

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1870

Bill Subtitle: TO ALLOW CERTAIN INDIVIDUALS TO ELECT TO PAY TAXES AT THE RATE IMPOSED IN A BORDERING STATE.

Basic Change :

Sponsor: Rep. Richey

HB1870 allows an individual who is at least 65 years old and lives in a border city an election to use the laws of the bordering state to calculate their tax liability in lieu of Arkansas state tax law.

Revenue Impact :

FY2020 - Minimum of \$13.6M Reduction in State General Revenue

[The AIRS system was queried for taxpayers living in each major border city with pension income. DFA calculated the cost of each city by looking at the border state's tax rates and exemption amounts, also taking into consideration their treatment of retirement income.]

Taxpayer Impact :

A taxpayer 65 years old or older and living in a "border city" may elect to decrease his or her individual income tax liability by calculating his or tax due on income and retirement income under the laws of a bordering state.

Resources Required :

- Substantial changes in the AIRS tax system. The upfront estimate of computer programming costs to implement this change from the Arkansas Integrated Revenue System (AIRS) team is \$324,000. Once the initial part of the project is complete, the annual computer maintenance provided by AIRS is estimated to be \$180,000.
- Tax training classes for all auditors.
- Development of qualified list of border cities.
- Updates to tax forms and instructions.

Time Required :

Additional time is necessary for implementation. AIRS tax system and software providers will need more time to install necessary changes. Earliest implementation to consider is the 2020 tax year.

Procedural Changes :

Computer programs will have to be changed to a system which is not designed to compute multi-state tax laws. Major software changes would need to be made. Extensive training to individual income staff and auditors would need to be made to learn the tax code of each bordering state. The tax community would need to be educated as well.

Other Comments :

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The initial definitions indicate that the Bill would only affect taxpayers over 65 years old with retirement income, however, (b)(2) states "have his or her income be subject to the tax imposed under this chapter, including any exemptions, or the tax imposed on individuals who are at least 65 years of age under the bordering state that adjoins the border city, including any exemptions. Therefore, under the bill it would affect all the income from individuals 65 years old or older and living in a border city and not just retirement income.

Border cities included in the Revenue Impact: Ft. Smith, Siloam Springs, Bella Vista, West Memphis and West Helena.

Legal Analysis :

HB1870 amends Title 26, Chapter 51, Subchapter 2, concerning the imposition of income taxes, to add § 26-51-208 allowing qualified individuals of a border city to elect to pay taxes on his or her retirement income and other income at the rate imposed in a bordering state. An individual electing to be subject to the taxes imposed under the laws of a border state must file, along with his or her Arkansas income tax return, a sworn statement in writing that he or she is a resident of the border city being used for the election.

The bill includes the following definitions:

1. "Border city" means a city or incorporated town in this state that adjoins the Arkansas state line;
2. "Bordering state" means a state that is adjacent to a border city;
3. "Qualified individual" means an individual who is at least 65 years of age and who is a resident of a border city; and
4. "Retirement income" includes without limitation Social Security benefits, pensions, annuity payments, distributions from retirement accounts, and any other retirement benefits.

While similar to the border city income tax exemption already in existence, this bill does not include the specifics of the existing border city exemption, such as defining the applicability to require the city to be divided by a state line and instead requires only "adjoining". Additionally, it is unclear whether the sworn statement that the individual is resides in a city that qualifies for this retirement income exclusion would need to be annual to ensure that qualifying individuals do not stop being qualifying individuals by means of moving their residency.

The effective date of this act is for tax years beginning on or after January 1, 2019.