

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1039**

**Bill Subtitle: TO AMEND THE DEFINITION OF "EMPLOYER" UNDER THE ARKANSAS INCOME TAX WITHHOLDING ACT OF 1965.**

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### **Basic Change :**

**Sponsor: Rep. Jett**

HB1039 would amend the definition of "employer" under the Arkansas Income Tax Withholding Act of 1965 to include a person doing business in or deriving income from sources outside this state who has control of the payment of wages to an individual for services performed within this state.

### **Revenue Impact :**

None.

### **Taxpayer Impact :**

An employer that is not doing business or deriving income in Arkansas would be required to withhold state income taxes from the wages paid to their Arkansas-based employees in the same manner as other Arkansas employers.

### **Resources Required :**

None.

### **Time Required :**

Adequate time is provided for implementation.

### **Procedural Changes :**

None.

### **Other Comments :**

None.

### **Legal Analysis :**

HB1039 expands the definition of "employer" under the Arkansas Income Tax Withholding Act of 1965 to include a person doing business in or deriving income from sources outside this state who has control of the payment of wages to an individual for services performed within this state. Under current law, every employer making payment of wages to employees must deduct and withhold income tax from the employees' wages. Current law limits the definition of "employer" to a person doing business in or deriving income from sources within this state who has control of the payment of wages to an individual for services performed or a person who is the officer or agent of the person having control of the payment of wages. Thus, under current law, if an out of state employer controls the payment of wages to an individual who performs services for the employer in Arkansas, the employer does not

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have to collect and remit Arkansas withholding wage tax for that employee. Even though an out-of-state employer currently does not have to withhold income tax from its Arkansas employee's wages, the wages earned by the Arkansas employee are still subject to Arkansas income tax.

This bill would require an employer who conducts business in or derives income from sources outside this state to withhold tax for the employer's Arkansas-based employees. Under the amended definition of "employer," out-of-state employers who employ workers in Arkansas would have to follow the same withholding requirements as Arkansas employers.