

REFERENCE TITLE: corporate tax; business income; allocation.

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2680**

Introduced by  
Representatives De Los Santos: Aguilar, Contreras P, Gutierrez, Ortiz,  
Salman, Sandoval, Stahl Hamilton, Sun, Travers, Senator Mendez

AN ACT

AMENDING SECTIONS 43-1139 AND 43-1147, ARIZONA REVISED STATUTES; RELATING  
TO CORPORATE INCOME TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 43-1139, Arizona Revised Statutes, is amended to  
3 read:  
4 43-1139. Allocation of business income  
5 A. Except as provided in subsection B of this section, the taxpayer  
6 shall elect to apportion all business income to this state for taxable  
7 years beginning from and after:  
8 1. December 31, 2006 through December 31, 2007 by either:  
9 (a) Multiplying the income by a fraction, the numerator of which is  
10 the property factor plus the payroll factor plus two times the sales  
11 factor, and the denominator of which is four.  
12 (b) Multiplying the income by a fraction, the numerator of which is  
13 two times the property factor plus two times the payroll factor plus six  
14 times the sales factor, and the denominator of which is ten.  
15 2. December 31, 2007 through December 31, 2008 by either:  
16 (a) Multiplying the income by a fraction, the numerator of which is  
17 the property factor plus the payroll factor plus two times the sales  
18 factor, and the denominator of which is four.  
19 (b) Multiplying the income by a fraction, the numerator of which is  
20 one and one-half times the property factor plus one and one-half times the  
21 payroll factor plus seven times the sales factor, and the denominator of  
22 which is ten.  
23 3. December 31, 2008 through December 31, 2013 by either:  
24 (a) Multiplying the income by a fraction, the numerator of which is  
25 the property factor plus the payroll factor plus two times the sales  
26 factor, and the denominator of which is four.  
27 (b) Multiplying the income by a fraction, the numerator of which is  
28 the property factor plus the payroll factor plus eight times the sales  
29 factor, and the denominator of which is ten.  
30 4. December 31, 2013 through December 31, 2014 by either:  
31 (a) Multiplying the income by a fraction, the numerator of which is  
32 the property factor plus the payroll factor plus two times the sales  
33 factor, and the denominator of which is four.  
34 (b) Multiplying the income by a fraction, the numerator of which is  
35 seven and one-half times the property factor plus seven and one-half times  
36 the payroll factor plus eighty-five times the sales factor, and the  
37 denominator of which is one hundred.  
38 5. December 31, 2014 through December 31, 2015 by either:  
39 (a) Multiplying the income by a fraction, the numerator of which is  
40 the property factor plus the payroll factor plus two times the sales  
41 factor, and the denominator of which is four.  
42 (b) Multiplying the income by a fraction, the numerator of which is  
43 five times the property factor plus five times the payroll factor plus  
44 ninety times the sales factor, and the denominator of which is one  
45 hundred.

1           6. December 31, 2015 through December 31, 2016 by either:

2           (a) Multiplying the income by a fraction, the numerator of which is  
3 the property factor plus the payroll factor plus two times the sales  
4 factor, and the denominator of which is four.

5           (b) Multiplying the income by a fraction, the numerator of which is  
6 two and one-half times the property factor plus two and one-half times the  
7 payroll factor plus ninety-five times the sales factor, and the  
8 denominator of which is one hundred.

9           7. December 31, 2016 **THROUGH DECEMBER 31, 2023** by either:

10           (a) Multiplying the income by a fraction, the numerator of which is  
11 the property factor plus the payroll factor plus two times the sales  
12 factor, and the denominator of which is four.

13           (b) Multiplying the income by the sales factor.

14           **8. DECEMBER 31, 2023 BY MULTIPLYING THE INCOME BY A FRACTION, THE**  
15 **NUMERATOR OF WHICH IS THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO**  
16 **TIMES THE SALES FACTOR, AND THE DENOMINATOR OF WHICH IS FOUR.**

17           B. All business income of a taxpayer engaged in air commerce shall  
18 be apportioned to this state by multiplying the income by a fraction, the  
19 numerator of which is the revenue aircraft miles flown within this state  
20 for flights beginning or ending in this state and the denominator of which  
21 is the total revenue aircraft miles flown by the taxpayer's aircraft  
22 everywhere. This subsection applies to each taxpayer, including a  
23 combined group filing a combined return or an affiliated group electing to  
24 file a consolidated return under section 43-947, if fifty ~~per cent~~ **PERCENT**  
25 or more of that taxpayer's gross income is derived from air commerce. For  
26 the purposes of this subsection:

27           1. "Air commerce" means transporting persons or property for hire  
28 by aircraft in interstate, intrastate or international transportation.

29           2. "Revenue aircraft miles flown" has the same meaning prescribed  
30 by the United States department of transportation uniform system of  
31 accounts and reports for large certificated air carriers (14 Code of  
32 Federal Regulations part 241).

33           Sec. 2. Section 43-1147, Arizona Revised Statutes, is amended to  
34 read:

35           **43-1147. Situs of sales of other than tangible personal**  
36 **property; rules; definitions**

37           A. **FOR TAXABLE YEARS BEGINNING BEFORE DECEMBER 31, 2023**, except as  
38 provided by subsection B of this section, sales, other than sales of  
39 tangible personal property, are in this state if either of the following  
40 applies:

41           1. The income-producing activity is performed in this state.

42           2. The income-producing activity is performed both in and outside  
43 this state and a greater proportion of the income-producing activity is  
44 performed in this state than in any other state, based on costs of  
45 performance.

1 B. For taxable years beginning from and after December 31, 2013  
2 THROUGH DECEMBER 31, 2023, a multistate service provider may elect to  
3 treat sales from services as being in this state based on a combination of  
4 income-producing activity sales and market sales. If the election under  
5 this subsection is made pursuant to subsection ~~E~~ F of this section, the  
6 sales of services that are in this state shall be determined for taxable  
7 years beginning from and after:

8 1. December 31, 2013 through December 31, 2014, by the sum of the  
9 following:

- 10 (a) Eighty-five percent of the market sales.
- 11 (b) Fifteen percent of the income-producing activity sales.

12 2. December 31, 2014 through December 31, 2015, by the sum of the  
13 following:

- 14 (a) Ninety percent of the market sales.
- 15 (b) Ten percent of the income-producing activity sales.

16 3. December 31, 2015 through December 31, 2016, by the sum of the  
17 following:

- 18 (a) Ninety-five percent of the market sales.
- 19 (b) Five percent of the income-producing activity sales.

20 4. December 31, 2016 THROUGH DECEMBER 31, 2023, by one hundred  
21 percent of the market sales.

22 C. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2023,  
23 SALES, OTHER THAN SALES OF TANGIBLE PERSONAL PROPERTY, ARE IN THIS STATE  
24 IF THE TAXPAYER'S MARKET FOR THE SALES IS IN THIS STATE. THE TAXPAYER'S  
25 MARKET FOR SALES IS IN THIS STATE AS FOLLOWS:

26 1. FOR THE SALE, RENTAL, LEASE OR LICENSE OF REAL PROPERTY, IF AND  
27 TO THE EXTENT THE PROPERTY IS LOCATED IN THIS STATE.

28 2. FOR THE RENTAL, LEASE OR LICENSE OF TANGIBLE PERSONAL PROPERTY,  
29 IF AND TO THE EXTENT THE PROPERTY IS LOCATED IN THIS STATE. EXCEPT FOR  
30 TRANSPORTATION PROPERTY, THE LOCATION OF THE PROPERTY IS DETERMINED WHEN  
31 THE PROPERTY IS FIRST PLACED IN SERVICE BY THE LESSEE. FOR TRANSPORTATION  
32 PROPERTY, THE PROPERTY IS LOCATED IN THIS STATE TO THE EXTENT THE PROPERTY  
33 IS USED IN THIS STATE. AN AIRCRAFT IS DEEMED TO BE USED IN THIS STATE  
34 BASED ON A FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF LANDINGS OF  
35 THE AIRCRAFT IN THIS STATE AND THE DENOMINATOR OF WHICH IS THE TOTAL  
36 NUMBER OF LANDINGS OF THE AIRCRAFT.

37 3. FOR INTEREST, FEES AND PENALTIES, IN CONNECTION WITH LOANS  
38 SECURED BY REAL PROPERTY AND THE SALE OF THE LOANS SECURED BY REAL  
39 PROPERTY, THE MARKET IS IN THIS STATE IF THE PROPERTY IS LOCATED IN THIS  
40 STATE. THE DETERMINATION OF REAL PROPERTY SECURING A LOAN IS MADE AT THE  
41 TIME OF THE ORIGINAL AGREEMENT WITHOUT REGARD TO SUBSEQUENT SUBSTITUTIONS  
42 OF COLLATERAL.

43 4. FOR INTEREST, FEES AND PENALTIES IN CONNECTION WITH LOANS NOT  
44 SECURED BY REAL PROPERTY AND THE SALE OF THE LOANS NOT SECURED BY REAL

1 PROPERTY, THE MARKET IS IN THIS STATE IF THE BORROWER IS LOCATED IN THIS  
2 STATE.

3 5. FOR INTEREST, DIVIDENDS AND OTHER INCOME FROM INVESTMENT AND  
4 TRADING ASSETS AND ACTIVITIES, THE MARKET IS IN THIS STATE IF THE ASSET IS  
5 PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS OF THE TAXPAYER IN THIS  
6 STATE. AN ASSET IS PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS IN  
7 THIS STATE IF THE TRADING POLICIES OR GUIDELINES WITH RESPECT TO THE ASSET  
8 OR ACTIVITY ARE ESTABLISHED IN THIS STATE. THE MARKET FOR THE SALE OF THE  
9 INVESTMENT OR TRADING ASSETS IS IN THIS STATE IF THE CUSTOMER IS IN THIS  
10 STATE.

11 6. FOR THE SALE OF A SERVICE, IF AND TO THE EXTENT THE SERVICE IS  
12 DELIVERED TO A LOCATION IN THIS STATE.

13 7. FOR INTANGIBLE PROPERTY THAT IS:

14 (a) RENTED, LEASED OR LICENSED, IF AND TO THE EXTENT THE PROPERTY  
15 IS USED IN THIS STATE, EXCEPT INTANGIBLE PROPERTY USED IN MARKETING A GOOD  
16 OR SERVICE TO A CONSUMER, IS USED IN THIS STATE IF THAT GOOD OR SERVICE IS  
17 PURCHASED BY A CONSUMER WHO IS IN THIS STATE.

18 (b) SOLD, IF AND TO THE EXTENT THE PROPERTY IS USED IN THIS STATE,  
19 EXCEPT:

20 (i) A CONTRACT RIGHT, GOVERNMENT LICENSE OR SIMILAR INTANGIBLE  
21 PROPERTY THAT AUTHORIZES THE HOLDER TO CONDUCT A BUSINESS ACTIVITY IN A  
22 SPECIFIC GEOGRAPHIC AREA IS USED IN THIS STATE IF THE GEOGRAPHIC AREA  
23 INCLUDES ALL OR PART OF THIS STATE.

24 (ii) RECEIPTS FROM INTANGIBLE PROPERTY SALES THAT ARE CONTINGENT ON  
25 THE PRODUCTIVITY, USE OR DISPOSITION OF THE INTANGIBLE PROPERTY SHALL BE  
26 TREATED AS RECEIPTS FROM THE RENTAL, LEASE OR LICENSING OF SUCH INTANGIBLE  
27 PROPERTY UNDER SUBDIVISION (a) OF THIS PARAGRAPH.

28 (iii) UNLESS OTHERWISE PROVIDED IN THIS SECTION, ALL OTHER RECEIPTS  
29 FROM A SALE OF INTANGIBLE PROPERTY SHALL BE EXCLUDED FROM THE NUMERATOR  
30 AND DENOMINATOR OF THE SALES FACTOR.

31 D. IF THE STATE OR STATES OF ASSIGNMENT UNDER SUBSECTION C OF THIS  
32 SECTION CANNOT BE DETERMINED, THE STATE OR STATES OF ASSIGNMENT SHALL BE  
33 REASONABLY APPROXIMATED.

34 E. IF THE TAXPAYER IS NOT TAXABLE IN A STATE TO WHICH A RECEIPT IS  
35 ASSIGNED UNDER SUBSECTION C OR D OF THIS SECTION, OR IF THE STATE OF  
36 ASSIGNMENT CANNOT BE DETERMINED UNDER SUBSECTION C OF THIS SECTION OR  
37 REASONABLY APPROXIMATED UNDER SUBSECTION D OF THIS SECTION, THE RECEIPT  
38 SHALL BE EXCLUDED FROM THE DENOMINATOR OF THE SALES FACTOR.

39 ~~E.~~ F. A multistate service provider may elect to treat sales from  
40 services as being in this state under subsection B of this section as  
41 follows:

42 1. The election must be made on the taxpayer's timely filed  
43 original income tax return. The election is:

44 (a) Effective retroactively for the full taxable year of the income  
45 tax return on which the election is made.

1 (b) Binding on the taxpayer for at least five consecutive taxable  
2 years, regardless of whether the taxpayer no longer meets the percentage  
3 threshold of a multistate service provider during that time period, except  
4 as provided by paragraph 2 of this subsection. To continue with the  
5 election after five consecutive taxable years, the taxpayer must meet the  
6 qualifications to be considered a multistate service provider and renew  
7 the election for another five consecutive taxable years.

8 2. During the election period, the election may be terminated as  
9 follows:

10 (a) Without the permission of the department on the acquisition or  
11 merger of the taxpayer.

12 (b) With the permission of the department before the expiration of  
13 five consecutive taxable years.

14 ~~D.~~ G. For a multistate service provider under subsection ~~F~~ I,  
15 paragraph 3, subdivision (b) of this section, an election under subsection  
16 B of this section is limited to the treatment of sales for educational  
17 services. For a multistate service provider under subsection ~~F~~ I,  
18 paragraph 3, subdivision (c) of this section, an election under subsection  
19 B of this section is limited to the treatment of sales for support  
20 services, the payment for which is a percentage of the sales for  
21 educational services generated by a regionally accredited institution of  
22 higher education.

23 H. THE DEPARTMENT SHALL ADOPT RULES AS NECESSARY FOR THE PURPOSES  
24 OF THIS SECTION.

25 ~~F.~~ I. For the purposes of this section:

26 1. "Income-producing activity sales" means the total sales from  
27 services that are sales in this state under subsection A of this section.

28 2. "Market sales" means the total sales from services and sales ~~of~~  
29 FROM intangibles, as defined in paragraph 3, subdivision (a) of this  
30 subsection, for which the purchaser received the benefit of the service or  
31 intangibles in this state.

32 3. "Multistate service provider" means any of the following:

33 (a) A taxpayer that derives more than eighty-five percent of its  
34 sales from services or sales from intangibles provided to purchasers who  
35 receive the benefit of the service or intangibles outside this state in  
36 the taxable year of election, and includes all taxpayers required to file  
37 a combined report pursuant to section 43-942 and all members of an  
38 affiliated group included in a consolidated return pursuant to section  
39 43-947. In calculating the eighty-five percent, sales to students  
40 receiving educational services at campuses physically located in this  
41 state shall be excluded from the calculation. For the purposes of this  
42 subdivision, "sales from intangibles" means sales derived from credit and  
43 charge card receivables, including fees, merchant discounts, interchanges,  
44 interest and related revenue.

1 (b) A taxpayer that is a regionally accredited institution of  
2 higher education with at least one university campus in this state that  
3 has more than two thousand students residing on the campus, and includes  
4 all taxpayers required to file a combined report pursuant to section  
5 43-942 and all members of an affiliated group included in a consolidated  
6 return pursuant to section 43-947.

7 (c) A taxpayer that has more than two thousand employees in this  
8 state and that derives more than eighty-five percent of its sales from  
9 support services provided to a regionally accredited institution of higher  
10 education, and includes all taxpayers required to file a combined report  
11 pursuant to section 43-942 and all members of an affiliated group included  
12 in a consolidated return pursuant to section 43-947.

13 4. "Received the benefit of the service in this state" means the  
14 services are received by the purchaser in this state. If the state where  
15 the services are received cannot be readily determined, the services are  
16 considered to be received at the home of the customer or, in the case of a  
17 business, the office of the customer from which the services were ordered  
18 in the regular course of the customer's trade or business. If the  
19 ordering location cannot be determined, the services are considered to be  
20 received at the home or office of the customer to which the services were  
21 billed. In the case of a multistate service provider under paragraph 3,  
22 subdivision (c) of this subsection, the benefit of support services shall  
23 be deemed received at the billing address of the student to which the  
24 services relate.

25 5. "Sales for educational services" means tuition and fees required  
26 for enrollment and fees required for courses of instruction, transcripts  
27 and graduation.