

1 State of Arkansas *As Engrossed: H3/28/23 H4/3/23*

2 94th General Assembly

A Bill

3 Regular Session, 2023

HOUSE BILL 1045

4

5 By: Representatives Beaty Jr., Ray, Achor, Andrews, Barker, Beck, Bentley, M. Berry, Brooks, K. Brown,
6 Burkes, Joey Carr, Cavenaugh, C. Cooper, Cozart, Crawford, Dalby, Duffield, Eaves, Eubanks, Evans,
7 C. Fite, L. Fite, Fortner, Furman, Gazaway, Gramlich, Haak, Hawk, G. Hodges, Holcomb, Hollowell,
8 Jean, L. Johnson, Ladyman, Long, Lundstrum, Lynch, Maddox, McAlindon, McClure, McCollum, B.
9 McKenzie, S. Meeks, Miller, Milligan, J. Moore, K. Moore, Painter, Pilkington, Puryear, R. Scott
10 Richardson, Richmond, Rose, Rye, M. Shepherd, Steimel, Tosh, Underwood, Unger, Vaught, Walker,
11 Wardlaw, Warren, Watson, Womack, Wooten
12 By: Senators Gilmore, Hester, Hill, B. Johnson

13

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For An Act To Be Entitled

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AN ACT TO ENHANCE ECONOMIC COMPETITIVENESS BY PHASING
16 OUT THE THROWBACK RULE; TO AMEND THE INCOME TAX
17 PROVISIONS CONCERNING THE APPORTIONMENT OF BUSINESS
18 INCOME; AND FOR OTHER PURPOSES.

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Subtitle

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TO ENHANCE ECONOMIC COMPETITIVENESS BY
23 PHASING OUT THE THROWBACK RULE.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. DO NOT CODIFY. Legislative findings and intent.

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(a) The General Assembly finds that:

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(1) The income tax apportionment throwback rule causes the

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Arkansas income tax to unduly burden job creation and investment in the

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state, thus harming economic competitiveness, especially in comparison to

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states that do not have a throwback rule or that do not impose an income tax;

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and

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(2) The Arkansas Tax Reform and Relief Legislative Task Force

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recommended repeal of the throwback rule.



1 (b) The General Assembly intends to repeal the throwback rule to
2 encourage investment and job creation in Arkansas by multistate enterprises.

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4 SECTION 2. Arkansas Code § 26-5-101, Article IV, paragraph 16,
5 concerning the division of income under the Multistate Tax Compact, is
6 amended to read as follows:

7 16. Sales of tangible personal property are in this state
8 if:

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

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

17 (1) For the tax year beginning on January 1,
18 2024, sales shall be sourced eighty-five and seventy-one hundredths percent
19 (85.71%) within this state and fourteen and twenty-nine hundredths percent
20 (14.29%) outside this state;

21 (2) For the tax year beginning on January 1,
22 2025, sales shall be sourced seventy-one and forty-two hundredths percent
23 (71.42%) within this state and twenty-eight and fifty-eight hundredths
24 percent (28.58%) outside this state;

25 (3) For the tax year beginning on January 1,
26 2026, sales shall be sourced fifty-seven and thirteen hundredths percent
27 (57.13%) within this state and forty-two and eighty-seven hundredths percent
28 (42.87%) outside this state;

29 (4) For the tax year beginning on January 1,
30 2027, sales shall be sourced forty-two and eighty-four hundredths percent
31 (42.84%) within this state and fifty-seven and sixteen hundredths percent
32 (57.16%) outside this state;

33 (5) For the tax year beginning on January 1,
34 2028, sales shall be sourced twenty-eight and fifty-five hundredths percent
35 (28.55%) within this state and seventy-one and forty-five hundredths percent
36 (71.45%) outside this state;

1 (6) For the tax year beginning on January 1,
2 2029, sales shall be sourced fourteen and twenty-six hundredths percent
3 (14.26%) within this state and eighty-five and seventy-four hundredths
4 percent (85.74%) outside this state; and

5 (7) For tax years beginning on or after
6 January 1, 2030, sales shall be sourced one hundred percent (100%) outside
7 this state.

8
9 SECTION 3. Arkansas Code § 26-51-716 is amended to read as follows:
10 26-51-716. Sales of tangible personal property.

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

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

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

19 (1) For the tax year beginning on January 1,
20 2024, sales shall be sourced eighty-five and seventy-one hundredths percent
21 (85.71%) within this state and fourteen and twenty-nine hundredths percent
22 (14.29%) outside this state;

23 (2) For the tax year beginning on January 1, 2025, sales
24 shall be sourced seventy-one and forty-two hundredths percent (71.42%) within
25 this state and twenty-eight and fifty-eight hundredths percent (28.58%)
26 outside this state;

27 (3) For the tax year beginning on January 1, 2026, sales
28 shall be sourced fifty-seven and thirteen hundredths percent (57.13%) within
29 this state and forty-two and eighty-seven hundredths percent (42.87%) outside
30 this state;

31 (4) For the tax year beginning on January 1, 2027, sales
32 shall be sourced forty-two and eighty-four hundredths percent (42.84%) within
33 this state and fifty-seven and sixteen hundredths percent (57.16%) outside
34 this state;

35 (5) For the tax year beginning on January 1, 2028, sales
36 shall be sourced twenty-eight and fifty-five hundredths percent (28.55%)

1 within this state and seventy-one and forty-five hundredths percent (71.45%)
2 outside this state;

3 (6) For the tax year beginning on January 1, 2029, sales
4 shall be sourced fourteen and twenty-six hundredths percent (14.26%) within
5 this state and eighty-five and seventy-four hundredths percent (85.74%)
6 outside this state; and

7 (7) For tax years beginning on or after January 1, 2030,
8 sales shall be sourced one hundred percent (100%) outside this state.

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

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13 /s/Beaty Jr.
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16 **APPROVED: 4/10/23**
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