

OKLAHOMA TAX COMMISSION

**REVENUE IMPACT STATEMENT
SECOND REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE**

DATE OF IMPACT STATEMENT: February 4, 2022

BILL NUMBER: SB 1728 **STATUS AND DATE OF BILL:** Introduced 1/20/2022

AUTHORS: House n/a Senate Bergstrom

TAX TYPE (S): Income Tax **SUBJECT:** Other

PROPOSAL: Amendatory

SB 1728 proposes to amend 68 O.S. § 2358(A)(5)(c)(1), eliminating the "throwback rule" for corporate income tax calculation purposes effective for tax year 2022.¹

EFFECTIVE DATE: November 1, 2022

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 23: Decrease in income tax collections of \$24.069 million

Feb. 5, 2022
DATE

Rick Miller
DIVISION DIRECTOR

mk

2/7/2022
DATE

Huan Gong
HUAN GONG, ECONOMIST

2.17/2022
DATE

[Signature]
FOR THE COMMISSION

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

¹ This measure does not specify a tax year, so the November 1, 2022 effective date should make the proposed change effective for tax year 2022 and subsequent tax years.

ATTACHMENT TO REVENUE IMPACT - SB 1728 [Introduced] Prepared 2/4/2022

SB 1728 proposes to amend 68 O.S. § 2358(A)(5)(c)(1), eliminating the "throwback rule" for corporate income tax calculation purposes effective for tax year 2022.

The "throwback rule" is part of the calculation used by Oklahoma concerning the apportionment of income by corporations conducting a business of a unitary nature for income tax purposes. Oklahoma uses an apportionment formula consisting of property, payroll, and sales factors to apportion income of a unitary business, equally weighted. The "throwback rule" determines what are considered Oklahoma sales in determining apportionment. Under existing law, a taxpayer is required to include sales of tangible personal property if the property is shipped from an office, store, warehouse, factory, or other place of storage in Oklahoma and the taxpayer is not doing business in the state of the destination of the shipment. Stated differently, sales to states which are untaxed (because the taxpayer is not subject to tax in that state) are recaptured and placed in the Oklahoma sales factor.

If the "throwback rule" is eliminated, companies subject to corporate income tax in Oklahoma will no longer be required to include these sales in their Oklahoma sales factor.

Oklahoma corporate income tax data is not available in the aggregate to estimate the impact of eliminating the "throwback rule". A study² from the Arkansas Department of Finance and Administration in part estimated the effect of eliminating the "throwback rule" on Arkansas corporate income tax collections. Based on the impact to corporate income tax collections for tax years 2013-2016, it was estimated that Arkansas income tax revenue would decline on average 5.59% annually.³ For purposes of this analysis, it is assumed that a similar pattern would occur for Oklahoma income tax purposes. The percentage decline in the Arkansas study was applied to the Oklahoma corporate income tax estimate for FY23⁴ resulting an estimated decrease in corporate income tax revenue of \$24.069 million (\$430,574,000 times 5.59%)⁵ for FY23.

² Tax Reform and Relief Legislative Task Force - *Revenue Impact of Combination of Adoption of Single Sales Factor and Throwback Rule Elimination* [Revenue Impact - Single Sales and Throwback Rule \(state.ar.us\)](#) September 4, 2018. The estimated dollar impact for the elimination of the throwback rule was reported.

³ Net corporate income tax collections for Arkansas. Data source: *State Government Tax Collections, Corporation Net Income Taxes in Arkansas*; U.S. Census Bureau, State Government Tax Collections, Corporation Net Income Taxes in Arkansas [ARCORPINCTX], retrieved from FRED, Federal Reserve Bank of St. Louis

⁴ 2022 corporate income tax returns will generally be due in early 2023.

⁵ Total tax collections to be apportioned from Corporate Income Tax - *Oklahoma Tax Commission Letter to the Office of Management and Enterprise Services regarding the Revenue Forecast for FY 2023*; December 14, 2021