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Adam C. Proffitt, Director

Laura Kelly, Governor

March 6, 2024

The Honorable Caryn Tyson, Chairperson
Senate Committee on Assessment and Taxation
300 SW 10th Avenue, Room 548-S
Topeka, Kansas 66612

Dear Senator Tyson:

SUBJECT: Fiscal Note for SB 507 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 507 is respectfully submitted to your committee.

Under current law, Kansas uses a three-factor formula to apportion business income for income tax purposes using the proportion of sales, property, and payroll in Kansas compared to total sales, property, and payroll. SB 507 would apportion business income for income tax purposes using only the single sales factor beginning in tax year 2025. The bill details the conditions and requirements that the taxpayer would include in the single sales factor. The bill would change the way sales are sourced from a cost of performance method to a market-based method. The bill would remove references and definitions related to the three-factor formula and remove outdated language from previous tax years.

The bill would eliminate the taxpayer's option to use the apportionment rules of the Multistate Tax Compact to determine business income and allocation of income tax liability between states. In the event of a conflict between the Kansas Income Tax Act and the Multistate Tax Compact, the language in the Kansas Income Tax Act would be used. The bill would update Multistate Tax Compact language in statute moving from a three-factor formula to apportion business income to a single sales factor. The bill would also make changes to the definition of business income by defining business income as follows:

1. Income arising from transactions and activity in the regular course of the taxpayer's trade or business;
2. Income arising from transactions and activity involving tangible and intangible property or assets used in the operation of the taxpayer's trade or business; or

3. Income of the taxpayer that may be apportioned to this state under the provisions of the U.S. Constitution and federal law, except that a taxpayer may elect that all income constitutes business income. Any election made would be effective and irrevocable for the tax year in which the election is made and the following nine tax years and would also be binding on all members of a unitary group of corporations.

Estimated State Fiscal Effect			
	FY 2024	FY 2025	FY 2026
Expenditures			
State General Fund	--	$70,612	--
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Expenditures	--	$70,612	--
Revenues			
State General Fund	--	$1,200,000	$3,800,000
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Revenues	--	$1,200,000	$3,800,000
FTE Positions	--	--	--

The Department of Revenue estimates that SB 507 would increase State General Fund Revenues by $1.2 million in FY 2025 and by $3.8 million in both FY 2026 and FY 2027.

To formulate these estimates, the Department of Revenue reviewed corporate income tax returns from tax year 2021. Tax liability for companies in multiple states were estimated using their current three factor values converted to a single sales factor, which resulted in an increase in corporate income tax collections of $10,360,000 in tax year 2025. Data is not available for the impact of market-based sourcing in determining the singles sales factor. Based on similar legislation proposed in other states, this provision is estimated to decrease corporate income tax collections by 1.0 percent in tax year 2025, or $6,530,000. Combining moving from the three-factor formula to the single sales factor (increase of $10,360,000) with market-based sourcing in determining the singles sales factor (decrease of $6,530,000) would increase corporate tax collections by approximately $3.8 million in tax year 2025. Neither of these two major changes would have any impact on businesses that operate solely in Kansas. The estimate for FY 2025 includes 30.0 percent of tax year 2025 tax liability. The estimate for FY 2026 includes 70.0 percent of tax year 2025 tax liability and 30.0 percent of tax year 2026 tax liability.

The Department of Revenue indicates updating the Multistate Tax Compact language in statute, would have no direct fiscal effect. However, this bill has the potential to prevent a State General Fund revenue decrease in corporate income tax receipts. The Department of Revenue indicates that if taxpayers elect to use the alternative apportionment rules of the Multistate Tax

Compact instead of apportionment rules in state law, then Kansas tax liability could be reduced significantly.

The Department indicates that the bill would require $70,612 from the State General Fund in FY 2025 to implement the bill and to modify the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required. Any fiscal effect associated with SB 507 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

Adam C. Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue