

## Sales/Use/Indirect:

### Arkansas Supreme Court Says Use Taxable Event Triggered Upon Temporary Withdrawal from Inventory

*Case No. CV-23-450, Ark. (3/28/24).* In a case involving two in-state auto dealerships that had assigned vehicles with dealer license tags from their inventory to various employees and owner family members, the Arkansas Supreme Court (Court) held that such assignments triggered taxable withdrawals from stock for use tax purposes under Arkansas statute (*i.e.*, under Ark. Code Ann. section 26-52-322) even though these vehicles technically remained available for sale and were ultimately sold to consumers. In doing so, the Court explained that the relevant Arkansas statute does not require a permanent withdrawal from stock or consumption of the property at issue, and “the rules of statutory construction do not permit us to read into it words that are not there.” According to the Court, the plain language of the Arkansas statute contemplates that the use of the tangible personal property of an established business for use by any person constitutes a taxable withdrawal from stock and that, in this case, the underlying individuals enjoyed the benefits of the vehicles as any person would enjoy a vehicle they owned – that is, “without restriction, they relied on the vehicles as their primary means of transportation and transported their families and pets, ran personal errands, drove to and from work, and went on vacations in the vehicles.” In this respect, the Court concluded that it was clear under these circumstances that the vehicles were used, and therefore, withdrawn from stock based on the plain language of the statute. Please contact us with any questions.

**URL:** <https://opinions.arcourts.gov/ark/supremecourt/en/522638/1/document.do>

— Joe Garrett (Birmingham)  
Managing Director  
Deloitte Tax LLP  
jogarrett@deloitte.com

Bryan Martella (Houston)  
Manager  
Deloitte Tax LLP  
bmartella@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

#### **About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at [www.deloitte.com](http://www.deloitte.com).