

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 2686

5 By: Representative Jackson
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For An Act To Be Entitled

9 AN ACT TO PROVIDE FOR COMBINED REPORTING BY
10 CORPORATIONS THAT ARE MEMBERS OF AN AFFILIATED
11 GROUP; AND FOR OTHER PURPOSES.
12

Subtitle

14 AN ACT TO PROVIDE FOR COMBINED REPORTING
15 BY CORPORATIONS THAT ARE MEMBERS OF AN
16 AFFILIATED GROUP.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 26-51-804 is amended to read as follows:
22 26-51-804. Corporation returns.

23 (a)(1) Every corporation subject to taxation under this act shall make
24 a return stating specifically the items of its gross income and the
25 deductions and credits allowed by this ~~act~~ section.

26 (2) Corporations that are members of affiliated groups may file
27 a combined return.

28 (b) The return shall be sworn to by the president, vice-president,
29 treasurer, or other principal officer.

30 (c) If any foreign corporation has no office or place of business in
31 this state but has an agent in this state, the returns shall be made by the
32 agent.

33 (d) In case of a receiver, trustee in bankruptcy, or assignees
34 operating the property or business of a corporation, the receiver, trustee,
35 or assignees shall make returns for the corporation in the same manner and
36 form as corporations are required to make returns, and any tax due on the



1 basis of those returns shall be collected in the same manner as if collected
 2 from the corporations of whose business or property they have custody or
 3 control.

4 (e) Returns made under this section shall be subject to the provisions
 5 of this act.

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 7 SECTION 2. Arkansas Code § 26-51-805 is amended to read as follows:
 8 26-51-805. Consolidated corporate returns.

9 (a)(1) All corporations which are eligible members of an affiliated
 10 group as that term is defined in 26 U.S.C. § 1504(a) and (b) as of January 1,
 11 1989, which affiliated group files a federal consolidated corporate income
 12 tax return pursuant to 26 U.S.C. §§ 1501-1505 as of January 1, 1989, may
 13 elect to file a consolidated Arkansas corporate income tax return.

14 (2) ~~However, Except as otherwise provided by law,~~ only
 15 corporations in the affiliated group that have gross income from sources
 16 within the State of Arkansas that is subject to taxation under the provisions
 17 of the Arkansas Income Tax Act, as amended, § 26-51-101 et seq., shall be
 18 eligible to file consolidated corporate income tax returns in Arkansas.

19 (b)(1) All corporations in the affiliated group which are eligible to
 20 file an Arkansas consolidated income tax return must consent to, and join in,
 21 the filing of the consolidated return prior to the last day for filing the
 22 return, as may be extended.

23 (2) The making of the consolidated income tax return shall be
 24 deemed as consent of each eligible corporation in the affiliated group.

25 (c) When filing an Arkansas consolidated corporate income tax return,
 26 a complete copy of the federal consolidated corporate income tax return filed
 27 with the federal Internal Revenue Service for that taxable year must be
 28 attached to the Arkansas return.

29 (d)(1) The election to file an Arkansas consolidated corporate income
 30 tax return for any income year shall require the filing of consolidated
 31 corporate income tax returns for all subsequent income years so long as the
 32 individual corporations remain members of the affiliated group unless the
 33 Director of the Department of Finance and Administration consents to the
 34 filing of separate returns by any members of the affiliated group.

35 (2) However, in the event that the General Assembly amends or
 36 supplements the Arkansas Income Tax Act, § 26-51-101 et seq., in a manner

1 which would substantially alter the method of allocating or apportioning net
2 income or loss subject to the Arkansas Income Tax Act, § 26-51-101 et seq.,
3 or in computing the tax due from the affiliated group, then the affiliated
4 group may revoke the election to file an Arkansas consolidated corporate
5 income tax return effective for the income year to which any such change to
6 the Arkansas Income Tax Act, § 26-51-101 et seq., is effective.

7 (e) In any case of two (2) or more corporations, whether or not
8 affiliated, owned, or controlled directly or indirectly by the same
9 interests, the director may distribute, apportion, or allocate gross income,
10 deductions, credits, or allowances between or among such corporations if he
11 determines that the distribution, apportionment, or allocation is necessary
12 in order to prevent evasion of taxes or clearly to reflect the income to any
13 such corporation. This subsection is based upon the concept of 26 U.S.C. §
14 482 as of January 1, 1989, as that section applies to corporations.

15 (f) In computing Arkansas consolidated taxable income or loss to which
16 the tax rate is applied, the separate net income or loss of each corporation
17 which is entitled to be included in the affiliated group shall be included in
18 the consolidated net income or loss to the extent that its net income or loss
19 is separately apportioned or allocated to the State of Arkansas in accordance
20 with the provisions of § 26-51-701 et seq.

21 (g) This section is specifically designed to clarify the filing of
22 consolidated corporate income tax returns with the Revenue Division of the
23 Department of Finance and Administration and is to amend the Arkansas Income
24 Tax Act, § 26-51-101 et seq. This section is based upon the concept of filing
25 federal consolidated income tax returns.

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