

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

As Engrossed: H3/7/17 H3/10/17

# A Bill

HOUSE BILL 1559

5 By: Representative Jett  
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## For An Act To Be Entitled

8 AN ACT TO AMEND THE CORPORATE INCOME TAX WITHHOLDING  
9 REQUIREMENTS FOR MEMBERS OR OWNERS OF A PASS-THROUGH  
10 ENTITY; AND FOR OTHER PURPOSES  
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## Subtitle

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14 TO AMEND THE CORPORATE INCOME TAX  
15 WITHHOLDING REQUIREMENTS FOR MEMBERS OR  
16 OWNERS OF A PASS-THROUGH ENTITY.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 26-51-919(a)(2), concerning the withholding  
22 of income tax by pass-through entities, is amended to read as follows:

23 ~~(2)(A)~~ *“Member” means a shareholder of a Subchapter S*  
24 *corporation, a partner in a general partnership, a partner in a limited*  
25 *partnership, a partner in a limited liability partnership, a member of a*  
26 *limited liability company, or a beneficiary of a trust-*

27 ~~(B) “Member” does not mean a Subchapter C corporation as~~  
28 ~~defined in 26 U.S.C. § 1361(a), in effect January 1, 2005;~~  
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30 SECTION 2. Arkansas Code § 26-51-919(b)(1)(A)(i), concerning the  
31 withholding of income tax by pass-through entities, is amended to read as  
32 follows:

33 *(b)(1)(A)(i) A pass-through entity shall withhold Arkansas income tax*  
34 *at the highest income tax rate levied under §§ 26-51-201, ~~and 26-51-202,~~ and*  
35 *26-51-205 on the share of income of the pass-through entity that is derived*  
36 *from or attributable to sources within this state and distributed to each*



1 *nonresident member.*

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3 *SECTION 3. Arkansas Code § 26-51-919(c)(5)(A), concerning the*  
4 *withholding of income tax by pass-through entities, is amended to read as*  
5 *follows:*

6 *(5)(A) The pass-through entity has filed with the director on*  
7 *forms prescribed by the director the nonresident member's signed agreement to*  
8 *timely file an Arkansas corporation, nonresident individual, or trust income*  
9 *tax return, to pay any tax due on the return, and to be subject to the*  
10 *jurisdiction of the Department of Finance and Administration in the courts of*  
11 *this state for the purpose of determining and collecting any Arkansas income*  
12 *tax together with interest and penalties owed by the nonresident member.*

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14 *SECTION 4. Arkansas Code § 26-51-919(d), concerning the withholding of*  
15 *income tax by pass-through entities, is amended to read as follows:*

16 *(d)(1) A pass-through entity may file a composite income tax return on*  
17 *behalf of electing nonresident members reporting and paying Arkansas income*  
18 *tax at the highest income tax rate under §§ 26-51-201, ~~and 26-51-202,~~ and 26-*  
19 *51-205 on the nonresident member's pro rata or distributive shares of income*  
20 *of the pass-through entity from doing business in or deriving income from*  
21 *sources within this state.*

22 *(2) A nonresident member whose only source of income within this*  
23 *state is from one (1) or more pass-through entities may elect to be included*  
24 *in a composite return filed pursuant to this section.*

25 *(3) A nonresident member who has been included in a composite*  
26 *return may file an ~~individual~~ income tax return and shall receive credit for*  
27 *income tax paid on the nonresident member's behalf by the pass-through*  
28 *entity.*

29 *(4) On or before the fifteenth day of the fourth month following*  
30 *the ~~close~~ end of the pass-through entity's tax year, a pass-through entity*  
31 *shall file an annual composite return with the director showing the total*  
32 *amount of income distributed or credited to its nonresident members and the*  
33 *amount of tax withheld and shall remit the tax due on the composite income*  
34 *tax return.*

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36 *SECTION 5. EFFECTIVE DATE. Sections 1 through 4 of this act are*

1 effective for tax years beginning on and after January 1, 2018.

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/s/Jett