

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1317

Short Title: Modified Throwback Rule. (Public)

Sponsors: Representatives Luebke; L. Allen, Bordsen, Carney, Coates, Earle, England, Farmer-Butterfield, Glazier, Goforth, Hackney, Insko, Jeffus, C. Johnson, Jones, Miller, Nesbitt, Parmon, Rapp, Ross, and Weiss.

Referred to: Finance.

May 15, 2003

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT IN APPORTIONING CORPORATE INCOME TO
2 THIS STATE FOR TAX PURPOSES, ONE-HALF OF THE AMOUNT OF SALES
3 DELIVERED TO ANOTHER STATE WHERE THEY ARE NOT TAXABLE
4 WILL BE TREATED AS SALES IN THIS STATE.
5

6 The General Assembly of North Carolina enacts:

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

8 "(1) (1) The sales factor is a fraction, the numerator of which is the total sales
9 of the corporation in this State during the income year, and the
10 denominator of which is the total sales of the corporation everywhere
11 during the income year. Notwithstanding any other provision under
12 this Part, the receipts from any casual sale of property shall be
13 excluded from both the numerator and the denominator of the sales
14 factor. Where a corporation is not taxable in another state on its
15 business income but is taxable in another state only because of
16 nonbusiness income, all sales shall be treated as having been made in
17 this State.

18 (2) Sales of tangible personal property are in this State if the property is
19 received in this State by ~~the purchaser.~~ a purchaser other than the
20 United States government. In addition, an amount equal to one-half of
21 a sale of tangible personal property is in this State if the property is
22 shipped from a place in this State and the purchaser is the United
23 States government or the taxpayer is not taxable in the state of the
24 purchaser. In the case of delivery of goods by common carrier or by
25 other means of transportation, including transportation by the
26 purchaser, the place at which the goods are ultimately received after all
27 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.