

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 339

By: Senators Hardin, Gordon, and Malone

"AN ACT TO ADOPT 'FEDERAL TAXABLE INCOME' AS THE STARTING POINT IN COMPUTING ARKANSAS TAXABLE INCOME; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. This Act shall be known and may be cited as the Arkansas Tax Reform Act of 1987. This Act is to supplement the Income Tax Act of 1929, as amended.

SECTION 2. Definitions.

(a) "Federal Taxable Income" means "Taxable Income" as defined in Section 63 of the Internal Revenue Code.

(b) "Gross Income" for the purpose of determining Federal Taxable Income means "Gross Income" as defined by Section 61 of the Internal Revenue Code.

(c) "Adjusted Gross Income" for the purpose of determining Federal Taxable Income means "Adjusted Gross Income" as defined by Section 62 of the Internal Revenue Code.

(d) "Arkansas Taxable Income" means Federal Taxable Income as adjusted by Sections 3 and 4 of this Act.

(e) "Internal Revenue Code" means the Federal Internal Revenue Code of 1986, as in effect on January 1, 1987 and shall be referred to throughout this Act by the abbreviation I.R.C.

SECTION 3. In computing Arkansas taxable income, taxpayers shall add back to the amount representing federal taxable income:

(a) The amount allowed as personal exemptions in accordance with I.R.C. §151.

(b) The amount of the State income Tax deduction taken in accordance with

I.R.C. §164(a)(3).

(c) The amount of the Net Operating Loss taken in accordance with I.R.C. §172.

(d) The amount of Depreciation Expense Deduction taken in accordance with I.R.C. §179.

(e) The dollar amount of Foreign Income excluded in accordance with I.R.C. §911.

(f) The amount of Annuity Cost Basis excluded in accordance with I.R.C. §72.

(g) The amount of the Moving Expense Deduction taken in accordance with I.R.C. §217.

(h) The amount of Capital Losses taken in accordance with I.R.C. §§1211 and 1212.

(i) The amount of Interest received from State and Local government bonds, other than from the State of Arkansas, excluded in accordance with I.R.C. §103.

(j) The amount of the special deductions for corporations taken in accordance with I.R.C. §§ 241, 243, 244, 245, 246, 246A, 247, 248, 249, and 250.

SECTION 4. In computing Arkansas taxable income, taxpayers shall deduct from the amount representing federal taxable income:

(a) The amount of the standard deduction taken in accordance with I.R.C. §63.

(b) The Military Active Duty exclusion of up to six thousand dollars (\$6,000.00) per taxpayer in accordance with Section 1 of Act 61 of 1943, as amended, the same being Ark. Stat. §84-2009.

(c) The Private and Public Pension exclusion of up to six thousand dollars (\$6,000.00) per taxpayer in accordance with Section 1 of Act 486 of 1985, the same being Ark. Stat. §84-2008.5.

(d) The Interest Income exclusion of up to one hundred and fifty dollars (\$150.00) per taxpayer in accordance with paragraph (k) of subsection (2) of Section 8 of Act 118 of 1929, as amended, the same being Ark. Stat. §84-2008(2)(k).

(e) The interest income received from obligations of the United States in accordance with paragraph (f) of subsection (2) of Section 8 of Act 118 of 1929, as amended, the same being Ark. Stat. §84-2008(2)(f).

(f) The Federal Taxable Portions of Social Security or Railroad Retirement Income in accordance with paragraph (g) of subsection (2) of Section 8 of Act 118 of 1929, as amended, the same being Ark. Stat.

□84-2008(2)(g).

(g) The amount of income which is exempted from the income tax by Section 2 of Act 48 of 1977, the same being Ark. Stat. □84-1946 and known as the Border City Exemption.

(h) The amount of State income Tax overpayment reported in accordance with I.R.C. □111.

(i) The Net Operating Losses incurred and authorized by subsection (1) of Section 13 of Act 118 of 1929, as amended, the same being Ark. Stat.

□84-2016(1).

(j) The dollar amount of taxes paid to a foreign country as provided by subsection (c) of Section 13 of Act 118 of 1929, as amended, the same being Ark. Stat. □84-2016(c).

(k) The amount of income earned from another state by nonresidents as provided in subsection (c) of Section 3 of Act 118 of 1929, as amended, the same being Ark. Stat. □84-2003(c). The term "nonresident" shall have the same meaning as provided for in Arkansas Income Tax Act of 1929, as amended.

(l) The amount of capital losses that exceed the limitations as established in I.R.C. 1211 and authorized by subsection (d) of Section 13 of Act 118 of 1929, as amended, the same being Ark. Stat. □84-2016(d).

(m) The amount of Jobs Credit deduction taken in accordance with I.R.C. □51 and □52.

(n) The amount of dividends received by a corporation doing business within the State from a subsidiary if at least ninety-five percent (95%) of the subsidiary's capital stock is owned by the corporation doing business in this State in accordance with subsection (2)(j) of Section 8 of Act 118 of 1929, as amended, the same being Ark. Stat. Ann. □84-2008(2)(j).

SECTION 5. (a) A husband and wife, irrespective of ownership and sources of income, may file separately even though they filed a joint federal return for the income year.

(b) A husband and wife, who filed a joint federal tax return for the income year, who elect to file separately for Arkansas Income Tax purposes, shall determine the amount of Arkansas Taxable Income attributable to each in

the following manner:

1. Determine the separate adjusted gross income for the husband for the income year. Those taxpayers entitled to the Border City Exemption shall deduct the amount of the exemption from their computed adjusted gross income.

2. Determine the separate adjusted gross income for the wife for the income year as described in paragraph 1.

3. Add the amount computed in paragraph 1 to the amount computed in paragraph 2.

4. Divide the amount computed in paragraph 3 into the amount computed in paragraph 1 to arrive at the husband's applicable percentage.

5. Divide the amount computed in paragraph 3 into the amount computed in paragraph 2 to arrive at the wife's applicable percentage.

6. Multiply the combined Arkansas Taxable Income of both husband and wife by the applicable percentage of the husband to determine the amount of Arkansas Taxable Income attributable to the husband.

7. Multiply the combined Arkansas Taxable Income of both husband and wife by the applicable percentage of the wife to determine the amount of Arkansas Taxable Income attributable to the wife.

SECTION 6. (a) All taxpayers, including, but not limited to individuals, corporations, and fiduciaries, required to file an Arkansas income tax return under the provisions of Act 118 of 1929, as amended, shall attach thereto a completed copy of the taxpayer's Federal Tax Return for the same income year, including all schedules and attachments.

(b) All taxpayers, including, but not limited to partnerships and Sub Chapter-S corporations, required to file an information return with the State of Arkansas, must attach thereto a completed copy of the taxpayer's Federal Tax Return for the same income year, including all schedules and attachments.

SECTION 7. Jointly owned property shall be presumed to be owned equally. The burden of proving unequal ownership of joint property shall be on the taxpayer. Income from jointly owned property shall be divided according to the ownership interest of each taxpayer.

SECTION 8. The taxpayer shall adjust the basis in any depreciable asset used in a trade or business where the method used for depreciation was

changed as a result of this Act. This adjustment shall be made only in the income year beginning during calendar year 1987.

SECTION 9. Subsection (a) of Section 3 of Act 118 of 1929, as amended, the same being Ark. Stat. Ann. §84-2003(a), is hereby amended to read as follows:

"(a) A tax is hereby imposed upon and with respect to the Arkansas Taxable Income of every resident, individual, trust or estate which tax shall be levied, collected and paid annually upon such entire Arkansas Taxable Income as herein defined and computed, at the following rates, giving effect to the tax credits provided hereafter in the manner set forth: on the first \$2,999 of Arkansas Taxable Income or any part thereof, one percent (1%); on the next \$3,000 of Arkansas Taxable Income or any part thereof, two and one-half percent (2.5%); on the next \$3,000 of Arkansas Taxable Income or any part thereof, three and one-half percent (3.5%); on the next \$6,000 of Arkansas Taxable Income or any part thereof, four and one-half percent (4.5%); on the next \$10,000 of Arkansas Taxable Income or any part thereof, six percent (6%); on Arkansas Taxable Income \$25,000 and above, seven percent (7%).

Provided that no State income tax shall be due this State from a trust or estate created by a nonresident donor, trustor, or settlor, or by a nonresident testator even though administered by a resident trustee or personal representative except on income derived from:

- (i) Lands situated in this State including gains from any sale thereof;
- (ii) Any interest in lands situated in this State including without limitation, chattels real, including gains from any sale thereof;
- (iii) Tangible personal property located in Arkansas including gains from any sale thereof; and
- (iv) From unincorporated businesses domiciled in Arkansas.

Provided further that no income tax shall be due the State of Arkansas from a nonresident beneficiary on income received from a trust being administered by a resident trustee except on income derived by the trust from:

- (i) Lands situated in this State including gains from any sale thereof;
- (ii) Any interest in lands situated in this State including without limitation, chattels real, including gains from any sale thereof;
- (iii) Tangible personal property located in Arkansas including gains from any sale thereof; and

(iv) From unincorporated businesses domiciled in Arkansas."

SECTION 10. Section 2 of Act 129 of 1941, as amended, the same being Ark. Stat. Ann. §84-2004, is hereby amended to read as follows:

"Section 2. (A) Every corporation organized under the laws of this State shall pay annually an income tax with respect to carrying on or doing business on the entire Arkansas Taxable Income of such corporation, as now defined by the laws of the State of Arkansas, received by such corporation during the income year, on the following basis:

On the first \$3,000.00 of Arkansas
Taxable Income or any part thereof. . . .1 percent
On the second \$3,000.00 Arkansas
Taxable Income or any part thereof. . . .2 percent
On the next \$5,000.00 of Arkansas
Taxable Income or any part thereof. . . .3 percent
On the next \$14,000.00 of Arkansas
Taxable Income or any part thereof. . . .5 percent
On all Arkansas Taxable Income in
excess of \$25,000.00.6 percent.

(B) Every foreign corporation doing business within the jurisdiction of this State shall pay annually an income tax on the proportion of its entire Arkansas Taxable Income as now determined by the income tax laws of Arkansas, the following basis:

On the first \$3,000.00 of Arkansas
Taxable Income or any part thereof. . . .1 percent
On the second \$3,000.00 of Arkansas
Taxable Income or any part thereof. . . .2 percent
On the next \$5,000.00 of Arkansas
Taxable Income or any part thereof. . . .3 percent
On the next \$14,000.00 of Arkansas
Taxable Income or any part thereof. . . .5 percent
On all Arkansas Taxable Income in
excess of \$25,000.00.6 percent."

SECTION 11. Section 5 of Act 118 of 1929, the same being Ark. Stat.

Ann. 84-2005, is hereby amended to read as follows:

"Section 5. (1) The tax imposed by this Act shall be imposed upon resident fiduciaries, which tax shall be levied, collected and paid annually with respect to:

(a) That part of the Arkansas Taxable Income of estates or trusts which has not been distributed or become distributable to beneficiaries during the income year. In the case of two (2) or more joint fiduciaries, part of whom are nonresidents of the State, such part of the Arkansas Taxable Income shall be treated as if each fiduciary had received an equal share;

(b) The Arkansas Taxable Income received during the income year by deceased individuals, who at the time of death were residents and who have died during the income year without having made a return;

(c) The entire Arkansas Taxable Income of resident insolvent or incompetent individuals, whether or not any portion thereof is held for the future use of the beneficiaries, where the fiduciary has complete charge of such Arkansas Taxable Income.

(2) The tax imposed upon a fiduciary by this Act shall be a charge against the estate or trust."

SECTION 12. This Act shall be in full force and effect for all income years beginning on and after January 1, 1987. All delinquent returns and amended returns filed for income years beginning before January 1, 1987 shall be filed in accordance with the Arkansas income tax law in effect at the time the return was due.

SECTION 13. An Arkansas taxpayer who is required to file an Arkansas income tax return for an income year but is not required to file a federal income tax return for the same income year shall calculate his "Federal Taxable Income" for the income year as if a federal income tax return were required to be filed. The "Federal Taxable Income," as calculated, shall be used in calculating "Arkansas Taxable Income" under this Act.

SECTION 14. All laws or parts of laws in conflict with this Act are hereby repealed.

