



This Week in State Tax (TWIST)

April 28, 2025



Arkansas: Market-Based Sourcing and Other Changes to UDITPA Enacted

Arkansas has enacted a rewrite of the state version of the Uniform Division of Income for Tax Purposes Act (UDITPA). The rewrite adopts several changes included by the Multistate Tax Commission in its most recent update to the Compact.

Notable changes made by the bill include:

- Replacing the concept of apportionable “business income” with a broader definition of “apportionable income” that includes all income apportionable under the U.S. Constitution (except where specifically allocated).
- Computing the sales factor using only receipts from transactions and activity in the regular course of the taxpayer’s trade or business.
- Sourcing receipts from sales other than sales of tangible personal property on a market basis, rather than location of the income-producing activity. Taxpayers principally engaged in various specified communications services may elect to continue using income-producing activity sourcing through tax years beginning before December 31, 2035.
- Authorizing the Department of Finance and Administration to adopt uniform alternative allocation and apportionment methods for specific industries.

With respect to market-based sourcing, receipts from sales of other than tangible personal property are considered in the state if the taxpayer’s market for the sales is in the state. The market for sales is in the state for: (a) the sale, rental, lease, or license of real property if the property is in the state; (b) the rental, lease, or license of tangible personal property, if and to the extent, the property is in the state; and (c) the sale of a service, if the service is delivered to a location in the state. For intangible property that is rented, leased or licensed, the receipts are in the state, if and to the extent, the property is used in the state, provided that for intangible property used to market a good or service, the intangible property is used in the state if the good or service is purchased by a consumer in the state.

If the state or states to which receipts should be assigned cannot be determined, the state of assignment may be reasonably approximated. If the taxpayer is not taxable in the state to which a receipt is assigned, or the state of assignment cannot be determined or reasonably approximated, the receipt is to be excluded from denominator of the receipts factor.

Of note, the Act also appears to limit the effects of the recent Arkansas Supreme Court decision in *Hudson v. Murphy Oil*. Recall, in that case, an Arkansas taxpayer was permitted to allocate the entirety of an expense that

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was outside the regular course of its trade or business entirely to Arkansas, its commercial domicile. Such a method would likely be disallowed under the new definition of apportionable income. The Act will be effective for tax years beginning on or after January 1, 2026. Contact [Asad Markatia](#) with questions on [Act 719](#).

In addition, Act 1008 of the 2025 Legislature repeals the remaining 0.125 percent state sales and use tax on “food and food ingredients” effective January 1, 2026. Local taxes on such items remain in effect. Contact [Sadie Cuevas](#) for questions on [Act 1008](#).

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