

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 *As Engrossed: S3/20/03 S3/25/03 S3/27/03*

2 84th General Assembly

# A Bill

3 Regular Session, 2003

SENATE BILL 334

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5 By: Senators Miller, Wooldridge, Glover

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## 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.

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## Subtitle

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

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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 § 26-51-423, 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 is subject to income tax imposed by the State of Arkansas,*  
30 *another state, or a foreign government that has entered into a comprehensive*  
31 *income tax treaty with the United States government;*

32 *(B) The interest or intangible-related income received by*  
33 *the related party was received:*

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

36 *(ii) Pursuant to a transaction not intended to avoid*



1 the payment of Arkansas income tax otherwise due;

2 (C) The taxpayer and the director enter into a written  
3 agreement prior to the due date of the taxpayer's Arkansas income tax return:

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

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

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

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

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

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

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

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

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

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23 SECTION 2. This act applies to tax years beginning on or after January  
24 1, 2004.

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26 /s/ Miller  
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