

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H3/28/23

A Bill

HOUSE BILL 1045

5 By: Representatives Beaty Jr., Ray
6 By: Senator Gilmore
7

For An Act To Be Entitled

9 AN ACT TO ENHANCE ECONOMIC COMPETITIVENESS BY PHASING
10 OUT THE THROWBACK RULE; TO AMEND THE INCOME TAX
11 PROVISIONS CONCERNING THE APPORTIONMENT OF BUSINESS
12 INCOME; AND FOR OTHER PURPOSES.
13
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Subtitle

15 TO ENHANCE ECONOMIC COMPETITIVENESS BY
16 PHASING OUT THE THROWBACK RULE.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

23 (a) The General Assembly finds that:

24 (1) The income tax apportionment throwback rule causes the
25 Arkansas income tax to unduly burden job creation and investment in the
26 state, thus harming economic competitiveness, especially in comparison to
27 states that do not have a throwback rule or that do not impose an income tax;
28 and

29 (2) The Arkansas Tax Reform and Relief Legislative Task Force
30 recommended repeal of the throwback rule.

31 (b) The General Assembly intends to repeal the throwback rule to
32 encourage investment and job creation in Arkansas by multistate enterprises.
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34 SECTION 2. *Arkansas Code § 26-5-101, Article IV, paragraph 16,*
35 *concerning the division of income under the Multistate Tax Compact, is*
36 *amended to read as follows:*



1 16. Sales of tangible personal property are in this state
2 if:

3 (a) The property is delivered or shipped to a
4 purchaser, ~~other than the United States Government,~~ within this state
5 regardless of the f.o.b. point or other conditions of the sale; or

6 (b) The property is shipped from an office, store,
7 warehouse, factory, or other place of storage in this state and ~~(1) the~~
8 ~~purchaser is the United States Government or (2) the taxpayer is not taxable~~
9 ~~in the state of the purchaser, in which case the sales shall be sourced as~~
10 follows:

11 (1) For the tax year beginning on January 1,
12 2024, sales shall be sourced eighty percent (80%) within this state and
13 twenty percent (20%) outside this state;

14 (2) For the tax year beginning on January 1,
15 2025, sales shall be sourced sixty percent (60%) within this state and forty
16 percent (40%) outside this state;

17 (3) For the tax year beginning on January 1,
18 2026, sales shall be sourced forty percent (40%) within this state and sixty
19 percent (60%) outside this state;

20 (4) For the tax year beginning on January 1,
21 2027, sales shall be sourced twenty percent (20%) within this state and
22 eighty percent (80%) outside this state; and

23 (5) For tax years beginning on or after
24 January 1, 2028, sales shall be sourced one hundred percent (100%) outside
25 this state.

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27 SECTION 3. Arkansas Code § 26-51-716 is amended to read as follows:

28 26-51-716. Sales of tangible personal property.

29 Sales of tangible personal property are in this state if:

30 (a) the property is delivered or shipped to a purchaser, ~~other~~
31 ~~than the United States government,~~ within this state regardless of the f.o.b.
32 point or other conditions of the sale; or

33 (b) the property is shipped from an office, store, warehouse,
34 factory, or other place of storage in this state and ~~(1) the purchaser is the~~
35 ~~United States government or (2) the taxpayer is not taxable in the state of~~
36 ~~the purchaser, in which case the sales shall be sourced as follows:~~

1 (1) For the tax year beginning on January 1,
2 2024, sales shall be sourced eighty percent (80%) within this state and
3 twenty percent (20%) outside this state;

4 (2) For the tax year beginning on January 1,
5 2025, sales shall be sourced sixty percent (60%) within this state and forty
6 percent (40%) outside this state;

7 (3) For the tax year beginning on January 1,
8 2026, sales shall be sourced forty percent (40%) within this state and sixty
9 percent (60%) outside this state;

10 (4) For the tax year beginning on January 1,
11 2027, sales shall be sourced twenty percent (20%) within this state and
12 eighty percent (80%) outside this state; and

13 (5) For tax years beginning on or after
14 January 1, 2028, sales shall be sourced one hundred percent (100%) outside
15 this state.

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17 SECTION 4. EFFECTIVE DATE. Sections 2 and 3 of this act are effective
18 for tax years beginning on or after January 1, 2024.

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20 /s/Beaty Jr.
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