Department of Finance and Administration

Legislative Impact Statement

Bill: HB1045
Bill Subtitle: TO ENHANCE ECONOMIC COMPETITIVENESS BY REPEALING THE THROWBACK RULE.

Basic Change :

Sponsors: Reps. Beaty Jr., Ray and Sen. Gilmore

HB1045, concerning apportionment of business income for income tax purposes, 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 "unreported" out-of-state sales in its sales in this state. Stated differently, all sales must be reported somewhere or else a taxpayer would have untaxed "nowhere" income. "Nowhere" sales are 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. 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: (1) the purchaser is the United States Government; or (2) the taxpayer is not taxable in the state of the purchaser. This is known as the "throwback rule." HB1045 repeals the throwback rule for sales shipped from Arkansas for tax years beginning on or after January 1, 2024. Beginning in tax year 2024, sales of tangible personal property would be "in this state" only if the property is delivered to a purchaser in Arkansas.

HB1045 is effective for tax years beginning on or after January 1, 2024.

Revenue Impact :

FY2024 - $37M General Revenue Reduction
FY2025 - $74M General Revenue Reduction

Taxpayer Impact :

Taxpayers will not be required to report sales to Arkansas that are shipped from an office, store, warehouse, factory, or other place of storage in this state to the US government or to a state in which the taxpayer is not taxable.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

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

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tax forms, instructions, and training manuals will need to be updated.

Other Comments :

None.

Legal Analysis :

None.