



**State of Arkansas
Department of Finance and Administration
Fiscal Impact Statement**

Bill: SB567

Bill Subtitle: TO AMEND AND MODERNIZE THE LAW CONCERNING THE APPORTIONMENT OF INCOME DERIVED FROM MULTISTATE OPERATIONS; AND TO CHANGE THE METHOD FOR SOURCING OF RECEIPTS FOR SERVICES AND INTANGIBLES.

Sponsors:

Sen. Crowell and Rep. Burkes

Basic Change:

SB567 modernizes the law regarding the apportionment of corporation income tax for multistate businesses.

The Arkansas General Assembly adopted the Multistate Tax Compact (Compact) in 1961. Arkansas is a member state of the Multistate Tax Commission (Commission). The Commission amended the Compact in 2014 to:

- Change the method for sourcing of receipts for services and intangibles from "cost of performance" to "market-based" sourcing;
- Change all references to "business income" to "apportionable income";
- Change all references to the "sales factor" to the "receipts factor"; and
- Clarify the rules concerning alternative apportionment methods.

SB567 adopts these changes to bring Arkansas law more in line with the Compact.

The most notable change in SB567 is the adoption of market-based sourcing of sales for sales other than sales of tangible personal property. In determining its corporation income tax liability, a multi-state business must source its sales of services and other intangibles among the states where it operates. Currently, Arkansas uses an outdated method called "cost of performance" to source these sales. Cost of performance focuses on where a business incurs costs rather than the market into which it makes sales. SB567 amends Arkansas law to introduce market-based sourcing as the primary method for sourcing income from sales other than tangible personal property. Market-based sourcing focuses on the market into which a business makes its sales. Tennessee, Louisiana, Missouri, and Oklahoma are among 34 states that have adopted market-based sourcing. Mississippi is the only border state that imposes a corporate income tax that has not adopted market-based sourcing.

Arkansas law and the Compact allow the Department of Finance and Administration (DFA) to use an alternative apportionment method to calculate a taxpayer's corporate income tax if the apportionment provided by statute does not fairly represent the taxpayer's business in Arkansas. Current law provides little guidance for how alternative apportionment should operate. SB567 provides extensive guidance for utilizing alternative apportionment that does not exist in current law including requiring equal application of rules, standards of proof, and anti-penalty provisions.

SB567 incorporates two deviations from the 2014 Compact revisions:

- SB567 allows providers of telecommunications services, internet services, and some television services to elect to use the cost of performance sourcing method until December 31, 2035. This provides a transition period for those businesses; and



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- SB567 excludes the income of a nonresident corporation or partnership from income tax if the business has no physical presence in Arkansas and its Arkansas receipts for the preceding year were \$250,000 or less.

SB567 is effective for tax years beginning on and after January 1, 2026.

Fiscal Impact:

Revenue neutral.

Taxpayer Impact:

A taxpayer with multistate operations will apportion income to Arkansas using market-based sourcing starting January 1, 2026. An entity eligible for the telecommunications election may elect to retain cost-of-performance sourcing from 2026 to 2035, providing flexibility in tax planning. A nonresident corporation or partnership without a physical presence in Arkansas will have nexus for corporation income tax purposes if the business has Arkansas receipts exceeding \$250,000 annually.

Resources Required:

Computer programs, tax forms, and instructions will need to be updated.

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:

Legal Analysis:

None.