

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas

*As Engrossed: S2/01/01*

83rd General Assembly

## A Bill

Regular Session, 2001

SENATE BILL 308

By: Senator Hill

By: Representative Teague

### For An Act To Be Entitled

AN ACT TO AMEND VARIOUS STATE INDIVIDUAL AND CORPORATE  
INCOME TAX PROVISIONS TO ADOPT RECENT CHANGES TO THE  
INTERNAL REVENUE CODE; AND FOR OTHER PURPOSES.

### Subtitle

INCOME TAX TECHNICAL CORRECTIONS.

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

SECTION 1. Arkansas Code 26-51-307(a)(1), concerning the exemption from income tax for retirement and disability benefits, is amended to read as follows:

(a)(1) The first six thousand dollars (\$6,000) of benefits received by any resident of this state from an individual retirement account or the first six thousand dollars (\$6,000) of retirement ~~or disability~~ benefits received by any resident of this state from 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.

SECTION 2. Arkansas Code 26-51-307(b)(1)(A), concerning the exemption from income tax for retirement and disability benefits, is amended to read as follows:

(b)(1)(A) Except as provided in subdivision (b)(2) of this section, the exemption provided for in subsection (a) of this section for benefits received from an individual retirement account or from a public or private employment-

1 *related retirement or disability system, plan, or program shall be the only*  
2 *exemption from the state income tax allowed for benefits received from an*  
3 *individual retirement account or from any publicly or privately supported*  
4 *employment-related retirement system, plan, or program, excepting only*  
5 *benefits received under systems, plans, or programs which are by federal law*  
6 *exempt from the state income tax.*

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8 SECTION 3. Arkansas Code 26-51-404(b), concerning income from life  
9 insurance, endowment and annuity contracts, is amended to read as follows:

10 (b) The term "gross income" does not include the following items, which  
11 shall be exempt from taxation under this act:

12 (1) Section 1033 of the Internal Revenue Code of 1986, as in  
13 effect on January 1, 1999, relating to the exclusion from gross income of gain  
14 resulting from the involuntary conversion of a taxpayer's property, is hereby  
15 adopted for the purpose of computing Arkansas income tax liability;

16 (2) Section 121 of the Internal Revenue Code of 1986, as in  
17 effect on January 1, 1999, relating to the exclusion from gross income of gain  
18 from the sale or exchange of property owned and used as the taxpayer's  
19 principal residence, is hereby adopted for the purpose of computing Arkansas  
20 income tax liability;

21 (3) Section 101 of the Internal Revenue Code of 1986, as in  
22 effect on January 1, 1999, relating to the exclusion from gross income of  
23 proceeds or benefits paid upon the illness or death of the insured, is hereby  
24 adopted for the purpose of computing Arkansas income tax liability;

25 ~~(4) The amount received by the insured as a return of premium~~  
26 ~~paid by him under life insurance, endowment, or annuity contracts, either~~  
27 ~~during the term or at the maturity of the term mentioned in the contract or~~  
28 ~~upon surrender of the contract;~~

29 ~~(5)~~ (4) The value of property acquired by gift, bequest, devise,  
30 or descent, but the income from such property shall be included in gross  
31 income;

32 ~~(6)~~ (5) Interest upon obligations of the United States or its  
33 possessions or upon obligations of the State of Arkansas or any political  
34 subdivision thereof;

35 ~~(7)~~ (6) Any amounts received through accident or health insurance  
36 or under workers' compensation acts as compensation for personal injuries or

1 sickness, plus the amount of any damages received whether by suit or  
2 agreement, on account of such injuries or sickness; any social security  
3 payments, railroad retirement benefits, unemployment compensation benefits  
4 paid from federal unemployment trust funds, unemployment insurance benefits  
5 received from the railroad retirement boards, and unemployment compensation  
6 paid under Title IV of the Social Security Act;

7 ~~(8)~~ (7) Income from domestic corporations, when earned from  
8 sources without the state, and these sources shall be defined to mean places  
9 of manufacture or production and places of merchandising. In a case where  
10 books of account do not clearly and accurately reflect the income earned from  
11 sources without the state, the Arkansas income shall be determined by  
12 processes or formulas of general apportionment, prescribed by the Director of  
13 the Department of Finance and Administration and approved by the Governor;

14 ~~(9)~~ (8) Dividends received by a corporation doing business within  
15 this state from a subsidiary if at least eighty percent (80%) of the  
16 subsidiary's capital stock is owned by a corporation doing business within  
17 this state;

18 ~~(10)~~ (9) In the case of an ordained, commissioned, or licensed  
19 minister of a recognized church:

20 (A) The rental value of a home furnished to him; or

21 (B) The rental allowance paid to him, to the extent that  
22 the allowance is used by him to rent or to provide a home;

23 ~~(11)~~ (10) Sections 108 and 1017 of the Internal Revenue Code of  
24 1986, as in effect on January 1, 1999, regarding income from the discharge of  
25 indebtedness, are adopted for the purpose of computing Arkansas income tax  
26 liability;

27 ~~(12)~~ (11) Section 125 of the federal Internal Revenue Code of  
28 1986, in effect on January 1, 1997, is adopted in computing amounts excludible  
29 from gross income under the Arkansas Income Tax Act, § 26-51-101 et seq., for  
30 payments received under a cafeteria plan;

31 ~~(13)~~ (12) Section 129 of the federal Internal Revenue Code of  
32 1986, as in effect on January 1, 1997, regarding the exclusion from income for  
33 dependent care assistance, is hereby adopted for the purpose of computing  
34 Arkansas income tax liability. However, no amounts excluded from gross income  
35 pursuant to this subdivision shall be taken into account in computing the  
36 dependent care credit contained in § 26-51-502;

1           ~~(14)~~ (13) Section 79 of the federal Internal Revenue Code of 1986,  
2 as in effect on January 1, 1989, regarding the exclusion from income for  
3 group-term life insurance is hereby adopted for the purpose of computing  
4 Arkansas income tax liability;

5           ~~(15)~~ (14) Sections 104 - 106 of the Internal Revenue Code of 1986,  
6 as in effect on January 1, 1999, regarding the exclusion from income of  
7 disability and health plan payments, are hereby adopted for the purpose of  
8 computing Arkansas income tax liability.

9           ~~(16)~~ (15) Section 82 of the Internal Revenue Code of 1986, as in  
10 effect on January 1, 1995, regarding the inclusion in gross income of moving  
11 expense reimbursements, is adopted for the purpose of computing Arkansas  
12 income tax liability;

13           ~~(17)~~ (16) Section 119 of the Internal Revenue Code of 1986, as in  
14 effect on January 1, 1999, regarding the exclusion from gross income of meals  
15 or lodging furnished for the convenience of the employer, is adopted for the  
16 purpose of computing Arkansas income tax liability;

17           ~~(18)~~ (17) Section 126 of the Internal Revenue Code of 1986, as in  
18 effect on January 1, 1995, regarding the exclusion from gross income of  
19 certain cost-sharing payments, is adopted for the purpose of computing  
20 Arkansas income tax liability;

21           ~~(19)~~ (18) Section 131 of the Internal Revenue Code of 1986, as in  
22 effect on January 1, 1995, regarding the exclusion from gross income of  
23 amounts received by a foster care provider as qualified foster care payments,  
24 is adopted for the purpose of computing Arkansas income tax liability;

25           ~~(20)~~ (19) Section 132 of the Internal Revenue Code of 1986, as in  
26 effect on January 1, 1999, regarding the exclusion from income of certain  
27 fringe benefits, is adopted for the purpose of computing Arkansas income tax  
28 liability;

29           ~~(21)~~ (20) Section 127 of the Internal Revenue Code of 1986, as in  
30 effect on January 1, 1999, regarding the exclusion from gross income for  
31 employees whose education expenses were paid by an employer, is adopted for  
32 the purpose of computing Arkansas income tax liability;

33           ~~(22)~~ (21) Interest or dividends earned or capital gains recognized  
34 on a long-term intergenerational security trust created pursuant to this  
35 subchapter, except as provided in this subchapter;

36           ~~(23)~~ (22) Interest or dividends earned on an individual

1 development account and matching funds deposited in an individual development  
2 account pursuant to § 20-86-101 et seq.; ~~and~~

3 ~~(24)~~ (23) Section 138 of the Internal Revenue Code of 1986, as in  
4 effect on January 1, 1999, regarding a pilot program permitting eligible  
5 senior citizens to establish Medicare Plus Choice medical savings accounts, is  
6 adopted for the purpose of computing Arkansas income tax liability; ~~and~~

7 (24)(A) Sections 72(a), (b) and (c) of the Internal Revenue Code  
8 of 1986, as in effect on January 1, 2001, relating to the exclusion from gross  
9 income of certain proceeds received under nonemployment-related life  
10 insurance, endowment and annuity contracts, is hereby adopted for the purpose  
11 of computing Arkansas income tax liability.

12 (B) Annuity income received through an employment-related  
13 retirement plan shall not be subject to the provisions of § 26-51-404(b). The  
14 income shall instead be subject to the retirement income provisions of § 26-  
15 51-307.

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17 SECTION 4. Arkansas Code 26-51-411, concerning computation of the gain  
18 or loss from the sale or other disposition of real or personal property, is  
19 amended to add an additional subsection to read as follows:

20 (h) Section 267 of the Internal Revenue Code of 1986, as in effect on  
21 January 1, 2001, regarding losses, expenses and interest arising from  
22 transactions between related taxpayers, is adopted for the purpose of  
23 computing Arkansas income tax liability.

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25 SECTION 5. Arkansas Code 26-51-412(d), concerning computation of the  
26 gain or loss from an exchange of property, is amended to read as follows:

27 (d) Sections 351, 354 - 358, 361, 362, 367, and 368 of the Internal  
28 Revenue Code of 1986, as in effect on January 1, ~~1999~~ 2001, regarding  
29 corporate organization, reorganization, and recognition of gain, are adopted  
30 for the purpose of computing Arkansas income tax liability.

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32 SECTION 6. Arkansas Code 26-51-419, concerning deductions for  
33 charitable contributions, is amended to read as follows:

34 26-51-419. Deductions - Charitable contributions.

35 Section 170 of the Internal Revenue Code of 1986, as in effect on  
36 January 1, ~~1999~~ 2001, regarding deductions for charitable contributions, is

hereby adopted for the purpose of computing Arkansas income tax liability. This adoption is for taxable years beginning on or after January 1, ~~1999~~ 2001, and will have no effect on years prior to its adoption. Provided, however, with respect to contributions of qualified appreciated stock within the meaning of IRC § 170(e)(5), made after May 31, 1997, the provisions of this section shall apply after taking into account the extension of the provisions of IRC § 170(e)(5) by § 602 of the Taxpayer Relief Act of 1997 and § 1004(a) of the Tax Extension Act.

SECTION 7. Arkansas Code 26-51-421, concerning individual income tax deductions for energy-saving equipment purchased by Arkansas homeowners, is repealed:

~~26-51-421. Deductions—Energy saving equipment.~~

~~(a) Any individual homeowner taxpayer may deduct from gross income the entire cost of the purchase and installation of energy saving equipment in any structure which is located in Arkansas.—~~

~~(b) "Energy saving equipment" is defined as improved insulation, storm doors or windows, motor driven power vents, and solar heating and cooling equipment.—~~

~~(c)(1) The persons furnishing and installing the equipment shall furnish the individual homeowner taxpayer with an accounting of the cost.—~~

~~(2) The cost shall not include interest and finance charges.—~~

~~(d) In each year, the individual homeowner taxpayer shall deduct from gross income the entire cost of energy saving equipment incurred in that year on that year's tax return, and no other.—~~

SECTION 8. Arkansas Code 26-51-423, concerning deductions of certain expenses, is amended to add an additional subsection to read as follows:

(f) Section 190 of the Internal Revenue Code of 1986, as in effect on January 1, 2001, regarding the deduction of costs paid or incurred to improve access to vehicles and facilities for handicapped and elderly people, is adopted for the purpose of computing Arkansas income tax liability.

SECTION 9. Arkansas 26-51-439, concerning capitalization of certain expenses, is amended to read as follows:

26-51-439. Capitalization of certain expenses.

1        (a) Section 263A, subsections (a), (b), (c), (d), (e), (f), (g), and  
2        (h) of the federal Internal Revenue Code of 1986, as in effect on January 1,  
3        1989, regarding capitalization and inclusion in inventory costs of certain  
4        expenses, is hereby adopted for the purpose of computing Arkansas corporate  
5        income tax liability.

6        (b) Section 195 of the Internal Revenue Code of 1986, as in effect on  
7        January 1, 2001, regarding capitalization and amortization of a corporation's  
8        start-up expenses, is adopted for the purpose of computing Arkansas income tax  
9        liability.

10       (c) Section 248 of the Internal Revenue Code of 1986, as in effect on  
11       January 1, 2001, regarding capitalization and amortization of a corporation's  
12       organizational expenses, is adopted for the purpose of computing Arkansas  
13       income tax liability.

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15       SECTION 10. Arkansas Code 26-51-440, concerning regulated investment  
16       companies, real estate investment trusts, and financial asset securitization  
17       investment trusts, is amended to read as follows:

18       26-51-440. Federal Subchapter M adopted.

19       (a) Subchapter M of the Internal Revenue Code of 1986, as in effect on  
20       January 1, ~~1999~~ 2001, relating to regulated investment companies, real estate  
21       investment trusts, and financial asset securitization investment trusts, is  
22       adopted as state income tax law for the purpose of computing Arkansas income  
23       tax liability and shall govern all corporations which are registered as  
24       investment companies under the Investment Company Act of 1940, as in effect on  
25       January 1, ~~1999~~ 2001. However, those provisions of Subchapter M addressing  
26       the tax rates applied to financial asset securitization investment trust  
27       income are not adopted. Any financial asset securitization investment trust  
28       income subject to Arkansas income tax shall be taxed at the rates set forth in  
29       § 26-51-205.

30       (b) Any election made for federal income tax purposes under Subchapter  
31       M of the Internal Revenue Code of 1986, as in effect on January 1, ~~1999~~ 2001,  
32       shall be deemed made for state income tax purposes.

33       (c) This section shall take effect and be enforced for tax years  
34       beginning on or after January 1, ~~1999~~ 2001.

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36       SECTION 11. Arkansas Code 26-51-510(c), concerning the working taxpayer

1 income tax credit, is amended to read as follows:

2 (c) The credit provided in subsection (b) may not be taken if the  
3 taxpayer claims the exemptions provided by §§ 26-51-306 or 26-51-307(a), (b)  
4 or (c) or 26-52-601 through 26-52-607. This credit may be taken if the  
5 taxpayer chooses to itemize his or her deductions. This credit is included in  
6 the reduced income tax rates provided by § 26-51-302 so that taxpayers  
7 qualifying for the reduced rates will not calculate a separate credit under  
8 this section.

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10 SECTION 12. EFFECTIVE DATE. [The Arkansas Code Revision Commission is  
11 not required to codify this section.] The provisions of this act shall become  
12 effective for tax years beginning on and after January 1, 2001.

13 /s/ Hill  
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