State of Arkansas
Department of Finance and Administration
Fiscal Impact Statement

Bill: HB1500
Bill Subtitle: TO ENHANCE ECONOMIC COMPETITIVENESS BY REPEALING THE THROWBACK RULE.

Sponsors:

Rep. Beaty and Sen. Gilmore

Basic Change:

Act 485 of 2023 enacted a phase-out the "throwback rule" so that the rule would be completely eliminated for tax years beginning on or after January 1, 2030. HB1500 accelerates the elimination of the throwback rule so that the rule would be eliminated for tax years beginning on or after January 1, 2025.

HB1500 repeals the throwback rule by amending §§ 26-5-101 and 26-51-716. Under current law, a multistate corporation that conducts business in Arkansas must calculate Arkansas income tax through a formula based on the total sales of the taxpayer in the state. A multistate business is required to include some of its "unreported" out-of-state sales in its sales in this state. Historically, all sales must be reported somewhere or else a taxpayer would have untaxed "nowhere" income. "Nowhere" sales have been recaptured under § 26-51-716.

Under § 26-51-716, for the purposes of calculating corporate income tax, sales of tangible personal property are "in this state" if the property is delivered to a purchaser within Arkansas. A percentage of sales are also considered to be "in this state" if the tangible personal property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser. This is known as the "throwback rule." HB1500 repeals the throwback rule for sales shipped from Arkansas for tax years beginning on or after January 1, 2025. Beginning in tax year 2025, sales of tangible personal property would be "in this state" only if the property is delivered to a purchaser in Arkansas.

Fiscal Impact:

FY2026 - $63.5M General Revenue Reduction

[The throwback rule is currently scheduled to be phased out by 2030 after the passage of Act 485 of 2023. The total impact of the phase-out would be accelerated to 2025 with the removal under the bill. The impact is $74M overall cost from the 2023 impact less the $10.5M incurred on the first year phase out of 2024 from the impact of Act 485 of 2023.]

Taxpayer Impact:

A taxpayer who ships tangible property from locations in Arkansas to other states where they are not taxable and therefore affected by the current throwback rule would benefit from a reduced tax liability with the removal of the requirement.

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Resources Required:

Computer programs, tax forms, and instructions will need to be updated. AIRS programming costs are estimated at $8,000.

Time Required:

Adequate time is provided for implementation.

Procedural Changes:

Department employees will need to be educated as well as the tax community.

Other Comments:

None.

Legal Analysis:

None.