

**SUMMARY OF PROPOSAL #2**  
*for consideration by the*  
**ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE**

**TOPIC: Tax Credit or Deduction; Ad Valorem Personal Property Tax Paid on Business Inventory**

**Summary of Proposal for Consideration**

To create an individual income or corporate income tax credit or deduction to offset the ad valorem personal property tax paid on business inventory, effective for tax years beginning January 1, 2019.

**Fiscal Analysis**

According to the Arkansas Assessment Coordination Department (ACD), Arkansas collected an estimated seventy million two hundred ten thousand dollars (\$70,210,000) from ad valorem property tax levied on business inventory based on collections from 2016. According to the Department of Finance and Administration (DFA), depending on the nature of a tax credit or deduction to offset the ad valorem personal property tax paid on business inventory, such a tax credit or deduction may result in an estimated loss of general revenues of up to seventy million two hundred ten thousand dollars (\$70,210,000) based on collections from 2016.

**Legal Analysis**

***Background***

Arkansas currently does not provide an individual income or corporate income tax credit to offset the ad valorem personal property tax paid on business inventory. However, under Arkansas Code § 26-51-416, business inventory taxes paid by a business are an allowable deduction part of the taxes paid by a business. This provision was created by ACT 118 of 1929 and has not been amended since.

***Potential Legal Issues***

None.

***Other States***

- Iowa: Iowa does not levy ad valorem property tax on business inventory. (IA St. 427A.2)
- Louisiana: Louisiana levies ad valorem property tax on business inventory. Louisiana provides an income tax deduction for taxes paid on business inventory. (LA St. § 47:55). Louisiana also provides a tax credit against ad valorem property tax paid to political subdivisions on business inventory held by manufacturers, distributors, and retailers. (LA St. § 47:6006). For corporations that are eligible for the tax credit, the tax credit may be applied against corporate income tax liability

or corporate franchise tax liability, or both. For unincorporated persons the tax credit may be applied against state personal income tax liability. If the amount of the credit exceeds the amount of tax liability for the tax year, the excess credit may either be refunded or may be carried forward as a credit against subsequent Louisiana tax liability. Whether a taxpayer will receive a credit or refund, or both, will depend on the amount of ad valorem property taxes paid by the taxpayer to all political subdivisions and whether the business entity was formed after April 15, 2016. (LA St. § 47:6006(B)(3)).

For the purposes of this tax credit, business inventory includes goods or commodities that are in the course of production or awaiting sale, including without limitation the merchandise of a retail or wholesale concern, the finished goods of a manufacturer, and the commodities from farms, mines, and quarries; raw materials and supplies that will be consumed in a manufacturing process in Louisiana; and personal property that is available for short-term rental and will ultimately be sold. (LA St. § 47:6006). However, some items are not considered business inventory for the purpose of this credit, including without limitation oil stored in tanks held by a producer before the first sale of the oil, items that have been subject to use by the taxpayer when owned for more than eighteen (18) months, and items that are otherwise exempt from ad valorem property tax under the Constitution of Louisiana, including goods, commodities, or personal property stored in the state for use in interstate commerce. (LA St. § 47:6006).

Finally, the authority or district charged with economic development of each parish is authorized to enter into contracts to exempt parish, municipal, and special ad valorem property tax on goods held as inventory by distribution centers. However, before entering into a contract, the economic development authority or district must request and receive written approval to exempt business inventory from ad valorem property tax from each affected tax recipient body in the parish. (LA Const. art. 7, § 21(I)).

- Mississippi: Mississippi levies ad valorem property tax on business inventory. Mississippi allows an income tax deduction for taxes paid for business inventory. (MS St. § 27-7-17). Mississippi also provides a nonrefundable tax credit on the amount of ad valorem property tax paid by any manufacturer, distributor, wholesaler, or retail merchant on business inventory, including commodities, raw materials, works-in-process, products, goods, wares, and merchandise held for resale. This business inventory tax credit is applied against the income tax owed by a manufacturer, distributor, wholesaler, or retail merchant. The business inventory tax credit is also available for individuals, firms, or corporations for ad valorem property tax paid on rental equipment. Any tax credit claimed but not used in a taxable year may be carried forward for five (5) consecutive years. For taxpayers that are owners of a partnership, limited liability company, or S corporation, the credit may be applied only against the income tax liability attributable to the income that the taxpayer received directly from the partnership, limited liability company, or S corporation. The tax credit is the lesser of the amount of ad valorem property

tax paid or the amount of income tax due to the state of Mississippi. (MS St. § 27-7-22.5).

- Missouri: Missouri does not levy ad valorem property tax on business inventory.
- Oklahoma: Oklahoma levies ad valorem property tax on business inventory. Oklahoma does not provide a tax credit for the ad valorem property tax paid on business inventory. According to the Oklahoma Tax Commission, Oklahoma's adjusted gross income is based on and conforms to federal gross adjusted income. As such, Oklahoma allows for an income tax deduction for taxes paid on ad valorem property tax on business inventory in the same manner as and consistent with federal tax law. Federal law permits deductions for taxes paid on state and local taxes, including ad valorem personal property taxes under 26 U.S.C. § 164; however, individuals are limited to deducting up to ten thousand dollars (\$10,000) of state and local taxes.
- Tennessee: Tennessee, generally, does not levy ad valorem property tax on business inventory. Businesses subject to the Tennessee Business Tax Act are exempt from ad valorem property tax on business inventory. (TN St. §§ 67-4-701 and 67-5-901). Tennessee does not levy a corporate income tax and only levies individual income tax on dividends and interest income, so Tennessee does not offer a tax credit or deduction against corporate income tax or individual income tax for taxes paid on business inventory.
- Texas: Texas levies ad valorem property tax on business inventory. (TX St. Tax Code § 31.081). Texas does not levy a tax on individual or corporate income, so Texas does not offer a tax credit or deduction against corporate income tax or individual income tax for taxes paid on business inventory.