

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/19/99

A Bill

HOUSE BILL 1983

5 By: Representative Hausam
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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE §§ 26-51-202 AND 26-51-
10 802 TO CLARIFY PORTIONS OF THE ARKANSAS INCOME TAX LAW
11 REGARDING THE TAXATION OF NONRESIDENT PARTNERS OF
12 INVESTMENT PARTNERSHIPS; AND FOR OTHER PURPOSES."
13

Subtitle

14 "TO CLARIFY THE ARKANSAS INCOME TAX LAW
15 REGARDING THE TAXATION OF NONRESIDENT
16 PARTNERS OF INVESTMENT PARTNERSHIPS."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code 26-51-202 is amended to read as follows:

23 "26-51-202. Nonresidents.

24 (a) A tax is imposed and shall be assessed, levied, collected, and paid
25 annually, at the rates specified in § 26-51-201 upon and with respect to the
26 entire net income as defined in this chapter, except as hereinafter provided,
27 from all property owned and from every business, trade, or occupation carried
28 on in this state by individuals, corporations, partnerships, trusts, or
29 estates not residents of the State of Arkansas.

30 (b)(1) Each nonresident as defined in § 26-51-102(10) shall file income
31 tax returns with the State of Arkansas and pay the tax without distinction, or
32 incident to the laws of the nonresident's resident state.

33 (2) It is the specific intention of the General Assembly that the
34 tax shall be collected from property owned and from the conduct of every
35 business, trade, or occupation, whether or not the individuals, corporations,
36 partnerships, trusts, or estates are qualified to do business in the State of

1 Arkansas and whether or not such business, trade, or occupation shall be
2 conducted in interstate commerce.

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

6 (d) Additionally, no income tax shall be due the State of Arkansas from
7 a nonresident beneficiary on income received from a trust or estate being
8 administered by a resident trustee or personal representative except on income
9 derived by the trust or estate from:

10 (1) Lands situated in this state, including gains from any sale
11 thereof;

12 (2) Any interest in land situated in this state, including,
13 without limitation, chattels real, including gains from any sale thereof;

14 (3) Tangible personal property located in Arkansas, including
15 gains from any sale thereof; and

16 (4) Unincorporated businesses domiciled in Arkansas.

17 (e)(1) No income tax shall be due the State of Arkansas from a
18 nonresident partner with respect to the partner's distributive share of
19 dividends, interest, or gains and losses from qualifying investment securities
20 owned by an investment partnership, whether or not the partnership has a usual
21 place of business located in this state.

22 (2) For purposes of this subsection:

23 (A) An 'investment partnership' shall mean a partnership
24 that meets both the following requirements:

25 (i) No less than ninety percent (90%) of the value of
26 the partnership's total assets consist of qualifying investment securities and
27 office space and equipment reasonably necessary to carry on its activities as
28 an investment partnership; and

29 (ii) No less than ninety percent (90%) of its gross
30 income consists of interest, dividends, and gains from the sale or exchange of
31 qualifying investment securities; and

32 (B) 'Qualifying investment securities' include all of the
33 following:

34 (i) Common stock, including preferred or debt
35 securities convertible into common stock, and preferred stock;

36 (ii) Bonds, debenture, and other debt securities;

1 (iii) Deposits and any other obligations of banks and
2 other financial institutions;

3 (iv) Stock and bond index securities, futures
4 contracts, options on securities, and other similar financial securities and
5 instruments; and

6 (v) Other similar or related financial or investment
7 contracts, instruments or securities.

8 Qualifying investment securities shall not include an interest in a
9 partnership unless that partnership is itself an investment partnership."

10 (3) The provisions of subdivision (e)(1) shall not apply to
11 income derived from investment activity that is interrelated with any trade or
12 business activity of the nonresident or an entity in which the nonresident
13 owns an interest in this state, whose primary activities are separate and
14 distinct from the acts of acquiring, managing, or disposing of qualified
15 investment securities, or if those securities were acquired with working
16 capital of a trade or business activity conducted in this state in which the
17 nonresident owns an interest. Likewise, the provisions of subdivision (e)(1)
18 shall not apply to corporate partners of an investment partnership except as
19 provided by regulations adopted by the Director.

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21 SECTION 2. Arkansas Code 26-51-802(b), regarding the income tax returns
22 for partnerships, is amended to read as follows:

23 “(b) The provisions of § 26-51-702 are not applicable to partnerships.
24 ~~All~~ Subject to the provisions of Arkansas Code 26-51-202(e), all partnership
25 income from activities within the state shall be allocated to the state.”
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27 SECTION 3. All provisions of this act of a general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.
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31 SECTION 4. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.
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1 SECTION 5. All laws and parts of laws in conflict with this act are
2 hereby repealed.

3 */s/ Hausam*