

Conference Engrossed

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 289

# HOUSE BILL 2139

AN ACT

AMENDING SECTION 43-1139, ARIZONA REVISED STATUTES; RELATING TO CORPORATE INCOME TAX ALLOCATION; PROVIDING FOR CONDITIONAL ENACTMENT.

(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 ~~shall be apportioned~~ to this  
7 state by FOR TAXABLE 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 factor,  
11 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 FACTOR,  
18 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 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 FACTOR,  
26 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 B. All business income of a taxpayer engaged in air commerce shall be  
31 apportioned to this state by multiplying the income by a fraction, the  
32 numerator of which is the revenue aircraft miles flown within this state for  
33 flights beginning or ending in this state and the denominator of which is the  
34 total revenue aircraft miles flown by the taxpayer's aircraft everywhere.  
35 This subsection applies to each taxpayer, including a combined group filing a  
36 combined return or an affiliated group electing to file a consolidated return  
37 under section 43-947, if fifty per cent or more of that taxpayer's gross  
38 income is derived from air commerce. For THE purposes of this subsection:

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

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

1           Sec. 2. Economic impact analysis

2           A. By electing to apply an enhanced sales factor formula in allocating  
3 business income under section 43-1139, subsection A, paragraph 1, subdivision  
4 (b), paragraph 2, subdivision (b) and paragraph 3, subdivision (b), Arizona  
5 Revised Statutes, as amended by this act, a corporation agrees to participate  
6 in an economic impact analysis conducted by the joint legislative budget  
7 committee. The department of revenue shall cooperate with the joint  
8 legislative budget committee by providing the identity of those corporations.

9           B. The joint legislative budget committee shall produce a report of  
10 the economic impact analysis on or before July 1, 2011 that includes:

11           1. The number of corporations that elect to use the enhanced sales  
12 factor.

13           2. The number and value of investments made by those corporations.

14           3. An evaluation of this state's performance in attracting and  
15 retaining high wage industries, investments and employment in the period  
16 after the effective date of this act.

17           C. The report shall not disclose the identity of any taxpayer or the  
18 nature, source, amount or status of any taxpayer's income, return, payments,  
19 receipts, deductions, exemptions, credits, assets, liabilities, net worth,  
20 withholding tax paid or liabilities for deficiencies, penalties or interest  
21 under titles 42 and 43, Arizona Revised Statutes.

22           D. The joint legislative budget committee shall provide copies of the  
23 report to the governor's office of strategic planning and budgeting, the  
24 Arizona state library, archives and public records and any other person who  
25 requests a copy of the report.

26           Sec. 3. Conditional effective date

27           A. This act is effective from and after December 31, 2007 and applies  
28 retroactively to taxable years beginning from and after December 31, 2006,  
29 but only if both of the following conditions occur:

30           1. On or after June 1, 2005, one or more corporations must publicly  
31 announce, and report in writing to the joint legislative budget committee and  
32 the governor's office of strategic planning and budgeting, one or more  
33 capital investment projects, individually or collectively cumulating capital  
34 costs in excess of one billion dollars in the aggregate for all reporting  
35 corporations. Each notice must:

36           (a) Include the date the project will begin.

37           (b) Describe the construction, reconstruction, expansion, installation  
38 of new equipment, tooling or retooling.

39           (c) Include the estimated cost of the project.

40           (d) Include the estimated completion date of the project.

41           (e) State the number of contractors expected to be employed during the  
42 project.

43           (f) Estimate the expected construction employment and the long-term  
44 employment on the completed project.

1           2. No later than December 15, 2007, one or more corporations reporting  
2 under paragraph 1 of this subsection must publicly notify the joint  
3 legislative budget committee and the governor's office of strategic planning  
4 and budgeting that one or more reported projects, individually or  
5 collectively cumulating capital costs in excess of one billion dollars in the  
6 aggregate, have commenced, as evidenced by the actual start of new  
7 construction, reconstruction or expansion or the installation of new  
8 equipment.

9           B. The joint legislative budget committee and the governor's office of  
10 strategic planning and budgeting shall jointly:

11           1. Publish a list in 2006, 2007 and 2008 of corporations and projects  
12 that are reported and undertaken for purposes of this section.

13           2. On or before December 31, 2007, notify in writing the director of  
14 the department of revenue and the director of legislative council if the  
15 conditions prescribed by subsection A have occurred and the date they  
16 occurred or if the conditions prescribed by subsection A have not occurred.

17           C. On or before December 31, 2005, 2006, 2007 and 2008, each  
18 corporation that made capital investment commitments under subsection A,  
19 paragraph 1 shall make a written report on the status of each project,  
20 including the progress, the projected costs of completion, the amounts  
21 actually spent to date and any changes and updates in the project that have  
22 occurred. Copies of the reports shall be provided to the joint legislative  
23 budget committee, the governor's office of strategic planning and budgeting,  
24 the department of revenue, the county assessor and the Arizona state library,  
25 archives and public records.

**APPROVED BY THE GOVERNOR MAY 20, 2005.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.**

Passed the House March 7, 2005

Passed the Senate March 17, 2005

by the following vote: 31 Ayes,

by the following vote: 18 Ayes,

23 Nays, 6 Not Voting

7 Nays, 5 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~Governor of Arizona~~

H.B. 2139

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~Secretary of State~~

HOUSE FINAL PASSAGE  
as per Joint Conference

Passed the House May 6, 2005,  
by the following vote: 39 Ayes,

17 Nays, 4 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

SENATE FINAL PASSAGE  
as per Joint Conference

Passed the Senate May 6, 2005,  
by the following vote: 16 Ayes,

10 Nays, 4 Not Voting

[Signature]  
President of the Senate

[Signature]  
~~Assistant~~ Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 13<sup>th</sup> day of May, 2005

at 11:20 o'clock a. M.

[Signature]  
Secretary to the Governor

Approved this 20 day of

May, 2005,

at 1<sup>45</sup> o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2005

at 3:03 o'clock P. M.

[Signature]  
Secretary of State

H.B. 2139