

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 87th General Assembly  
3 Regular Session, 2009

# A Bill

SENATE BILL 363

4  
5 By: Senator Teague  
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## For An Act To Be Entitled

8  
9 AN ACT TO AMEND ARKANSAS CODE § 26-51-423 TO  
10 CLARIFY THAT A DEDUCTION FOR INTEREST OR  
11 INTANGIBLE-RELATED EXPENSES PAID BY THE TAXPAYER  
12 TO A RELATED PARTY REQUIRES AN ARM'S LENGTH  
13 CONTRACT OR AN ARM'S LENGTH RATE OF INTEREST.  
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## Subtitle

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16  
17 TO CLARIFY THE REQUIREMENTS FOR  
18 DEDUCTION FOR INTEREST OR INTANGIBLE-  
19 RELATED EXPENSES PAID BY A TAXPAYER TO A  
20 RELATED PARTY.  
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22  
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 26-51-423(g)(1), concerning a deduction for  
26 interest or intangible-related expenses, is amended to read as follows:

27 (g)(1) A deduction pursuant to subdivision (a)(1) of this section for  
28 interest or intangible-related expenses paid by the taxpayer to a related  
29 party shall be allowed only if the interest or intangible-related income  
30 received by the related party was received pursuant to an arm's length  
31 contract or at an arm's length rate of interest and is a transaction not  
32 intended to avoid payment of Arkansas income tax due and:

33 (A) The interest or intangible-related income received by  
34 the related party is subject to income tax imposed by the State of Arkansas,  
35 another state, or a foreign government that has entered into a comprehensive  
36 income tax treaty with the United States;



1                   ~~(B) The interest or intangible related income received by~~  
2 ~~the related party was received pursuant to:~~

3                                 ~~(i) An “arm’s length” contract or at an “arm’s~~  
4 ~~length” rate of interest; and~~

5                                 ~~(ii) A transaction not intended to avoid the payment~~  
6 ~~of Arkansas income tax otherwise due;~~

7                   ~~(C)~~(B) The taxpayer and the director enter into a written  
8 agreement prior to the due date of the taxpayer’s Arkansas income tax return:

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

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

13                   ~~(D)~~(C) During the taxable year, the related party recipient  
14 of interest or intangible related income, in a location not described in  
15 subdivision (g)(1)(A) of this section, a “non-tax location”:

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

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

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

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

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26           SECTION 2. This act is effective for tax years beginning on or after  
27 January 1, 2009.

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