

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

As Engrossed: S3/20/03

# A Bill

SENATE BILL 334

5 By: Senators Miller, Wooldridge, Glover  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS LAW TO CLARIFY THE  
10 DEDUCTION AVAILABLE TO A CORPORATION FOR INTEREST  
11 OR INTANGIBLE EXPENSES PAID TO A RELATED PARTY;  
12 AND FOR OTHER PURPOSES.  
13

## Subtitle

15 AN ACT TO CLARIFY THE DEDUCTION OF  
16 INTEREST OR INTANGIBLE EXPENSES PAID TO  
17 A RELATED PARTY.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 26-51-423, concerning the deduction  
23 of various expenses, is amended to add an additional subsection to read as  
24 follows:

25 (g)(1) A deduction pursuant to subsection (a)(1) of this section for  
26 interest or intangible related expenses paid by the taxpayer to a related  
27 party shall be allowed only if:

28 (A) The interest or intangible related income received by  
29 the related party:

30 (i) Is subject to income tax imposed by the State of  
31 Arkansas, another state, or a foreign government that has entered into a  
32 comprehensive income tax treaty with the United States government;

33 (ii) Was received:

34 (a) Pursuant to an arm's length contract at an  
35 arm's length rate of interest; and

36 (b) Pursuant to a transaction not intended to



1 avoid the payment of Arkansas income tax otherwise due;

2 (iii) Is subject to a written agreement between the  
3 taxpayer and the Director entered into prior to the due date of the  
4 taxpayer's Arkansas income tax return;

5 (a) Authorizing the taxpayer to take the  
6 deduction for the tax year at issue; or

7 (b) Requiring the use of an alternative method  
8 of income apportionment by the taxpayer for the tax year at issue; or

9 (B) During the taxable year, the related party recipient  
10 of interest or intangible related income in a location not described in

11 (g)(1)(A), the "non-tax location":

12 (i) Operates an active trade or business in the non-  
13 tax location;

14 (ii) Has a minimum of fifty (50) full-time  
15 equivalent employees in the non-tax location;

16 (iii) Owns real or tangible personal property with a  
17 fair market value in excess of one million dollars (\$1,000,000) located in  
18 the non-tax location; and

19 (iv) Has revenues generated from sources within the non-tax state  
20 in excess of one million dollars (\$1,000,000).

21 (2) "Related party" means a related party as defined by Section  
22 267 of the federal Internal Revenue Code of 1986, as in effect on January 1,  
23 2003.

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25 SECTION 2. This act applies to tax years beginning on or after January  
26 1, 2004.

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28 /s/ Miller

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