

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1379

Short Title: Income Tax Throwback Rule.

(Public)

Sponsors: Representatives Insko and Luebke (Primary Sponsors).

Referred to: Finance.

April 25, 2001

A BILL TO BE ENTITLED

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2 AN ACT TO PROVIDE THAT IN APPORTIONING CORPORATE INCOME TO
3 THIS STATE FOR TAX PURPOSES, SALES DELIVERED TO ANOTHER
4 STATE WHERE THEY ARE NOT TAXABLE ARE TREATED AS SALES IN
5 THIS STATE.

6 The General Assembly of North Carolina enacts:

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

8 "(l) (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 (i) the property is
19 received in this State by ~~the purchaser~~ a purchaser other than the
20 United States government, or (ii) the property is shipped from a place
21 in this State and the purchaser is the United States government or the
22 taxpayer is not taxable in the state of the purchaser. In the case of
23 delivery of goods by common carrier or by other means of
24 transportation, including transportation by the purchaser, the place at
25 which the goods are ultimately received after all transportation has
26 been completed shall be considered as the place at which the goods are
27 received by the purchaser. Direct delivery into this State by the

- 1 taxpayer to a person or firm designated by a purchaser from within or
2 without the State shall constitute delivery to the purchaser in this State.
3 (3) Other sales are in this State if:
4 a. The receipts are from real or tangible personal property located
5 in this State; or
6 b. The receipts are from intangible property and are received from
7 sources within this State; or
8 c. The receipts are from services and the income-producing
9 activities are in this State."
10 **SECTION 2.** This act is effective for taxable years beginning on or after
11 January 1, 2002.