

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL 1578

4 **By: Representatives Cunningham, J. Wilson, Parkerson, and Schexnayder**

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For An Act To Be Entitled

8 "AN ACT TO PROHIBIT TAXPAYERS WHO FAIL TO FILE A RETURN
9 FROM OBTAINING A TAX REFUND AFTER THE EXPIRATION OF THREE
10 (3) YEARS; TO DEFINE TAXABLE YEAR, INCOME YEAR, YEAR, TAX
11 YEAR, AND FISCAL YEAR; TO PROVIDE FOR BAD DEBT DEDUCTIONS
12 BY DELETING THE RESERVE DEDUCTION METHOD; TO ADOPT
13 SECTIONS OF THE INTERNAL REVENUE CODE CONCERNING BAD DEBT
14 DEDUCTIONS FOR FINANCIAL ORGANIZATIONS; TO AMEND ARK. CODE
15 ANN. §26-51-409(c) (1) PERTAINING TO 'S' CORPORATIONS TO
16 PROVIDE THAT INCOME OF NON-RESIDENT SHAREHOLDERS IS
17 TAXABLE WHETHER OR NOT IT IS DISTRIBUTED; TO AMEND ARK.
18 CODE ANN. §26-51-423 TO PROVIDE THAT SELF-EMPLOYED PERSONS
19 ARE ENTITLED TO AN INCOME TAX DEDUCTION EQUAL TO TWENTY-
20 FIVE PERCENT (25%) OF THEIR HEALTH INSURANCE COSTS; TO
21 ALLOW A SURVIVING SPOUSE A PERSONAL INCOME TAX CREDIT OF
22 \$40.00; TO ADOPT FEDERAL INTERNAL REVENUE CODE §§483 AND
23 7872; TO AMEND ARK. CODE ANN. §26-51-504(C) TO ALLOW THE
24 CREDIT AGAINST ARKANSAS INCOME TAX TO BE AVAILABLE ONLY TO
25 FIDUCIARIES AND PARTNERSHIPS; TO CLARIFY THAT
26 PARTNERSHIPS MUST ALLOCATE INCOME AND CANNOT APPORTION ITS
27 INCOME; TO AMEND ARK. CODE ANN. §26-51-909(b) TO CHANGE
28 THE ANNUAL WITHHOLDING STATEMENT FILING DEADLINE TO
29 FEBRUARY 28; TO REQUIRE THAT A TAXPAYER COMPLETE A WATER
30 RESOURCE PROJECT WITHIN THREE YEARS OR REPAY THE INCOME
31 TAX CREDITS CLAIMED FOR THE COST OF THE PROJECT; TO AMEND
32 ARK. CODE ANN. §26-51-431 TO DISALLOW DEDUCTIONS FOR
33 EXPENSES RELATED TO THE PRODUCTION OF TAX EXEMPT INCOME;
34 TO ADOPT SECTION 1043 OF THE INTERNAL REVENUE CODE OF 1986
35 AS IN EFFECT ON JANUARY 1, 1993; AND FOR OTHER PURPOSES."

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Subtitle

"AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE
PERTAINING TO INCOME TAX."

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

SECTION 1. Ark. Code Ann. §26-18-306(i) is hereby amended to read as follows:

"(i) An amended return or verified claim for credit or refund of an overpayment of any state tax for which the taxpayer is required to file a return shall be filed by the taxpayer within three (3) years from the time the return was filed or two (2) years from the time the tax was paid, whichever of the periods expires the later. Any taxpayer who fails to file a return, underreports his income by 25% or more, or fails to notify the Director of any change or correction by the Internal Revenue Service in the taxpayer's taxable income, shall not be entitled to file an amended return or verified claim for credit or refund after the expiration of three (3) years from the date the original return or notification of change was originally due."

SECTION 2. Ark. Code Ann. §26-51-102(11) is hereby amended to read as follows:

"(11) 'Tax year' means 'taxable year' as herein defined; "

SECTION 3. Ark. Code Ann. §26-51-102(12) is hereby amended to read as follows:

"(12) 'Income year' means 'taxable year' as herein defined; "

SECTION 4. Ark. Code Ann. §26-51-102(13) is hereby amended to read as follows:

"(13) The term 'fiscal year' means an accounting period of 12 months ending on the last day of any month other than December;"

SECTION 5. Ark. Code Ann. §26-51-102 is hereby amended by adding the following new subsections to read as follows:

1 "(17) The term 'taxable year' means the calendar year, or the fiscal
2 year ending during such calendar year, upon the basis of which taxable income
3 is computed. 'Taxable year' means, in the case of a return made for a
4 fractional part of a year, the period for which such return is made.

5 (18) The term 'year' means 'taxable year.'"
6

7 SECTION 6. Ark. Code Ann. §26-51-301(e) is hereby amended to read as
8 follows:

9 "(e) The reduced tax tables cannot be used if the six thousand dollar
10 (\$6,000) exemption provided for in either §§26-51-306 or 26-51-307 is claimed
11 or if the taxpayer itemizes deductions."
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13 SECTION 7. Ark. Code Ann. §26-51-409(c)(1) is hereby amended to read as
14 follows:

15 "(c)(1) However, all nonresident shareholders of 'S' corporations
16 receiving a pro-rated share of income, loss, deduction or credit pursuant to
17 the provisions of this section must file a properly executed state income tax
18 return with the Director of the Department of Finance and Administration and
19 remit the applicable state income tax due."
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21 SECTION 8. Ark. Code Ann. §26-51-423 is hereby amended by adding a new
22 subsection (c) to read as follows:

23 "(c)(1) An individual who is self-employed shall be allowed a deduction
24 equal to twenty-five percent (25%) of the amount paid during the taxable year
25 for insurance which constitutes medical care for the taxpayer, his spouse and
26 dependents.

27 (2)(A) No deduction shall be allowed under this subsection to the
28 extent that the amount of such deduction exceeds the taxpayer's earned income
29 derived by the taxpayer from the trade or business with respect to which the
30 plan providing the medical care coverage is established.

31 (B) This subsection shall not apply to any taxpayer who is
32 eligible to participate in any subsidized health plan maintained by any
33 employer of the taxpayer or the spouse of the taxpayer.

34 (3) Any amount paid by taxpayer for insurance to which this
35 subsection applies shall not be taken into account in computing the amount

1 allowable to the taxpayer as a deduction under (a)(2) of this section."

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3 SECTION 9. Ark. Code Ann. §26-51-426 is hereby amended to read as
4 follows:

5 "26-51-426. Deductions - Reserve for bad debts or liabilities. For any
6 bank, building and loan, savings and loan or any other savings institution
7 chartered and supervised as a savings and loan or similar associations under
8 federal or state law shall be allowed a bad debt expense deduction computed in
9 accordance with Internal Revenue Code §§ 582, 585 and 593, as in effect on
10 January 1, 1993."

11

12 SECTION 10. Arkansas Code of 1987 Annotated, Title 26, Chapter 51,
13 Subchapter 4 is hereby amended by adding a new section to read as follows:

14 "26-51-441. (a) Section 483 of the Internal Revenue Code of 1986, as
15 in effect on January 1, 1993, regarding the allocation of unstated interest is
16 hereby adopted for the purpose of computing Arkansas income tax liability.

17 (b) Section 7872 of the Internal Revenue Code of 1986, as in effect on
18 January 1, 1993, regarding the taxation of foregone interest on a 'below-
19 market' loan is hereby adopted for the purpose of computing Arkansas income
20 tax liability."

21

22 SECTION 11. Ark. Code Ann. §26-51-501(a)(2)(A) is hereby amended to
23 read as following:

24 "(a)(2)(A) For the head of household, surviving spouse or a married
25 individual living with husband or wife, forty dollars (\$40.00). A husband and
26 wife living together and filing either jointly or separately on the same
27 income tax form shall receive but one (1) personal tax credit of forty dollars
28 (\$40.00) against their aggregate tax."

29

30 SECTION 12. Ark. Code Ann. §26-51-501(a)(2) is hereby amended by adding
31 new subsections (E) and (F) to read as follows:

32 "(E) The term 'head of household' shall have the same meaning as
33 defined in section 2(b) of the federal Internal Revenue Code of 1986, in
34 effect on January 1, 1993.

35 (F) The term 'surviving spouse' shall have the same meaning as defined

1 in section 2(a) of the federal Internal Revenue Code of 1986 in effect on
2 January 1, 1993."

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4 SECTION 13. Ark. Code Ann. §26-51-504(c) is hereby amended to read as
5 follows:

6 "(c) The credit against Arkansas income tax afforded individual
7 residents of Arkansas under this section shall also be available to
8 fiduciaries and partnerships residing or domiciled in Arkansas which are
9 subject to Arkansas income tax or which have to report income for purposes of
10 Arkansas income tax."

11

12 SECTION 14. Ark. Code Ann. §26-51-802 is hereby amended to read as
13 follows:

14 "26-51-802. Partnership returns. (a) Every partnership shall make a
15 return for each taxable year, stating specifically the items of its gross
16 income and the deductions allowed by this act and shall include in the return
17 the names and addresses of individuals who would be entitled to share in the
18 net income if distributed and the amount of the distributive share of each
19 individual. The returns shall be sworn to by one (1) of the partners.

20 (b) The provisions of Ark. Code Ann. §26-51-702 are not applicable to
21 partnerships. All partnership income from activities within the state shall
22 be allocated to the state."

23

24 SECTION 15. Ark. Code Ann. §26-51-909(b) is hereby amended to read as
25 follows:

26 "(b) The annual statement of withholding shall be in the form prescribed
27 by the director. The statement from the employer shall be filed with the
28 director on or before February 28 following the close of the income year. The
29 employer shall provide two (2) copies of the statement to the employee on or
30 before January 31 following the close of the income year. However, if the
31 employment of the employee is terminated during the calendar year, the
32 employer shall furnish the statement to the employee at the time of the
33 termination of employment."

34

35 SECTION 16. Ark. Code Ann. §26-51-1006(b)(2) is hereby amended by

1 adding a new subdivision (C) to read as follows:

2 "(C) Water resource projects, water impoundments or water control
3 structures, must be completed within three years from the date the
4 construction permit is issued by the Arkansas Soil and Water Conservation
5 Commission, or within three years from the date the taxpayer began
6 construction of the water resource project, whichever is earlier. If the
7 taxpayer does not complete the project within this three year period all
8 credits claimed must be repaid and the project will be disallowed as a water
9 resource project for tax purposes."

10

11 SECTION 17. Ark. Code Ann. §26-51-431 is hereby amended to read as
12 follows:

13 "(a) In computing net income no deduction shall in any case be allowed
14 in respect of:

15 (1) Personal, living, or family expenses, except that any payments of
16 alimony made by an individual pursuant to a court order shall be deductible;

17 (2) Any amount paid for new buildings or for permanent improvements
18 or betterments made to increase the value of any property or estate;

19 (3) Any amount expended in restoring property for which an allowance
20 is to be made;

21 (4) Premiums paid on life insurance policies;

22 (5) Shrinkage in value of property.

23 (b) Section 265(a) of the Federal Internal Revenue Code of 1986, as in
24 effect on January 1, 1993 regarding expenses and interest relating to tax-
25 exempt income, is hereby adopted for the purpose of computing Arkansas
26 individual income tax liability.

27 (c) For the purpose of computing Arkansas corporation income tax
28 liability, no deduction shall be allowed for:

29 (1) Expenses otherwise allowable as deductions which are
30 allocable to income other than interest (whether or not any amount of income
31 is received or accrued) wholly exempt from the taxes authorized by Arkansas
32 law;

33 (2) Interest on indebtedness incurred or continued to purchase or
34 carry obligations the interest on which is wholly exempt from the taxes
35 imposed by Arkansas law;

1 (3) Expenses otherwise allowable as deductions which are
2 allocable to non-business income."

3

4 SECTION 18. Section 1043 of the Internal Revenue Code of 1986, as in
5 effect on January 1, 1993 is hereby adopted.

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7 SECTION 19. Ark. Code Ann. §26-51-403(b)(7) is hereby amended to read
8 as follows:

9 "(7) Deductions for the health insurance costs of self-employed persons as
10 computed in accordance with Ark. Code Ann. §26-51-423(c)."

11

12 SECTION 20. Sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17,
13 18 and 19 of this act shall become effective for taxable years beginning on or
14 after January 1, 1993.

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16 SECTION 21. All provisions of this act of a general and permanent
17 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
18 Code Revision Commission shall incorporate the same in the Code.

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

25

26 SECTION 23. All laws and parts of laws in conflict with this act are
27 hereby repealed.

28

29 SECTION 24. Emergency. It is hereby found and determined that certain
30 changes are necessary to the Arkansas income tax laws; that these changes are
31 necessary immediately in order to maintain the efficient administration of the
32 Arkansas income tax laws; and that this act is necessary to effectuate that
33 purpose. Therefore, an emergency is hereby declared to exist and this act
34 being necessary for the preservation of public peace, health and safety shall
35 be in full force and effect from and after its passage and approval.

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/s/Ernest Cunningham, et al