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ALERT

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## Arkansas Tax Appeals Commission Rules That Texas Franchise Tax Is a Creditable Income Tax

A recent decision of the Arkansas Tax Appeals Commission allowing creditability of Texas franchise tax against Arkansas income tax may benefit Arkansas-resident owners of entities doing business in Texas. 24-TAC-02810 (Jul. 15, 2025). Affected taxpayers should consult their tax advisers about return positions and potential refund claims.

Arkansas imposes tax on the worldwide net income of residents, but with a credit for income taxes paid to other states. The credit is available if, among other things, the tax paid to the other state is on or measured by net income. The Arkansas Department of Finance and Administration has not allowed credit on the basis that the Texas franchise tax is not a net income tax within the meaning of the Arkansas tax code. The Texas franchise tax is sometimes called the “margin tax” because it is imposed on the taxable margin of a business, which can be calculated as total revenue minus either cost of goods sold or compensation, or as 70% of total revenue, or total revenue minus \$1,000,000. For a multistate business, that margin is then apportioned.

Taxpayers owned an interest in an S corporation that paid the Texas franchise tax. Taxpayers took the position that their proportionate share of the Texas franchise tax was creditable on their Arkansas individual income tax returns, and DFA issued proposed assessments or refund claim denials. Taxpayers then appealed to the Arkansas Tax Appeals Commission. The Commission ruled in favor of taxpayers, reasoning that the substance of the Texas franchise tax was functionally a tax on net income.

The decision of the Tax Appeals Commission was *en banc* and therefore will be binding precedent unless a court rules otherwise or the law is amended. The Arkansas Department of Finance and Administration may appeal the decision to circuit court. Arkansas resident taxpayers owning businesses paying Texas franchise tax may wish to file refund claims for open years and may consider claiming the credit on their 2024 returns (if not filed yet) or returns for later years.

In addition to Texas, the taxpayers originally appealed the Tennessee franchise tax as well. The parties settled the Tennessee issue, so it was not considered by the Tax Appeals Commission.

If you have questions, please contact any member of Kutak Rock's [National Tax Practice Group](#). You may also visit us at [www.kutakrock.com](http://www.kutakrock.com).



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