SUMMARY OF PROPOSAL #11
for consideration by the
ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE

TOPIC: To Create a Systematic Review Process for Personal Income Tax Exemptions and Corporate Income Tax Exemptions

Summary of Proposal for Consideration

To require a systematic review process for personal income tax exemptions and corporate income tax exemptions on a regular basis.

Fiscal Analysis

Fiscal analysis will depend on the specifics of the proposal and the amount of administrative implementation required, as well as any third-party expenditures.

Legal Analysis

Background

Arkansas currently does not require a systematic review of personal income tax exemptions and corporate income tax exemptions on a regular basis. However, under Arkansas Code § 15-4-220, Legislative Audit is required to prepare an annual cost-benefit analysis of projects that are provided an incentive under the Consolidated Incentive Act of 2003, which includes some income tax incentives.

Potential Legal Issues

None.

Other States

- Iowa: Iowa has created a Legislative Tax Expenditure Committee, which is responsible for reviewing all tax credits, exemptions, deductions, and rebates in the state on a five-year rotating basis so that each year the committee is reviewing a different set of tax incentives. The committee considers and reports to the legislative council on the equity, simplicity, competitiveness, public purpose, adequacy, and conformance with the original intent of each tax credit, exemption, deduction, and rebate, and the committee also reports on the return on investment for each one. (IA St. § 2.48)

- Louisiana: Louisiana's Department of Revenue is required to complete an annual Tax Exemption Budget that analyzes each tax exemption (including exemptions, exclusions, deductions, credits, special rates, and deferred liability) based on whether it has been successful in meeting its purpose, whether it is the most fiscally effective means of meeting its purpose, whether the exemption has any unintended consequences, and whether the exemption simplifies or complicates the tax law. The department also includes information on the revenue loss resulting from each exemption for the previous three (3) fiscal years and the estimated revenue loss for the current fiscal year and the next fiscal year. The relevant House and Senate committees are required to conduct meetings in odd-numbered years to review the Tax Exemption Budget before the regular session starts, and the committees are required to analyze and consider tax exemptions that have a revenue loss of at least $10 million in any of the last three (3) fiscal years. Additionally, each state agency that oversees a tax exemption is required to submit a report in each even-numbered year concerning whether the tax exemption has been successful in meeting its purpose, including whether it benefits those it was intended to benefit. The House and Senate committees are also required to conduct meetings on these reports before the regular session. Beginning in 2020, the department will also be required to perform a comprehensive return-on-investment analysis for each tax exemption that had a revenue loss of at least $1 million in the previous fiscal year. (LA Rev. St. §§ 1517 and 1517.1)

- Mississippi: Mississippi requires the University Research Center to prepare an annual report detailing the costs in foregone revenue of each tax expenditure (including deductions, allowances, exclusions, credits, and exemptions), the policy purpose of each tax expenditure, and any indicators of effectiveness or ineffectiveness in achieving the policy purposes. The law allows for this report to be limited to the cost of each expenditure for a year if preparation of the report is materially and adversely affecting the work of the University Research Center. (MS St. § 57-13-47)

- Missouri: Missouri requires the Office of Administration to develop an annual tax expenditure budget in conjunction with the state budget, and the tax expenditure budget is required to include the reduction in revenue collections for each fiscal year as the result of each tax expenditure (including deductions, exemptions, credits, or other tax preferences). The office is also required to periodically include a cost-benefit analysis for certain tax incentive programs. Additionally, each state agency that is authorized to offer a tax expenditure is required to annually submit the estimated amount of the expenditure for the next fiscal year and a cost-benefit analysis of each tax expenditure for the previous fiscal year. The law also prohibits the issuance or certification of a new tax credit unless the estimate of the credit has been reviewed and approved by a majority of the Senate Appropriations Committee and the House Budget Committee. (MO St. § 33.282)

- Oklahoma: Oklahoma requires the Oklahoma Tax Commission to submit in each even-numbered year a report on all tax exclusions, deductions, credits, exemptions, deferrals, and other preferential tax treatments, including an estimate of the amount of state revenue lost as a result of each tax exclusion, deduction, credit, exemption, deferral, and other preferential tax treatment. (68 OK St. § 205).

- Tennessee: Tennessee requires the Commissioner of Economic and Community Development, in consultation with the Commissioner of Revenue, to review the franchise and excise tax credits for the previous four (4) fiscal years and report on the purpose of each credit, the revenue lost as a result of each credit, any benefits to the state as a result of each credit, and the estimated indirect economic impact of each credit. The commissioners are also required to prepare a report of their findings and recommendations. This review and report must be completed every four (4) years, beginning in 2017. Tennessee also requires the Commissioner of Revenue to study and report on the tax laws of other states, and the report must be submitted to the legislature on the first day of its organizational session. (TN Code §§ 67-1-103 and 67-1-118)

- Texas: Before each regular session of the legislature, Texas requires the Comptroller to report on the effect of exemptions, discounts, exclusions, special valuations, special accounting treatments, special tax rates, and special methods of reporting related to the franchise tax, among other types of taxes. The law requires that if the Comptroller cannot determine the effect of a tax provision, the Comptroller must provide in the report a complete explanation as to why that conclusion was reached. The report is required to include (1) an analysis of each provision that reduces the amount of tax payable, including an estimate of the revenue lost for a six-year period, and (2) for provisions that reduce revenue by more than one percent (1%) of the total revenue for the type of tax, the effect of the provision on the distribution of the tax burden by income class and industry/business class and the effect of each provision on total income by income class. The report may include an assessment of the intended purpose of each provision, whether that purpose is being met, and a recommendation for retaining, eliminating, or amending a provision. (TX St. § 403.014)