

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

**TOPIC: State Ad Valorem Property Tax on Property within a Border City**

**Summary of Proposal for Consideration**

To create a state ad valorem property tax on property within a border city that is exempt from Arkansas income tax under Arkansas Code § 26-52-601 et seq., and eliminate the additional sales tax requirement under Arkansas Code § 26-52-601 et seq., effective for tax years beginning January 1, 2019. Under this proposal, the state ad valorem property tax would be based on the effective rate of the ad valorem property tax levied in the border city in the state adjoining Arkansas, after subtracting the effective rate of ad valorem property tax levied at the local and municipal level in the Arkansas city subject to the border city exemption under Arkansas Code § 26-52-601 et seq.

**Fiscal Analysis**

Texarkana, Arkansas is currently the only border city exempt from income tax under Arkansas Code § 26-52-601 et seq. There are approximately thirty thousand (30,000) residents in the municipal area of Texarkana, Arkansas. The current total millage rate for the municipal area of Texarkana, Arkansas is thirty-nine and nine-tenths (39.9). This provides an effective ad valorem property tax rate of three and nine-tenths percent (3.9%). The value of each additional mill in the city is valued at four hundred eight thousand one hundred ninety-seven dollars (\$408,197).

The Department of Finance and Administration estimates that the border city income tax exemption for Texarkana, Arkansas results in a loss of state revenues in the amount of approximately twenty one million two hundred thousand dollars (\$21,200,000) per fiscal year, without factoring in the one percent (1%) additional sales tax imposed by Arkansas Code § 26-52-601 et seq.

According to the City of Texarkana, Texas, the property tax rate in 2017 was seventy cents (70¢) per one hundred dollars (\$100) in valuation.<sup>1</sup>

If the additional sales tax of one percent (1%) was removed and a state ad valorem property tax was created to make up the difference in income tax lost under the border city income tax exemption under Arkansas Code § 26-52-601 et seq., a state ad valorem property tax of fifty-two (52) mills would be necessary. This would leave Texarkana, Arkansas with an effective property tax rate of nine and nine-tenths percent (9.9%) and would constitute a one hundred thirty-four percent (134%) increase in ad valorem property tax on property located within Texarkana, Arkansas.

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<sup>1</sup> City of Texarkana, Texas: <https://www.ci.texarkana.tx.us/356/Tax-Rate-Debt-Obligation-Information>

## **Legal Analysis**

### ***Background***

The Arkansas border city income tax exemption was created by ACT 48 of 1977 and codified under Arkansas Code § 26-52-601 et seq. Under the Arkansas border city income tax exemption, whenever any Arkansas city or town is divided by a state line from an incorporated city or town in an adjoining state in which the other state does not levy a state income tax, the qualified electors of the Arkansas border city or town may vote to equalize the state taxes paid by citizens in the border city or town in Arkansas with the tax advantages of the citizens of the adjoining city or town in the other state. In order for an Arkansas city or town to take advantage of the border city income tax exemption, an additional state sales tax of one percent (1%) must be approved at a special election. The proceeds of the additional sales tax is to provide revenues to the state of Arkansas in lieu of the state income tax that would have been collected in the border city or town. Ark. Code Ann. § 26-52-605(a).

ACT 735 of 1997 added the provision that the one percent (1%) additional sales tax also applies to state use tax collected as a local tax and enforced in accordance with the Arkansas Compensating Tax Act of 1949, Arkansas Code § 26-53-101 et seq. These provisions regarding the border city income tax exemption have not been amended since.

### ***Potential Legal Issues***

Under Arkansas Constitution, Amendment 47, no ad valorem property tax may be levied upon property by the State of Arkansas. Accordingly, implementation of a state ad valorem property tax would require a constitutional amendment.

### ***Other States***

- Iowa: Iowa allows for a state ad valorem property tax to be levied on the assessed value of taxable property to raise funds for general state purposes. The Director of the Department of Revenue has the authority to fix the rate of tax. (IA St. § 444.22). According to the Iowa Department of Revenue, even though Iowa is permitted by law to levy a state ad valorem property tax to raise funds for general state purposes, Iowa currently does not have such a tax in place to raise funds for state purposes. Iowa does not have a provision that raises the ad valorem property tax on border cities. Iowa also does not have a border city income tax exemption.
- Louisiana: Louisiana permits a state ad valorem property tax that is limited to an annual rate of five and three-quarter (5.75) mills on one dollar (\$1.00) of assessed valuation. (LA Const. art. 7, § 19). According to the Louisiana Department of Revenue, even though Louisiana is permitted by law to levy state ad valorem property tax, Louisiana currently does not have such a tax in place. Louisiana does

not have a provision that increases ad valorem property tax on border cities. Louisiana also does not have a border city income tax exemption.

- Mississippi: Mississippi's state ad valorem property taxes were repealed in 1980. Mississippi does not have a provision that raises ad valorem property tax on border cities. According to the Mississippi Department of Revenue, Mississippi also does not have a border city income tax exemption.
- Missouri: Missouri's constitution states that the state may impose a state tax on real and tangible personal property, exclusive of the tax necessary to pay any bonded debt of the state; however, this state property tax may not exceed ten cents (10¢) on one hundred dollars (\$100) of assessed valuation. (MO Const. art. 10, § 8). Missouri's constitution also requires that all taxes levied and collected for public purposes are uniform within the territorial limits of the authority levying the tax. (MO Const. art. 10, § 3). According to the Missouri Department of Revenue, even though the Missouri constitution allows for a state ad valorem property tax on real and tangible personal property, Missouri does not currently have such a tax in place. Missouri also does not have a provision that increases the ad valorem property tax on border cities and does not have a border city income tax exemption.
- Oklahoma: Oklahoma's constitution states that no ad valorem property tax shall be levied for state purposes, nor shall any part of the proceeds of any ad valorem tax levied upon any kind of property be used for state purposes. (OK Const. art. 10, § 9). Oklahoma does not have a provision that raises ad valorem property tax on border cities. According to the Oklahoma Tax Commission, Oklahoma also does not have a border city income tax exemption.
- Tennessee: Tennessee states that all real and personal property shall be assessed for taxation for state purposes. (TN St. § 67-5-101). According to the Tennessee Comptroller of Assessments, notwithstanding the provisions under Tennessee statute § 67-5-101, Tennessee does not currently levy ad valorem property tax to raise funds for general state revenues. Tennessee does not have a provision that raises the ad valorem property tax on border cities. Tennessee also does not have a border city income tax exemption.
- Texas: Texas's constitution states that no state ad valorem property tax may be levied on any property within the state. (TX Const. art. 8, § 1-e). Texas does not have a provision that raises the ad valorem property taxes on border cities. Texas also does not have a border city income tax exemption, as Texas does not levy income tax.