



# This Week in State Tax (TWIST)

April 27, 2026



## Arkansas: State high court holds sale of franchises is nonbusiness income

The Arkansas Supreme Court recently addressed whether gain realized from the liquidation of a line of business was business or nonbusiness income for Arkansas corporate income tax purposes. The court held that under the state's pre-2026 provisions for classifying income, which are modeled after provisions of the Uniform Division of Income for Tax Purposes Act (UDITPA), the gain from the sale of the taxpayer's intangible assets did not satisfy the statutory definition of "business income" and therefore constituted nonbusiness income allocable to the taxpayer's commercial domicile in Oklahoma.

The taxpayer was an Oklahoma corporation headquartered in Tulsa that operated numerous quick-service franchise restaurants in nine states, including Arkansas, mostly through franchise locations. The taxpayer used restaurant-related intangible assets in the operation of its business, including locations, franchise rights, trademarks, goodwill, and other intangibles. In two separate but related transactions, the taxpayer sold the entirety of the tangible property and intangible property used in this business, and the sales collectively constituted the complete liquidation and termination of the business. On its 2018 Arkansas corporate income tax return, the taxpayer treated gains from the sale as nonbusiness income and allocated them under the appropriate provisions. The taxpayer then claimed a refund for estimated tax overpaid to Arkansas. The Department of Finance and Administration (DFA) denied the refund, classifying gain from the sale as apportionable business income (some of which would be apportioned to Arkansas). The taxpayer appealed to the DFA Office of Hearings & Appeals, which upheld the denial. The taxpayer then sought relief from the circuit court, which held the gain from intangible assets did not meet the statutory definition of business income and was properly allocable to Oklahoma. DFA then sought review by the state supreme court.

Before the Arkansas Supreme Court, the parties agreed that the transactional test for classifying the income was not at issue, and the decision turned on the court's interpretation of the functional test and application of Arkansas case law interpreting what constitutes business income. The court focused on the statutory requirement that the "acquisition, management, and disposition" of tangible and intangible property must "constitute integral parts of the taxpayer's regular trade or business" to be considered business income. The court found that the phrase "acquisition, management, and disposition" operated as a unified sequence, and concluded that while the assets were used in regular operations, a complete liquidation terminating a business line was not a recurring part of the taxpayer's regular trade or business. The taxpayer's business was operating restaurants, not buying and selling entire enterprises. Thus, the functional test was not satisfied, and the intangible gain was nonbusiness income allocable to the commercial domicile. The court declined to give controlling weight to DFA's broader regulatory interpretation, stating that unambiguous statutory language governs, and administrative rules cannot override or expand it. The court also contrasted the statute in the applicable tax years with the version effective beginning in

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tax year 2026, which specifies that income from property “related to the operation of the taxpayer’s trade or business” be treated as business income. Please contact [Asad Markatia](#) and [Sai Gorugantula](#) with questions on [Hudson v. United States Beef Corp., Ark., No. CV-25-395](#).

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