Railroad Modernization Act of 2021 Rule

I. Overview


In accordance with Arkansas Code Section 26-51-2804(b), the Department of Commerce is adopting this rule to:

i. Permit verification of an eligible taxpayer’s railroad track maintenance expenditures for purposes of claiming the income tax credit allowed under Acts 2021, No. 967;
ii. Provide for the approval of railroad track maintenance expenditures before a project commences; and
iii. Provide for a certificate of verification upon the completion of a project that uses railroad track maintenance expenditures.

II. Definitions

a. “Eligible taxpayer” means a railroad that is classified as a Class II or Class III railroad by the United States Surface Transportation Board.

b. “Railroad track maintenance expenditures” means gross expenditures for maintenance, reconstruction, or replacement of railroad track, including without limitation roadbed, bridges, industrial leads and side track, and related track structures, to the extent the expenditures are on a railroad track that:
   i. Is located in Arkansas;
   ii. Is owned or leased by an eligible taxpayer; and
   iii. Existed as of July 28, 2021

III. Pre-Approval of Railroad Track Maintenance Expenditures

a. An eligible taxpayer seeking pre-approval of railroad track maintenance expenditures prior to incurring the expense may submit a preapproval application to the Department of Commerce on a form provided by the Department for that purpose. The application shall include:
   i. An estimated amount of qualified railroad track maintenance
i. The status of the railroad as an eligible taxpayer;
ii. The project work has been completed;
iii. A description and amount of the qualified railroad track maintenance expenditures incurred
iv. The miles of railroad track owned or leased in Arkansas; and
v. Any other information that the Department may request.

b. The verification shall be submitted to the Department no later than ninety (90) days following the end of the tax year in which the railroad track maintenance expenditures were incurred.

c. Following receipt and review of the verification, the Department shall issue a certificate setting forth the amount of railroad track maintenance expenditures verified by the Department as being eligible to be claimed for a tax credit under Arkansas Code Section 26-51-2803 of Acts 2021, No. 967.

d. The certificate of verification of railroad track maintenance expenditures issued by the Department under this rule shall satisfy all requirements of the Department of Finance and Administration with respect to determining:
i. The eligibility of the taxpayer to claim the tax credit under Acts 2021, No. 967; and

ii. The amount of railroad track maintenance expenditures which may be claimed as a tax credit.

e. The certificate of verification shall be submitted by the eligible taxpayer to the Department of Finance and Administration for issuance of the tax credit in accordance with its rules.

V. Rulemaking Authority
The Department of Commerce has authority under Arkansas Code Section 26-51-2804(b) of Acts 2021, No. 967 to promulgate this rule.