

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/3/99 S3/18/99

A Bill

Act 1126 of 1999
HOUSE BILL 1220

5 *By: Representative Courtway*
6 *By: Senator Hill*
7
8

For An Act To Be Entitled

9
10 "AN ACT TO AMEND VARIOUS STATE INCOME TAX PROVISIONS
11 TO ADOPT RECENT CHANGES TO THE INTERNAL REVENUE CODE;
12 AND FOR OTHER PURPOSES."

Subtitle

13
14 "INCOME TAX TECHNICAL CORRECTIONS."
15
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code 26-18-306, concerning statute of limitations,
21 is amended by adding a new subsection to read as follows:

22 "(k) In the case of an individual, the running of the periods specified
23 for filing an amended return or verified claim for credit or refund shall be
24 suspended during any period of such individual's life that such individual is
25 financially disabled. An individual is financially disabled if such
26 individual is unable to manage his financial affairs by reason of a medically
27 determinable physical or mental impairment of the individual which can be
28 expected to result in death or which has lasted or can be expected to last for
29 a continuous period of not less than twelve months. An individual shall not
30 be considered to have such an impairment unless proof of the existence thereof
31 is furnished in a form and manner as the Director may require. An individual
32 shall not be treated as financially disabled during any period that such
33 individual's spouse or any other person is authorized to act on behalf of such
34 individual in financial matters."
35

36 SECTION 2. Title 26, Chapter 18, Subchapter 3 of the Arkansas Code is

1 amended by adding a new section to read as follows:

2
3 "26-18-310. (a) The Director is authorized to promote the benefits of
4 and encourage the use of electronic tax administration programs, as they
5 become available, through the use of mass communications and other means. It
6 is the policy of the Department of Finance and Administration that:

7 (1) Paperless filing should be the preferred and most convenient
8 means of filing state tax and information returns; and

9 (2) The Department of Finance and Administration should cooperate
10 with and encourage the private sector by encouraging competition to increase
11 electronic filing of such returns.

12 (b) The Director shall establish a plan to eliminate barriers, provide
13 incentives, and use competitive market forces to increase electronic filing
14 gradually over the next 10 years while maintaining existing processing times
15 for paper returns."

16
17 SECTION 3. Title 26, Chapter 18, Subchapter 3 of the Arkansas Code is
18 amended by adding a new section to read as follows:

19 "26-18-311. The Director of the Department of Finance and
20 Administration shall develop procedures for the acceptance of signatures on
21 state tax returns or reports in digital or other electronic form. Until such
22 time as such procedures are in place, the Director may:

23 (1) Waive the requirement of a signature for; or

24 (2) Provide for alternative methods of signing or subscribing, a
25 particular type or class of return, declaration, statement, or other document
26 required or permitted to be made in writing under state tax laws and
27 regulations."

28
29 SECTION 4. Arkansas Code 26-18-505, relating to extensions of time for
30 filing state tax returns, is amended by adding a new subsection (d) to read as
31 follows:

32 "(d)(1) The term 'good cause,' for purposes of granting an extension of
33 time for filing a return under this section, includes, but is not limited to:

34 (A) Instances where the taxpayer is determined for federal
35 tax purposes to be affected by a Presidentially declared disaster under the
36 provisions of section 7508A of the Internal Revenue Code of 1986, as in effect

1 on January 1, 1999; and

2 (B) Instances where the taxpayer is determined to be
3 affected by a disaster emergency as declared by the Governor under § 12-75-
4 107.

5 (2) In the event that an extension of time for filing a return is
6 granted to a taxpayer affected by a Presidentially declared disaster or a
7 disaster emergency declared by the Governor, no interest or penalty shall
8 accrue for the extension period granted by the director."

9
10 SECTION 5. Arkansas Code 26-18-705, relating to settlement or
11 compromise of tax liabilities, is amended by adding a new subsection (d) to
12 read as follows:

13 "(d) The Director of the Department of Finance and Administration shall
14 promulgate rules and regulations establishing guidelines for determining
15 whether a proposed offer in compromise is adequate and is acceptable to
16 resolve a tax dispute."

17
18 SECTION 6. Title 26, Chapter 18, Subchapter 7 of the Arkansas Code is
19 amended by adding a new section to read as follows:

20 "26-18-708. (a) If a return required under any state tax law has been
21 filed by a husband and wife, and the amount of tax due on said return was
22 understated by either the omission of an amount properly includable therein or
23 by erroneous deductions or credits attributable to one spouse, the director,
24 upon written request, may relieve the other spouse of liability for any tax,
25 penalty or interest attributable to the understatement of tax for that return.

26 (b) In determining whether to grant the relief set out in subsection
27 (a), the director may take into consideration the following factors:

28 (1) Whether the spouse making the request for relief has
29 significantly benefited, either directly or indirectly, from the
30 understatement of tax;

31 (2) Whether the spouse making the request for relief knew or had
32 reason to know of the understatement of tax; and

33 (3) Any other fact or circumstance which would make it
34 inequitable to hold the spouse making the request for relief liable for the
35 deficiency resulting from the understatement of tax.

36 (c) For purposes of subsection (b)(2), the term 'reason to know' shall

1 mean whether a reasonably prudent person would have known that an
 2 understatement was made.

3 (d) For purposes of subsection (a), the term 'attributable to one
 4 spouse' shall mean that the understatement on the return was the result of the
 5 actions taken or information supplied by that spouse."

6

7 SECTION 7. Arkansas Code 26-18-208(6)(B)(i), concerning penalties for
 8 failure to pay taxes, is amended to read as follows:

9 "(i) No penalty shall be imposed for a tax year if the tax shown on the
 10 return for such tax year is ~~two hundred fifty dollars (\$250)~~ one thousand
 11 dollars (\$1,000) or less."

12

13 SECTION 8. Arkansas Code 26-51-911(a), concerning estimated tax, is
 14 amended to read as follows:

15 "(a) Every taxpayer subject to the tax levied by the Arkansas Income
 16 Tax Act, as amended, § 26-51-101 et seq., shall make and file with the
 17 director a declaration of the estimated tax for the income year if the
 18 taxpayer can reasonably expect the estimated tax to be more than ~~two hundred~~
 19 ~~fifty dollars (\$250)~~ one thousand dollars (\$1,000)."

20

21 SECTION 9. Arkansas Code 26-51-913 is amended to read as follows:

22 "26-51-913. Payment of estimated tax.

23 (a) The estimated tax as shown on the declaration filed with the
 24 director shall be paid as follows:

25 (1) If the estimated tax is not more than ~~two hundred fifty~~
 26 ~~dollars (\$250)~~ one thousand dollars (\$1,000), payment may be made at the time
 27 the declaration is filed or at the time the return for the income year is
 28 filed.

29 (2) If the estimated tax is in excess of ~~two hundred fifty~~
 30 ~~dollars (\$250)~~ one thousand dollars (\$1,000), it may be paid in full at the
 31 time of filing the declaration of estimated tax, or it may, at the election of
 32 the taxpayer, be paid in equal installments of one-fourth (1/4) at the time
 33 prescribed for filing the declaration, one-fourth (1/4) on or before the
 34 fifteenth day of the sixth month of the income year, one-fourth (1/4) on or
 35 before the fifteenth day of the ninth month of the income year, and one-fourth
 36 (1/4) on or before the fifteenth day of the first month after the close of the

1 income year.

2 (3) In the case of a taxpayer who files an amendment to the
3 declaration, the quarterly tax payments coming due after the amendment shall
4 be adjusted either up or down to conform to the amended declaration of
5 estimated tax.

6 (4)(A) In the case of a taxpayer who first meets the requirements
7 and files a declaration subsequent to the fifteenth day of the fourth month of
8 the income year, and not later than the fifteenth day of the ninth month of
9 the income year, if the estimated tax is in excess of ~~two hundred fifty~~
10 ~~dollars (\$250)~~ one thousand dollars (\$1,000), the taxpayer may pay the
11 estimated tax in equal installments with the first installment being due at
12 the time of filing the declaration and an installment being due on each
13 subsequent regular quarterly tax payment date for the income year as
14 prescribed in subsection (a)(2) of this section.

15 (B) If the declaration is filed subsequent to the fifteenth
16 day of the ninth month of the income year and on or before the fifteenth day
17 of the first month after the close of the income year, the estimated tax shall
18 be paid in full at the time of filing the declaration.

19 (b) Any tax payment due under the provisions of this subchapter may be
20 paid by the taxpayer in advance of the date prescribed in the section for the
21 payment thereof."
22

23 SECTION 10. Arkansas Code 26-59-109 is amended to read as follows:
24 "26-59-109. Estate tax returns generally.

25 (a) RETURNS BY EXECUTOR. (1) CITIZENS OR RESIDENTS OF THE UNITED
26 STATES. In all cases where the gross estate at the death of a citizen or
27 resident of the United States exceeds ~~six hundred thousand dollars (\$600,000)~~
28 one million dollars (\$1,000,000) and a portion of the property comprising the
29 gross estate is located in Arkansas, then the executor shall make a return
30 with respect to the estate tax imposed by this chapter.

31 (2) NONRESIDENTS NOT CITIZENS OF THE UNITED STATES. In the case
32 of the estate of every nonresident not a citizen of the United States if that
33 part of the gross estate which is situated in the United States exceeds ~~six~~
34 ~~hundred thousand dollars (\$600,000)~~ one million dollars (\$1,000,000) and a
35 portion of the property comprising the gross estate is located in Arkansas,
36 then the executor shall make a return with respect to the estate tax imposed

1 by this chapter.

2 ~~(3) PHASE-IN OF FILING REQUIREMENT AMOUNT.~~

3 ~~In the case of decedents Paragraph (1) shall be applied by~~
4 ~~dying in: substituting for "\$600,000" the~~
5 ~~following amount:~~

6	1983	\$275,000
7	1984	325,000
8	1985	400,000
9	1986	500,000

10 (3) PHASE-IN OF FILING REQUIREMENT AMOUNT.

11 In the case of decedents Paragraph (1) shall be applied by
12 dying in: substituting for "\$1,000,000" the
13 following amount:

14	<u>1999</u>	<u>\$ 650,000</u>
15	<u>2000 and 2001</u>	<u>\$ 675,000</u>
16	<u>2002 and 2003</u>	<u>\$ 700,000</u>
17	<u>2004</u>	<u>\$ 850,000</u>
18	<u>2005</u>	<u>\$ 950,000</u>
19	<u>2006 or thereafter</u>	<u>\$1,000,000</u>

20 (b) RETURNS BY BENEFICIARIES. If the executor is unable to make a
21 complete return as to any part of the gross estate of the decedent, he shall
22 include in his return a description of such part and the name of every person
23 holding a legal or beneficial interest therein. Upon notice from the director,
24 such person shall in like manner make a return as to such part of the gross
25 estate.

26 (c) RETURNS DUE. Returns made under subsection (a) of this section
27 shall be filed within nine (9) months after the date of the decedent's death.

28 (d) PLACE OF FILING. Estate tax returns shall be filed with the
29 director at his office in Little Rock, Arkansas."

30

31 SECTION 11. Arkansas Code 26-59-113 is amended to read as follows:
32 "26-59-113. Payment - Time limitations - Federal election.

33 (a) The tax imposed by this chapter shall be due and payable nine (9)
34 months after decedent's death and shall be paid by the executor to the
35 director.

36 (b)(1) Where the director finds that the payment on the due date of the

1 tax or any part thereof would impose undue hardship upon the estate, the
 2 director may extend the time for any payment of any such part. However, no
 3 extension shall be for more than eighteen (18) months, and the aggregate of
 4 extension with respect to any estate shall not exceed five (5) years from the
 5 due date, except as provided in subsection (c) of this section.

6 (2) In such case, the amount in respect of which the extension is
 7 granted shall be paid on or before the date of the expiration of the period of
 8 the extension unless further extension is granted.

9 (c)(1) The provisions of 26 U.S.C. § 6166, as amended and in effect on
 10 January 1, ~~1989~~ 1999, which provide for an election by the representative of a
 11 decedent's estate to pay the federal estate tax due on certain qualifying
 12 assets of the estate in deferred installments for a period of up to fifteen
 13 (15) years at a ~~four percent (4%)~~ two (2%) percent interest rate, regarding
 14 either the estate original shown due on the estate tax return or as later
 15 determined to be due following audit, shall be adopted as a state estate tax
 16 law.

17 (2) However, the ~~four percent (4%)~~ two (2%) percent interest rate
 18 shall only apply to the '~~4-percent~~ 2-percent portion' as that term is defined
 19 in 26 U.S.C. § 6601(j)(2) (~~Supp. 1988~~), as amended and in effect on January 1,
 20 1999. The interest rate on the estate tax exceeding the '~~4-percent~~ 2-percent
 21 portion' shall be at the rate specified in § 26-18-508 concerning tax
 22 deficiencies.

23 (3) Any timely filed election by the representative of the
 24 decedent's estate for deferral of the payment of federal estate taxes shall be
 25 deemed to also defer the payment of the applicable portion of Arkansas estate
 26 tax for the same periods of time for the Arkansas assets qualifying for this
 27 special federal election."
 28

29 SECTION 12. Arkansas Code 6-83-107(a), concerning contributions to the
 30 Arkansas Tax-Deferred Tuition Savings Program, is amended to read as follows:

31 "(a) Except as otherwise provided in this subsection, no amount shall
 32 *be included in gross income of a designated beneficiary under this program or*
 33 *a contributor to such program on behalf of a designated beneficiary with*
 34 *respect to any ~~contribution,~~ distribution or earnings under the program. Any*
 35 *distribution under the program shall be included in the gross income of the*
 36 *distributee in the manner substantially similar to that provided by federal*

1 law, to the extent it is not excluded from gross income under any other
2 provision of law. The provisions of the preceding sentence shall not apply to
3 that portion of any distribution which, within sixty (60) days of such
4 distribution, is transferred to the credit of another designated beneficiary
5 under this program who is a member of the family of the designated beneficiary
6 with respect to which the contributions were made.”

7
8 SECTION 13. Arkansas Code 26-18-303, concerning confidential tax
9 records, is amended by adding a new subsection (i) to read as follows:

10 “(i) The Director of the Department of Finance and Administration may
11 disclose information from a return filed by a person, partnership,
12 corporation, trust, or estate to any of the parties who signed the return; who
13 is the administrator, executor or trustee of the estate filing the return; who
14 was a member of the partnership filing the return during any part of the
15 period covered by the return; who is a trustee or beneficiary of the trust
16 filing the return; who is an officer, or bona fide shareholder of record
17 owning one percent (1%) or more of the outstanding stock of the corporation
18 filing the return; who was a shareholder during any part of the period covered
19 by the return filed by a subchapter S corporation; who was a member of the
20 partnership during any part of the period covered by the partnership return;
21 or is the attorney in fact duly authorized in writing by any of the persons
22 described above. The Director may also disclose all information concerning
23 the collection activity related to a tax return to any party who signed the
24 return. The Director shall promulgate such regulations as are necessary to
25 establish a reasonable procedure for making requests for and the release of
26 information under this section.”

27
28 SECTION 14. Arkansas Code 26-51-309 is amended to read as follows:

29 “26-51-309. Charitable remainder trusts.

30 Section 664 of Title 26 of the United States Code as in effect on
31 January 1, ~~1993~~ 1999, and the regulations of the Secretary of the Treasury
32 promulgated thereunder and in effect on January 1, ~~1993~~ 1999, are adopted for
33 the purpose of computing tax liability of charitable remainder trusts and
34 their beneficiaries under the Arkansas Income Tax Act of 1929, as amended,
35 § 26-51-101, et seq. Furthermore, any other provisions of the federal income
36 tax law and regulations which are necessary for interpreting and implementing

1 26 U.S.C. § 664 are adopted to the extent as in effect on January 1, 1993
2 1999."

3

4 SECTION 15. Arkansas Code 26-51-310 is amended to read as follows:

5 "26-51-310. Foreign income exclusion.

6 Sections 911 and 912 of the federal Internal Revenue Code of 1986, as in
7 effect on January 1, ~~1989~~ 1999, the same being 26 U.S.C. 911, regarding
8 citizens or residents of the United States living abroad, and 26 U.S.C. 912,
9 regarding certain allowances for citizens or residents of the United States
10 living abroad, are hereby adopted for the purpose of computing Arkansas income
11 tax liability."

12

13 SECTION 16. Arkansas Code 26-51-404(b)(1), pertaining to the
14 definition of gross income, is amended to read as follows:

15 "(1) Section 1033 of the Internal Revenue Code of 1986, as in effect on
16 January 1, ~~1997~~ 1999, relating to the exclusion from gross income of gain
17 resulting from the involuntary conversion of a taxpayer's property, is hereby
18 adopted for the purpose of computing Arkansas income tax liability;"

19

20 SECTION 17. Arkansas Code 26-51-404(b)(2), concerning the exclusion of
21 gains from the sale or exchange of property used as a taxpayer's principal
22 residence from the definition of gross income, is amended to read as follows:

23 ~~"(2)(A) So much of the gain, if any, resulting from the sale or~~
24 ~~exchange of property which is located within the State of Arkansas, used by~~
25 ~~the taxpayer as his principal residence, which shall, within a period~~
26 ~~beginning two (2) years prior to the date of sale or exchange and ending two~~
27 ~~(2) years after that date, be applied by the taxpayer to purchase, acquire,~~
28 ~~construct, or reconstruct other property which is thereafter used or to be~~
29 ~~used by the taxpayer as his principal residence if the new residence is within~~
30 ~~the State of Arkansas;~~

31 ~~(B) Gain from the sale or exchange of property if, during the five-year~~
32 ~~period ending on the date of the sale or exchange, such property has been~~
33 ~~owned and used by the taxpayer as the taxpayer's principal residence for~~
34 ~~periods aggregating three (3) years or more. In the case of an unmarried~~
35 ~~individual whose spouse is deceased on the date of sale or exchange of the~~
36 ~~property, if the deceased spouse (during the five-year period ending on the~~

1 ~~date of the sale or exchange) satisfied the holding and use requirements of~~
2 ~~the preceding sentence with respect to such property, then such individual~~
3 ~~shall be treated as satisfying the holding and use requirements of the~~
4 ~~preceding sentence with respect to such property;~~

5 (2) Section 121 of the Internal Revenue Code of 1986, as in effect on
6 January 1, 1999, relating to the exclusion from gross income of gain from the
7 sale or exchange of property owned and used as the taxpayer's principal
8 residence, is hereby adopted for the purpose of computing Arkansas income tax
9 liability; "

10
11 SECTION 18. Arkansas Code 26-51-404(b)(3), pertaining to the
12 definition of gross income, is amended to read as follows:

13 "(3) Section 101 of the Internal Revenue Code of 1986, as in effect on
14 January 1, ~~1997~~ 1999, relating to the exclusion from gross income of proceeds
15 or benefits paid upon the illness or death of the insured, is hereby adopted
16 for the purpose of computing Arkansas income tax liability; "

17
18 SECTION 19. Arkansas Code 26-51-404(b)(11), pertaining to the
19 definition of gross income, is amended to read as follows:

20 "(11) Sections 108 and 1017 of the Internal Revenue Code of 1986, as
21 in effect on January 1, ~~1995~~ 1999, regarding income from discharge of
22 indebtedness, are adopted for the purpose of computing Arkansas income tax
23 liability; "

24
25 SECTION 20. Arkansas Code 26-51-404(b)(15), pertaining to the
26 definition of gross income, is amended to read as follows:

27 "(15) Sections 104 - 106 of the federal Internal Revenue Code of 1986,
28 as in effect on January 1, ~~1997~~ 1999, regarding exclusion from income of
29 disability and health plan payments, are hereby adopted for the purpose of
30 computing Arkansas income tax liability. "

31
32 SECTION 21. Arkansas Code 26-51-404(b)(17), pertaining to the
33 definition of gross income, is amended to read as follows:

34 "(17) Section 119 of the Internal Revenue Code of 1986, as in effect on
35 January 1, ~~1997~~ 1999, regarding the exclusion from gross income of meals or
36 lodging furnished for the convenience of the employer, is adopted for the

1 purpose of computing Arkansas income tax liability;"

2
3 SECTION 22. Arkansas Code 26-51-404(b)(20) and (21), pertaining to the
4 definition of gross income, are amended to read as follows:

5 "(20) Section 132 of the Internal Revenue Code of 1986, as in effect on
6 January 1, ~~1995~~ 1999, regarding the exclusion from income of certain fringe
7 benefits, is adopted for the purpose of computing Arkansas income tax
8 liability;

9 ~~(21) Section 126 of the Internal Revenue Code of 1986, as in effect on~~
10 ~~January 1, 1995, regarding the exclusion of certain agricultural cost-share~~
11 ~~program payments from gross income, is hereby adopted for the purpose of~~
12 ~~computing Arkansas income tax liability;~~ Section 127 of the Internal Revenue
13 Code of 1986, as in effect on January 1, 1999, regarding the exclusion from
14 gross income for employees whose education expenses were paid by an employer,
15 is adopted for the purpose of computing Arkansas income tax liability;"

16
17 SECTION 23. Arkansas Code 26-51-404(b), pertaining to the definition of
18 gross income, is amended by adding a new subsection to read as follows:

19 "(23) Section 138 of the Internal Revenue Code of 1986, as in effect on
20 January 1, 1999, regarding a pilot program permitting eligible senior citizens
21 to establish Medicare Plus Choice Medical Savings Accounts, is adopted for the
22 purpose of computing Arkansas income tax liability."

23
24 SECTION 24. Arkansas Code 26-51-409(a) is amended to read as follows:

25 "(a) Subchapter S of the federal Internal Revenue Code of 1986, as in
26 effect on January 1, ~~1997~~ 1999, regarding small business corporations, is
27 hereby adopted for the purpose of computing Arkansas income tax liability."

28
29 SECTION 25. Arkansas Code 26-51-411, pertaining to gain or loss on
30 sales of property, is amended by adding two new subsections to read as
31 follows:

32 "(f) Section 1045 of the Internal Revenue Code of 1986, as in effect on
33 January 1, 1999, regarding gain on the sale or exchange of qualified small
34 business stock, is adopted for the purpose of computing Arkansas income tax
35 liability.

36 (g) Sections 1258 and 1259 of the Internal Revenue Code of 1986, as in

1 effect on January 1, 1999, regarding appreciated financial positions, is
2 adopted for the purpose of computing Arkansas income tax liability."

3
4 SECTION 26. Arkansas Code 26-51-412, pertaining to gain or loss on
5 exchange of property, is amended by adding a new subsection to read as
6 follows:

7 "(d) Sections 351, 354 through 358, 361, 362, 367 and 368 of the
8 Internal Revenue Code of 1986, as in effect on January 1, 1999, regarding
9 corporate organization, reorganization and recognition of gain, are adopted
10 for the purpose of computing Arkansas income tax liability."

11
12 SECTION 27. Arkansas Code 26-51-413 is amended to read as follows:

13 "26-51-413. Corporate liquidations.

14 Sections 332, 334, 336, 337, and 338 of the federal Internal Revenue
15 Code of 1986, as in effect on January 1, ~~1989~~ 1999, the same being 26 U.S.C.
16 332, 334, 337, and 338 regarding the liquidations of corporations, are hereby
17 adopted for the purpose of computing Arkansas income tax liability; provided,
18 however, that a corporation that (i) has made an election under Subchapter S
19 of the Internal Revenue Code of 1986 and (ii) has not made a corresponding
20 election to be treated as an S Corporation for Arkansas income tax purposes
21 pursuant to § 26-51-409(b), will not be deemed to have made elections under §
22 338 of the Internal Revenue Code of 1986 for Arkansas income tax purposes,
23 unless it has filed a separate election with the Arkansas Director of the
24 Department of Finance and Administration stating that it is making an election
25 under § 338 for Arkansas income tax purposes. For the purposes of the
26 application of this section, the transition rule of sections 633(c) and (d) of
27 the Tax Reform Act of 1986, Public Law 99-514, as amended by subsections
28 (g)(2), (g)(3)(A)-(C), (g)(4), (g)(5)(A) and (B), and (g)(7) of Section 1006
29 of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, shall
30 also apply under the state income tax law."

31
32 SECTION 28. Arkansas Code 26-51-415 is amended to read as follows:

33 "26-51-415. Deductions - Interest.

34 Section 163 of the Internal Revenue Code of 1986, as in effect on
35 January 1, ~~1997~~ 1999, regarding the deductions for interest expenses, is
36 hereby adopted for the purpose of computing Arkansas income tax liability."

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SECTION 29. Arkansas Code 26-51-419 is amended to read as follows:

"26-51-419. Deductions – Charitable Contributions.

Section 170 of the Internal Revenue Code of 1986, as in effect on January 1, ~~1997~~ 1999, regarding deductions for charitable contributions, is hereby adopted for the purpose of computing Arkansas income tax liability. This adoption is for taxable years beginning on or after January 1, ~~1997~~ 1999, and will have no effect on years prior to its adoption; provided, however, with respect to contributions of qualified appreciated stock, within the meaning of IRC § 170(e)(5), made after May 31, 1997, the provisions of this section shall apply after taking into account the extension of the provisions of IRC § 170(e)(5) by § 602 of the Taxpayer Relief Act of 1997 and § 1004(a) of the Tax Extension Act."

SECTION 30. Arkansas Code 26-51-423 is amended to read as follows:

"26-51-423. Deductions – Expenses.

(a) In computing net income, there shall be allowed as deductions the following expenses:

(1) BUSINESS EXPENSES. All of § 162, except subsection (n), of the Internal Revenue Code of 1986, as in effect on January 1, ~~1997~~ 1999, regarding trade or business expenses, is hereby adopted for the purpose of computing Arkansas income tax liability;

(2) MEDICAL AND DENTAL EXPENSES. Section 213 of the Internal Revenue Code of 1986, in effect on January 1, 1997, is adopted in computing the medical and dental expense deduction under the state income tax law;

(3) TRAVEL EXPENSES. In determining travel expenses deductible as a business expense in computing net income as provided under subdivision (a)(1) of this section, the deduction for vehicle miles shall be determined by the Director of the Department of Finance and Administration under his regulatory authority in § 26-18-301; and

(4) MOVING EXPENSES. Section 217 of the Internal Revenue Code of 1986, as in effect on January 1, 1995, regarding the deduction of moving expenses, is hereby adopted for purposes of computing Arkansas income tax liability.

(b) Section 274 of the Internal Revenue Code of 1986, as in effect on January 1, ~~1997~~ 1999, regarding the deductions of expenses for entertainment,

1 amusement, recreation, business meals, travel, etc., is hereby adopted for the
2 purpose of computing Arkansas income tax liability.

3 (c)(1) An individual who is self-employed shall be allowed a deduction
4 equal to the applicable percentage, as set forth in 26 U.S.C. § 162(l)(1)(B)
5 as in effect on January 1, ~~1997~~ 1999, of the amount paid during the taxable
6 year for insurance which constitutes medical care for the taxpayer, his
7 spouse, and dependents.

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

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

15 (3) Any amount paid by the taxpayer for insurance to which this
16 subsection applies shall not be taken into account in computing the amount
17 allowable to the taxpayer as a deduction under subdivision (a)(2) of this
18 section.

19 (d) Section 221 of the Internal Revenue Code of 1986, as in effect on
20 January 1, 1999, regarding the deduction of interest paid on qualified
21 education loans, is adopted for the purpose of computing Arkansas income tax
22 liability.

23 (e) Section 198 of the Internal Revenue Code of 1986, as in effect on
24 January 1, 1999, regarding the deduction of costs paid or incurred for the
25 cleanup of certain hazardous substances, is adopted for the purpose of
26 computing Arkansas income tax liability."

27

28 SECTION 31. Arkansas Code 26-51-424, concerning loss deductions, is
29 amended by adding a new subsection to read as follows:

30 "(c) Section 183 of the Internal Revenue Code of 1986, as in effect on
31 January 1, 1999, regarding hobby losses, is adopted for the purpose of
32 computing Arkansas income tax liability."

33

34 SECTION 32. Arkansas Code 26-51-426 is amended to read as follows:

35 "26-51-426. Deductions - Reserve for bad debts or liabilities.

36 Any bank, building and loan, savings and loan or any other savings

1 institution chartered and supervised as a savings and loan, or similar
2 associations under federal or state law shall be allowed a bad debt expense
3 deduction computed in accordance with Internal Revenue Code §§ 582, 585, and
4 593, as in effect on January 1, ~~1997~~ 1999."

5
6
7 SECTION 33. Arkansas Code 26-51-428(a), concerning depreciation
8 deductions, is amended to read as follows:

9 "(a) Sections 167, 168, ~~and 179~~ and 179A of the Internal Revenue Code
10 of 1986, as in effect on January 1, ~~1997~~ 1999, regarding depreciation and
11 expensing of property, are hereby adopted for the purpose of computing
12 Arkansas income tax liability."

13
14 SECTION 34. Arkansas Code 26-51-429 is amended to read as follows:

15 "26-51-429. Deductions - Depletion allowances.

16 (a) In the case of all natural resources for which a deduction for
17 depletion is allowed under § 611 of the federal Internal Revenue Code of 1986,
18 the provisions of §§ 611-613 and 614, 616, and 617 of the Internal Revenue
19 Code of 1986, as amended and in effect on January 1, ~~1991~~ 1999, are adopted in
20 computing the depletion allowance deduction under Arkansas income tax law.

21 (b) In computing the depletion allowance deduction allowed by this
22 section for oil and gas wells, the provisions of § 613 of the Internal Revenue
23 Code of 1986 shall not be in effect, but, instead, the computation of the
24 amount of the depletion deduction shall be controlled by the provisions of §
25 613A of the Internal Revenue Code, as amended and in effect on January 1, ~~1991~~
26 1999, which are adopted as part of the state income tax law."

27
28 SECTION 35. Arkansas Code 26-51-436 is amended to read as follows:

29 "26-51-436. Deductions - Limitations.

30 Notwithstanding any other provision of this act with regard to deductions
31 allowed in computing net income:

32 (1) Section 465 of the Internal Revenue Code of 1986, as in effect on
33 January 1, 1987, is adopted to limit deductions claimed under this act to the
34 amount the taxpayer has at risk, as that term is used in the federal income
35 tax law;

36 (2) Section 469 of the Internal Revenue Code of 1986, as in effect on

1 January 1, 1997, regarding the limitations on deductibility of passive
2 activity losses and credits, is hereby adopted for the purpose of computing
3 Arkansas income tax liability;

4 (3) Subsections (a), (b), (c), and (d) of § 280F of the Internal
5 Revenue Code of 1986, as in effect on January 1, ~~1991~~ 1999, regarding
6 investment tax credit and depreciation for luxury automobiles, is hereby
7 adopted for purposes of computing Arkansas income tax liability;

8 (4) Section 68 of the Internal Revenue Code of 1986, as in effect on
9 January 1, 1995, is adopted to limit itemized deductions.

10 (5) Section 220 of the Internal Revenue Code of 1986, as in effect on
11 January 1, ~~1997~~ 1999, regarding the deductibility from income of
12 contributions made to a medical savings account (MSA) by the taxpayer or the
13 taxpayer's employer, is hereby adopted for the purpose of computing Arkansas
14 income tax liability.

15 (6) Section 264 of the Internal Revenue Code of 1986, as in effect on
16 January 1, 1999, regarding premium and interest deductions on life insurance
17 of officers and employees, is adopted for the purpose of computing Arkansas
18 income tax liability."

19

20 SECTION 36. Arkansas Code 26-51-440 is amended to read as follows:

21 "26-51-440. Federal Subchapter M adopted.

22 (a) Subchapter M of the Internal Revenue Code of 1986, as in effect on
23 January 1, ~~1997~~ 1999, relating to regulated investment companies, real estate
24 investment trusts and financial asset securitization investment trusts
25 (FASITs), is adopted as state income tax law for the purpose of computing
26 Arkansas income tax liability and shall govern all corporations which are
27 registered as investment companies under the Investment Company Act of 1940,
28 as in effect on January 1, ~~1997~~ 1999. However, those provisions of Subchapter
29 M addressing the tax rates applied to FASIT income are not adopted. Any FASIT
30 income subject to Arkansas income tax shall be taxed at the rates set forth in
31 § 26-51-205.

32 (b) Any election made for federal income tax purposes under Subchapter
33 M of the Internal Revenue Code of 1986, as in effect on January 1, ~~1997~~ 1999,
34 shall be deemed made for state income tax purposes.

35 (c) This section shall take effect and be enforced for tax years
36 beginning on or after January 1, ~~1997~~ 1999."

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SECTION 37. Arkansas Code 26-51-443 is amended to read as follows:

"26-51-443. Allocation of unstated interest – Foregone interest.

(a) Section 483 of the Internal Revenue Code of 1986, as in effect on January 1, ~~1993~~ 1999, regarding the allocation of unstated interest, is hereby adopted for the purpose of computing Arkansas income tax liability.

(b) Section 7872 of the Internal Revenue Code of 1986, as in effect on January 1, ~~1997~~ 1999, regarding the taxation of foregone interest on a below-market loan, is hereby adopted for the purpose of computing Arkansas income tax liability."

SECTION 38. Arkansas Code 26-51-445 is amended to read as follows:

"26-51-445. Adoption expenses.

Section 23 of the Internal Revenue Code of 1986 (26 U.S.C. § 23), as in effect on January 1, ~~1997~~ 1999, is adopted for purposes of determining the allowable credit for adoption-related fees, costs and expenses paid or incurred by a taxpayer. The amount of credit allowed against Arkansas income tax due shall be twenty percent (20%) of the federal credit as calculated pursuant to 26 U.S.C. § 23."

SECTION 39 Arkansas Code 26-51-815(a), concerning capital gains and losses, is amended to read as follows:

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

SECTION 40. Arkansas Code 26-59-106(a), relating to the estate tax on

1 transfers of real and personal property, is amended to read as follows:

2 " (a) A tax is imposed upon the transfer of real estate and personal
3 property of every kind owned by every person who at the time of death was a
4 resident of the State of Arkansas, the amount of which shall be a sum equal to
5 the federal credit allowable under the federal estate tax laws, 26 U.S.C. §
6 2001 et seq., as in effect on January 1, ~~1983~~ 1999. "

7
8 SECTION 41. Arkansas Code 26-59-107(a), relating to the estate tax on
9 transfers of real and personal property, is amended to read as follows:

10 " (a) A tax is imposed upon the transfer of all real, tangible, and
11 intangible personal property located in the State of Arkansas of any
12 nonresident of this state, a sum equal to the proportion of the federal credit
13 allowable provided for under the federal estate tax laws, 26 U.S.C. § 2001 et
14 seq., as in effect on January 1, ~~1983~~ 1999, for estate, inheritance, legacy,
15 and succession taxes that the Arkansas property of such deceased person bears
16 to the property of the entire estate wherever located. "

17
18 SECTION 42. Arkansas Code 26-59-111(a), relating to the estate tax on
19 transfers of real and personal property, is amended to read as follows:

20 " (a) Any person who requests and receives an extension of time in which
21 to file a federal estate tax return, as provided by 26 U.S.C. § 6081, as
22 amended, and in effect on January 1, ~~1983~~ 1999, shall be granted an extension
23 of time in which to file the Arkansas estate tax return for the same period of
24 time as granted for the filing of the federal estate tax return. "

25
26 SECTION 43. EFFECTIVE DATE. The provisions of this act shall become
27 effective for tax years beginning on or after January 1, 1999.

28
29 SECTION 44. All provisions of this act of a general and permanent
30 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
31 Code Revision Commission shall incorporate the same in the Code.

32
33 SECTION 45. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without
36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

2

3 SECTION 46. All laws and parts of laws in conflict with this act are
4 hereby repealed.

5

/s/ Courtway

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APPROVED: 4/6/1999

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