

**SUMMARY OF PROPOSAL #26**  
*for consideration by the*  
**ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE**

**TOPIC: Repeal Income Tax Exemption for Mutual or Cooperative Telephone Companies**

**Summary of Proposal for Consideration**

To repeal the income tax exemption for income received by mutual or cooperative telephone companies under Arkansas Code § 26-51-303(a)(6), effective for tax years beginning January 1, 2019.

**Fiscal Analysis**

Repeal of the income tax exemption for mutual or cooperative telephone companies may result in an unknown per year increase to general revenue based upon figures from FY16, as provided by the Department of Finance and Administration's "Individual & Corporate Income Tax Revenue Impact of Exemptions" presentation to the Arkansas Tax Reform and Relief Legislative Task Force on April 26, 2018.

**Legal Analysis**

***Background***

Arkansas currently exempts income received by mutual or cooperative telephone companies, if eighty-five percent (85%) or more of the income received by the organization consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting losses and expenses.

ACT 118 of 1929, the Income Tax Act of 1929, created the income tax exemption for income received by mutual or cooperative telephone companies.

ACT 259 of 1957 added the provision that the tax exemption would apply only if eighty-five percent (85%) or more of the income received by the organization consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting losses and expenses.

These provisions have not been amended since.

Federal law, 26 U.S.C. § 501(c)(12), provides a federal income tax exemption for benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, electric companies, or "like organizations". To qualify for and maintain the exemption, a cooperative must receive eighty-five percent (85%) or more of its income each year from members, and the income must be collected solely to meet the cooperative's losses and expenses.

### *Potential Legal Issues*

None.

### *Other States*

- Iowa: Iowa provides an income tax exemption for mutual or cooperative telephone companies if eighty-five percent (85%) or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses. (I.C.A. § 422.34)
- Louisiana: Louisiana provides an income tax exemption for mutual or cooperative telephone companies if eighty-five percent (85%) or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses. (LA St. § 47:121).
- Mississippi: Mississippi's income tax rules state that, to the extent an entity is exempt by the IRS from paying federal income tax, the entity shall be determined to be exempt from filing a Mississippi income tax return. (35.III.10.05 § 105)
- Missouri: Missouri has an income tax exemption for corporations that are exempt from income tax under federal law. Federal law (26 U.S.C. § 501(c)(12)) provides an income tax exemption for mutual or cooperative telephone companies if eighty-five percent (85%) or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses. (Mo. St. § 143.441)
- Oklahoma: Oklahoma has an income tax exemption for corporations that are exempt from income tax under federal law. Federal law (26 U.S.C. § 501(c)(12)) provides an income tax exemption for mutual or cooperative telephone companies if eighty-five percent (85%) or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses. (68 Okl.St.Ann. § 2359)
- Tennessee: Tennessee does not have a corporate income tax, and it does not appear to have an exemption from franchise and excise taxes for mutual or cooperative telephone companies.
- Texas: Texas does not have a corporate income tax, but telephone cooperative corporations are exempt from franchise tax. (Tex. Tax Code § 171.080)