State of Arkansas
81st General Assembly
Regular Session, 1997

A Bill

SENATE BILL 631

By: Senator Canada

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE § 26-51-404(b)(9) AND § 26-51-805(g) TO CLARIFY THE DEFINITION OF GROSS INCOME AND THE ELIMINATION FROM GROSS INCOME WITH REGARD TO DIVIDENDS RECEIVED BY A PARENT CORPORATION FROM A SUBSIDIARY WHERE THE PARENT CORPORATION AND THE SUBSIDIARY CORPORATION FILE CONSOLIDATED CORPORATE INCOME TAX RETURNS FOR ARKANSAS INCOME TAX PURPOSES; AND FOR OTHER PURPOSES."

Subtitle

"CLARIFIED FOR CORPORATE INCOME PURPOSES THE TAXABILITY OF DIVIDENDS RECEIVED FROM A SUBSIDIARY CORPORATION WHICH FILES AN ARKANSAS CONSOLIDATED INCOME TAX RETURN WITH THE PARENT CORPORATION."

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

SECTION 1. Arkansas Code § 26-51-404(b)(9) concerning nontaxable income is amended to read as follows:

"(9) Dividends received by a corporation doing business within this state from a subsidiary if at least ninety-five percent (95%) of the subsidiary's capital stock is owned by a corporation doing business within the state, except that the provisions of Arkansas Code § 26-51-805 (the Arkansas Consolidated Corporate Return Act) shall control with regard to the elimination from gross income of dividends paid by corporations that file consolidated Arkansas Corporate Income Tax Returns;"

SECTION 2. Arkansas Code § 26-51-805(g) is amended to read as follows:

"(g) This section is specifically designed to clarify the filing of consolidated corporate income tax returns with the Revenue Division of the Department of Finance and Administration and is to amend the Arkansas Income Tax Act, § 26-51-101 et seq. This section is based upon the concept of filing federal consolidated income tax returns. Consistent with this concept, dividends received by a parent corporation from a corporate subsidiary shall not be included in gross income of the parent corporation for Arkansas income tax purposes in any tax year for which the parent and subsidiary corporations file a consolidated Arkansas income tax return pursuant to the provisions of this section."

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 6. The provisions of this act shall be effective with regard to all tax years or income years that are still open to assessment by the Director of the Department of Finance and Administration or the filing of claims for refund by a taxpayer.

SECTION . EMERGENCY. It is found and determined by the General Assembly of the State of Arkansas that these provisions are in need of clarification to ensure that the original legislative intent is fulfilled and that this act should be effective immediately to prevent possible confusion among taxpayers of this state. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.