

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1240**

**As Engrossed: 3/6/2013**

**Bill Subtitle: TO ALLOW AN EARNED INCOME TAX CREDIT AGAINST ARKANSAS INCOME TAX LIABILITY.**

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### **Basic Change :**

Representative Love

The bill establishes an earned income tax credit that is equal to 5% of the federal credit. The credit may offset 100% of the individual income tax liability and any unused credits are refundable. The bill is effective for tax years beginning on or after January 1, 2013.

Earned income and adjusted gross income (AGI) must each be less than:

- \$46,227 (\$51,567 married filing jointly) with three or more qualifying children
- \$43,038 (\$48,378 married filing jointly) with two qualifying children
- \$37,870 (\$43,210 married filing jointly) with one qualifying child
- \$14,340 (\$19,680 married filing jointly) with no qualifying children

Tax Year 2013 maximum credit:

- \$6,044 with three or more qualifying children
- \$5,372 with two qualifying children
- \$3,250 with one qualifying child
- \$487 with no qualifying children

Investment income must be \$3,300 or less for the year.

The American Tax Relief Act of 2012 extends the relief for married taxpayers, the expanded credit for taxpayers with three or more qualifying children and other provisions to December 31, 2017.

Effective for tax years beginning on or after January 1, 2013

### **Revenue Impact :**

FY2014 - \$38.8 M Loss

FY2015 - \$40.0 M Loss

### **Taxpayer Impact :**

Taxpayer will attach federal forms to their state return to support the earned income tax credit.

### **Resources Required :**

Additional training for personnel, booklet changes, computer program changes.

### **Time Required :**

Adequate time is provided.

### **Procedural Changes :**

Forms and instructions, computer changes, training, and processing procedures need to be modified.

### **Other Comments :**

IRS estimates that between 21% to 26% of EITC claims are paid in error.

### **Legal Analysis :**

The federal earned income tax credit (EITC) is a refundable credit enacted in 1975 to provide income tax relief to low income taxpayers. The amount of the credit increases with the number of children that a taxpayer has but begins to phase out as a taxpayer's earned income increases. Depending upon a taxpayer's filing status and number of children, for the 2012 tax year the amount of the credit ranged

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from \$2 to \$5,891.

The amount of the Arkansas income tax credit is a percentage (5%) of the amount of the federal income tax credit established under IRC Section 32. The credit is refundable and would be claimed in the "Payments" section of the Arkansas return. There is no federal EITC form upon which the credit is calculated to attach to the taxpayer's Arkansas return to substantiate the amount of the credit claimed on the Arkansas return. DFA income tax auditors would have to check the taxpayer's federal income tax return to verify the amount of the credit claimed by the taxpayer.

Arkansas has not adopted IRC Section 32 as of this time. Arkansas can constitutionally adopt provisions of federal law by adopting the law as it existed at a point in time. This bill establishes the amount of the Arkansas credit as a percentage of the federal credit to which the taxpayer is entitled based on the law allowing the federal credit as it existed on January 1, 2013. Although that method may avoid issues of constitutionality, it could present practical problems in future years. For example, should federal law change and a taxpayer calculated the federal credit under the new federal law, the Arkansas credit would remain based on the calculation under the prior law until the legislature adopted the new effective date.

This is a refundable credit that will apply to tax years beginning on or after January 1, 2013. The bill has no Emergency Clause and would therefore become effective 90 days after adjournment of the session.