

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1239

As Engrossed: 2/13/2015

Bill Subtitle: TO CREATE THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM AND TO PROVIDE NEW AVENUES FOR FINANCIAL SELF-SUFFICIENCY FOR ARKANSANS WITH DISABILITIES.

Basic Change : Sponsor: Rep. J. Mayberry, Broadaway, Brown, Cozart, Della Rosa, K. Hendren, House, Johnson, Ladyman, Leding, Lundstrum, McElroy, McNair, Miller, Rushing, Sabin, Shepherd, Tucker, Vaught, Baltz, Gates Senator J. Hutchinson

HB1239 will enact the Achieving Better Life Experience Program (ABLE) in Arkansas. The bill will create a program of tax favored savings accounts for Arkansas residents who are blind or disabled and diagnosed before age 26. Beginning with tax year 2014, contributions to a disability savings account established under the ABLE Program may be deducted from a taxpayer's gross income for the purpose of calculating the taxpayer's adjusted gross income. Deductible contributions up to \$5,000 will be allowed per taxpayer and contributions must be made to an ABLE account whose designated beneficiary is a resident of Arkansas or a resident of a contracting state.

The program established by HB1239 differs from the federal ABLE program in that the contributions made under the federal program are taxable while HB1239 allows those contributions to be deducted from the gross income of the contributor for state tax purposes. In addition, the federal contribution limit is \$14,000 while the state contribution limit is \$5,000.

Contributions that have been deducted from a taxpayer's gross income are subject to recapture if the taxpayer: 1) takes a subsequent nonqualified distribution from the account; or 2) the ABLE Committee adopts a rule authorizing recapture if a taxpayer rolls the account over to a tax-deferred savings program established by another state or institution. Interest, dividends, and capital gains from funds invested are exempt from Arkansas income tax. Qualified distributions include expenses for medical, education, transportation and housing. Qualified distributions are also exempt from Arkansas income tax. Nonqualified withdrawals are taxable to the party, account owner, or designated beneficiary who actually makes the withdrawal. Earnings are subject to Arkansas income tax if an account owner receives a refund of contributions because of either: 1) death or disability of designated beneficiary; or 2) a scholarship, allowance, educational assistance, or a payment for educational expenses received by the designated beneficiary.

Revenue Impact :

FY 2016 - \$36,000 reduction to General Revenue

FY 2017 - \$90,000 reduction to General Revenue

Taxpayer Impact :

Taxpayers must provide certain documents to establish savings accounts. Taxpayers will then be allowed to contribute to tax free savings accounts for individuals with disabilities and deduct these contributions up to \$5,000 from their gross income for the purpose of calculating their adjusted gross income. Beneficiaries of the savings accounts may receive tax exempt distributions for qualified expenses.

Resources Required :

None

Time Required :

None

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Procedural Changes :

The trustees must establish rules and procedures for the program and the State Treasurer shall provide office space, staff, and materials for the program committee. Computer software plus tax forms and instructions must be updated. Employees will need to be educated as well as the tax community.

Other Comments :

None

Legal Analysis :

HB1239 creates the "Achieving a Better Life Experience ("ABLE") Program Act ("the Act")." The ABLE Program would be created pursuant to the federal Tax Increase Prevention Act of 2014. It would allow the establishment and ownership of an ABLE account by an eligible individual to be maintained in accordance with the ABLE Program. An eligible individual would be an individual, or the individual's parent or guardian, who has a disability certification satisfactory to the Social Security Administration ("SSA"). An eligible individual may be an Arkansas resident or, by Amendment, a resident of another state without a qualified ABLE program that has entered into a contract with Arkansas to provide its residents with access to a qualified ABLE program.

ABLE account interest, dividends, and capital gains are exempt from state income tax and contributions to such accounts are deductible from the taxpayer's adjusted gross income up to \$5,000 per tax year. Such contribution deductions are subject to recapture as income if the taxpayer takes a subsequent nonqualified distribution from the account or rolls the account over to a similar account in another state or institution.

Qualified distributions from an ABLE account are Arkansas income tax exempt. Nonqualified distributions are subject to Arkansas income tax by the person making the withdrawal. Earnings on contributions that are included in a refund would be subject to Arkansas income tax, if the refund was due to the death or disability of the designated beneficiary or the beneficiary's receipt of a scholarship, allowance, or payment under federal law.

The ABLE Program does not become effective until the State Treasurer determines that federal regulations have been finalized and provide the guidance necessary to implement the ABLE Program.