

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S4/21/21
A Bill

SENATE BILL 484

By: Senator J. Dismang
By: Representative Jett

For An Act To Be Entitled

AN ACT CONCERNING THE TAXATION OF NONRESIDENT INCOME;
TO CLARIFY THE ALLOCATION OF NONRESIDENT INCOME FOR
ARKANSAS INCOME TAX PURPOSES; TO DECLARE AN
EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

*TO CLARIFY THE ALLOCATION OF NONRESIDENT
INCOME FOR ARKANSAS INCOME TAX PURPOSES;
AND TO DECLARE AN EMERGENCY.*

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

SECTION 1. DO NOT CODIFY. Legislative intent.

It is the intent of the General Assembly to clarify that nonresident income is allocated based on where the employee is located when performing the work associated with the income.

SECTION 2. Arkansas Code § 26-51-202(c), concerning the payment of income tax by nonresidents, is amended to read as follows:

(c)(1) However, the payment of the tax shall be based upon net income properly allocated as net income arising from the ownership of property and the conduct of a business, trade, or occupation in the State of Arkansas.

(2) A nonresident individual who is paid a salary, lump sum payment, or any other form of payment that encompasses work performed both inside and outside of Arkansas shall pay Arkansas income tax only on the portion of the individual's income that reasonably can be allocated to work



performed in Arkansas.

(3) A nonresident individual performs work in Arkansas when that individual is physically located in Arkansas when performing the work.

SECTION 3. Arkansas Code § 26-51-504(a)(1), concerning the income tax treatment of income from sources outside Arkansas, is amended to read as follows:

(a)(1)(A) For purpose of ascertaining the income tax due by an individual resident of Arkansas whose gross income includes income derived from property located outside the State of Arkansas, or from business transacted outside the State of Arkansas, the tax shall first be computed as if all of the income of the resident were derived from sources within the State of Arkansas, but a credit shall then be given on the tax as so computed, for the amount of income tax actually owed by the resident for the year to any other state or territory on account of income from property owned or business transacted in the other state or territory. However, credit shall not exceed what the tax would be on the outside income, if added to the Arkansas income, and calculated at Arkansas income tax rates.

(B) Income from property located or business transacted in another state or territory does not include work performed in this state as provided in § 26-51-202(c).

SECTION 4. Arkansas Code § 26-51-902(5), concerning the definitions used under the Arkansas Income Tax Withholding Act of 1965, is amended to read as follows:

(5) "Employer" means a person doing business in or deriving income from sources within this state who has control of the payment of wages to an individual for services performed, a person doing business in or deriving income from sources outside this state who has control of the payment of wages to an individual for services performed within this state, or a person who is the officer or agent of the person having control of the payment of wages;

SECTION 5. Effective dates.

(a) Sections 2 and 3 of this act are effective for tax years beginning on or after January 1, 2021.

(b) Section 4 of this act is effective on the first day of the calendar month following the effective date of this act.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that employers and employees face unintended income taxation. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/J. Dismang