

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1790

Bill Subtitle: TO AMEND THE INCOME TAX PROVISIONS CONCERNING THE APPORTIONMENT OF BUSINESS INCOME; AND TO REPEAL THE THROWBACK RULE.

Basic Change :

Sponsor: Representative Dotson

HB1790 amends § 26-51-703 relating to income tax provisions concerning whether a taxpayer is taxable in another state and amends § 26-51-716 to remove the throwback provisions for sales of tangible property. Bill is effective for tax years beginning on or after January 1, 2017.

Revenue Impact :

FY2018 - \$24.5M Reduction in State General Revenues

Taxpayer Impact :

Taxpayers will not be required to report sales to Arkansas that are not taxable in other states.

Resources Required :

Computer programming, forms and instruction booklets, training and procedures manuals will need to be updated.

Time Required :

Adequate time is provided to implement this bill.

Procedural Changes :

DFA personnel will need training on the new provisions of the code.

Other Comments :

None.

Legal Analysis :

HB1790, concerning apportionment of business income for income tax purposes, would repeal the "throwback rule" by amending §§ 26-51-703 and 26-51-716(b). Arkansas uses an apportionment formula consisting of property, payroll, and sales factors to apportion income of a multistate business. Under existing law, a multistate business is required to include "unreported" out of state sales in its sales factor under § 26-51-715 (Repl. 1997). Stated differently, all sales must be reported somewhere otherwise a taxpayer will have untaxed "nowhere" income. "Nowhere" sales are recaptured and placed in the Arkansas sales tax factor under § 26-51-716. § 26-51-703, concerning the definition of "taxpayer taxable in another state," is amended to eliminate the language "and the taxpayer has activities in the other state that exceed those protected by 15 U.S.C. §§ 381-385." § 26-51-716, concerning "sales of tangible personal property," is amended to eliminate all of subsection (b), which states "the property is

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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." The effective date of this amendment is for tax years beginning on and after January 1, 2017.