



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

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March 13, 2017



RE: Income Tax – Canadian Tax Issues
Opinion 20170217

Dear [REDACTED]:

This letter is in response to your request of February 9, 2017, for a legal opinion from the Department. Your request provided no factual details but posed the following five questions.

Question 1: Does Arkansas honor the United States – Canada Income Tax Treaty?

Response: The *United States – Canada Income Tax Convention* applies to federal income taxes levied under the United States Internal Revenue Code. Convention Article II(2)(b). However, income taxes levied by individual states, such as Arkansas, do not fall within the treaty's jurisdiction. Since the treaty does not apply to Arkansas, the treaty's provisions are generally not recognized by this state.

Question 2: Is the state allowing a credit for personal income taxes paid to another state?

Response: Arkansas law does authorize a credit for income tax paid to another state within the United States. The criteria and procedure for claiming the credit is set forth in Ark. Code Ann. § 26-51-504. See also Individual Income Tax Rules 1.26-51-504(a) through (c). However, foreign income tax paid (for example, to the Canadian government or a Canadian province) is not allowed as a tax credit but only as a deduction from gross income for Arkansas income tax purposes.

Question 3: Regarding the foreign tax credit acceptance for Canada, does it apply to the federal, to the provincial or to both taxes?

Response: Please see the response to Question 2.

Question 3.1: If the credit does not apply for Canada, does Arkansas allow a tax deduction instead?

Response: Please see the response to Question 2.

Question 4: Can the state help to get a transcript for Canadian Foreign Tax Credit purposes, any kind of transcript for a formal proof of final payment, credit [or] refund from the state?

Response: The Department of Finance & Administration can provide an Arkansas income tax return transcript as well as a statement of account. Taxpayers or their authorized representatives may contact the Individual Income Tax Section by email at individual.income@dfa.arkansas.gov or by calling its assistance “hotline” at (501) 682-1100 or 800-882-9275 to request a transcript or statement of account. However, I do not know to what extent, if any, an Arkansas income tax transcript or statement of account would be useful for Canadian Foreign Tax Credit purposes.

The Income Tax Rule cited in this opinion may be viewed on the Department’s website at http://www.dfa.arkansas.gov/offices/policyAndLegal/Documents/it1997_4.pdf

This opinion is based on my understanding of the facts as set out in your inquiry as those facts are governed by current Arkansas laws, rules and regulations. Any change in the facts or law could result in a different opinion.

Sincerely,

Michael Wehrle
Office of Revenue Legal Counsel