



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

Assistant Commissioner of Revenue
POLICY AND LEGAL
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May 27, 2014

Mr. Stephen E. Morley, Attorney at Law
Morley Law Firm, PLLC
315 North Broadway
North Little Rock, AR 72114

Re: Act 483 of 2013 – Request for Legal Opinion

Dear Mr. Morley:

This is in response to your recent letters of May 1, 2014 and May 7, 2014 requesting a legal opinion from the Arkansas Department of Finance and Administration regarding certain aspects of Act 483 of 2013. Act 483 provided that both in-state and out-of-state wineries may register with the Arkansas Alcoholic Beverage Control Division and ship wine directly to customers within Arkansas. These sales are subject to certain limitations outlined in Act 483 that are not relevant to this opinion response. Act 483 specifically addresses the collection of taxes with the following language:

“A winery shall collect all sales taxes and excise taxes due on a sale to an individual of this state as if the sale took place on the premises of an Arkansas small farm winery, ...”

Act 483 continues by including the following statement:

“A winery does not have to collect a local tax that would be imposed by a municipality, town, or other political subdivision of the state.” (See Ark Code §3-5-1704(b)(1)(B))

You question whether the language quoted above is interpreted by DFA to require wineries to collect and remit city or county sales or use taxes.

Cities and counties in Arkansas are authorized by state law to levy sales taxes for various purposes. Although these taxes are collected and administered by DFA and the same exemptions apply to both state and local sales taxes, the city and county sales taxes are by nature a local tax. These taxes are levied by a vote of the people in the respective city or county and the proceeds of those sales benefit projects and purposes of that local governmental entity. Consequently, city and county taxes are a “local tax” within the limitation quoted above and contained in Ark. Code §3-5-1704(b)(1)(B) and a winery registered pursuant to Act 483 is not required to collect the city or county sales tax of the customers location.

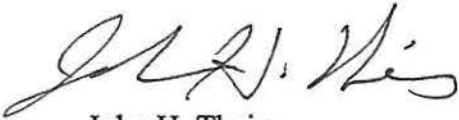
Mr. Stephen E. Morley

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This opinion is issued based upon the facts outlined in your opinion request and the applicable law in effect at the time of your request. A change in the facts presented or a change in current law could result in a different conclusion.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Theis". The signature is fluid and cursive, with the first name "John" and last name "Theis" clearly distinguishable.

John H. Theis

Assistant Commissioner of Revenue
Policy & Legal