

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

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Contact Person _____

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ET-9: AUTOMATIC CAR WASH, CAR WASH TUNNELS, AND SELF-SERVICE BAYS
RULES.

A. DEFINITIONS.

1. "Ancillary service" means a service provided by a car wash operator in conjunction with the sale of a service through an automatic car wash, a car wash tunnel, or a self-service bay that involves the cleaning of interior or exterior, or both, of a motor vehicle.

a. "Ancillary service" includes without limitation:

- (1) Hand prepping any portion of a motor vehicle;
- (2) Vacuuming;
- (3) Hand drying any portion of a motor vehicle;
- (4) Waxing any portion of a motor vehicle;
- (5) Hand cleaning any portion of a motor vehicle; and
- (6) Applying a protective or shine coat to any portion of a motor vehicle.

2. "Automatic car wash" means a car wash bay that provides a full automated car wash using mechanical equipment that cleans the motor vehicle while the motor vehicle remains stationary.

3. "Car wash operator" means a person that operates one (1) or more automatic car washes, car wash tunnels, self-service bays, or any combination of automatic car washes, car wash tunnels, self-service bays.

4. "Car wash tunnel" means a car wash bay that provides a fully automated car wash in which the motor vehicle is moved through a tunnel by a conveyor system.

5. "Public water system" means a water system subject to regulation under the Safe Drinking Water Act, 42 U.S.C. § 300f, as existing on January 1, 2019, which is owned by a municipal corporation, a governmental corporation, or a nonprofit corporation, including without limitation:

- a. A municipality;
- b. A public facilities board;
- c. A public water authority;
- d. A water association;
- e. A regional water distribution district;
- f. A rural development authority;
- g. A sanitation authority;
- h. An improvement district;
- i. A regional wastewater treatment district; or
- j. A consolidated waterworks.

6. "Self-service bay" means a car wash bay that allows a person to manually wash a motor vehicle using equipment and supplies provided by the car wash operator.

B. SALES BY CAR WASH OPERATORS.

1. Sales of tangible personal property, specified digital products, or a digital code by a car wash operator for use in an automatic car wash, a car wash tunnel, or a self-service bay or as part of an ancillary service that involves the cleaning of the interior or exterior, or both, of a motor vehicle is exempt from gross receipts and compensating use tax.

a. Examples.

Example 1: The sale of the following items of tangible personal property by a car wash operator for use in an automatic car wash, a car wash tunnel, or a self-service bay are exempt: vehicle polish, tire shine, cleaning wipes, window cleaner, wheel cleaner, fabric cleaner, leather cleaner, paper towels, sponges, and drying towels.

Example 2: The sale of the following items of tangible personal property by a car wash operator are taxable: auto parts and accessories, tires, audio and video components or systems, radiator fluid, transmission fluid, power steering fluid, brake fluid, washer fluid, and motor oil.

2. Sales of ancillary services that involve the cleaning of the interior or exterior, or both, of a motor vehicle by a car wash operator are exempt from gross receipts and compensating use tax.

a. Examples.

Example 1: The sale of the service of vacuuming out a vehicle, when sold in connection with a car wash through an automatic car wash, a car wash tunnel, or a self-service bay and by a car wash operator, is not taxable.

Example 2: The sale of an oil change service, tire change service, repair service, or maintenance service, even when sold in connection with a sale of a car wash through an automatic car wash, a car wash tunnel, or a self-service bay and by a car wash operator, is taxable.

C. SALES TO CAR WASH OPERATORS.

1. Sales of tangible personal property, specified digital products, or a digital code to a car wash operator for use in an automatic car wash, a car wash tunnel, or a self-service bay are exempt from gross receipts and compensating use tax.

2. Sales of services to car wash operators are exempt from gross receipts and compensating use tax.

3. Examples of sales exempt from gross receipts and compensating use tax under this rule include, but are not limited to:

a. Car washing machinery and equipment installed in the car wash tunnel, automatic car wash, or self-service bay;

b. Car washing chemicals, including without limitation soap, detergent, wax, polish, and tire shine, used in the car wash tunnel, automatic car wash, or self-service bay; and

c. Water and electricity used in the car wash tunnel, automatic car wash, or self-service bay.

D. WATER USAGE FEE.

1. In lieu of remitting gross receipts or compensating use tax on the transactions identified in ET-9(B) and (C), a car wash operator shall remit a fee based upon water usage to the Department by the twentieth day of each month.

a. Car Wash Tunnels – the monthly fee due shall be calculated as follows:

(1) Multiply by eight-tenths (0.8) the total aggregate number of gallons of water the car wash operator used during the preceding month for all of the car wash operator's car wash tunnels; then multiply by four-tenths of one cent (0.4¢).

b. Automatic Car Wash - the monthly fee due shall be calculated as follows:

(2) Multiply by eight-tenths (0.8) the total aggregate number of gallons of water the car wash operator used during the preceding month for all of the car wash operator's automatic car washes; then multiply by two-tenths of one cent (0.2¢).

2. The most accurate way to calculate the water usage fee is for car wash tunnels and automatic car washes to have dedicated water meters that measure the total aggregate number of gallons of water the car wash operator used during the preceding month for all of the car wash operator's car wash tunnels and automatic car washes.

E. REGISTRATION REQUIREMENTS.

1. A car wash operator that is required to pay the car wash fee under § 26-57-1603 shall register electronically with the Department before an automatic car wash or a car wash tunnel is made available for commercial use.

2. The monthly fee shall be reported and remitted electronically on the form provided by the Department for that purpose.

F. BUNDLED TRANSACTION.

1. If any tangible personal property or service exempted by this rule is sold in conjunction with the sale of taxable tangible personal property or services for a non-itemized price, the bundled transaction rule will apply. *See* Ark. Code Ann. § 26-52-103 *and* Arkansas Gross Receipts Rule GR-93.

Source: Arkansas Code Annotated § 26-52-301(3)(B)(i)(a) (Supp. 2019), § 26-52-401(41)(A) (Supp. 2019), § 26-57-1601 through -1605 (Supp. 2019).