

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1427

5 By: Representative Jett
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS RELATING TO INCOME TAXES; TO
9 ADOPT RECENT CHANGES TO THE INTERNAL REVENUE CODE; TO
10 AMEND THE ARKANSAS TAX-DEFERRED TUITION SAVINGS
11 PROGRAM; TO MAKE TECHNICAL CORRECTIONS TO THE INCOME
12 TAX LAWS; AND FOR OTHER PURPOSES.
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Subtitle

15 TO ADOPT RECENT CHANGES TO THE INTERNAL
16 REVENUE CODE; TO AMEND THE ARKANSAS TAX-
17 DEFERRED TUITION SAVINGS PROGRAM; AND TO
18 MAKE TECHNICAL CORRECTIONS TO THE INCOME
19 TAX LAWS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 6-84-102 is amended to read as follows:
26 6-84-102. Purpose.

27 It is the intent and purpose of this chapter to create and establish
28 the Arkansas Tax-Deferred Tuition Savings Program pursuant to 26 U.S.C. § 529
29 as in effect on January 1, ~~2011~~ 2015, to be administered by the Section 529
30 Plan Review Committee through the adoption of rules and regulations for the
31 administration of the program.
32

33 SECTION 2. Arkansas Code § 6-84-103(5) and (6), concerning the
34 definitions used in relation to the Arkansas Tax-Deferred Tuition Savings
35 Program, are amended to read as follows:

36 (5) "Committee" means the Section 529 Plan Review Committee,



1 provided for in § 6-84-105, that shall oversee the administration of the
2 Arkansas Tax-Deferred Tuition Savings Program and ensure that the program
3 complies with the provisions of this chapter and acts in accordance with 26
4 U.S.C. § 529, as in effect on January 1, ~~2011~~ 2015;

5 (6) "Contribution" means:

6 (A) Any payment directly allocated to an account for the
7 benefit of a designated beneficiary or used to pay administrative fees
8 associated with an account; and

9 (B) That portion of any rollover amount treated as a
10 contribution under 26 U.S.C. § 529 as in effect on January 1, ~~2011~~ 2015;

11
12 SECTION 3. Arkansas Code § 6-84-103(9)-(12), concerning the
13 definitions used in relation to the Arkansas Tax-Deferred Tuition Savings
14 Program, are amended to read as follows:

15 (9) "Higher education institution" means an eligible education
16 institution as defined in 26 U.S.C. § 135(c)(3) as in effect on January 1,
17 ~~2011~~ 2015;

18 (10) "Member of the family" shall have the same meaning as is
19 contained in 26 U.S.C. § 529(e) as in effect on January 1, ~~2011~~ 2015;

20 (11) "Nonqualified withdrawal" means a withdrawal from an
21 account that is not:

22 (A) A qualified withdrawal;

23 (B) A withdrawal made as the result of the death or
24 disability of the designated beneficiary;

25 (C) A withdrawal made as the result of a scholarship,
26 allowance, or payment described in 26 U.S.C. § 135(d)(1)(B) or (C) as in
27 effect on January 1, ~~2011~~ 2015, received by the designated beneficiary but
28 only to the extent of the amount of the scholarship, allowance, or payment;
29 or

30 (D) A rollover or change in the designated beneficiary;

31 (12) "Person" means a person as defined in 26 U.S.C. § 529 as in
32 effect on January 1, ~~2011~~ 2015;

33
34 SECTION 4. Arkansas Code § 6-84-103(14) and (15), concerning the
35 definitions used in relation to the Arkansas Tax-Deferred Tuition Savings
36 Program, are amended to read as follows:

1 (14) "Qualified higher education expenses" means tuition and
2 other permitted expenses as set forth in 26 U.S.C. § 529(e) as in effect on
3 January 1, ~~2011~~ 2015, for the enrollment or attendance of a designated
4 beneficiary at a higher education institution;

5 (15) "Qualified tuition program" means a qualified tuition
6 program as defined in 26 U.S.C. § 529(b) as in effect January 1, ~~2011~~ 2015;
7

8 SECTION 5. Arkansas Code § 6-84-103(17), concerning the definitions
9 used in relation to the Arkansas Tax-Deferred Tuition Savings Program, is
10 amended to read as follows:

11 (17) "Rollover" means a disbursement or transfer from an account
12 that is transferred to or deposited within sixty (60) calendar days of the
13 transfer into an account of the same person for the benefit of the same
14 designated beneficiary or another person as a designated beneficiary if the
15 transferee account was created under this chapter or under another qualified
16 tuition program maintained in accordance with 26 U.S.C. § 529(c) as in effect
17 on January 1, ~~2011~~ 2015.
18

19 SECTION 6. Arkansas Code § 6-84-105(b), concerning the administration,
20 authority, and powers of the Section 529 Plan Review Committee, is amended to
21 read as follows:

22 (b) The committee shall adopt such rules and regulations as it deems
23 necessary and proper to administer this chapter and to ensure the compliance
24 of the Arkansas Tax-Deferred Tuition Savings Program with 26 U.S.C. § 529 as
25 in effect on January 1, ~~2011~~ 2015.
26

27 SECTION 7. Arkansas Code § 6-84-105(c)(1), concerning the powers and
28 duties of the Section 529 Plan Review Committee, is amended to read as
29 follows:

30 (1) To establish, develop, implement, and maintain the program
31 in a manner consistent with the provisions of this chapter and 26 U.S.C. §
32 529 as in effect on January 1, ~~2011~~ 2015, and to obtain the benefits provided
33 by 26 U.S.C. § 529 for the program, account owners, and designated
34 beneficiaries;
35

36 SECTION 8. Arkansas Code § 6-84-106 is amended to read as follows:

1 6-84-106. Investment direction.

2 Except as permitted in 26 U.S.C. § 529 as in effect on January 1, ~~2011~~
3 2015, no person shall have the right to direct the investment of any
4 contributions to or earnings from the Arkansas Tax-Deferred Tuition Savings
5 Program.

6
7 SECTION 9. Arkansas Code § 6-84-108(b), concerning the naming of a
8 designated beneficiary and transfers of accounts under the Arkansas Tax-
9 Deferred Tuition Savings Program, is amended to read as follows:

10 (b) At the direction of an account owner, all or a portion of an
11 account may be transferred to another account of which the designated
12 beneficiary is a member of the family of the designated beneficiary of the
13 transferee account if the transferee account was created by this chapter or
14 under another qualified tuition program maintained in accordance with 26
15 U.S.C. § 529 as in effect January 1, ~~2011~~ 2015.

16
17 SECTION 10. Arkansas Code § 6-84-109(b), concerning account
18 withdrawals under the Arkansas Tax-Deferred Tuition Savings Program, is
19 amended to read as follows:

20 (b)(1) An account withdrawal paid to or for the benefit of any person
21 during any calendar year shall be reported to the person and to the Internal
22 Revenue Service.

23 (2) The report shall be made at the time required by the rules
24 of the Internal Revenue Service as in effect on January 1, ~~2011~~ 2015, and
25 contain such information as is required by law.

26
27 SECTION 11. Arkansas Code § 6-84-111 is amended to read as follows:

28 6-84-111. Funds exempt from tax.

29 (a) Except as otherwise indicated in this chapter, interest,
30 dividends, and capital gains from funds invested in the Arkansas Tax-Deferred
31 Tuition Savings Program or a tax-deferred tuition savings program established
32 by another state under 26 U.S.C. § 529 as in effect on January 1, ~~2011~~ 2015,
33 shall be exempt from Arkansas income taxes.

34 (b)(1) For tax years beginning on or after January 1, 2005,
35 contributions to a tuition savings account established under this program may
36 be deducted from the taxpayer's adjusted gross income for the purpose of

1 calculating Arkansas income tax under § 26-51-403(b).

2 (2) The deductible contributions shall not exceed five thousand
3 dollars (\$5,000) per taxpayer in any tax year.

4 (3) Contributions to this program that have been deducted from
5 the taxpayer's adjusted gross income for prior tax years shall be subject to
6 recapture if the taxpayer:

7 (A) Makes a subsequent nonqualified withdrawal from the
8 account; or

9 (B) Rolls the account over to a tax-deferred tuition
10 savings program established by another state or institution under 26 U.S.C. §
11 529 as in effect on January 1, ~~2011~~ 2015.

12 (4) The contribution shall be recaptured by adding the amount
13 previously deducted, not to exceed the amount of the nonqualified withdrawal
14 or rollover, to the taxpayer's adjusted gross income for the tax year in
15 which the nonqualified withdrawal or rollover occurred.

16 (c)(1) Qualified withdrawals from a tuition savings account
17 established under this program or a tax-deferred tuition savings program
18 established by another state under 26 U.S.C. § 529 as in effect on January 1,
19 ~~2011~~ 2015, will be exempt from Arkansas income tax with respect to the
20 designated beneficiary's income.

21 (2)(A) Nonqualified withdrawals from a tuition savings account
22 established under this program or a tax-deferred tuition savings program
23 established by another state under 26 U.S.C. § 529 as in effect on January 1,
24 ~~2011~~ 2015, will be subject to Arkansas income tax.

25 (B) The nonqualified withdrawal will be taxable to the
26 party, account owner, or designated beneficiary who actually makes the
27 withdrawal.

28 (d) Any earnings on the contribution that are included in the refund
29 will be subject to Arkansas income tax if an account owner receives a refund
30 of contributions to a tuition savings account established under this program
31 or a tax-deferred tuition savings program established by another state under
32 26 U.S.C. § 529 as in effect on January 1, ~~2011~~ 2015, because of either:

33 (1) The death or disability of the designated beneficiary; or

34 (2) A scholarship, allowance, or payment described in 26 U.S.C.
35 § 135(d)(1)(B) or (C) as in effect on January 1, ~~2011~~ 2015, received by the
36 designated beneficiary.

1
2 SECTION 12. Arkansas Code § 6-84-113 is amended to read as follows:
3 6-84-113. Liberal construction.

4 This chapter shall be liberally construed to comply with the
5 requirements of 26 U.S.C. § 529 as in effect on January 1, ~~2011~~ 2015.

6
7 SECTION 13. Arkansas Code § 26-51-404(b)(10), concerning exemptions
8 from "gross income" under the Income Tax Act of 1929, is amended to read as
9 follows:

10 (10) Title 26 U.S.C. §§ 108 and 1017, as in effect on ~~January 2,~~
11 ~~2013~~ January 1, 2015, regarding income from the discharge of indebtedness,
12 are adopted for the purpose of computing Arkansas income tax liability;

13
14 SECTION 14. Arkansas Code § 26-51-404(b)(19), concerning exemptions
15 from "gross income" under the Income Tax Act of 1929, is amended to read as
16 follows:

17 (19) Title 26 U.S.C. § 132, as in effect on ~~January 2, 2013~~
18 January 1, 2015, regarding the exclusion from income of certain fringe
19 benefits, is adopted for the purpose of computing Arkansas income tax
20 liability;

21
22 SECTION 15. Arkansas Code § 26-51-409(a), concerning the adoption of
23 federal Subchapter S, is amended to read as follows:

24 (a) Subchapter S of the Internal Revenue Code, 26 U.S.C. § 1361 et
25 seq., as in effect on ~~January 2, 2013~~ January 1, 2015, regarding small
26 business corporations, is adopted for the purpose of computing Arkansas
27 income tax liability.

28
29 SECTION 16. Arkansas Code § 26-51-414(a)(1), concerning deferred
30 compensation plans, is amended to read as follows:

31 (a)(1) The following sections relating to annuities, retirement
32 savings, and employee benefit plans are adopted for the purpose of computing
33 Arkansas income tax liability, except Arkansas capital gains treatment and
34 the Arkansas tax rates shall apply:

35 (A) Title 26 U.S.C. §§ 72, 219, 402-404, 406-416, and 457,
36 as in effect on ~~January 2, 2013~~ January 1, 2015; and

1 (B) Title 26 U.S.C. § 401, as in effect on March 30, 2010.

2
3 SECTION 17. Arkansas Code § 26-51-415 is amended to read as follows:
4 26-51-415. Deductions – Interest.

5 Title 26 U.S.C. § 163, as in effect on ~~January 2, 2013~~ January 1, 2015,
6 regarding deductions for interest expenses, is adopted for the purpose of
7 computing Arkansas income tax liability.

8
9 SECTION 18. Arkansas Code § 26-51-419(a)(1), concerning income tax
10 deductions for charitable contributions, is amended to read as follows:

11 (a)(1) Title 26 U.S.C. § 170, as in effect on ~~January 2, 2013~~ January
12 1, 2015, regarding deductions for charitable contributions, is adopted for
13 the purpose of computing Arkansas income tax liability.

14
15 SECTION 19. Arkansas Code § 26-51-428(a), concerning depreciation and
16 expensing of property under income tax laws, is amended to read as follows:

17 (a) Title 26 U.S.C. §§ 167, and 168(a)-(j), ~~and 179A~~, as in effect on
18 ~~January 2, 2013~~ January 1, 2015, and 26 U.S.C. § 179, as in effect on January
19 1, 2009, regarding depreciation and expensing of property, are adopted for
20 the purpose of computing Arkansas income tax liability for property purchased
21 in tax years beginning on or after January 1, ~~2012~~ 2014.

22
23 SECTION 20. Arkansas Code § 26-51-440(a)(1), concerning the adoption
24 of federal Subchapter M, is amended to read as follows:

25 (a)(1) Subchapter M of the Internal Revenue Code, 26 U.S.C. § 851 et
26 seq., as in effect on ~~January 2, 2013~~ January 1, 2015, relating to regulated
27 investment companies, real estate investment trusts, real estate mortgage
28 investment conduits, and financial asset securitization investment trusts, is
29 adopted for the purpose of computing Arkansas income tax liability and shall
30 govern all corporations that are registered as investment companies under the
31 Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., as in effect on
32 ~~January 2, 2013~~ January 1, 2015.

33
34 SECTION 21. EFFECTIVE DATE. Sections 1 through 20 of this act are
35 effective for tax years beginning on or after January 1, 2014.