

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 94 of the Regular Session**

1 State of Arkansas

*As Engrossed: H1/14/05 S1/27/05*

2 85th General Assembly

**A Bill**

3 Regular Session, 2005

HOUSE BILL 1064

4  
5 By: Representatives Bond, Key, J. Martin, Lamoureux

6 By: *Senators Higginbothom, Trusty, Salmon*

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8  
9 **For An Act To Be Entitled**

10 AN ACT TO ALLOW AN INCOME TAX DEDUCTION FOR  
11 CONTRIBUTIONS MADE TO A HEALTH SAVINGS ACCOUNT;  
12 TO EXEMPT THE INTEREST EARNED ON THE ACCOUNT FROM  
13 INCOME TAX; TO MAKE CONFORMING AMENDMENTS TO  
14 EXISTING LAW; AND FOR OTHER PURPOSES.

15  
16 **Subtitle**

17 ALLOWS AN INCOME TAX DEDUCTION FOR  
18 CONTRIBUTIONS MADE TO A HEALTH SAVINGS  
19 ACCOUNT.

20  
21  
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23  
24 SECTION 1. Arkansas Code Title 26, Chapter 51, Subchapter 4 is amended  
25 to add a new section as follows:

26 26-51-453. Health savings accounts.

27 (a) Subdivisions (a) - (d), (e)(2), (f), and (g) of § 223 of the  
28 Internal Revenue Code of 1986, as in effect on January 1, 2005, regarding a  
29 deduction from income for amounts deposited to health savings accounts, is  
30 adopted for purposes of computing Arkansas income tax liability.

31 (b) A health savings account is exempt from tax under this chapter  
32 unless it no longer meets the requirements of subsection (a) of this section.

33  
34 SECTION 2. Arkansas Code § 26-51-404(b), pertaining to the definition  
35 of "gross income" for purposes of the Arkansas Income Tax Act of 1929, is



1 amended to add a new subdivision to read as follows:

2 (26) Contributions by an employer to an employee's health  
3 savings account within the limitations established in § 26-51-453 shall not  
4 be included in the employee's gross income.

5

6 SECTION 3. Arkansas Code § 26-51-404(b)(12), pertaining to exclusions  
7 from gross income, is amended to read as follows:

8 (12) Section 129 of the Internal Revenue Code of 1986, as in  
9 effect on ~~January 1, 1997~~ January 1, 2005, regarding the exclusion from  
10 income for dependent care assistance, is hereby adopted for the purpose of  
11 computing Arkansas income tax liability. However, no amounts excluded from  
12 gross income pursuant to this subdivision (b)(12) shall be taken into account  
13 in computing the dependent care credit contained in § 26-51-502;

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15 SECTION 4. Arkansas Code § 26-51-414(a)(1), pertaining to income tax  
16 treatment of deferred compensation plans, is amended to read as follows:

17 (a)(1) Sections 72, 219, 401-404, 406-416, and 457 of the Internal  
18 Revenue Code of 1986, as in effect on ~~January 1, 2002~~ January 1, 2005,  
19 relating to annuities, retirement savings, and employee benefit plans,  
20 respectively, are hereby adopted for the purpose of computing Arkansas income  
21 tax liability, except Arkansas capital gains treatment, and the Arkansas tax  
22 rates shall apply.

23

24 SECTION 5. Arkansas Code § 26-51-436 is amended to read as follows:

25 26-51-436. Deductions - Limitations.

26 Notwithstanding any other provision of this act with regard to  
27 deductions allowed in computing net income:

28 (1) Section 465 of the Internal Revenue Code of 1986, as in  
29 effect on January 1, 1987, is adopted to limit deductions claimed under this  
30 act to the amount the taxpayer has at risk, as that term is used in the  
31 federal income tax law;

32 (2) Section 469 of the Internal Revenue Code of 1986, as in  
33 effect on January 1, 1997, regarding the limitations on deductibility of  
34 passive activity losses and credits, is hereby adopted for the purpose of  
35 computing Arkansas income tax liability;

36 (3) Subsections (a),(b),(c), and (d) of § 280F of the Internal

1 Revenue Code of 1986, as in effect on January 1, 1999, regarding investment  
2 tax credit and depreciation for luxury automobiles, is hereby adopted for  
3 purposes of computing Arkansas income tax liability;

4 (4) Section 68 of the Internal Revenue Code of 1986, as in  
5 effect on January 1, 1995, is adopted to limit itemized deductions;

6 (5) Section 220 of the Internal Revenue Code of 1986, as in  
7 effect on ~~January 1, 2003~~ January 1, 2005, regarding the deductibility from  
8 income of contributions made to a medical savings account by the taxpayer or  
9 the taxpayer's employer, is hereby adopted for the purpose of computing  
10 Arkansas income tax liability; and

11 (6) Section 264 of the Internal Revenue Code of 1986, as in  
12 effect on January 1, 1999, regarding premium and interest deductions on life  
13 insurance of officers and employees, is adopted for the purpose of computing  
14 Arkansas income tax liability.

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16 SECTION 6. EFFECTIVE DATE. This act shall apply to tax years  
17 beginning on or after January 1, 2004.

18  
19 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the  
20 General Assembly of the State of Arkansas that that health savings accounts  
21 allow taxpayers to better control their healthcare expenses; that Congress  
22 has provided for income tax benefits to taxpayers utilizing health savings  
23 accounts; and that Arkansas taxpayers cannot receive similar state income tax  
24 benefits until this act becomes effective. Therefore, an emergency is  
25 declared to exist and this act being immediately necessary for the  
26 preservation of the public peace, health, and safety shall become effective  
27 on:

28 (1) The date of its approval by the Governor;

29 (2) If the bill is neither approved nor vetoed by the Governor,  
30 the expiration of the period of time during which the Governor may veto the  
31 bill; or

32 (3) If the bill is vetoed by the Governor and the veto is  
33 overridden, the date the last house overrides the veto.

34  
35 /s/ Bond  
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*APPROVED: 2/10/2005*