

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A Bill

SENATE BILL

4 **By: Senators Canada, Scott, Gibson, Yates, Cassady and Fitch**

5

6

For An Act To Be Entitled

7 "AN ACT TO REFLECT A NEW EFFECTIVE DATE FOR THE ARKANSAS
8 IMPLEMENTATION OF SECTIONS 162(1), 280F, 72, 219, 401
9 THROUGH 416 INCLUSIVE, 457, 213, 167, 168, 179 AND 611
10 THROUGH 613 INCLUSIVE, 614, 616 AND 617 OF THE INTERNAL
11 REVENUE CODE OF 1986 AS IN EFFECT ON JANUARY 1, 1991; TO
12 REFLECT A NEW EFFECTIVE DATE FOR THE ARKANSAS
13 IMPLEMENTATION OF SUBCHAPTER S OF THE INTERNAL REVENUE
14 CODE OF 1986 AS IN EFFECT ON JANUARY 1, 1991; TO INCREASE
15 THE TIME PERIOD IN WHICH A LEVY MUST BE MADE OR A
16 PROCEEDING FILED TO TEN (10) YEARS AFTER THE DATE OF
17 ASSESSMENT OF THE TAX; TO AUTHORIZE THE DIRECTOR OF THE
18 DEPARTMENT OF FINANCE AND ADMINISTRATION TO PROMULGATE
19 REGULATIONS PROVIDING FOR THE EXTENSION OF TIME TO FILE
20 TAX RETURNS; AND FOR OTHER PURPOSES."

21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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24 SECTION 1. Arkansas Code Annotated § 26-51-403(b) is hereby amended to
25 read as follows:

26 "(b) 'Adjusted gross income' means gross income minus the following
27 deductions and exemption:

28 (1) Deductions for alimony payments;

29 (2) Deductions for separate maintenance payments;

30 (3) Deductions for interest forfeited to a bank, savings
31 association, etc. on premature withdrawals from time savings accounts or
32 deposits;

33 (4) Deductions allowed for cash payments to individual retirement
34 accounts and deductions allowed for cash payments to retirement savings plans
35 of certain married individuals to cover a nonworking spouse;

1 (5) Deductions for contributions by self-employed persons to
2 pension, profit-sharing, and annuity plans;

3 (6) The border city exemption as provided by 26-52-602; and

4 (7) Deductions for the health insurance costs of self-employed
5 persons as computed in accordance with section 162(1) of the Internal Revenue
6 Code of 1986, as in effect on January 1, 1991, the same being 26 U.S.C. 162
7 (1) regarding the deduction of twenty-five percent (25%) of the health
8 insurance costs of self-employed persons."
9

10 SECTION 2. Arkansas Code Annotated § 26-51-409 is hereby amended to
11 read as follows:

12 "26-51-409. Federal Subchapter S adopted.

13 (a) Subchapter S of the federal Internal Revenue Code of 1986, as in
14 effect on January 1, 1991, regarding the small business corporations, is
15 hereby adopted for the purpose of computing Arkansas income tax liability.

16 (b) The corporate election and shareholder consents required to be
17 filed under Subchapter S of the federal Internal Revenue Code of 1986 for
18 Arkansas income tax purposes shall be filed with the Director of the
19 Department of Finance and Administration of the State of Arkansas in the same
20 manner and at the same time as required under Subchapter S.

21 (c) (1) However, all nonresident shareholders of corporations
22 receiving income in the form of distributions pursuant to the provisions of
23 this section must file a properly executed state income tax return with the
24 Director of the Department of Finance and Administration and remit the
25 applicable state income tax upon the amount distributed.

26 (2) Failure to so report and remit on the part of any shareholder
27 shall be grounds upon which the director shall be authorized to revoke the
28 corporation's Subchapter S election and collect the tax from the corporation
29 by any manner authorized by the Arkansas Income Tax Act of 1929, 26-51-101 et
30 seq."
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32 SECTION 3. Arkansas Code Annotated § 26-51-436(3) is hereby amended to
33 read as follows:

34 "(3) Subsections (a), (b), (c), and (d) of Section 280F of the federal
35 Internal Revenue Code of 1986, as in effect on January 1, 1991, regarding

1 investment tax credit and depreciation for luxury automobiles, is hereby
2 adopted for purposes of computing Arkansas income tax liability."

3

4 SECTION 4. Arkansas Code Annotated § 26-51-414 is hereby amended to
5 read as follows:

6 "26-51-414. Deferred compensation plans. Sections 72, 219, 401 through
7 416 inclusive and 457 of the federal Internal Revenue Code of 1986, as in
8 effect on January 1, 1991, relating to annuities, retirement savings and
9 employee benefit plans, respectively, are hereby adopted for the purpose of
10 computing Arkansas income tax liability, except Arkansas capital gains
11 treatment, and the Arkansas tax rates shall apply. The requirements for
12 filing a joint return under Section 219(c)(1)(A) of the Internal Revenue Code
13 of 1986 shall not apply. Any additional tax or penalty imposed by this
14 section shall be ten percent (10%) of the amount of any additional tax or
15 penalty provided in the federal income tax law adopted by this section."

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17 SECTION 5. Arkansas Code Annotated § 26-51-423(a)(2) is hereby amended
18 to read as follows:

19 "(2) Medical and Dental Expenses. Section 213 of the federal Internal
20 Revenue Code of 1986, in effect on January 1, 1991, is adopted in computing
21 the medical and dental expense deduction under the state income tax law."

22

23 SECTION 6. Section 26-18-306(h) of the Arkansas Code of 1987 Annotated
24 is amended to read as follows:

25 "(h) Where the assessment of any tax imposed by any state law has been
26 made within the period of limitation properly applicable thereto, the tax may
27 be collected by levy or proceeding in court, but only if the levy is made or
28 the proceeding is begun within ten (10) years after the date of the assessment
29 of the tax."

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31 SECTION 7. Arkansas Code Annotated § 26-51-428 is hereby amended to
32 read as follows:

33 "26-51-428. Depreciation - Deductions - Expensing of property.

34 (a) Section 167, 168, and 179 of the federal Internal Revenue Code of
35 1986, as in effect on January 1, 1991, regarding depreciation and expensing of

1 property, are hereby adopted for the purpose of computing Arkansas income tax
2 liability.

3 (b) The basis on which exhaustion, wear and tear, and
4 obsolescence are to be allowed in respect to any property shall be the
5 adjusted basis provided in 26-51-411 for the purpose of determining the gain
6 on the sale or other disposition of the property."

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8 SECTION 8. Section 26-18-505(a) of the Arkansas Code of 1987 is hereby
9 amended to read as follows:

10 "(a) (1) Upon written request, the director may, for good cause,
11 grant a reasonable extension of time to file any return required under any
12 state tax law.

13 (2) The director shall keep a record of every extension granted
14 with the reason therefor.

15 (3) (A) The time for filing any return shall not extend more
16 than ninety (90) days.

17 (B) The director may, in extraordinary circumstances, grant
18 an additional ninety-day extension.

19 (4) The Director of the Department of Finance and Administration
20 is hereby authorized to promulgate regulations to grant automatic extensions
21 of time to file income tax returns and information returns without the
22 taxpayer being required to submit a written application for the extension of
23 time to file."

24

25 SECTION 9. Arkansas Code Annotated §26-51-807 is hereby amended by
26 adding a new subsection (d) to read as follows:

27 "(d) The Director is hereby authorized to promulgate regulations
28 granting automatic extensions of time to file income tax returns and
29 information returns without the taxpayer being required to submit a written
30 application, a copy of the federal request for extension or a copy of the
31 document granting the federal extension if the Director determines that such
32 requirements are unnecessary for the administration of the income tax laws."

33

34 SECTION 10. Section 26-51-429 of the Arkansas Code Annotated is hereby
35 amended to read as follows:

1 "26-51-429. Deductions - Depletion allowances.

2 (a) In the case of all natural resources for which a deduction for
3 depletion is allowed under 611 of the federal Internal Revenue Code, the
4 provisions of §§ 611-613 and §§ 614, 616, and 617 of the Internal Revenue
5 Code, as amended and in effect on January 1, 1991, are adopted in computing
6 the depletion allowance deduction under Arkansas income tax law.

7 (b) In computing the depletion allowance deduction allowed by this section
8 for oil and gas wells, the provisions of 613 of the Internal Revenue Code
9 shall not be in effect, but, instead, the computation of the amount of the
10 depletion deduction shall be controlled by the provisions of 613A of the
11 Internal Revenue Code, as amended and in effect on January 1, 1991, which are
12 adopted as part of the state income tax law."

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14 SECTION 11. The provisions of this act shall be in full force and
15 effect for all income years beginning on and after January 1, 1991.

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17 SECTION 12. All provisions of this act of a general and permanent
18 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
19 Code Revision Commission shall incorporate the same in the Code.

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21 SECTION 13. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

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27 SECTION 14. All laws or parts of laws in conflict with this act are
28 hereby repealed.

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