

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1966

Amendment Number: Engrossment 4/3/13 (Am. # H2)

Bill Subtitle: TO AMEND THE LAWS CONCERNING THE INCOME TAX ON CAPITAL GAINS.

Basic Change :

Rep. Carter, Collins

Senator J. Dismang

The bill increases the current \$2,000 standard deduction to \$2,200 in tax year 2015 and to \$2,400 in tax years 2016 and later. In the case of a married couple, each spouse is entitled to the standard deduction. The bill also creates additional exemptions for net capital gains on assets acquired before January 1, 2014. Net capital gains up to \$5M continue receiving the current 30% exclusion; the portion of the gain in excess of \$5M but less than \$10M receives a 70% exclusion and the portion of the gain equal to or in excess of \$10M receives a 100% exclusion. This exclusion is available only to Individual Income tax filers.

The bill also creates a 70% exemption for any net capital gains relating to the sale of Arkansas property acquired on and after January 1, 2014. Arkansas property is defined as real property located in this state, tangible property located in this state and intangible property in a corporation, limited liability company, partnership, or other legal entity that has its primary headquarters located in this state. Arkansas property does not include stock in publicly traded companies. The property must be acquired on or after January 1, 2014 and the property must be held for one uninterrupted year from the date of acquisition. This exclusion is available to Individual Income tax filers and to Corporation Income Tax filers. DFA is given authority to promulgate regulations to implement the act. The bill is effective for tax years beginning on or after January 1, 2014.

Revenue Impact :

FY2014 - \$3.7 M loss

FY2015 - \$10.1 M loss

FY2016 - \$19.3 M loss

FY2017 - \$29.6 M loss

Taxpayer Impact :

Individual income taxpayers that claim the standard deduction or qualify to use the low income tax table would owe less tax liability. Taxpayers must maintain additional documentation relating to any transactions that qualify for the net capital gain income tax exemptions.

Resources Required :

Requires changes in the tax booklet, tax forms, computer programs and return processing procedures.

Time Required :

Six months after enactment.

Procedural Changes :

Employees will be required to verify that the qualifications for the exemption are met. Forms and instructions, computer programs, employee training and processing procedures need to be modified.

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Legal Analysis :

Amendment H2 to HB1966 changes the capital gains deduction previously provided under the bill and adds a provision amending the standard deduction for state income tax under Ark. Code Ann. § 26-51-430. Previously, the bill provided an income tax exemption for 70% of the amount of net capital gain in excess of \$5 million from an investment made before January 1, 2014 and did not address the standard deduction.

As amended, the exemption applies to 70% of the amount of net capital gain that is at least \$5 million but is less than \$10 million from an investment made before January 1, 2014. The amendment also provides a full exemption for the amount of net capital gain in excess of \$10 million from an investment made before January 1, 2014. The current language would not exempt gain of precisely \$10 million. Seventy percent of the gain that is less than \$10 million is exempt; all of the gain in excess of \$10 million is exempt; but there is no capital gains treatment for a \$10 million gain.

Currently, the standard deduction for state income tax purposes is \$2,000 per taxpayer. As amended, the deduction for an individual taxpayer or for each spouse of a married couple will be as follows: for the tax year beginning January 1, 2014, \$2,000; for the tax year beginning January 1, 2015, \$2,200; and for tax years beginning on and after January 1, 2016, \$2,400.