

SALES TAX RESPONSIBILITY OF CITIES

The definition of "Person" relating to who might be responsible for sales (gross receipts) taxes changed effective January 1, 2008. This first comment will concern requirements prior to that date.

The definition of "Person" specifically included "...this state, any county, city, municipality, etc." Arkansas Code 26-52-103. So the City would be responsible IF the activity, in this case mowing of property, was included in an activity on which sales taxes were charged.

Certain exemptions were set out in 26-52-301, including paragraphs D and E, which in summary states: "...does not apply to services including (f) lawn care and landscaping services, which defines lawn care as "...the maintenance, preservation, or enhancement of ground covering of nonresidential property..." and "residential" is defined as single family residence used solely as the principal place of residence of the owner.

It certainly could be argued that Colbert Lawn Service, and any other mowers, were operating on non-residential property, thus exempt from taxation under this language.

January 1, 2008. During 2007, the Legislature amended this section along with many others in this tax area. It certainly strengthened the case for City exemption, by eliminating from the definition section all references to "state, county, municipality, etc." No other part of the tax code was seen that imposed any liability.

If either or both of these scenarios are adopted, it seems to be necessary that the City write a letter to the mowers, outlining why the City is exempt. Sec. 26-52-517 requires this.