

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
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As Engrossed: S2/20/13
A Bill

SENATE BILL 253

By: Senator Hester

For An Act To Be Entitled

AN ACT TO REQUIRE PARTNERSHIPS TO APPORTION INCOME FROM UNITARY BUSINESS ACTIVITIES BOTH WITHIN AND WITHOUT ARKANSAS FOR THE PURPOSE OF DETERMINING THE PROPER AMOUNT OF INCOME TO ALLOCATE TO ARKANSAS; TO MAKE TECHNICAL CORRECTIONS; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE THE USE OF APPORTIONMENT FACTORS TO DETERMINE THE AMOUNT OF PARTNERSHIP INCOME TO BE ALLOCATED TO ARKANSAS.

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

*SECTION 1. Arkansas Code § 26-51-405 is amended to read as follows:
26-51-405. Partnership income.*

(a)(1) An individual or entity carrying on business as a partner in a partnership shall be liable for income tax on only ~~in his or her individual capacity and shall include in his or her gross income~~ the distributive share of the net income or net loss of the partnership received by ~~him or her~~ the partner or distributable to ~~him or her~~ the partner during the income year.

~~(b)~~ (2) The partner shall report all deductions or credits distributable to ~~him or her personally~~ the partner as a partner in the partnership.

~~(c)~~ (3) A partner's distributive share of partnership loss shall be allowed only to the extent of the adjusted basis of the partner's interest in the partnership at the end of the partnership year in which the loss



occurred.

~~(d)~~ (4) Any excess of the loss over the basis shall be allowed as a deduction at the end of the partnership year in which the excess is repaid to the partnership.

(b)(1) The distributive share of the net income that is received by a partner from a partnership shall be allocated to Arkansas and included by the partner in the partner's gross income for the income year.

(2) The distributive share of the net income that is received by a partner from a partnership that derives income from activities both within and without this state is the partner's share of the amount resulting from the calculation using the apportionment method described in § 26-51-802(c)(2).

SECTION 2. Arkansas Code § 26-51-802 is amended to read as follows:

26-51-802. Partnership returns.

(a) A partnership shall be classified and taxed for Arkansas income tax purposes in the same manner as ~~it~~ the partnership is classified and taxed for federal income tax purposes.

(b)(1) ~~Every~~ A partnership filing an Arkansas partnership return shall state specifically the items of ~~its~~ the partnership's gross income and the deductions allowed by the Income Tax Act of 1929 and shall include in the return the names and addresses of individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual.

(2) ~~The returns~~ return required under subdivision (b)(1) of this section shall be sworn to by one (1) of the partners.

(c)(1) ~~The provisions of § 26-51-702 are not applicable to partnerships filing Arkansas partnership returns.~~

~~(2)~~ Subject to ~~the provisions of~~ § 26-51-202(e), all partnership income from business activities solely within this state that is reflected on a partnership return shall be allocated to this state.

(2)(A) A partnership that has income from business activities both within and without this state shall use the apportionment method described in §§ 26-51-702 – 26-51-717 to determine the amount of the income to be allocated to this state and reported on the partnership return required under subdivision (b)(1) of this section.

(B) In accordance with § 26-51-718, the Director of the Department of Finance and Administration may require or a taxpayer may request a modification of the apportionment method applied in §§ 26-51-702 – 26-51-717 to accurately reflect the partnership's income based on the partnership's business activity in this state.

(3) Each partner's distributive share of the partnership income allocated to Arkansas shall be included in the gross income of the partner as provided in § 26-51-405.

SECTION 3. EFFECTIVE DATE. This act is effective for tax years beginning on or after January 1, 2013.

/s/Hester