



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

**Assistant Commissioner of Revenue**  
**POLICY AND LEGAL**  
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April 8, 2010

Mr. Tommy Fish  
Executive Vice President - Arkansas Chapter  
Associated General Contractors  
P.O. Box 846  
Little Rock, AR 72203

Fax: 501-375-0110

Dear Mr. Fish,

This letter is intended to follow-up on the meeting of Tuesday, April 6, 2010 between representatives of the Department of Finance and Administration (DFA) and the Associated General Contractors (AGC) concerning crushing equipment used in a mining and quarrying operation. DFA Director Richard Weiss, Deputy Director Tim Leathers, and others within DFA appreciate the thorough presentation made by Mr. Charlie Weaver, Mr. Preston Bynum, and yourself to explain the quarrying process and how crushers are used during those operations.

AGC contends that crushers are entitled to the manufacturing exemption as machinery and equipment used directly in mining and quarrying. In support of this position you contend that the decision of the Arkansas Supreme Court in the case of *Ragland v. Arkansas Valley Coal Services, Inc.* 275 Ark. 108, 627 SW 2d 559 (1982) was inapplicable to most quarrying operations. That case involved a company that purchased coal from other sources and used a crusher to reduce large chunks of coal into smaller sizes to meet the specifications of particular customers. The Supreme Court determined that crushing of coal was not a manufacturing process because the process did not change the essential identity of the coal. You contend that this case is inapplicable to a crusher used during the actual quarrying process because the Arkansas Code specifically includes quarrying as a manufacturing process and a crusher is an integral part of that quarrying operation.

To support this contention, you cite gross receipts tax rule GR-59 which provides that the manufacturing exemption from machinery and equipment used in a mining and quarrying operation may be claimed "...for machinery and equipment utilized for the actual mining or quarrying operation itself which may include machinery and equipment used to wash, grade, and separate the mined or quarried articles of commerce if such operation is carried on at the same site and as part of the continuous mining operation." You explain that quarried rock is first severed from the earth and then crushed in a series of primary and secondary crushers before the items quarried are washed, separated, and graded. You contend that DFA has properly characterized equipment used to wash, grade, and separate the quarried items as manufacturing equipment and that the rock crusher is an integral part of that same integrated quarrying operation and is, in fact, used prior to washing, grading, and separating.

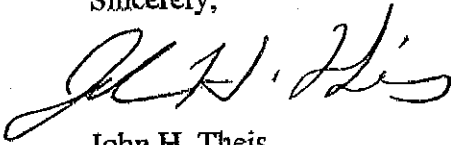
Mr. Tommy Fish  
Page 2 of 2  
April 9, 2010

After considering the information provided in your presentation, DFA agrees that rock crushers are indeed exempt as manufacturing machinery and equipment if certain conditions are met. These conditions are that the crushers are used on the same mine or quarry site where the remaining mining or quarrying operations are conducted; that the crushing is part of a continuous mining or quarrying function that begins with the remove of overburden and separation of mined or quarried items from the ground and continues through the grading and separation of the mined or quarried items; and that the entity using the rock crusher is not simply purchasing the mined or quarried items for crushing, blending, or other manipulation for subsequent retail sale.

The gross receipts tax rules previously adopted by the Arkansas Department of Finance and Administration will be amended to address this situation. Also, audit personnel and tax administration personnel within the department will be notified of the proper treatment of rock crushers under the law.

Please contact me if you have questions.

Sincerely,



John H. Theis  
Assistant Commissioner of Revenue  
Policy and Legal

JHT/wms

Cc: Richard Weiss, Director  
Tim Leathers, Deputy Director  
Martha Hunt, Chief Counsel  
Danny Walker, Field Audit Administrator  
Tom Atchley, Excise Tax Administrator