

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1953

Bill Subtitle: TO ADOPT RECENT CHANGES TO THE INTERNAL REVENUE CODE.

Basic Change :

HB1953 is a technical corrections bill to amend various provisions of the Arkansas Income Tax Code to adopt or readopt various Internal Revenue Code provisions to harmonize Arkansas tax law with certain specific Federal tax law due to recent revisions of the Internal Revenue Code. The bill adopts or readopts certain Internal Revenue Codes used to determine the taxable income for income tax purposes. The bill is effective for tax years beginning on or after January 1, 2019.

Revenue Impact :

FY2020 - Estimated revenue loss of \$1.5 million.

FY2021 - Estimated revenue gain of \$320,600.

FY2022 - Estimated revenue gain of \$801,500.

Taxpayer Impact :

The bill allows taxpayers to determine Arkansas income using the same method to determine certain items of income or deduction instead of using one method for federal and another for Arkansas purposes.

Resources Required :

Tax booklet instructions and training manuals will need to be updated.

Time Required :

Adequate time is provided.

Procedural Changes :

Tax booklet instructions and training manuals will need to be updated.

Other Comments :

The bill is effective for tax years beginning on or after January 1, 2019.

Legal Analysis :

The legislature cannot delegate its power to tax or fix the tax rate, except as provided in Ark. Const. art. 2, § 23. *Cf. City of Harrison v. Snyder*, 217 Ark. 528, 231 S.W.2d 95 (1950); *see also* Arkansas Constitution Art. 2, § 22. For example, the rates of tax for a corporation's income may not be made dependent on a federal law or rule that may be changed. That requires the adoption of certain federal standards as of a date certain in the Arkansas Code so that they may not be changed without the approval of the General Assembly.

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Congress has made changes to the Internal Revenue Code, and the following provisions of Arkansas law would be updated under HB1593:

- Ark. Code Ann. § 26-51-404(B)(10) to readopt IRC §§ 108 and 1017 due to the recent revisions concerning discharge of indebtedness.
- Amend Ark. Code to adopt IRC § 118 due to revisions of federal recognition or non-recognition of income for contributions to capital laws.
- Ark. Code Ann. § 26-51-423(a)(1) to readopt IRC § 162 due to modifications concerning business deductions.
- Ark. Code Ann. § 26-51-428(a) to readopt IRC §§ 167 & 168 (a) – (j) due to recent revisions of federal depreciation methods for certain types of assets.
- Ark. Code Ann. § 26-51-419(a)(1) to readopt IRC § 170 due to recent revisions of federal charitable contribution deduction laws.
- Amend Ark. Code to adopt IRC §§ 174 and 280C due to recent revisions of federal research and development deduction laws.
- Ark. Code Ann. § 26-51-439(a) to readopt IRC § 263A(a) – (h) due to revisions of federal laws concerning capitalization and inclusion in inventory costs of certain expenditures.
- Ark. Code Ann. § 26-51-423(b) to readopt IRC § 274 due to revisions of federal entertainment expense laws.
- Ark. Code Ann. § 26-51-436(3) to readopt IRC § 280F due to revisions of federal luxury automobile depreciation limits.
- Ark. Code Ann. § 26-51-412(d) to readopt IRC §§ 351, 354-358, 361, 362, 367 and 368 due to revisions to federal laws concerning deductions of expenses paid to foreign affiliates.
- Ark. Code Ann. § 26-51-429(a) to readopt IRC §§ 611 – 613, 614, 616 and 617 due to revisions of federal depletion laws.
- Ark. Code Ann. § 26-51-429(b) to readopt IRC § 613A due to revisions of federal depletion laws for oil and gas wells.
- Ark. Code Ann. § 26-51-440(a)(1) to readopt IRC §§ 851 to 860 due to revisions of federal Subchapter M concerning regulated investment companies, real estate investment trusts and financial asset securitization investment trusts.
- Ark. Code Ann. § 26-51-409(a) to readopt IRC §§ 1361 – 1374 due to revisions of federal Subchapter S corporation laws.
- Ark. Code Ann. § 26-51-443(b) to readopt IRC § 7872 due to recent revisions of federal laws concerning loans with below market interest rates.