Department of Finance and Administration

Legislative Impact Statement

Bill: HB1817
Bill Subtitle: TO ADOPT FEDERAL LAW CONCERNING INCOME TAX DEDUCTIONS FOR DEPRECIATION AND THE EXPENSING OF PROPERTY.

Basic Change :

Sponsors: Rep. Beaty Jr. and Sen. Gilmore

HB1817 updates and expands the Income Tax Act of 1929 by adopting three sections of the Internal Revenue Code as they existed on January 1, 2021.

26 U.S.C. § 167 --- Depreciation Deductions

This updated reference will not change Arkansas tax law because 26 U.S.C. § 167 has not been amended since it was last adopted.

26 U.S.C. § 168 --- Accelerated Cost Recovery

Current law adopts 26 U.S.C. § 168(a)-(j), as it existed on January 1, 2019. HB1817 adopts 26 U.S.C. § 168 as it existed on January 1, 2021, in its entirety. 26 U.S.C. § 168(a)-(j) has been amended in at least three ways since its previous adoption which will be adopted by HB1817:

- 26 U.S.C. § 168 extends provisions that previously would have expired at the end of 2020 that allow depreciation of racehorses over three years.
- 26 U.S.C. § 168 extends a provision allowing depreciation of motorsports complex property over seven years if the property is placed in service on or before December 31, 2021.
- 26 U.S.C. § 168 allows reduced recovery periods for property on Indian reservations if that property was placed in service on or before December 31, 2021.

HB1817 also adopts three additional subsections of 26 U.S.C. § 168 not previously adopted by Arkansas law:

- 26 U.S.C. § 168(k) allows for bonus depreciation on certain types of qualifying property. This will result in larger depreciation deductions for qualifying property in the year the property is placed into service.
- 26 U.S.C. § 168(l) allows for bonus depreciation for second generation biofuel plant property. This will result in larger depreciation deductions for second generation biofuel plant property in the year the property is placed into service.
- 26 U.S.C. § 168(m) allows for bonus depreciation for reuse and recycling property. This will result in larger depreciation deductions for reuse and recycling property in the year the property is placed into service.

26 U.S.C § 179 --- Election to Expense Certain Otherwise Depreciable Business Assets Known as Section 179 Property

Current law adopts 26 U.S.C. § 179 as it existed January 1, 2009. HB1817 adopts the following changes:

- HB1817 increases the dollar limitation on the aggregate cost that can be expensed from

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$25,000 to $1,000,000.

- HB1817 expands the definition of "Section 179 property" to include certain qualified real property.
- HB1817 removes a subsection establishing special rules for disaster assistance property.

HB1817 is effective for tax years beginning on or after January 1, 2022.

Revenue Impact :

FY2022 - $52.3 Million reduction in state general revenues.
FY2023 - $96.4 Million reduction in state general revenues.
FY2024 - $81.7 Million reduction in state general revenues.
FY2025 - $70.4 Million reduction in state general revenues.
FY2026 - $47.7 Million reduction in state general revenues.

Taxpayer Impact :

Taxpayers would be required to continue adjusting for prior years depreciation differences until the end of the life of the assets placed in service prior to January 1, 2021 and thereafter would no longer need to maintain separate federal and state depreciation schedules.

Resources Required :

Computer programs, tax forms, and instructions will need to be updated.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Computer programs, tax forms and instructions and training manuals will need to be updated. Department employees will need to be educated as well as the tax community.

Other Comments :

The revenue impact is calculated using the annual report on tax expenditures published by the Federal Joint Committee on Taxation, which shows the current and next four succeeding fiscal year projections of the effect of various tax provisions. For estimating the revenue impact in Arkansas, the federal numbers are scaled down by a population factor dividing Arkansas population by national population, an economic factor using Arkansas and federal income per capita, and finally dividing by five to account for the difference between Arkansas and federal tax rates. Federal revenue estimates were multiplied by 0.1433% for this purpose.

There is substantial negative revenue impact to Arkansas in the first few years after adopting an increase in Section 179 and federal bonus depreciation. The revenue loss declines each year as depreciation claimed after the year of purchase declines compared to more traditional depreciation methods under current Arkansas law. The total amount of depreciation claimed over the life of an asset is the same under both methods. However, federal methods allow assets to be written off entirely in the year of purchase for almost all assets while current Arkansas law requires depreciation to be spread out over the useful life of an asset.

Legal Analysis :

None.