

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S2/28/11

A Bill

SENATE BILL 364

5 By: Senator Teague
6

For An Act To Be Entitled

8 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE ARKANSAS
9 INCOME TAX LAWS BY ADOPTING RECENT CHANGES TO THE
10 *INTERNAL REVENUE CODE; TO DECLARE AN EMERGENCY; AND*
11 *FOR OTHER PURPOSES.*
12
13

Subtitle

14 *TO MAKE TECHNICAL CORRECTIONS TO ARKANSAS*
15 *INCOME TAX LAWS AND TO DECLARE AN*
16 *EMERGENCY.*
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 6-84-102 is amended to read as follows:
23 6-84-102. Purpose.

24 It is the intent and purpose of this chapter to create and establish
25 the Arkansas Tax-Deferred Tuition Savings Program pursuant to 26 U.S.C. § 529
26 as in effect on January 1, ~~2007~~ 2011, to be administered by the Section 529
27 Plan Review Committee through the adoption of rules and regulations for the
28 administration of the program.
29

30 SECTION 2. Arkansas Code § 6-84-103 is amended to read as follows:
31 6-84-103. Definitions.

32 ~~For purposes of~~ As used in this chapter:

33 (1) "Account" means an account established in accordance with
34 this chapter;

35 (2) "Account owner" means the person who, under this chapter or
36 the rules promulgated by the Section 529 Plan Review Committee, is entitled



1 to select or change the designated beneficiary of an account, to designate
2 any person other than the designated beneficiary to whom funds may be paid
3 from the account, or to receive distributions from the account if no other
4 person is designated;

5 (3) "Act" means the Arkansas Tax-Deferred Tuition Savings
6 Program Act;

7 (4)(A) "Arkansas Tax-Deferred Tuition Savings Program Trust" or
8 "trust" means the trust created under § 6-84-104.

9 (B) Participation in the trust shall be open to Arkansas
10 residents and nonresidents alike;

11 (5) "Committee" means the Section 529 Plan Review Committee,
12 provided for in § 6-84-105, ~~which~~ that shall oversee the administration of
13 the Arkansas Tax-Deferred Tuition Savings Program and ensure that the program
14 complies with the provisions of this chapter and acts in accordance with 26
15 U.S.C. § 529 as in effect on January 1, ~~2007~~ 2011;

16 (6) "Contribution" means:

17 (A) Any payment directly allocated to an account for the
18 benefit of a designated beneficiary or used to pay administrative fees
19 associated with an account; and

20 (B) That portion of any rollover amount treated as a
21 contribution under 26 U.S.C. § 529 as in effect on January 1, ~~2007~~ 2011;

22 (7) "Contributor" means any person making a contribution to an
23 account;

24 (8) "Designated beneficiary" means, except as provided in § 6-
25 84-108, the individual designated at the time the account is opened as having
26 the right to receive a qualified withdrawal for the payment of qualified
27 higher education expenses or, if the designated beneficiary is replaced in
28 accordance with § 6-84-108, the replacement;

29 (9) "Higher education institution" means an eligible education
30 institution as defined in 26 U.S.C. § 135(c)(3) as in effect on January 1,
31 ~~2007~~ 2011;

32 (10) "Member of the family" shall have the same meaning as is
33 contained in 26 U.S.C. § 529(e) as in effect on January 1, ~~2007~~ 2011;

34 (11) "Nonqualified withdrawal" means a withdrawal from an
35 account that is not:

36 (A) A qualified withdrawal;

1 (B) A withdrawal made as the result of the death or
2 disability of the designated beneficiary;

3 (C) A withdrawal made as the result of a scholarship, ~~or~~
4 allowance, or payment described in 26 U.S.C. § 135(d)(1)(B) or (C) as in
5 effect on January 1, ~~2007~~ 2011, received by the designated beneficiary but
6 only to the extent of the amount of the scholarship, allowance, or payment;
7 or

8 (D) A rollover or change in the designated beneficiary;

9 (12) "Person" means a person as defined in 26 U.S.C. § 529 as in
10 effect on January 1, ~~2007~~ 2011;

11 (13) "Program" means the Arkansas Tax-Deferred Tuition Savings
12 Program established by this chapter;

13 (14) "Qualified higher education expenses" means tuition and
14 other permitted expenses as set forth in 26 U.S.C. § 529(e) as in effect on
15 January 1, ~~2007~~ 2011, for the enrollment or attendance of a designated
16 beneficiary at a higher education institution;

17 (15) "Qualified tuition program" means a qualified tuition
18 program as defined in 26 U.S.C. § 529(b) as in effect January 1, ~~2007~~ 2011;

19 (16) "Qualified withdrawal" means a withdrawal from an account
20 to pay the qualified higher education expenses of the designated beneficiary
21 but only if the withdrawal is made in accordance with the requirements of the
22 program; and

23 (17) "Rollover" means a disbursement or transfer from an account
24 that is transferred to or deposited within sixty (60) calendar days of the
25 transfer into an account of the same person for the benefit of the same
26 designated beneficiary or another person as a designated beneficiary if the
27 transferee account was created under this chapter or under another qualified
28 tuition program maintained in accordance with 26 U.S.C. § 529(c) as in effect
29 on January 1, ~~2007~~ 2011.

30
31 SECTION 3. Arkansas Code § 6-84-105 is amended to read as follows:

32 6-84-105. Administration – Authority – Powers.

33 (a) This chapter shall be administered by the Section 529 Plan Review
34 Committee, which shall be composed of:

35 (1) The Director of the Department of Higher Education;

36 (2) The Executive Director of the Arkansas Teacher Retirement

1 System; and

2 (3) The Treasurer of State.

3 (b) The committee shall adopt such rules and regulations as it deems
4 necessary and proper to administer this chapter and to ensure the compliance
5 of the Arkansas Tax-Deferred Tuition Savings Program with 26 U.S.C. § 529 as
6 in effect on January 1, ~~2007~~ 2011.

7 (c) The committee shall have the following powers, duties, and
8 functions:

9 (1) To establish, develop, implement, and maintain the program
10 in a manner consistent with the provisions of this chapter and 26 U.S.C. §
11 529 as in effect on January 1, ~~2007~~ 2011, and to obtain the benefits provided
12 by 26 U.S.C. § 529 for the program, account owners, and designated
13 beneficiaries;

14 (2) To adopt rules and regulations for the general
15 administration of the program;

16 (3) To maintain, invest, and reinvest the funds contributed into
17 the program consistent with the investment restrictions established by the
18 committee and the standard of care described in the prudent investor rule
19 ~~presently codified as~~ under § 24-2-610; and

20 (4)(A) To make and enter into any and all contracts, agreements,
21 or arrangements and to retain, employ, and contract for the services of
22 financial institutions, depositories, consultants, broker dealers, investment
23 advisors or managers, third-party plan administrators, and research,
24 technical, and other services necessary or desirable for carrying out the
25 purposes of this chapter.

26 (B) Contracts entered into by the committee may be for a
27 term of from one (1) to ten (10) years.

28

29 SECTION 4. Arkansas Code § 6-84-106 is amended to read as follows:

30 6-84-106. Investment direction.

31 Except as permitted in 26 U.S.C. § 529 as in effect on January 1, ~~2007~~
32 2011, no person shall have the right to direct the investment of any
33 contributions to or earnings from the Arkansas Tax-Deferred Tuition Savings
34 Program.

35

36 SECTION 5. Arkansas Code § 6-84-108(b), concerning Arkansas Tax-

1 Deferred Tuition Savings Program account transfers, is amended to read as
2 follows:

3 (b) At the direction of an account owner, all or a portion of an
4 account may be transferred to another account of which the designated
5 beneficiary is a member of the family of the designated beneficiary of the
6 transferee account if the transferee account was created by this chapter or
7 under another qualified tuition program maintained in accordance with 26
8 U.S.C. § 529 as in effect January 1, ~~2007~~ 2011.

9

10 SECTION 6. Arkansas Code § 6-84-109(b), concerning Arkansas Tax-
11 Deferred Tuition Savings Program account withdrawal reporting, is amended to
12 read as follows:

13 (b)(1) An account withdrawal paid to or for the benefit of any person
14 during any calendar year shall be reported to the person and to the Internal
15 Revenue Service.

16 (2) The report shall be made at the time required by the rules
17 of the Internal Revenue Service as in effect on January 1, ~~2007~~ 2011, and
18 contain such information as is required by law.

19

20 SECTION 7. Arkansas Code § 6-84-111 is amended to read as follows:
21 6-84-111. Funds exempt from tax.

22 (a) Except as otherwise indicated in this chapter, interest,
23 dividends, and capital gains from funds invested in the Arkansas Tax-Deferred
24 Tuition Savings Program or a tax-deferred tuition savings program established
25 by another state under 26 U.S.C. § 529 as in effect on January 1, ~~2007~~ 2011,
26 shall be exempt from Arkansas income taxes.

27 (b)(1) For tax years beginning on or after January 1, 2005,
28 contributions to a tuition savings account established under this program may
29 be deducted from the taxpayer's adjusted gross income for the purpose of
30 calculating Arkansas income tax under § 26-51-403(b).

31 (2) The deductible contributions shall not exceed five thousand
32 dollars (\$5,000) per taxpayer in any tax year.

33 (3) Contributions to this program that have been deducted from
34 the taxpayer's adjusted gross income for prior tax years shall be subject to
35 recapture if the taxpayer:

36 (A) Makes a subsequent nonqualified withdrawal from the

1 account; or

2 (B) Rolls the account over to a tax-deferred tuition
3 savings program established by another state or institution under 26 U.S.C. §
4 529 as in effect on January 1, ~~2007~~ 2011.

5 (4) The contribution shall be recaptured by adding the amount
6 previously deducted, not to exceed the amount of the nonqualified withdrawal
7 or rollover, to the taxpayer's adjusted gross income for the tax year in
8 which the nonqualified withdrawal or rollover occurred.

9 (c)(1) Qualified withdrawals from a tuition savings account
10 established under this program or a tax-deferred tuition savings program
11 established by another state under 26 U.S.C. § 529 as in effect on January 1,
12 ~~2007~~ 2011, will be exempt from Arkansas income tax with respect to the
13 designated beneficiary's income.

14 (2)(A) Nonqualified withdrawals from a tuition savings account
15 established under this program or a tax-deferred tuition savings program
16 established by another state under 26 U.S.C. § 529 as in effect on January 1,
17 ~~2007~~ 2011, will be subject to Arkansas income tax.

18 (B) The nonqualified withdrawal will be taxable to the
19 party, account owner, or designated beneficiary who actually makes the
20 withdrawal.

21 (d) Any earnings on the contribution that are included in the refund
22 will be subject to Arkansas income tax if an account owner receives a refund
23 of contributions to a tuition savings account established under this program
24 or a tax-deferred tuition savings program established by another state under
25 26 U.S.C. § 529 as in effect on January 1, ~~2007~~ 2011, because of either:

26 (1) The death or disability of the designated beneficiary; or

27 (2) A scholarship, allowance, or payment described in 26 U.S.C.
28 § 135(d)(1)(B) or (C) as in effect on January 1, ~~2007~~ 2011, received by the
29 designated beneficiary.

30

31 SECTION 8. Arkansas Code § 6-84-113 is amended to read as follows:
32 6-84-113. Liberal construction.

33 This chapter shall be liberally construed to comply with the
34 requirements of 26 U.S.C. § 529 as in effect on January 1, ~~2007~~ 2011.

35

36 SECTION 9. Arkansas Code § 26-51-404(a)(4), concerning scholarships,

1 fellowships, grants, and stipends, is amended to read as follows:

2 (4) Section 117 of the Internal Revenue Code of 1986, as in
3 effect on January 1, ~~2003~~ 2011, regarding the taxability of scholarships,
4 fellowships, grants, and stipends, is adopted for the purpose of clarifying
5 and calculating Arkansas income tax liability.

6
7 SECTION 10. Arkansas Code § 26-51-404(b)(10), concerning the exclusion
8 of discharge of indebtedness from gross income, is amended to read as
9 follows:

10 (10) Sections 108 and 1017 of the Internal Revenue Code of 1986,
11 as in effect on January 1, ~~2009~~ 2011, regarding income from the discharge of
12 indebtedness, are adopted for the purpose of computing Arkansas income tax
13 liability;

14
15 SECTION 11. Arkansas Code § 26-51-404(b)(11), concerning the exclusion
16 from gross income of health flexible spending account contributions, is
17 amended to read as follows:

18 (11) Section 125 of the Internal Revenue Code of 1986, in effect
19 on January 1, ~~2009~~ 2011, is adopted in computing amounts excludible from
20 gross income under the Income Tax Act of 1929, § 26-51-101 et seq., for
21 payments received under a cafeteria plan;

22
23 SECTION 12. Arkansas Code § 26-51-404(b)(14), concerning the exclusion
24 from gross income of disability and health plan payments, is amended to read
25 as follows:

26 (14) ~~Sections 104-106 of the Internal Revenue Code of 1986, as~~
27 ~~in effect on January 1, 1999, regarding the exclusion from income of~~
28 ~~disability and health plan payments, are adopted for the purpose of computing~~
29 ~~Arkansas income tax liability; The following sections of the Internal Revenue~~
30 ~~Code of 1986 regarding the exclusion from income of disability and health~~
31 ~~plan payments, are adopted for the purpose of computing Arkansas income tax~~
32 ~~liability:~~

33 (A) Sections 104 and 106 as in effect on January 1, 2011;
34 and

35 (B) Section 105 as in effect on March 30, 2010;
36

1 SECTION 13. Arkansas Code § 26-51-404(b)(20), concerning the exclusion
2 from gross income for employees whose education expenses were paid by an
3 employer, is amended to read as follows:

4 (20) Section 127 of the Internal Revenue Code of 1986, as in
5 effect on January 1, ~~2003~~ 2011, regarding the exclusion from gross income for
6 employees whose education expenses were paid by an employer, is adopted for
7 the purpose of computing Arkansas income tax liability;

8
9 SECTION 14. Arkansas Code § 26-51-404(b)(25), concerning the exclusion
10 from gross income of employment-related adoption assistance benefits, is
11 amended to read as follows:

12 (25) Section 137 of the Internal Revenue Code of 1986, as in
13 effect on January 1, ~~2003~~ 2011, regarding the exclusion from gross income of
14 benefits received under an employer's adoption assistance program, is adopted
15 for the purpose of computing Arkansas income tax liability;

16
17 SECTION 15. Arkansas Code § 26-51-409(a), concerning small business
18 corporations, is amended to read as follows:

19 (a) Subchapter S of the Internal Revenue Code of 1986, as in effect on
20 January 1, ~~2009~~ 2011, regarding small business corporations, is adopted for
21 the purpose of computing Arkansas income tax liability.

22
23 SECTION 16. Arkansas Code § 26-51-414(a), concerning deferred
24 compensation plans, is amended to read as follows:

25 ~~(a)(1) Sections 72, 219, 401-404, 406-416, and 457 of the Internal~~
26 ~~Revenue Code of 1986, as in effect on January 1, 2009, relating to annuities,~~
27 ~~retirement savings, and employee benefit plans, respectively, are adopted for~~
28 ~~the purpose of computing Arkansas income tax liability, except Arkansas~~
29 ~~capital gains treatment and the Arkansas tax rates shall apply. The~~
30 ~~following sections relating to annuities, retirement savings, and employee~~
31 ~~benefit plans are adopted for the purpose of computing Arkansas income tax~~
32 ~~liability, except Arkansas capital gains treatment and the Arkansas tax rates~~
33 ~~shall apply:~~

34 (A) Sections 72, 219, 402-404, 406-416, and 457 of the Internal
35 Revenue Code of 1986, as in effect on January 1, 2011;

36 (B) Section 401 of the Internal Revenue Code of 1986, as in

1 effect on March 30, 2010.

2 (2) The requirements for filing a joint return under §
3 219(c)(1)(A) of the Internal Revenue Code of 1986 shall not apply.

4
5 SECTION 17. Arkansas Code § 26-51-414(b), concerning the application
6 of Arkansas income tax to Roth individual retirement accounts, is amended to
7 read as follows:

8 (b) Section 408A of the Internal Revenue Code of 1986, as in effect on
9 January 1, ~~1999~~ 2010, relating to Roth individual retirement accounts, is
10 adopted for the purpose of computing Arkansas income tax liability ~~with the~~
11 ~~following exceptions~~, except with regard to adjusted gross income under 26
12 U.S.C. § 408A(c)(3), which shall be determined in the same manner as under §
13 26-51-403(b).

14 ~~(1) (A) Sections 408A(d)(3)(A)(iii) and 408A(d)(3)(E) are not~~
15 ~~adopted.~~

16 ~~(B) All income from and tax attributable to distributions from a~~
17 ~~non-Roth individual retirement account to a Roth individual retirement~~
18 ~~account prior to January 1, 1999, shall be reported for tax year 1998, and~~
19 ~~the tax may be paid over a four-year period as permitted by the Director of~~
20 ~~the Department of Finance and Administration; and~~

21 ~~(2) Adjusted gross income under § 408A(c)(3) shall be determined in~~
22 ~~the same manner as under § 26-51-403(b).~~

23
24 SECTION 18. Arkansas Code § 26-51-415, concerning deductions for
25 interest expenses, is amended to read as follows:

26 Section 163 of the Internal Revenue Code of 1986, as in effect on
27 January 1, ~~2009~~ 2011, regarding deductions for interest expenses, is adopted
28 for the purpose of computing Arkansas income tax liability.

29
30 SECTION 19. Arkansas Code § 26-51-419(a)(1), concerning deductions for
31 charitable contributions, is amended to read as follows:

32 (a)(1)(A) Section 170 of the Internal Revenue Code of 1986, as in
33 effect on January 1, ~~2009~~ 2011, regarding deductions for charitable
34 contributions, is adopted for the purpose of computing Arkansas income tax
35 liability.

36 (B) This adoption is for taxable years beginning on or after

1 January 1, ~~2009~~ 2011, and ~~will have no~~ does not have an effect on tax years
2 before its adoption.

3

4 SECTION 20. Arkansas Code § 26-51-423(a)(1), concerning business
5 expense deductions to adjusted gross income, is amended to read as follows:

6 (1) Business Expenses. All of § 162, except subsection (n), of
7 the Internal Revenue Code of 1986, as in effect on ~~January 1, 2009~~, March 30,
8 2010, regarding trade or business expenses, is adopted for the purpose of
9 computing Arkansas income tax liability;

10

11 SECTION 21. Arkansas Code § 26-51-423(a)(2), concerning medical and
12 dental expense deductions to adjusted gross income, is amended to read as
13 follows:

14 (2) Medical and Dental Expenses. Section 213 of the Internal
15 Revenue Code of 1986, as in effect on January 1, ~~1997~~ 2011, is adopted in
16 computing the medical and dental expense deduction under the state income tax
17 law;

18

19 SECTION 22. Arkansas Code § 26-51-423(a)(4), concerning moving expense
20 deductions to adjusted gross income, is amended to read as follows:

21 (4) Moving Expenses. Section 217 of the Internal Revenue Code
22 of 1986, as in effect on January 1, ~~1995~~ 2011, regarding the deduction of
23 moving expenses, is adopted for the purpose of computing Arkansas income tax
24 liability.

25

26 SECTION 23. Arkansas Code § 26-51-423(d), concerning the deduction of
27 interest paid on qualified education loans to adjusted gross income, is
28 amended to read as follows:

29 (d) Section 221 of the Internal Revenue Code of 1986, as in effect on
30 January 1, ~~2003~~ 2011, regarding the deduction of interest paid on qualified
31 education loans, is adopted for the purpose of computing Arkansas income tax
32 liability.

33

34 SECTION 24. Arkansas Code § 26-51-423(e), concerning the deduction of
35 costs incurred for the cleanup of hazardous substances to adjusted gross
36 income, is amended to read as follows:

1 (e) Section 198 of the Internal Revenue Code of 1986, as in effect on
2 January 1, ~~2009~~ 2011, regarding the deduction of costs paid or incurred for
3 the cleanup of certain hazardous substances, is adopted for the purpose of
4 computing Arkansas income tax liability.

5
6 SECTION 25. Arkansas Code § 26-51-429(b), concerning the deduction of
7 oil and gas well depletion allowance to adjusted gross income, is amended to
8 read as follows:

9 (b) In computing the depletion allowance deduction allowed by this
10 section for oil and gas wells, the provisions of § 613 of the Internal
11 Revenue Code of 1986 ~~shall not be~~ are not in effect, but instead the
12 computation of the amount of the depletion deduction ~~shall be~~ is controlled
13 by the provisions of § 613A of the Internal Revenue Code of 1986, as in
14 effect on January 1, ~~2009~~ 2011, which are adopted as part of the state income
15 tax law.

16
17 SECTION 26. Arkansas Code § 26-51-436(3), concerning luxury
18 automobiles and other property, is amended to read as follows:

19 (3) Subsections (a), (b), (c), and (d) of § 280F of the Internal
20 Revenue Code of 1986, as in effect on January 1, ~~1999~~ 2011, regarding
21 investment tax credit and depreciation for luxury automobiles and other
22 property, is adopted for purposes of computing Arkansas income tax liability;

23
24 SECTION 27. Arkansas Code § 26-51-436(4), concerning limits on
25 itemized deductions, is amended to read as follows:

26 (4) Section 68 of the Internal Revenue Code of 1986, as in
27 effect on January 1, ~~2009~~ 2011, is adopted to limit itemized deductions;

28
29 SECTION 28. Arkansas Code § 26-51-436(5), concerning limits on
30 deductions for medical savings account contributions, is amended to read as
31 follows:

32 (5) Section 220 of the Internal Revenue Code of 1986, as in
33 effect on January 1, ~~2005~~ 2011, regarding the deductibility from income of
34 contributions made to a medical savings account by the taxpayer or the
35 taxpayer's employer, is adopted for the purpose of computing Arkansas income
36 tax liability;

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SECTION 29. Arkansas Code § 26-51-440(a)(1), concerning regulated investment companies, real estate investment trusts, and financial asset securitization investment trusts, is amended to read as follows:

(a)(1) Subchapter M of the Internal Revenue Code of 1986, as in effect on January 1, ~~2009~~ 2011, relating to regulated investment companies, real estate investment trusts, and financial asset securitization investment trusts, is adopted for the purpose of computing Arkansas income tax liability and shall govern all corporations that are registered as investment companies under the Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., as in effect on January 1, ~~2009~~ 2011.

SECTION 30. Arkansas Code § 26-51-445 is amended to read as follows:
26-51-445. Adoption expenses.

(a) Section 23 of the Internal Revenue Code of 1986, 26 U.S.C. § 23, as in effect on January 1, 2003, and Section 36C of the Internal Revenue Code of 1986, as in effect on January 1, 2011, ~~is~~ are adopted for purposes of determining the allowable credit for adoption-related fees, costs, and expenses paid or incurred by a taxpayer.

(b)(1) The amount of credit allowed against Arkansas income tax due ~~shall be~~ is twenty percent (20%) of the federal credit as calculated ~~pursuant to~~ under 26 U.S.C. § 23 and § 36C.

(2) The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of income tax otherwise due.

SECTION 31. Arkansas Code § 26-51-448(a), concerning educational individual retirement accounts, is amended to read as follows:

(a) Section 530 of the Internal Revenue Code of 1986, as in effect on January 1, ~~2009~~ 2011, relating to educational individual retirement accounts, is adopted for the purposes of computing Arkansas income tax liability.

SECTION 32. Arkansas Code § 26-51-453(a), concerning deductions for contributions to health savings accounts, is amended to read as follows:

(a) Subsections (a)-(d), (e)(2), (f), and (g) of § 223 of the Internal Revenue Code of 1986, as in effect on January 1, ~~2007~~ 2011, regarding a deduction from income for amounts deposited to health savings accounts, is

1 adopted for purposes of computing Arkansas income tax liability.

2
3 SECTION 33. Arkansas Code § 26-51-502(b)(1), concerning the credit for
4 household and dependent care services, is amended to read as follows:

5 (b)(1) Section 21 of the Internal Revenue Code of 1986, as in effect
6 on January 1, ~~2007~~ 2011, is adopted for purposes of determining the allowable
7 credit under the Income Tax Act of 1929, § 26-51-101 et seq., for household
8 and dependent care services necessary for gainful employment.

9
10 SECTION 34. Arkansas Code § 26-51-815(a)(1), concerning the
11 computation of capital gains and losses, is amended to read as follows:

12 (a)(1)(A) To the extent they apply to capital gains and losses
13 realized or incurred during income years beginning after December 31, 1996,
14 26 U.S.C. §§ 1211-1237 and 1239-1257 as in effect on January 1, ~~2007~~ 2011,
15 and the regulations of the Secretary of the Treasury promulgated under 26
16 U.S.C. §§ 1211-1237 and 1239-1257 as in effect on January 1, ~~2007~~ 2011, are
17 adopted for the purpose of computing tax liability under the Income Tax Act
18 of 1929, § 26-51-101 et seq.

19 (B) However, the provisions of this section shall not apply to a C
20 corporation as defined in 26 U.S.C. § 1361, as in effect on January 1, ~~1997~~
21 2011.

22
23 SECTION 35. Arkansas Code § 26-51-1702, concerning the allowance and
24 calculation of the low income housing tax credit, is amended to add an
25 additional subdivision (g) to read as follows:

26 (g)(1) A grant payment made under Section 1602 of the American
27 Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, is excluded from
28 gross income if the grant payment is made in lieu of a federal low income
29 housing tax credit.

30 (2) The grant recipient shall comply with the requirements of
31 this subchapter in the same manner as if the grant recipient had received a
32 federal low income housing tax credit.

33
34 SECTION 36. EFFECTIVE DATE. Subdivision (14)(B) of Section 12,
35 subdivision (a)(1)(B) of Section 16, Section 17, Section 20, and Section 35
36 shall be effective for tax years beginning on and after January 1, 2010.

1 Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, subdivision (14)(A) of Section
2 12, Sections 13, 14, 15, subdivisions (a)(1)(A) and (a)(2) of Section 16,
3 Sections 18, 19 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, and 34
4 shall be effective for tax years beginning on and after January 1, 2011.

5
6 SECTION 37. EMERGENCY CLAUSE. It is found and determined by the
7 General Assembly of the State of Arkansas that certain recent amendments to
8 the Internal Revenue Code have not been adopted into Arkansas's income tax
9 law; that these inconsistencies make it difficult for Arkansas taxpayers and
10 their tax preparers to report and remit the correct amount of Arkansas income
11 tax; and that this act is immediately necessary to facilitate the orderly
12 administration of Arkansas's income tax laws. Therefore, an emergency is
13 declared to exist and this act being immediately necessary for the
14 preservation of the public peace, health, and safety shall become effective
15 on:

16 (1) The date of its approval by the Governor;

17 (2) If the bill is neither approved nor vetoed by the Governor,
18 the expiration of the period of time during which the Governor may veto the
19 bill; or

20 (3) If the bill is vetoed by the Governor and the veto is
21 overridden, the date the last house overrides the veto.

22
23 /s/Teague
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26 **APPROVED: 03/30/2011**
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