

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 2780

5 By: Representative Bradford
6
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For An Act To Be Entitled

9 AN ACT TO REINSTATE CAPITAL GAINS TAX AS IT
10 EXISTED IN 1998; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO REINSTATE CAPITAL GAINS TAX AS IT
13 EXISTED IN 1998.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 26-51-815 is amended to read as follows:
20 26-51-815. Computing capital gains and losses.

21 (a) To the extent they apply to capital gains and losses realized or
22 incurred during income years beginning after December 31, 1996, 26 U.S.C. §§
23 1211-1237 and 1239-1257 as in effect on January 1, 1999, and the regulations
24 of the Secretary of the Treasury promulgated thereunder and in effect on
25 January 1, 1999, are adopted for the purpose of computing tax liability under
26 the Income Tax Act of 1929, as amended, § 26-51-101 et seq. However, the
27 provisions of this section shall not apply to C corporations as defined in 26
28 U.S.C. § 1361, as in effect on January 1, 1997. Furthermore, any other
29 provisions of the federal income tax law and regulations necessary for
30 interpreting and implementing 26 U.S.C. §§ 1211-1237 and 1239-1257 are
31 adopted to that extent and as in effect on January 1, 1999.

32 ~~(b) If a taxpayer has a net capital gain for tax years beginning on~~
33 ~~and after January 1, 1999, thirty percent (30%) of the gain shall be exempt~~
34 ~~from state income tax.~~

35 ~~(c) Section 1202 of the Internal Revenue Code of 1986, as in effect on~~
36 ~~January 1, 1995, regarding the exclusion from gain of certain small business~~



1 ~~stock, is adopted for the purpose of computing Arkansas income tax liability.~~

2 ~~(d)(1) If a taxpayer has a net capital gain from a venture capital~~
 3 ~~investment, one hundred percent (100%) of the gain shall be exempt from the~~
 4 ~~Income Tax Act of 1929, § 26-51-101 et seq., if:~~

5 ~~(A) The venture capital investment was initially made on~~
 6 ~~or after January 1, 2001; and~~

7 ~~(B) The venture capital investment was held for at least~~
 8 ~~five (5) years prior to disposition.~~

9 ~~(2)(A) "Venture capital" means equity financing, broadly~~
 10 ~~defined, including early stage research, development, commercialization, seed~~
 11 ~~capital for startup enterprises, and other risk capital for expansion of~~
 12 ~~entrepreneurial enterprises doing business in Arkansas that are qualified~~
 13 ~~technology based enterprises doing business in Arkansas, qualified~~
 14 ~~biotechnology enterprises doing business in Arkansas, or qualified technology~~
 15 ~~incubator clients doing business in Arkansas.~~

16 ~~(B) "Venture capital" does not include the purchase of a~~
 17 ~~share of stock in a company if, on the date on which the share of stock is~~
 18 ~~purchased, the company has securities outstanding that are:~~

19 ~~(i) Registered on a national securities exchange~~
 20 ~~under Section 12(b) of Title I of the Securities Exchange Act of 1934 as it~~
 21 ~~exists on January 1, 2001;~~

22 ~~(ii) Registered or required to be registered under~~
 23 ~~Section 12(g) of Title I of the Securities Exchange Act of 1934 as it exists~~
 24 ~~on January 1, 2001; or~~

25 ~~(iii) Required to be registered except for the~~
 26 ~~exemptions in Section 12(g)(2) of Title I of the Securities Exchange Act of~~
 27 ~~1934 as it exists on January 1, 2001.~~

28 ~~(C) "Qualified biotechnology enterprise" means a~~
 29 ~~corporation, partnership, limited liability company, sole proprietorship, or~~
 30 ~~other entity that is certified by the department pursuant to § 2-8-108.~~

31 ~~(D) "Qualified technology incubator client" means a~~
 32 ~~corporation, partnership, limited liability company, sole proprietorship, or~~
 33 ~~other entity that, as of the date of the venture capital investment, is~~
 34 ~~certified by the University of Arkansas as currently receiving, or having~~
 35 ~~received within the previous three (3) years, the services of the GENESIS~~
 36 ~~Technology Incubator at the University of Arkansas.~~

1 ~~(E) "Qualified technology based enterprise" means a~~
2 ~~corporation, partnership, limited liability company, sole proprietorship, or~~
3 ~~other legal entity whose primary business directly involves information~~
4 ~~technology, nano technology, or emerging technology for energy such as micro-~~
5 ~~turbines that is doing business in Arkansas.~~

6 (b) If a taxpayer has a net capital gain for any taxable year, then
7 the tax imposed by this section shall not exceed the sum of:

8 (1) A tax computed at the rates and in the same manner as if
9 this subsection had not been enacted on the greater of:

10 (A) Taxable income reduced by the amount of net capital
11 gain; or

12 (B) The amount of taxable income taxed at a rate below six
13 percent (6%); plus

14 (2) A tax of six percent (6%) of the amount of taxable income in
15 excess of the amount determined under subdivision (1) of this subsection.

16 (c) Section 1202 of the Internal Revenue Code of 1986, as in effect on
17 January 1, 1995, regarding the exclusion from gain of certain small business
18 stock, is adopted for the purpose of computing Arkansas income tax liability.

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20 SECTION 2. This act applies to tax years beginning on or after January
21 1, 2003.

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