

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.

Act 1973 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

As Engrossed: H3/18/05

A Bill

SENATE BILL 286

4
5 By: Senators Baker, Higginbothom, Trusty
6 By: Representatives Key, Anderson, Mack

For An Act To Be Entitled

10 AN ACT TO PROVIDE THAT CONTRIBUTIONS TO THE
11 ARKANSAS TAX-DEFERRED TUITION SAVINGS PROGRAM ARE
12 DEDUCTIBLE FROM ARKANSAS INCOME TAX; AND FOR
13 OTHER PURPOSES.

Subtitle

16 TO PROVIDE THAT CONTRIBUTIONS TO THE
17 ARKANSAS TAX-DEFERRED TUITION SAVINGS
18 PROGRAM ARE DEDUCTIBLE FROM ARKANSAS
19 INCOME TAX.

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

24 SECTION 1. Arkansas Code § 6-84-111 is amended to read as follows:
25 6-84-111. Funds exempt from tax.

26 (a) Except as otherwise indicated in this chapter, interest,
27 dividends, and capital gains from funds invested in the Arkansas Tax-Deferred
28 Tuition Savings Program or a tax-deferred tuition savings program established
29 by another state under 26 U.S.C. § 529 as in effect on January 1, ~~2003~~ 2005,
30 shall be exempt from Arkansas income taxes.

31 (b)(1) For tax years beginning on or after January 1, 2005,
32 contributions ~~Contributions~~ to a tuition savings account established under
33 this program ~~or a tax-deferred tuition savings program established by another~~
34 ~~state under 26 U.S.C. § 529 as in effect on January 1, 2003,~~ may not be
35 ~~excluded or deducted from the contributor's~~ may be deducted from the



1 taxpayer's adjusted gross income for the purpose of calculating Arkansas
2 income tax under § 26-51-403(b).

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

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

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

10 (B) Rolls the account over to a tax-deferred tuition
11 savings program established by another state or institution under 26 U.S.C. §
12 529 as in effect on January 1, 2005.

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

17 (c)(1) Qualified withdrawals from a tuition savings account
18 established under this program or a tax-deferred tuition savings program
19 established by another state under 26 U.S.C. § 529 as in effect on January 1,
20 ~~2003~~ 2005, will be exempt from Arkansas income tax with respect to the
21 designated beneficiary's income.

22 (2)(A) Nonqualified withdrawals from a tuition savings account
23 established under this program or a tax-deferred tuition savings program
24 established by another state under 26 U.S.C. § 529 as in effect on January 1,
25 ~~2003~~ 2005, will be subject to Arkansas income tax.

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

29 (d) Any earnings on the contribution that are included in the refund
30 will be subject to Arkansas income tax if an account owner receives a refund
31 of contributions to a tuition savings account established under this program
32 or a tax-deferred tuition savings program established by another state under
33 26 U.S.C. § 529 as in effect on January 1, ~~2003~~ 2005, because of either:

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

35 (2) A scholarship, allowance, or payment described in 26 U.S.C.
36 § 135(d)(1)(B) or (C) as in effect on January 1, ~~2003~~ 2005, received by the

1 designated beneficiary.

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3 SECTION 2. Arkansas Code § 26-51-403(b), concerning the calculation of
4 adjusted gross income for Arkansas income tax purposes, is amended to read as
5 follows:

6 (b) "Adjusted gross income" means, in the case of an individual, gross
7 income minus the following deductions:

8 (1) Trade and business deductions otherwise allowable as
9 deductions under this chapter which are attributable to a trade or business
10 carried on by the taxpayer, if such trade or business does not consist of the
11 performance of services by the taxpayer as an employee;

12 (2)(A) Trade and business deductions of employees otherwise
13 allowable as deductions under this chapter;

14 (B) The deductions which consist of expenses paid or
15 incurred by the taxpayer, in connection with the performance by him of
16 services as an employee under a reimbursement or other expense allowance
17 arrangement with his employer;

18 (3) Losses from the sale or exchange of property;

19 (4) Deductions attributable to property held for the production
20 of rents and royalties;

21 (5) Certain deductions of life tenants and income beneficiaries
22 of property: In the case of life tenant of property, or an income beneficiary
23 of property held in trust, or an heir, legatee, or devisee of an estate, the
24 deduction for depreciation allowed by the Internal Revenue Code, § 167, as
25 provided in § 26-51-428, and the deduction allowed by the Internal Revenue
26 Code, § 611, as provided in § 26-51-429;

27 (6) Deductions for certain portions of lump-sum distributions
28 from pension plans taxed under the Internal Revenue Code, § 402(e), as set
29 forth in § 26-51-414;

30 (7) Deductions for moving expenses, as set forth in § 26-51-
31 423(a)(4);

32 (8) Deductions for alimony payments;

33 (9) Deductions for separate maintenance payments;

34 (10) Deductions for interest forfeited to a bank, savings
35 association, etc., on premature withdrawals from time savings accounts or
36 deposits;

1 (11) Deductions allowed for cash payments to individual
2 retirement accounts and deductions allowed for cash payments to retirement
3 savings plans of certain married individuals to cover a nonworking spouse;

4 (12) Deductions for contributions by self-employed persons to
5 pension, profit-sharing, and annuity plans;

6 (13) The border city exemption as provided by § 26-52-602; ~~and~~

7 (14) Deductions for the health insurance costs of self-employed
8 persons as computed in accordance with § 26-51-423(c);

9 (15) Deductions for contributions to a long-term
10 intergenerational trust created pursuant to § 28-72-501 et seq., ~~[sic]~~ seq.;
11 and

12 (16) Deductions for contributions to the Arkansas Tax-Deferred
13 Tuition Savings Program not to exceed five thousand dollars (\$5,000) per
14 taxpayer under § 6-84-111(b).

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16 /s/ Baker, et al

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APPROVED: 04/11/2005

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