

INCOME TAX PROPOSAL #19
for consideration by the
ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE

TOPIC: Throwback Rule

Summary of Proposal for Consideration

This proposal would repeal the “throwback rule” for multistate business income under Arkansas Code § 26-51-716, effective for tax years beginning January 1, 2019.

The “throwback rule” is part of the calculation used by Arkansas concerning the apportionment of business income by multistate businesses for income tax purposes. Arkansas uses an apportionment formula consisting of property, payroll, and double sales factors to apportion income of a multistate business. Under Arkansas law, all sales must be reported somewhere, otherwise a taxpayer will have untaxed “nowhere” income. “Nowhere” sales are recaptured and placed in the Arkansas sales factor under Arkansas Code § 26-51-716, which is referred to as the “throwback rule.”

Fiscal Analysis

The Department of Finance and Administration estimates that repealing the “throwback rule” would have resulted in an estimated revenue reduction of twenty-four million five hundred thousand dollars (\$24,500,000) for Fiscal Year 2018, based on the fiscal impact statement prepared for HB1790 of 2017, which proposed to repeal the “throwback rule” under Arkansas Code § 26-51-716.