

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S4/21/21

A Bill

SENATE BILL 484

5 By: Senator J. Dismang
6 By: Representative Jett
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE TAXATION OF NONRESIDENT INCOME;
10 TO CLARIFY THE ALLOCATION OF NONRESIDENT INCOME FOR
11 ARKANSAS INCOME TAX PURPOSES; TO DECLARE AN
12 EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

15 TO CLARIFY THE ALLOCATION OF NONRESIDENT
16 INCOME FOR ARKANSAS INCOME TAX PURPOSES;
17 AND TO DECLARE AN EMERGENCY.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. DO NOT CODIFY. Legislative intent.

24 It is the intent of the General Assembly to clarify that nonresident
25 income is allocated based on where the employee is located when performing
26 the work associated with the income.
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28 SECTION 2. Arkansas Code § 26-51-202(c), concerning the payment of
29 income tax by nonresidents, is amended to read as follows:

30 (c)(1) However, the payment of the tax shall be based upon net income
31 properly allocated as net income arising from the ownership of property and
32 the conduct of a business, trade, or occupation in the State of Arkansas.

33 (2) A nonresident individual who is paid a salary, lump sum
34 payment, or any other form of payment that encompasses work performed both
35 inside and outside of Arkansas shall pay Arkansas income tax only on the
36 portion of the individual's income that reasonably can be allocated to work



1 performed in Arkansas.

2 (3) A nonresident individual performs work in Arkansas when that
3 individual is physically located in Arkansas when performing the work.

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5 SECTION 3. Arkansas Code § 26-51-504(a)(1), concerning the income tax
6 treatment of income from sources outside Arkansas, is amended to read as
7 follows:

8 (a)(1)(A) For purpose of ascertaining the income tax due by an
9 individual resident of Arkansas whose gross income includes income derived
10 from property located outside the State of Arkansas, or from business
11 transacted outside the State of Arkansas, the tax shall first be computed as
12 if all of the income of the resident were derived from sources within the
13 State of Arkansas, but a credit shall then be given on the tax as so
14 computed, for the amount of income tax actually owed by the resident for the
15 year to any other state or territory on account of income from property owned
16 or business transacted in the other state or territory. However, credit shall
17 not exceed what the tax would be on the outside income, if added to the
18 Arkansas income, and calculated at Arkansas income tax rates.

19 (B) Income from property located or business transacted in
20 another state or territory does not include work performed in this state as
21 provided in § 26-51-202(c).

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23 SECTION 4. Arkansas Code § 26-51-902(5), concerning the definitions
24 used under the Arkansas Income Tax Withholding Act of 1965, is amended to
25 read as follows:

26 (5) "Employer" means a person doing business in or deriving
27 income from sources within this state who has control of the payment of wages
28 to an individual for services performed, a person doing business in or
29 deriving income from sources outside this state who has control of the
30 payment of wages to an individual for services performed within this state,
31 or a person who is the officer or agent of the person having control of the
32 payment of wages;

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34 SECTION 5. Effective dates.

35 (a) Sections 2 and 3 of this act are effective for tax years beginning
36 on or after January 1, 2021.

1 (b) Section 4 of this act is effective on the first day of the
2 calendar month following the effective date of this act.

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4 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
5 General Assembly of the State of Arkansas that employers and employees face
6 unintended income taxation. Therefore, an emergency is declared to exist, and
7 this act being immediately necessary for the preservation of the public
8 peace, health, and safety shall become effective on:

9 (1) The date of its approval by the Governor;

10 (2) If the bill is neither approved nor vetoed by the Governor,
11 the expiration of the period of time during which the Governor may veto the
12 bill; or

13 (3) If the bill is vetoed by the Governor and the veto is
14 overridden, the date the last house overrides the veto.

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16 */s/J. Dismang*
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