

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1044

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

Basic Change :

Sponsor: Rep. Beaty Jr.

HB1044 amends § 26-51-428 to update and expand the Income Tax Act of 1929 by re-adopting two sections of the Internal Revenue Code as they existed on January 1, 2022.

The first updated reference is to 26 U.S.C. § 167, dealing with depreciation deductions generally:

- This updated reference will not change Arkansas tax law because 26 U.S.C. § 167 has not been amended since 2007.

The second updated and expanded reference is to 26 U.S.C. § 168, dealing with accelerated cost recovery. Current law adopts 26 U.S.C. § 168(a)-(j), as it existed on January 1, 2019. HB1044 adopts 26 U.S.C. § 168 as it existed on January 1, 2022, in its entirety.

26 U.S.C. § 168(a)-(j) has been amended in at least three ways since its previous adoption:

- To extend provisions that previously would have expired at the end of 2020 that allow depreciation of racehorses over 3 years;
- To extend a provision allowing depreciation of motorsports complex property over 7 years if the property is placed in service on or before December 31, 2021; and
- To allow reduced recovery periods for property on Indian reservations if that property was placed in service on or before December 31, 2021.

HB1044 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 certain 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.

HB1044 is effective for tax years beginning on or after January 1, 2023.

Revenue Impact :

FY2023 - \$47.6M General Revenue Reduction

FY2024 - \$93.6M General Revenue Reduction

FY2025 - \$68.3M General Revenue Reduction

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FY2026 - \$22.5M General Revenue Reduction

FY2027 - \$11.6M General Revenue Reduction

FY2028 - \$11.8M General Revenue Gain

[The impact estimate was calculated by using the estimates of Federal Tax Expenditures for Fiscal Years 2022-2026 prepared by the Joint Committee on Taxation (JCT). DFA uses a JCT multiplier to scale down federal tax projections for Arkansas tax projection purposes. The JCT multiplier was computed by dividing the Census Bureau estimate of Arkansas population of 3,045,637 by the U.S. estimated population of 333,287,587 multiplying that percentage by Arkansas per capita income of \$29,210 divided by the U.S. per capita income of \$37,638 and then dividing by 5 to account for the difference between Arkansas and federal tax rates. This resulted in a JCT multiplier of .001475 for 2013, and .001458 for FY2019, and .001433 for FY2021 and .0014184 for FY2023.

Section 1 of the bill states that the bill is effective for purchases in tax years beginning on or after January 1, 2022; however, Section 2 states that the bill is effective for tax years beginning on or after January 1, 2023. It appears this inconsistency is possibly a drafting error. For purposes of the revenue impact above, it is assumed that HB1044 would be effective for property purchased in the 2023 tax year. If HB1044 is intended to include property purchased in 2022, the revenue impact would be higher.]

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, 2022 and purchases 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 :

None.

Legal Analysis :

None.