State of Arkansas *As Engrossed: H1/22/99 H1/27/99 H2/24/99 H2/26/99*
82nd General Assembly

A Bill

Regular Session, 1999 HOUSE BILL 1186

By: Representatives Courtway, *Womack, Files, Morris, Sheppard, G. Jeffress, Bennett, Bush, T. Thomas, Minton, Taylor, Hunt, Rackley, Magnus, Bledsoe, M. Smith, Hendren, Duggar, Elliott, Haak, Agee, Parks, T. Smith, Napper, Milum, Hausam, King, Teague, Wilkinson*

For An Act To Be Entitled

"AN ACT TO PHASE IN A STATE INCOME TAX EXEMPTION FOR CAPITAL GAINS; TO PROVIDE THAT CAPITAL GAINS SHALL BE COMPLETELY EXEMPT FROM STATE INCOME TAX BEGINNING WITH *THE TAX YEAR 2003; TO ADOPT 26 U.S.C. §§408A AND 530 FOR PURPOSES OF ARKANSAS INCOME TAX TREATMENT OF DISTRIBUTIONS FROM AND CONTRIBUTIONS TO A ROTH IRA AND EDUCATIONAL IRA; TO EXEMPT FROM STATE INCOME TAX UP TO SIX THOUSAND DOLLARS ($6,000) PER YEAR OF BENEFITS RECEIVED FROM AN INDIVIDUAL RETIREMENT ACCOUNT ('IRA'); TO INCREASE THE DEPENDENT TAX CREDIT; AND FOR OTHER PURPOSES."*

Subtitle

"AN ACT TO PHASE IN INCOME TAX EXEMPTION FOR CAPITAL GAINS; ADOPT ROTH AND EDUCATION IRA PROVISIONS; EXEMPT FROM INCOME TAX $6,000 OF IRA DISTRIBUTION; AND INCREASE DEPENDENT TAX CREDIT."

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

SECTION 1. Arkansas Code 26-51-404(b) is hereby amended by adding the following new subsection:

"<u>(23) All capital gains for the tax year commencing on January 1, 2003 and for every subsequent tax year thereafter.</u>"

SECTION 2. Arkansas Code 26-51-815(b) is hereby amended to read as follows:

"~~(b) If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of:~~

~~(1) A tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of:~~

~~(A) Taxable income reduced by the amount of the net capital gain; or~~

~~(B) The amount of taxable income taxed at a rate below six percent (6%); plus~~

~~(2) A tax of six percent (6%) of the amount of taxable income in excess of the amount determined under subdivision (1) of this subsection.~~

<u>(b) If a taxpayer has a net capital gain for tax years after 1999, the gain shall be exempt from state income tax to the following extent:</u>

<u>(1) Thirty percent (30%) of the net capital gain shall be exempt for the tax year commencing on January 1, 2000 and ending on December 31, 2000;</u>

<u>(2) Fifty percent (50%) of the net capital gain shall be exempt for the tax year commencing on January 1, 2001 and ending on December 31, 2001;</u>

<u>(3) Seventy percent (70%) of the net capital gain shall be exempt for the tax year commencing on January 1, 2002 and ending on December 31, 2002;</u>

<u>(4) One hundred percent (100%) of the net capital gain shall be exempt for the tax year commencing on January 1, 2003 and for every subsequent tax year thereafter."</u>

SECTION 3. Ark. Code Ann. § 26-51-307 is hereby amended to read as follows:

"(a)<u>(1)</u> The first six thousand dollars ($6,000) of ~~retirement or disability~~ benefits received ~~after December 31, 1988,~~ by any resident of this state from <u>an individual retirement account ("IRA") or the first six thousand dollars ($6,000) of retirement or disability benefits received by any resident of this state from</u> public or private employment-related retirement systems, plans, or programs, regardless of the method of funding for such systems, plans, or programs, shall be exempt from the state income tax.

<u>(2) Only IRA benefits received by an IRA participant after reaching the age of fifty-nine and one-half (59½) qualify for the exemption. The only</u>

other distributions or withdrawals from an IRA that qualify for the exemption before the IRA participant reaches the age of fifty-nine and one-half (59½) are those made on account of the participant's death or disability. All other premature distributions or early withdrawals including, but not limited to, those taken for medical related expenses, higher education expenses or a first-time home purchase, do not qualify for the exemption.

(b)(1) Except as provided in subdivision ~~(3)~~(2) of this subsection, the exemption provided for in subsection (a) of this section for benefits received from an individual retirement account ("IRA") or from a public or private employment-related retirement or disability system, plan, or program shall be the only exemption from state income taxes allowed for ~~retirement or disability~~ benefits received from an individual retirement account ("IRA") or from any publicly or privately supported employment-related retirement system, plan, or program, excepting only benefits received under systems, plans, or programs which are by federal law exempt from state income taxes. No taxpayer shall receive an exemption greater than six thousand dollars ($6,000) during any tax year under the provisions of this section.

~~(2) Any resident of this state who prior to January 1, 1989, received both military retirement or disability pay and other retirement or disability benefits shall be entitled to claim only one (1) six thousand dollar deduction beginning with tax year 1989.~~

~~(3)~~(2) The provisions of this section shall not apply to retirement or disability benefits received under a plan, system, or fund described in § 26-51-404 (b)(7).

(c) No recipient of ~~retirement or disability~~ benefits from an individual retirement account ("IRA") or from public or private employment-related retirement systems, plans, or programs shall be allowed to deduct or recover his cost of contribution in the plan when computing his income for state income tax purposes.

(d) An individual who is sixty-five (65) years of age or older and who does not claim an exemption under subsection (a) of this section shall be entitled to an additional state income tax credit of twenty dollars ($20.00). This credit is in addition to all other credits allowed by law."

SECTION 4. Arkansas Code 26-51-414 is hereby amended to read as follows:

"(a) Sections 72, 219, 401-404, and 406-416 inclusive, and § 457 of the

Internal Revenue Code of 1986, as in effect on January 1, ~~1997~~ 1999, relating to annuities, retirement savings, and employee benefit plans, respectively, are hereby adopted for the purpose of computing Arkansas income tax liability, except Arkansas capital gains treatment, and the Arkansas tax rates shall apply. The requirements for filing a joint return under § 219(c)(1)(A) of the Internal Revenue Code of 1986 shall not apply. ~~Any additional tax or penalty imposed by this section shall be ten percent (10%) of the amount of any additional tax or penalty provided in the federal income tax law adopted by this section.~~

(b) Section 408A of the Internal Revenue Code of 1986, as in effect on January 1, 1999, relating to Roth individual retirement accounts, is adopted for the purpose of computing Arkansas income tax liability with the following exceptions:

(1) Sections 408A(d)(3)(A)(iii) and 408A(d)(3)(E) are not adopted. All income from and tax attributable to distributions from a non-Roth IRA to a Roth IRA prior to January 1, 1999, shall be reported for tax year 1998 and the tax may be paid over a four (4) year period as permitted by the Director.

(2) Adjusted gross income under § 408A(c)(3), shall be determined in the same manner as under § 26-51-403(b).

(c) Any additional tax or penalty imposed by this section shall be ten percent (10%) of the amount of any additional tax or penalty provided in the federal income tax law adopted by this section."

SECTION 5. Title 26, Chapter 51, Subchapter 4 is hereby amended to add a new section, 26-51-448, to read as follows:

"Section 530 of the federal Internal Revenue Code of 1986, as in effect on January 1, 1999, relating to educational individual retirement accounts, is adopted for the purposes of computing Arkansas income tax liability. Any additional tax or penalty imposed by this section shall be ten percent (10%) of the amount of any additional tax or penalty provided in the federal income tax law adopted by this section."

SECTION 6. Arkansas Code 26-51-501(a)(3)(A) is hereby amended to read as follows:

"(3)(A) For each individual, other than husband or wife, who has a gross income for the tax year of less than three thousand dollars ($3,000), who has

not filed a joint return with his or her spouse for the taxable year and who is dependent upon and receives his or her chief support from the taxpayer, ~~twenty dollars ($20.00)~~ thirty dollars ($30.00).”

SECTION 7. Arkansas Code 26-51-502 is amended to read as follows:

“26-51-502. Household and dependent care services.

(a) A credit shall be allowed to individuals against the income tax imposed by the Arkansas Income Tax Act, as amended, § 26-51-101 et seq., for expenses for household and dependent care services necessary for gainful employment in the manner prescribed by subsection (b) of this section.

(b)(1) Section 21 of the Internal Revenue Code of 1986, as amended and in effect on January 1, 1997, is adopted for purposes of determining the allowable credit under the Arkansas Income Tax Act, as amended, § 26-51-101 et seq., for household and dependent care services necessary for gainful employment.

(2) The amount of credit shall be ~~twenty percent (20%~~ thirty percent (30%) of the federal credit allowable.

(c)(1) A refundable credit, which is equal to ~~twenty percent (20%)~~ a portion of the federal child care credit as allowed under Section 21 of the Internal Revenue Code, as in effect on January 1, 1993, shall be allowed to qualified individuals against the income tax imposed by the Arkansas Income Tax Act, as amended, § 26-51-101 et seq. ~~The twenty percent (20%) child care credit is refundable.~~ The excess of the credit over tax liability will be returned to the taxpayer as an overpayment of tax. The amount of the credit shall be as follows:

(A) For the tax year beginning January 1, 1999 and ending December 31, 1999, the credit shall be thirty percent (30%) of the federal credit allowable;

(B) For the tax year beginning January 1, 2000 and ending December 31, 2000, the credit shall be forty percent (40%) of the federal credit allowable;

(C) For tax years beginning January 1, 2001 and thereafter, the credit shall be fifty percent (50%) of the federal credit allowable.

(2) (A) A ‘qualified individual’ is a taxpayer who has a dependent child with respect to whom the taxpayer is entitled to a credit under § 26-51-501(a)(3), and who incurs child care expenses necessary for

gainful employment at an approved child care facility, as defined in subdivision (c)(1)(B) of this section.

(B) An 'approved child care facility' is a child care facility which provided an appropriate early childhood program, as defined in § 6-45-103(2), and which is approved in accordance with § 6-45-109.

~~(2)~~ (3) A taxpayer cannot claim both the credit allowed in subsections (a) and (b) of this section and the credit allowed in subsection (c) of this section.

~~(3)~~ (4) The credit allowed in this subsection shall be effective for taxable years beginning January 1, 1993."

SECTION 8. EFFECTIVE DATES. The provisions of Sections 1 and 2 of this Act shall be effective for tax years beginning on or after January 1, 2000. The provisions of Sections 3, 4, 5, 6, and 7 of this act shall be effective for tax years beginning on or after January 1, 1999.

SECTION *9*. 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 *10*. 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 *11*. All laws and parts of laws in conflict with this act are hereby repealed.

/s/ Courtway, et al