applicable Prompt Payment Date shall result in a forfeiture of the two percent (2%) discount and the full amount of tax due must be remitted in accordance with these rule and regulations. If the Seller improperly deducts the two percent (2%) discount on any return filed, and from any payment of tax due made, after the applicable Prompt Payment Date, the Revenue Director shall deliver to the Seller a Payment Demand Notice, as such term is defined in Rule GR-6.2 and which shall be delivered to the Seller in accordance with Rule GR-6.2, for the amount of tax due that was improperly deducted as a discount.

GR-4.4. PENALTY, INTEREST, AND FINE FOR FAILURE TO FILE OR PAY.

- A. *Failure to File and Pay Penalty:* If a Seller fails to file any tax return or fails to pay in full any A&P Tax due for a given Taxable Period prior to the Taxable Period's Delinquency Date, the Seller shall be liable for a Failure to File and Pay Penalty. The Failure to File and Pay Penalty shall be five percent (5%) of the unpaid amount of A&P Tax found due for the Taxable Period and shall be assessed for each month or fraction of a month from the Delinquency Date until such date as the tax return is filed and the A&P Tax is paid, but the penalty shall not exceed thirty-five percent (35%) in the aggregate of the unpaid A&P Tax. The Failure to File and Pay Penalty shall be payable in addition to the amount of A&P Tax or interest due for a Taxable Period.
- B. *Interest for Unpaid A&P Tax:* Any unpaid A&P Tax shall accrue simple interest at the rate of ten percent (10%) per annum from its applicable Delinquency Date. Interest for unpaid A&P Tax is in addition to the penalty and fine that may be assessed pursuant to paragraphs (A) and (C) of this rule.
- C. *Fine:* Any Seller liable for that part of the A&P Tax levied by Ordinance No. 21,141, as amended by Ordinance No. 21,551, shall be subject to a fine of fifty dollars (\$50.00) per day for each day it fails to remit the tax after its

Delinquency Date. This fine is in addition to the penalty and interest that may be assessed pursuant to paragraphs (A) and (B) of this rule.

GR-4.5. ACCEPTANCE OF PERSONAL CHECKS; BAD CHECKS.

The Commission's acceptance or refusal to accept personal checks for payment of A&P Tax shall be in the sole discretion of the Revenue Director. If any payment to the Commission by means of a check, draft, or order drawn on any bank, Person, firm or corporation is returned or rejected for any reason by the bank, Person, firm or corporation on which it is drawn, the Revenue Director may proceed with availing the Commission of the remedies provided by Ark. Code Ann. § 4-60-101 *et seq.* and, in so doing, shall use such forms as provided in Appendix Item 22 to these rules and regulations or as may be prescribed from time to time by the Commission. Additionally, the Revenue Director may add to any Person's Assessment a collection fee not to exceed \$30.00, plus the amount of any fees charged to the Commission by any financial institution as a result of the check not being honored.

REGULATION D – RECORDKEEPING BY SELLERS; AUDITS

GR-5.1. SELLERS TO PRESERVE RECORDS.

- A. *In General:* Every Seller required to obtain an A&P Tax Permit shall keep complete and adequate records as may be necessary for the Revenue Director to determine the amount of A&P Tax for which the Seller is liable.
- B. *Records Retention:* Unless the Revenue Director authorizes in writing an alternative method of record keeping, these records shall show gross receipts from Sales and shall include the books of account normally maintained by the average prudent businessman engaged in such business, together with all bills, receipts, purchase invoices, Sales invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account together with all schedules or working papers used in connection with the preparation of federal or state tax returns or tax forms. All records pertaining to transactions involving Sales shall be preserved for a period of not less than four (4) years from their date of creation.

GR-5.2. EXAMINATIONS, INVESTIGATIONS, AND AUDITS.

- A. *Permittee-Specific Examinations and Investigations:* For the purpose of determining the accuracy of a Permittee's tax return or any A&P Tax liability

of a Permittee, the Revenue Director may examine or investigate the place of business, tangible personal property, equipment, facilities, books, records, papers, vouchers, accounts and documents of the Permittee or any third party the Revenue Director determines has access to information necessary to properly perform such examination or investigation.

1. *Courtesy Notice.* The Revenue Director may provide the Permittee or third party a written courtesy notice fourteen (14) days before conducting any examination or investigation of the Permittee's or third party's place of business, records or other items listed above in this paragraph (A). Any such notice to the Permittee shall be on such form as provided in Appendix Item 23 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be personally served or sent by first class U.S. mail to the address listed on the Permittee's application for A&P Tax Permit or, if the Permittee has provided a subsequent address, the last address of record on file with the Commission. Any such notice to a third party shall be personally served or sent by first class U.S. mail to the third party's place of business or, if such third party is an individual without a place of business, the third party's primary residence.
2. *Duty of Permittee or Third Party to Make Facilities and Records Available.* The Permittee or third party subject to examination or investigation under this rule shall make available to the Revenue Director the places of business, records and other above-listed items requested by the Revenue Director and shall facilitate any such examination or investigation.

B. *Random Annual Audits of A&P Tax Permittees.*

1. *In General.* In addition to any Permittee-specific examinations or investigations authorized under paragraph (A) of this rule, the Revenue Director shall annually cause to be performed audits of the tax returns of up to four percent (4%) of A&P Tax Permittees on file with the Commission as of January 1 of each year. Permittees subject to audit in any given year shall be chosen at random, except as provided in Rule GR-5.3.
2. *Notice of Random Annual Audit.* The Revenue Director shall notify in writing any Permittee randomly chosen to be audited under subparagraph (B)(1) at least thirty (30) days prior to the commencement

of such audit. The Notice of Random Annual Audit shall be on such form as provided in Appendix Item 24 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be given to the Permittee in accordance with the procedures described in Rule GR-1.4.

3. *Scope of Random Annual Audit.*

- a. A random annual audit under this rule shall examine the accuracy of the tax returns filed and A&P Tax remittances made, or required to be filed and made, by the Permittee for the audit period. The “audit period” for a random annual audit shall be the calendar year immediately preceding the year in which the audit is performed.
- b. The Revenue Director may make such investigations, examine such records, and administer such proceedings in accordance with this rule as the Revenue Director deems necessary to properly perform the random annual audit, provided that it shall be conducted, so far as is practicable, in accordance with the latest edition of the audit manual adopted by the Commission.

C. *Permitted Discovery Related to a Permittee-Specific Examination or Investigation or a Random Annual Audit.*

1. *In General.* Pursuant to any examination, investigation or random annual audit permitted under this rule and as the Revenue Director deems necessary to properly perform such examination, investigation or random annual audit, he or she may administer oaths, examine witnesses under oath, and compel by summons the attendance of witnesses, the giving of testimony, and the production of any books, records, papers, or other data of the Permittee or of any third party deemed to have access to information which may be relevant.
2. *Examinations Under Oath.* The Revenue Director may examine under oath any Person regarding the business of any Permittee concerning any matter incident to the collection, reporting and remittance of the A&P Tax. The Revenue Director is authorized to issue summons to compel the attendance of witnesses for the purposes of taking testimony. Unless otherwise provided for in these rules and regulations, any summons compelling the attendance of a witness shall be issued and

served in conformity with Rule 45 of the Arkansas Rules of Civil Procedure.

3. *Examination of Records – Production of Records.*

- a. *In General.* Pursuant to any examination, investigation or audit under this rule, the Revenue Director may, in his or her discretion, examine the records and files of any Permittee or Person, except where privileged by law, including any state agency, agency of the United States Government, or agency of any other state where permitted by agreement or reciprocity.
- b. *Summons for Production of Records.* The Revenue Director shall be authorized to compel production of records under this rule by summons and to have such summons directly served upon the Person identified in the summons from whom production of the records is required. The summons shall describe the records to be produced and shall state the date for examination of the requested records. A summons for production of records may be served by the Revenue Director or his or her agents. When any summons pursuant to this subparagraph is served on a third-party keeper of records, the Revenue Director shall provide written notice of the summons to the Permittee at least fourteen (14) days prior to the date fixed in the summons as the date for examination of the records. Written notice of a third-party summons shall be on such form as provided in Appendix Item 25 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be served upon the Permittee in accordance with the procedures described in Rule GR-1.4.
- c. The Revenue Director shall honor any reasonable request by a Permittee to issue a summons to a third party on the Permittee's behalf. The Permittee shall bear the costs of producing records of a third party required by any summons issued upon the Permittee's request.
- d. The Commission shall bear the reasonable costs of producing records of a third-party required by any summons initiated by the Revenue Director. The Revenue Director may assess any such costs against the Permittee if any delinquency or deficiency

in tax returns required to be filed or A&P Tax payable is ultimately determined by virtue of the third-party's summoned records.

- e. The Revenue Director or the Permittee may apply to the Pulaski County Circuit Court for an order compelling the production of summoned records. Failure to comply with the court order is punishable by the court for contempt.

GR 5.3. LIMITATIONS ON PERMITTEE-SPECIFIC EXAMINATIONS OR INVESTIGATIONS AND RANDOM ANNUAL AUDITS.

- A. *Permittee-Specific Examinations and Investigations:* The Revenue Director shall not subject any Permittee to unnecessary examination or investigation. Only one (1) inspection of a Permittee's records may be made for each calendar year unless the Permittee requests otherwise or the Revenue Director, after investigation, notifies the Permittee in writing that an additional examination or inspection is necessary. Any such notice shall be on the form provided in Appendix Item 26 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Permittee in accordance with the procedures described in Rule GR-1.4.
- B. *Random Annual Audits.* No Permittee shall be subject to a random annual audit more than once every five (5) years unless a deficiency is discovered in the amount of A&P Tax reported or paid by the Permittee during the year for which a random annual audit is performed, in which case the Revenue Director, at his or her discretion, may require a subsequent annual audit of the Permittee for the following year.

REGULATION E – ENFORCEMENT

GR-6.1. GENERAL.

- A. The Commission shall collect all A&P Taxes imposed by law. The Commission and the Revenue Director are authorized and required to make the inquiries, determinations, and Assessments of the A&P Tax, including interest, additions to taxes, and assessable penalties and fines, imposed by law..
- B. Any Assessment by the Commission shall be made in the offices of the Commission in the databases and files created and maintained for that purpose.

Upon request, the Commission shall furnish a Seller with a copy of the record of the Commission's Assessment.

- C. *Mathematical Errors by Seller.* The Revenue Director shall record in the offices of the Commission as a tax liability of the Seller any additional amount of A&P Tax due that is the result of a mathematical error on the Seller's tax return for a given Taxable Period and shall issue to the Seller a Payment Demand Notice in accordance with Rule GR-6.2 for any such unpaid amount due for that period. Any Payment Demand Notice issued as a result of a mathematical error found on a Seller's tax return shall not be deemed to be a Proposed Assessment and shall not be subject to the hearing or appeal provisions of this regulation. If a mathematical error on a Seller's tax return for a given Taxable Period results in a reduction of any amount of A&P Tax due for that period for which the Seller has overpaid, such overpayment shall be subject to the provisions of Rule GR-6.7.

GR-6.2. ADMITTED TAX LIABILITY – PAYMENT DEMAND NOTICE.

- A. *Failure to Pay Tax Stated on Return Deemed Admitted Tax Liability.* Any amount of A&P Tax due reported by a Seller on a tax return submitted for a given Taxable Period shall be deemed an admission of A&P Tax owed by the Seller. The Revenue Director shall promptly record in the offices of the Commission as a liability of the Seller any amount of A&P Tax due for which the Seller files a tax return but fails to remit payment with such tax return filed for the Taxable Period.
- B. *Payment Demand Notice.* As soon as practicable after recording an admitted tax liability pursuant to this rule, the Revenue Director shall provide to any Seller who has filed a tax return for any Taxable Period, but has not made full payment of any A&P Tax due as stated on the return, a written notice demanding payment of the A&P Tax due, any penalties and interest thereon, and any fines, within ten (10) days. This Payment Demand Notice shall be on such applicable form as provided in Appendix Item 27 or 28 to these rules and regulations or as may be designated from time to time by the Commission and shall be delivered to the Seller in accordance with the procedures described in Rule GR-1.4.
- C. *Effect of Payment Demand Notice.* If full payment is not made within ten (10) days after the issuance of such Payment Demand Notice, the Seller shall be subject to the filing of a Certificate of Indebtedness or any other enforcement proceeding allowed under these regulations or by law for the unpaid amount.

- D. Regardless of whether a Payment Demand Notice is given pursuant to this rule, the Seller remains obligated to pay any A&P Tax due, including any assessable penalties, interest, or fines, in accordance with these rules and regulations.

GR-6.3. DELINQUENT TAX RETURN – NOTICE OF DELINQUENCY.

- A. *In General.* As soon as practicable after the Delinquency Date, the Revenue Director shall personally serve or send by first class U.S. mail a courtesy Notice of Delinquency to any Seller who, as of the Delinquency Date, has not filed a tax return for the applicable Taxable Period.
- B. *Form and Contents of Courtesy Notice.* The courtesy Notice of Delinquency provided for in this rule shall be on such form as provided in Appendix Item 29 to these rules and regulations or as otherwise designated from time to time by the Commission. The courtesy notice shall demand of the Seller the filing of a tax return and payment of any delinquent A&P Tax and any penalties and interest thereon, as well as any fine, for the applicable Taxable Period. The courtesy notice shall not include, nor be deemed to be an Assessment of, any amount of past delinquent A&P Tax, any penalties and interest thereon, or any fine.
- C. The courtesy Notice of Delinquency provided for in this rule shall be in addition to and shall not constitute a waiver of any other remedies for collection and enforcement of the A&P Tax as provided by applicable law.
- D. Regardless of whether a courtesy Notice of Delinquency is given pursuant to this rule, the Seller remains obligated to file any delinquent tax return and pay any delinquent A&P Tax payable, including any assessable penalties and interest or fine, in accordance with these rules and regulations.

GR-6.4. DELINQUENT TAX RETURN – ASSESSMENTS OF A&P TAX.

This rule shall govern the Assessment of A&P Tax and any subsequent administrative or judicial proceedings:

- A. *In General.* The Revenue Director may review and conduct any audit or investigation necessary in the Revenue Director’s discretion in accordance with these rules and regulations to determine whether the full amount of A&P Tax, penalties and interest, and fines due have been reported and remitted by a Seller. If any Seller fails to file any tax return required under these rules and regulations or files an incorrect, false, or fraudulent tax return, the Revenue

Director may determine, from any information in the possession of the Commission or obtainable by it, the correct amount of A&P Tax, penalties and interest, and fines due by the Seller for a given Taxable Period or group of Taxable Periods. Any amount of unpaid A&P Tax, penalties and interest, and fines determined by the Revenue Director to be due by a Seller may be pursued against a Seller as an Assessment in accordance with this rule.

B. *Proposed Assessments.*

1. *Basis for and Timing of Proposed Assessment:* The Revenue Director shall make a determination under paragraph (A) of this rule of any amount of A&P Tax, penalties and interest, and fine due by a Seller and record such amount in the offices of the Commission as a Proposed Assessment of tax liability if, as of sixty (60) days after the Due Date, the Revenue Director has reason to believe that there is A&P Tax, penalties or interest or fines due to the Commission from a Seller for a given Taxable Period or group of Taxable Periods because:

- a. No tax return has been filed by a Seller for a Taxable Period as required by the Code and these rules and regulations; or
- b. The Revenue Director determines that the amounts disclosed on any tax return filed by a Seller are less than the believed to be owed as a result of the Revenue Director's examination, investigation, or audit.

2. *Notice of Proposed Assessment.*

- a. As soon as practicable after the Proposed Assessment of tax liability is recorded by the Revenue Director, the Revenue Director shall provide to the Seller a Notice of Proposed Assessment on such form as provided in Appendix Item 30 to these rules and regulations or as may be designated from time to time by the Commission demanding payment from the Seller for the Proposed Assessment amount. The Notice of Proposed Assessment shall be delivered to the Seller in accordance with the procedures described in Rule GR-1.4.
- b. The Notice of Proposed Assessment shall explain the basis for the Proposed Assessment and state that a Final Assessment will be made if, within thirty (30) days after the date the Notice of Proposed Assessment is given, the Seller has not paid in full the

Proposed Assessment amount or filed a written protest of the Proposed Assessment in accordance with these rules and regulations.

- c. No Notice of Proposed Assessment is required before issuance of a Notice of Final Assessment, in instances where a Seller has filed a tax return or submitted other writings acknowledging liability for an amount of A&P Tax, penalty, interest, or fine.

3. *Protest of Proposed Assessment.*

- a. If a Seller wishes to protest a Proposed Assessment, he or she must file with the Revenue Director, within thirty (30) days after service of a Notice of Proposed Assessment, a written protest signed under oath by the Seller or his or her authorized agent, setting forth the Seller's reason(s) for opposing the Proposed Assessment and designating the form of hearing the Seller seeks as described in subparagraph (C)(3) below:
- b. Any written protest by a Seller shall be mailed to the address set forth in the Notice of Proposed Assessment. If the Seller fails to file a timely written protest or otherwise pay or settle the Proposed Assessment amount within thirty (30) days after receipt of the Notice of Proposed Assessment, then the Revenue Director shall issue a Notice of Final Assessment in accordance with paragraph (E) of this rule and it shall be on such form as provided in Appendix Item 36 to these rules and regulations or as may be prescribed from time to time by the Commission.
- c. A Seller whose written protest of a Proposed Assessment requests that the Finance Committee render its decision based solely on documentation and written arguments is not entitled by law to any other administrative hearing prior to the Finance Committee's rendering of its decision and, if necessary, the issuing of a Final Assessment and demand for payment or a Certificate of Indebtedness.
- d. The Finance Committee may, in its discretion, extend the time for filing a protest for any period of time not to exceed an additional ninety (90) day period.

- e. Upon the proper filing of a written protest of a Proposed Assessment under this subparagraph (B)(3), the Chair of the Finance Committee shall promptly schedule and cause to be conducted a hearing in accordance with paragraph (C) below. The Chair of the Finance Committee shall have the right to refuse to grant a hearing to any Seller who fails to properly file a written protest in compliance with this rule. If the Chair of the Finance Committee refuses to grant a hearing pursuant to this subparagraph (B)(3), he or she shall notify the Seller in writing on such form as provided in Appendix Item 31 to these rules and regulations or as may be prescribed from time to time by the Commission. Any such notice shall be delivered to the Seller by personal service or by first class U.S. mail.

C. *Hearings on Proposed Assessments.*

1. *Hearing Body.* Any hearing on a written protest of a Proposed Assessment granted pursuant to subparagraph (B)(3) of this rule shall take place before the Finance Committee, which shall serve as the Executive Director's designee and shall conduct the hearing and make written findings as to the applicability of the Proposed Assessment. The Finance Committee's hearing on a written protest of a Proposed Assessment and its decision made following the hearing shall not be subject to the provisions of the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 *et seq.*
2. *Time, Place, and Notice of Hearing.* The Chair of the Finance Committee shall set the date and time of any hearing granted pursuant to subparagraph (B)(3). The hearing shall take place at the offices of the Commission. A Notice of Hearing on Proposed Assessment, on such form as provided in Appendix Item 32 to these rules and regulations or as may be prescribed from time to time by the Commission, shall be delivered to the Seller in accordance with the procedures described in Rule GR-1.4. Such Notice shall state the date, time and place of the hearing and, if the Seller requests a documentary hearing, the deadline and place for submission of documentation or written arguments to be considered at the hearing.
3. *Hearing Options Available to Seller.* The Seller has the option of the following forms of hearing:

- a. *In-Person Hearing.* A hearing where the Seller and/or the Seller’s attorney or authorized representative appear(s) in-person and the Seller represents himself or herself or is represented by his or her attorney or authorized representative for the presentation of evidence and argument against the Proposed Assessment, and the Hearing Body renders its decision based upon the evidence and arguments presented at the hearing; or
 - b. *Documentary Hearing.* A hearing where the Seller does not personally appear and is not represented by his or her attorney or authorized representative at the hearing but submits documentation and/or written arguments in opposition to the Proposed Assessment, and the Hearing Body renders its decision solely on the basis of the documentation and written arguments submitted.
4. *Presentation of Evidence at the Hearing.*
- a. In any in-person hearing held under this rule, both the Seller, by his or her attorney or authorized representative, if any, and the Commission, by its attorney or authorized representative, if any, may offer evidence and legal arguments in support of their respective positions regarding the Proposed Assessment.
 - b. For any documentary hearing held under this rule, both the Seller, by his or her attorney or authorized representative, if any, and the Commission, by its attorney or authorized representative, if any, may submit prior to the hearing documentation and written legal arguments in support of their respective positions regarding the Proposed Assessment. No evidence or legal arguments may be presented at or during a documentary hearing.
5. *Failure to Appear.* The failure of any Seller to appear at a hearing granted pursuant to this rule shall be grounds for the Finance Committee to render a decision to sustain the Proposed Assessment. The following shall constitute “failure to appear at a hearing” for purposes of this rule:
- a. Failure to appear in-person or through an authorized representative who appears in-person, if the Permittee has

requested an in-person hearing under subparagraph (C)(3) above.

- b. Failure to timely submit documentation or written arguments supporting his or her protest, if the Permittee has requested a documentary hearing under subparagraph (C)(3) above.

D. *Decisions on Protested Proposed Assessments and Appeal Rights.*

1. Following completion of a hearing conducted pursuant to this rule and review of the evidence and arguments presented or submitted, as applicable, the Finance Committee shall render a written decision on the Proposed Assessment and the amount of A&P Tax, penalty, interest, and fine owed by the Seller, if any, with written findings supporting its decision. The Finance Committee's written decision shall be on such form as provided in Appendix Item 33 to these rules and regulations or as may be prescribed from time to time by the Commission. Decisions of the Finance Committee shall be final unless revised by the Commission.
2. The Chair of the Finance Committee shall provide a copy of the Committee's decision to the Seller in accordance with the notice procedures described in Rule GR-1.4. The decision of the Finance Committee shall also be served upon the Chair of the Commission.
3. If the amount of the Revenue Director's Proposed Assessment amount is sustained, in whole or in part, by the decision of the Finance Committee, the Seller may file with the Commission, within twenty (20) days of the date of service of the decision, a written request that the Commission revise the decision of the Finance Committee. The request for revision to the Commission by the Seller shall state the revision sought and the legal and/or factual basis for the revision sought. The Chair of the Commission shall have the right to refuse to grant the request for revision for any Seller who fails to properly file a written request in compliance with this rule. If the Chair of the Commission refuses to grant a request for revision pursuant to this subparagraph (D)(3), he shall notify the Seller in writing on such form as provided in Appendix Item 34 to these rules and regulations or as may be prescribed from time to time by the Commission. Any such notice shall be delivered to the Seller by personal service or by first class U.S. mail.

4. The Commission shall, within thirty (30) days after the date the Commission receives any properly submitted request pursuant to this paragraph (D), revise or affirm the decision of the Finance Committee. The Commission shall notify the Seller in writing upon rendering its determination regarding such request. The Commission's written decision shall be considered a Final Assessment and it shall be on such form as provided in Appendix Item 35 to these rules and regulations or as may be prescribed from time to time by the Commission. The Chair of the Commission shall provide a copy of the Commission's Final Assessment to the Seller in accordance with the notice procedures described in Rule GR-1.4.

E. *Final Assessments.*

1. *In General.* The Revenue Director shall record in the offices of the Commission as a Final Assessment of tax liability of the Seller the amount of A&P Tax, penalties, interest, and fines payable by a Seller as set forth under subparagraph (B)(2)(c) above, or as determined under subparagraph (E)(2) below if the Seller has not paid in full or settled the Proposed Assessment amount or properly protested the Proposed Assessment within thirty (30) days after the Notice of Proposed Assessment is given. If the Seller has properly protested the Proposed Assessment, the Final Assessment shall be recorded by the Revenue Director upon twenty (20) days after the decision of the Finance Committee or, if the Finance Committee's decision is reviewed by the Commission, as soon as practicable after the determination by the Commission.
2. *Amount of Final Assessment.* The Final Assessment shall be the amount of the Proposed Assessment, unless the Seller has filed a written protest of the Proposed Assessment in accordance with this rule, plus any additional interest which shall continue to accrue after the date of the Proposed Assessment. If the Seller has filed a written protest to the Proposed Assessment in accordance with this rule, the Final Assessment shall be the amount determined by the Finance Committee or, if the Finance Committee's decision has been revised by the Commission in accordance with this rule, the revised amount as determined by the Commission.
3. *Notice of Final Assessment.* As soon as practicable after the Final Assessment of tax liability is recorded by the Revenue Director, the

Revenue Director shall provide to the Seller a Notice of Final Assessment on such form as provided in Appendix Item 36 to these rules and regulations or as may be designated from time to time by the Commission demanding payment from the Seller for the Final Assessment amount within ten (10) days. The Notice of Final Assessment shall be delivered to the Seller in accordance with the procedures described in Rule GR-1.4.

F. *Judicial Relief; Appeal of Final Assessment to Circuit Court.*

1. *Perfecting an Appeal.* After the service of a Notice of Final Assessment provided for in subparagraph (E), a Seller may seek judicial relief by either:
 - a. Paying the amount of the Final Assessment's tax deficiency, plus any penalty, interest and fines, under protest within thirty (30) days after service of a Notice of Final Assessment and filing suit in Pulaski County Circuit Court within one (1) year from the date of payment under protest to recover the sum paid under protest. Failure of the Seller to file suit within (1) year from the date of payment under protest will result in the payment being released from the protest fund in satisfaction of the Final Assessment; or
 - b. Filing with the Commission, within thirty (30) days after service of a Notice of Final Assessment, a surety bond approved by the Commission in double the amount of the Final Assessment's tax deficiency, penalty, interest, and fines and filing suit in the Pulaski County Circuit Court within thirty (30) days thereafter seeking to stay the determination reflected in the Final Assessment. The bond required by this subparagraph shall be subject to the condition that the Seller shall file suit within thirty (30) days after filing the bond, shall faithfully and diligently prosecute the suit to a final determination, and shall pay any deficiency found by the court to be due and any court cost assessed against him. The Seller's failure to file suit, diligently prosecute the suit, or pay any tax deficiency and court costs found or awarded by the court shall result in the forfeiture of the bond in the amount of the Final Assessment and assessed court costs.

2. *Jurisdiction and Standard of Review.* In any court proceeding permitted to be brought by a Seller under this rule, jurisdiction shall be in a circuit court in Pulaski County where the matter shall be tried de novo.
3. *Exclusivity of Remedy.* The methods provided in this rule shall be the sole methods for seeking relief from a Final Assessment. No injunction shall issue to stay proceedings for Assessment or collection of any A&P Tax, penalty, interest, or fine.
4. *Court Costs.* In any court proceeding permitted to be brought by a Seller under this rule, the prevailing party may be awarded a judgment for court costs.
5. *Collection Unaffected as to Matters Not Subject of Appeal Suit.* The Commission may proceed with collection activities for any assessed but unpaid A&P Tax, penalties, interest, or fines owed by a Seller for any Taxable Period unless the unpaid A&P Tax, penalties, interest, or fines arise(s) from any Taxable Period which is the subject of a suit commenced under subparagraph (F)(1).

G. *Time Limitations for Final Assessment and Court Proceedings.*

Unless provided otherwise in these rules and regulations, no Final Assessment of A&P Tax, interest, penalty, or fine shall be made after the expiration of three (3) years from the date a Seller's tax return was required to be filed under these rules and regulations, or the date the tax return was filed, whichever period is later. Upon written agreement between the Revenue Director and a Seller, the time within which a Final Assessment may be made, may be extended to a date mutually agreed upon in the written agreement. In the case of a fraudulent tax return or a Seller's failure to file a tax return, the Revenue Director may compute, determine, and assess the amount of A&P Tax due from a Seller based on any information in its possession and may proceed with an Assessment at any time. The three year limitation in which to issue a Final Assessment shall be tolled where a Seller files a bankruptcy petition or is operating under receivership, in which case the limitation shall be tolled by the length of the bankruptcy proceeding or receivership plus an additional 180 days. The Commission shall not initiate court proceedings after the expiration of the three-year period unless there has been a previous Final Assessment for the collection of the A&P Tax.

GR-6.5. CERTIFICATES OF INDEBTEDNESS.

- A. *In General.* A Payment Demand Notice or a Notice of Final Assessment must be furnished to the Seller before any Certificate of Indebtedness may be issued with respect to any delinquent A&P Tax, penalty, interest or fine.
- B. *Filing of Certificate of Indebtedness.* If a Seller fails to timely pay to the Commission the amounts demanded in a Payment Demand Notice or Notice of Final Assessment, the Revenue Director shall, as soon as practicable thereafter and in the exercise of his or her discretion, issue to the circuit clerk of any county in the state in which the Seller's business is located a Certificate of Indebtedness, on such form as provided in Appendix Item 37 to these rules and regulations or as may be prescribed from time to time by the Commission.
- C. *Effect of Certificate of Indebtedness.*
 - 1. A Certificate of Indebtedness filed and entered by a circuit clerk shall have the same force and effect as the entry of a judgment rendered by the circuit court. The Commission shall have all remedies and may take all proceedings for the collection of the tax which may be taken for the recovery of a judgment at law. The Commission may require the Seller to provide within forty-five (45) days after the entry of the Certificate of Indebtedness a list of all assets of the Seller.
 - 2. The entry of a Certificate of Indebtedness shall constitute the Commission's lien upon the title of any real and personal property of the Seller in the county where the Certificate of Indebtedness is recorded. This lien is in addition to any other lien existing in favor of the Commission to secure payment of taxes, applicable interest, penalties, fines, and costs. The lien is superior to other liens of any type or character attaching to the property after the date of entry of the Certificate of Indebtedness on the judgment docket. The lien is superior to all claims of unsecured creditors.
- D. *Period of Limitation.* A Certificate of Indebtedness filed in accordance with this rule shall continue in force for ten (10) years from the date of recording and shall automatically expire after the ten-year period has run. Actions on the lien on the Certificate of Indebtedness shall be commenced within ten (10) years after the date of the Final Assessment upon which the Certificate of Indebtedness is based.

- E. *Writ of Execution.* After entry of a Certificate of Indebtedness, the circuit clerk shall issue a writ of execution directed to the Commission, authorizing the Commission to levy upon and against all real and personal property of the Seller. The writ shall be issued, served, and executed in the same manner as provided for in the issuance and service of executions rendered by the circuit courts of this state, except the Commission shall act in the place of the county sheriffs. Additionally, the Commission may direct the circuit clerk to issue a writ of execution directed to the sheriff of any county authorizing the sheriff to levy upon and against all real and personal property of the Seller. The writ shall be issued, served, and executed in the same manner as provided for in the issuance and service of executions rendered by the circuit courts of this state. The circuit clerks and sheriffs shall be entitled to receive the same fees provided by law in these matters. These fees shall be collected from the Seller by either the Commission or the sheriff in addition to the tax, penalty, interest, and fines included in the Certificate of Indebtedness. If the sheriff is unable, after diligent effort, to collect the tax, interest, penalties, fines, and costs, the Commission may pay such fees as are properly shown to be due to the clerk and sheriff.
- F. *Collection Remedies Unaffected.* Nothing in these rules and regulations shall preclude the Commission from resorting to any other means provided by law for collecting delinquent taxes. The issuance of a Certificate of Indebtedness, entry by the clerk, and levy of execution as provided in this rule shall not constitute an election of remedies with respect to the collection of the tax. The taxes, fees, interest, penalties, and fines imposed or levied hereby may be collected in the same way as a personal debt of the Seller. The Commission may sue to the same effect and extent as for the enforcement of a right of action for debt. All provisional remedies available in these actions are available to the Commission in the enforcement of the payment of the A&P Tax.
- G. *Release of Certificate of Indebtedness.* In any county in which a Certificate of Indebtedness is issued, the Revenue Director shall file a Satisfaction of Indebtedness for such certificate upon the payment of all amounts due thereunder. The Satisfaction of Indebtedness shall be on such form as provided in Appendix Item 38 to these rules and regulations or as may be prescribed from time to time by the Commission. If a Certificate of Indebtedness issued against a Seller remains on file with the circuit clerk after all amounts due thereunder have been paid, the Seller shall notify the Revenue Director of such fact in writing and provide a copy of the Certificate of

Indebtedness and evidence of (i) when and how the debt was paid in full or discharged, (ii) the Seller's A&P Tax Permit number, or if none, his or her social security number or federal I.D. number, (iii) the Seller's telephone number at which he or she can be reached, and (iv) the name of the county in which the lien is filed. If a Seller's information concerning payment in full or discharge is determined to be correct, the Certificate of Indebtedness will be released immediately. If a Seller's information is determined to be incorrect, he or she will be notified in writing by the Revenue Director regarding why no Satisfaction of Indebtedness has been filed and what the Seller must do to have the lien released. Such notification shall be on such form as provided in Appendix Item 39 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Seller in accordance with the procedures described in Rule GR-1.4.

GR-6.6. DELINQUENT SELLERS; INSTALLMENT PAYMENT AGREEMENTS; COMPROMISE OF TAX LIABILITY, PENALTY, AND INTEREST.

- A. It shall be unlawful for any Delinquent Seller to continue to make Sales or hold himself or herself out to the public for the purpose of making Sales, unless he or she has in place and on file with the Commission, one or more of the following for a Taxable Period or indebtedness for which no previous decision has been issued by the Revenue Director, Finance Committee or Commission:
1. A pending application for or a fully executed Installment Payment Agreement;
 2. A pending application for or a notice from the Commission of relief from penalty or interest; or
 3. A pending Offer in Compromise or a fully executed Compromise and Closing Agreement.
- B. *Installment Payment Agreements.*
1. *Authorization of Agreements.*
 - a. The Finance Committee of the Commission is authorized to negotiate and enter into an Installment Payment Agreement with

any Seller under which the Seller is allowed to satisfy liability for payment of any A&P Tax liability, including penalty, interest, or fine, in installment payments if the Finance Committee, in its sole discretion, determines that such an agreement will facilitate collection of such liability and be in the best interest of the Commission. The Finance Committee shall, in its sole discretion, determine the appropriate duration of such Installment Payment Agreement, not to exceed five (5) years, upon consideration of the totality of circumstances involving the liability at issue. The Finance Committee may review any Installment Payment Agreement after each 12-month period of the agreement has elapsed and may terminate the agreement if the Finance Committee, in its sole discretion, determines that a change in circumstances of the Seller justifies such termination.

b. The Revenue Director is authorized to negotiate and enter into such an Installment Payment Agreement if: (i) the aggregate amount of liability at issue is less than \$10,000.00 and (ii) the Revenue Director determines that such an agreement, in his or her sole discretion, will facilitate collection of such liability and be in the best interest of the Commission. The Revenue Director shall, in his or her sole discretion, determine the appropriate duration of such Installment Payment Agreement, not to exceed five (5) years, upon consideration of the totality of circumstances involving the liability at issue. The Revenue Director may review any Installment Payment Agreement after each 12-month period of the agreement has elapsed and may terminate the agreement if the Finance Committee, in its sole discretion, determines that a change in circumstances of the Seller justifies such termination.

2. In order to qualify for consideration by the Finance Committee or the Revenue Director for an Installment Payment Agreement, a Seller must complete and submit to the Revenue Director an Application for Installment Payment Agreement on such form as provided in Appendix Item 40 to these rules and regulations or as may be prescribed from time to time by the Commission. If the Finance Committee or the Revenue Director elects to enter into an Installment Payment Agreement, the parties shall utilize the form provided in Appendix Item 41 to these rules and regulations or as may be prescribed from time to

time by the Commission. Otherwise, the Revenue Director shall notify the Seller of the denial of the Seller's application. Any notice of the denial of the Sellers' application shall be in writing on such form as provided in Appendix Item 42 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Seller by personal service or by first class U.S. mail.

3. Neither the Finance Committee's nor the Revenue Director's election to enter into or not to enter into an Installment Payment Agreement is appealable.
4. The Commission's entering into an Installment Payment Agreement with a Seller shall not deprive it from issuing a Certificate of Indebtedness in accordance with Rule GR-6.5.

C. *Requests for Relief from Penalty.*

1. *Authorization of Relief.* The Finance Committee of the Commission is authorized to negotiate with respect to and waive or reduce any penalty, or any portion thereof, assessed against a Seller because of his or her failure to timely pay the A&P Tax as required by these rules and regulations if:
 - a. The Seller's failure to pay the tax is satisfactorily explained;
 - b. The failure results from a mistake by the Seller of either the law or the facts subjecting him or her to such tax; or
 - c. The inability to pay the penalty results from the insolvency or bankruptcy of the Seller.

The Revenue Director is authorized to grant the same relief as the Finance Committee, as prescribed above, for any penalty amount less than \$5,000.00.

2. In order to qualify for consideration by the Finance Committee or the Revenue Director for relief from a penalty, a Seller must complete and submit to the Revenue Director an Application for Relief from Penalty on A&P Tax on such form as provided in Appendix Item 43 to these rules and regulations or as may be prescribed from time to time by the

Commission. If the Finance Committee or the Revenue Director elects to waive or reduce any penalty, it shall utilize the form Notice of Penalty Waiver provided in Appendix Item 44 to these rules and regulations or as may be prescribed from time to time by the Commission, which shall be delivered to the Seller in accordance with the procedures described in Rule GR-1.4. Otherwise, the Revenue Director shall notify the Seller of the denial of the Seller's application. Any notice of the denial of the Sellers' application shall be in writing on such form as provided in Appendix Item 45 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Seller by personal service or by first class U.S. mail.

3. Neither the Finance Committee's nor the Revenue Director's election to waive or reduce, or not to waive or reduce, any penalty is appealable.
4. The Commission's election to waive or reduce any penalty shall not deprive it from issuing a Certificate of Indebtedness in accordance with Rule GR-6.5.

D. *Requests for Relief from Interest.*

1. *Authorization of Relief.* The Finance Committee of the Commission is authorized to negotiate with respect to and waive or reduce any interest, or any portion thereof, assessed against a Seller because of his or her failure to timely pay the A&P Tax as required by these rules and regulations if:
 - a. The Seller's failure to pay the tax is satisfactorily explained;
 - b. The failure results from a mistake by the Seller of either the law or the facts subjecting him or her to such tax; or
 - c. The inability to pay the interest results from the insolvency or bankruptcy of the Seller.

The Revenue Director is authorized to grant the same relief as the Finance Committee, as prescribed above, for any interest amount less than \$5,000.00.

2. In order to qualify for consideration by the Finance Committee or the Revenue Director for relief from interest, a Seller must complete and submit to the Revenue Director an Application for Relief from Interest on A&P Tax on such form as provided in Appendix Item 46 to these rules and regulations or as may be prescribed from time to time by the Commission. If the Finance Committee or the Revenue Director elects to waive or reduce any interest, it shall utilize the form Notice of Interest Waiver provided in Appendix Item 47 to these rules and regulations or as may be prescribed from time to time by the Commission, which shall be delivered to the Seller in accordance with the procedures described in Rule GR-1.4. Otherwise, the Revenue Director shall notify the Seller of the denial of the Seller's application. Any notice of the denial of the Sellers' application shall be in writing on such form as provided in Appendix Item 48 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Seller by personal service or by first class U.S. mail.
3. Neither the Finance Committee's nor the Revenue Director's election to waive or reduce, or not to waive or reduce, any interest is appealable.
4. The Commission's election to waive or reduce any interest shall not deprive it from issuing a Certificate of Indebtedness in accordance with Rule GR-6.5.

E. *Compromise and Closing Agreements.*

1. *Authorization of Relief.* The Finance Committee of the Commission is authorized to negotiate with respect to and enter into Compromise and Closing Agreements which compound, settle, or compromise a controversy relating to the A&P Tax or any admitted or established tax liability as to A&P Tax when:
 - a. The controversy is over the amount of tax due; or
 - b. The inability to pay the tax results from the insolvency of the Seller from whom the tax is owed.
2. In order to qualify for consideration by the Finance Committee for a possible a Compromise and Closing Agreement, a Seller must complete

and submit to the Revenue Director an Offer in Compromise on the form provided in Appendix Item 49 to these rules and regulations or as may be prescribed from time to time by the Commission. If the Finance Committee elects to settle or compromise any controversy relating to the A&P Tax or any admitted or established tax liability as to A&P Tax, it shall utilize the form Compromise and Closing Agreement provided in Appendix Item 50 to these rules and regulations or as may be prescribed from time to time by the Commission. Otherwise, the Finance Committee shall notify the Seller of the rejection of the Seller's offer. Any notice of the rejection of the Seller's offer shall be in writing on such form as provided in Appendix Item 51 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Seller by personal service or by first class U.S. mail.

3. When a Compromise and Closing Agreement is entered into by the Commission, via the Finance Committee, it shall be final and conclusive, and except upon a showing of fraud or misrepresentation of a material fact, no additional Assessment or collection shall be made by the Commission as to the A&P Tax that is the subject of the Agreement, and the Seller shall not institute any judicial proceeding to recover such liabilities as agreed to in the Agreement.
4. The Finance Committee's election to compromise or settle, or not to compromise or settle, any controversy relating to the A&P Tax or any admitted or established A&P Tax liability is not appealable.

F. *Guidelines Related to Delinquent Sellers.*

The following guidelines should be considered when evaluating relief sought by a Seller pursuant to paragraphs (B), (C), (D), and (E) of this rule:

1. All Persons are charged with knowledge of the law, including tax laws.
2. All Persons are entitled to reasonably rely upon representations and advice furnished to them in writing by an agent of the Commission, acting in such agent's official capacity, concerning the applicability of any tax, penalty, interest, or fine.
3. All Persons are entitled to reasonably rely upon resolutions and formal

action or statements of the Commission as reflected in the minutes of its convened meetings, to the extent not inconsistent with the Commission's bylaws or any City ordinance or state law.

GR-6.7. OVERPAYMENT OF A&P TAX; DISCRETIONARY RIGHT OF SETOFF, CREDIT OR REFUND.

- A. If it shall appear that a Seller has overpaid A&P Tax, interest, penalty, or fines required to be paid for a Taxable Period or otherwise is owed a sum certain by the Commission for goods or services rendered, the Revenue Director, at his or her discretion, may (i) apply the excess so paid or sum owed as a setoff against any amount that is the subject of a Seller's unreleased Certificate of Indebtedness or admitted amount(s) of A&P Tax, interest, penalty, or fines due by the Seller for any other Taxable Period(s), (ii) set aside such excess as a credit, without interest, toward future A&P Taxes, penalties, interest, or fines payable by the Seller, or (iii) issue a refund to the Seller in the amount of such excess, without interest.

- B. The Revenue Director shall within ten (10) days after such overpayment is determined provide to the Seller a written Notice of Credit or Notice of Refund, as applicable, stating the amount(s) of and Taxable Period(s) for which any overpayment was made and the Taxable Period(s) and amount(s) payable to which such overpayment was applied or that such overpayment amount has been set aside as a credit against future A&P Taxes, penalties, interest, or fines payable by the Seller, or that such overpayment amount is being refunded to the Seller. Any Notice of Credit shall be on such form as provided in Appendix Item 52 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Seller by personal service or by first class U.S. mail. Any Notice of Refund shall be on such form as provided in Appendix Item 53 to these rules and regulations or as may be prescribed from time to time by the Commission and shall be delivered to the Seller by personal service or by first class U.S. mail.

- C. If a Seller's permit is surrendered, revoked, or expires during such time that the Seller's previous overpayment amount has been set aside as a credit against future A&P Taxes, penalties, interest, or fines payable by the Seller, the Revenue Director, following examination of the Seller's A&P Tax obligations, shall apply that credit as a setoff against the Seller's remaining A&P Tax obligations, and refund to the Seller the excess remaining after such examination.

GR-6.8. INJUNCTION PROCEEDINGS.

- A. The Commission may institute any necessary action or proceeding in a court of competent jurisdiction in Pulaski County to enjoin a Person in violation of these rules and regulations, as described in paragraph (B), from continuing operations until such time as the Person is no longer in violation of paragraph (B).
- B. A Person shall be subject to the institution of injunction proceedings under this rule by the Commission when he or she has not:
 - 1. Secured an A&P Tax Permit as required by these rules and regulations;
 - 2. Filed any tax return as required by these rules and regulations;
 - 3. Furnished to the Commission or Revenue Director all information as required by these rules and regulations; or
 - 4. Paid any A&P Tax, interest, penalties, or fines due as required by these rules and regulations.
- C. Any injunction proceedings instituted under this rule shall be in addition to any other remedies allowed by law or these rules and regulations to the Commission and shall not in any way constitute an election of remedies by the Commission. Any injunction issued by a court shall be issued without a bond being required from the Commission. The Commission, if the prevailing party in any action for injunction against a Seller, may be allowed a reasonable attorney's fee to be assessed by the court and collected as costs.

GR-6.9. CODE ENFORCEMENT.

The Revenue Director shall have authority to report any Person in violation of these rules and regulations to an appropriate Code enforcement officer of the City of Little Rock or the Little Rock City Attorney for citation or other applicable proceedings pursuant to the enforcement of the Code.

GR-6.10. DISCONTINUANCE OF MARKETING PRIVILEGES.

The Executive Director shall have the authority to discontinue, at his or her discretion, any advertising, marketing or other promotional activities undertaken by the Commission on behalf of any Seller who has violated or is in violation of any provision of these rules and

regulations. The Executive Director may recommence such advertising, marketing or other promotional activities upon his or her satisfaction that the Seller has remedied, or has made a substantial and good faith effort to remedy, such violation.

REGULATION F – CIVIL AND CRIMINAL PENALTIES

GR-7.1. GENERAL.

- A. Failure to comply with any requirement of Ordinance Nos. 12,353, 13,527, 18,529, 18,992, 21,140, 21,141, or 21,551 or with any provision of these rules and regulations shall constitute sufficient grounds for cancellation or revocation in accordance with these rules and regulations of any A&P Tax Permit issued under the authority of the Code and these rules and regulations.
- B. Any Person's failure to abide by the terms of these rules and regulations shall subject him or her self to either civil or criminal sanctions, or both, as provided by the laws of the State of Arkansas and the Code, including but not limited to Section 1-9 of the Code which provides that a conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or double such sum for each repetition thereof. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed five hundred dollars (\$500.00) for each day that the same is unlawfully continued.

Adoption Date April 21, 2020

Secretary Signature 