Department of Finance and Administration

Legislative Impact Statement

Bill: HB1512
Bill Subtitle: TO REDUCE THE INCOME TAX RATES APPLICABLE TO INDIVIDUALS, TRUSTS, AND ESTATES USING THE REVENUES DERIVED FROM THE COLLECTION OF SALES AND USE TAX FROM SELLERS THAT DO NOT HAVE A PHYSICAL PRESENCE IN THE STATE.
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Basic Change :

Sponsor: Representative Davis

HB1512 would amend § 26-51-201(e) to provide that when state law is adopted to require out-of-state sellers that do not have a physical presence in the state to collect sales and use taxes, income tax rates would be reduced if tax collections exceed a threshold amount. Under current law, the income tax rate reduction provisions of § 26-51-201(e) are effective only upon adoption of federal law that would require remote sellers to collect state and local sales taxes.

The bill provides that if state law is adopted, then after the first twelve (12) months of the sales and use tax collections from the affected sellers, the Director of the Department of Finance and Administration (DFA) would certify to the Governor and the Office of Economic and Tax Policy the amount of net general revenues attributable to the tax collection from these sellers. The DFA Director would determine if the general revenue portion of the tax collections exceeds $70,000,000, and if the general revenue collections exceed the $70,000,000 threshold, the income tax rate 4.5% in the income tax tables would be reduced equally for all taxpayers subject to 4.5% rate. The income tax rate would be reduced to a rate that would result in an income tax reduction equal the amount of revenue that exceeded the established seventy million dollar ($70,000,000) threshold. The DFA Director would also certify the amount of the reduction of the income tax rate to the Governor and the Office of Economic and Tax Policy and incorporate the reduced income tax rate into the income tax table.

The Act would be effective ninety (90) days after final adjournment of the 91st General Assembly.

Revenue Impact :

After state or federal law is adopted that requires remote, out-of-state sellers to collect Arkansas state and local sales taxes, the Arkansas income tax rate of 4.5% would be reduced to equal the general revenue portion of the first twelve months of sales and use tax collections that exceed $70,000,000. The income tax rate reduction would be effective for the tax year that begins after it is determined that during the first twelve months of sales tax collections, the amount exceeded the established threshold. The amount of sales taxes collected by remote sellers in the event state or federal required collection is unknown.

Taxpayer Impact :

Taxpayers who have taxable income between $21,000 and $75,000 will have their income tax rate reduced by an undetermined amount if sales and use tax collections from out-of-state sellers with no physical presence in Arkansas exceeds $70 million in the first 12 months after this bill is passed provided that state or federal law imposes the requirement to collect sales tax.

Resources Required :

In the event the necessary triggers provided for in the bill are met, tax tables and forms would need to be updated and system programming would be required.

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Time Required :

Adequate time is provided for implementation.

Procedural Changes :

DFA would modify the tax registration system to require out-of-state registrants for collection of sales and use tax to indicate if the company has a physical presence in Arkansas and is registering as the result of state or federal law that requires their registration.

Other Comments :

None.

Legal Analysis :

This bill would trigger a rate reduction of the Individual Income Tax after the first year of collecting sales and use tax from remote sellers if required under Arkansas or federal law. HB1512 amends existing law related to a reduction of the income tax rate to incorporate state law authorization of sales and use tax collections from sellers that do not have a physical presence in the state. The existing rate reduction is contingent only upon receiving collection authority under federal law.

Under the Commerce Clause of the United States Constitution, Congress is responsible for regulating matters of interstate commerce. In view of Congress' continued inaction in this area, and the growth of e-commerce, a number of states have enacted statutes or administrative rules which provide them with collection authority from those types of sellers. Arkansas has a similar bill under consideration, SB140. Some of these statutes and rules are currently in litigation and are expected to reach a final resolution by the United States Supreme Court. The outcome of the litigation is unknown at this time. However, existing Arkansas law providing for the rate reduction if collection authority is received under federal law remains unchanged.