



**House Committee on Taxation  
Verbal Testimony in Opposition to HB 2489  
Presented by Eric Stafford, Vice President of Government Affairs**

**Thursday, February 7, 2018**

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber appreciates the opportunity to testify in opposition to House Bill 2489 which modifies the Multistate Corporate Income Tax Agreement.

When this bill was first introduced, we contacted our tax professionals to provide feedback. At first review, we were told this bill is a technical clean up and of no concern. As time has passed and once HB 2489 was scheduled for a hearing, the communication among our members with concern over the bill language has significantly increased. The information below is from a recent email we received summarizing concerns from our members.

The proposal is still problematic. The DOR is referencing the KS statute that governs normal apportionment and the normal way to calculate KS taxable income. Kansas has always offered an alternative under KSA 79-4301 Article IV (Multistate Tax Compact) to elect to file its tax returns under the 79-4301 provisions. Companies that elected (on our returns every year) to file under 79-4301 since 2008. The proposed legislation eliminates the ability to make that election – retroactive to 2008. Under the last section of the bill it specifically states that:

b) the multistate tax compact is intended to supplement the Kansas income tax act and any income tax hereafter adopted by any taxing subdivision of this state, **and not as an alternative method of allocating and apportioning income**, or classifying income in a manner other than as specified in the Kansas income tax act or any income tax hereafter adopted by any taxing subdivisions of this state

Note the bolded language – it is intended to take away an alternative that companies have availed since 2008. If the state audits and company and revokes the elections from 2008 forward there will be a fiscal impact – first there will be an assessment, then there will be significant legal fees – on both sides.

The conversations we had with the department of revenue left us with the impression that their intention was to offer a technical clean up. However, our members are worried they will be faced with an unexpected tax burden due to the retroactive provisions of HB 2489. We would ask this committee to oppose HB 2489 at this time. If we receive further clarification on the intent and implications of this bill and our members are confident they will not be negatively impacted, our position could change.

Thank you for the opportunity to testify in opposition to House Bill 2489 and I am happy to answer any questions you might have.