

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

D

HOUSE DRH30329-LCx-112 (4/8)

Short Title: Modified Throwback Rule. (Public)

Sponsors: Representative Luebke.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT IN APPORTIONING CORPORATE INCOME TO THIS STATE FOR TAX PURPOSES, ONE-HALF OF THE AMOUNT OF SALES DELIVERED TO ANOTHER STATE WHERE THEY ARE NOT TAXABLE WILL BE TREATED AS SALES IN THIS STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.4(l) reads as rewritten:

"(l) (1) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Notwithstanding any other provision under this Part, the receipts from any casual sale of property shall be excluded from both the numerator and the denominator of the sales factor. Where a corporation is not taxable in another state on its business income but is taxable in another state only because of nonbusiness income, all sales shall be treated as having been made in this State.

(2) Sales of tangible personal property are in this State if the property is received in this State by ~~the purchaser~~, a purchaser other than the United States government. In addition, an amount equal to one-half of a sale of tangible personal property is in this State if the property is shipped from a place in this State and the purchaser is the United States government or the taxpayer is not taxable in the state of the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at

1 which the goods are received by the purchaser. Direct delivery into
2 this State by the taxpayer to a person or firm designated by a purchaser
3 from within or without the State shall constitute delivery to the
4 purchaser in this State.

5 (3) Other sales are in this State if:

6 a. The receipts are from real or tangible personal property located
7 in this State; or

8 b. The receipts are from intangible property and are received from
9 sources within this State; or

10 c. The receipts are from services and the income-producing
11 activities are in this State."

12 **SECTION 2.** This act becomes effective for taxable years beginning on or
13 after January 1, 2004.