

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

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OUT THE THROWBACK RULE; TO AMEND THE INCOME TAX

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PROVISIONS CONCERNING THE APPORTIONMENT OF BUSINESS

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INCOME; AND FOR OTHER PURPOSES.

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## Subtitle

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TO ENHANCE ECONOMIC COMPETITIVENESS BY

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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.

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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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