

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4
5 By: Senator J. Hendren
6

A Bill

SENATE BILL 2

For An Act To Be Entitled

8 AN ACT TO REDUCE THE INCOME TAX IMPOSED ON CERTAIN
9 INDIVIDUALS, TRUSTS, AND ESTATES; TO INCREASE THE
10 STANDARD DEDUCTION FOR INCOME TAX PURPOSES; TO CREATE
11 AN EARNED INCOME TAX CREDIT; TO CREATE THE EARNED
12 INCOME TAX CREDIT TRUST FUND; TO FUND INCOME TAX
13 REDUCTIONS THROUGH NEW TAXES ON CIGARETTES AND E-
14 CIGARETTES; TO IMPOSE A PRIVILEGE TAX ON E-
15 CIGARETTES; TO IMPOSE A SPECIAL EXCISE TAX ON THE
16 RETAIL SALE OF CIGARETTES; AND FOR OTHER PURPOSES.
17
18

Subtitle

19 TO CREATE AN EARNED INCOME TAX CREDIT,
20 AN INCREASED STANDARD DEDUCTION, AND AN
21 INDIVIDUAL INCOME TAX REDUCTION; AND TO
22 PROVIDE FUNDING FOR INCOME TAX
23 REDUCTIONS THROUGH NEW TAXES ON
24 CIGARETTES AND E-CIGARETTES.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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30 SECTION 1. Arkansas Code Title 19, Chapter 5, Subchapter 11, is
31 amended to add an additional section to read as follows:

32 19-5-1155. Earned Income Tax Credit Trust Fund.

33 (a) There is created on the books of the Treasurer of State, the
34 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
35 be known as the "Earned Income Tax Credit Trust Fund".

36 (b) The Earned Income Tax Credit Trust Fund shall consist of:



- 1 (1) The funds deposited under § 26-57-1703;
- 2 (2) Any remaining balances carried forward from year to year;
- 3 and
- 4 (3) Any other funds authorized or provided by law.

5 (c) The Earned Income Tax Credit Trust Fund shall be used to offset
 6 the cost of the earned income tax credit allowed under § 26-51-515 as
 7 follows:

8 (1) On January 1, 2024, and on January 1 of each following year,
 9 the Secretary of the Department of Finance and Administration shall certify
 10 to the Treasurer of State the total amount of income tax credits claimed
 11 under § 26-51-515 during the immediately preceding calendar year; and

12 (2) The Treasurer of State shall transfer the amount certified
 13 under subdivision (c)(1) of this section from the Earned Income Tax Credit
 14 Trust Fund to the General Revenue Fund Account of the State Apportionment
 15 Fund to be distributed as authorized under § 19-5-202(b)(2)(B)(iii).

16
 17 SECTION 2. Arkansas Code § 26-51-201(a)(8), concerning the income tax
 18 imposed on individuals, trusts, and estates, is amended to read as follows:

19 (8) Every resident, individual, trust, or estate having net
 20 income of less than twenty-two thousand two hundred dollars (\$22,200) shall
 21 determine the amount of income tax due under this subsection in accordance
 22 with the table set forth below:

| 23 From | Less Than or Equal To | Rate |
|-----------------------|-----------------------------------|---------------|
| 24 \$0 | \$4,499 <u>\$8,899</u> | 0% |
| 25 \$4,500 | \$8,899 | 2% |
| 26 \$8,900 | \$13,399 | 3% |
| 27 \$13,400 | \$22,199 | 3.4% |

28
 29 SECTION 3. Arkansas Code § 26-51-430(b), concerning the standard
 30 deduction for income tax purposes, is amended to read as follows:

31 (b)(1) The standard deduction shall be:

32 (A) For the tax year beginning January 1, 2014, two
 33 thousand dollars (\$2,000) per taxpayer; ~~and~~

34 (B) For tax years beginning on and after January 1, 2015,
 35 two thousand two hundred dollars (\$2,200) per taxpayer; and

36 (C) For tax years beginning on and after January 1, 2022,

1 three thousand three hundred dollars (\$3,300) per taxpayer.

2 (2) In the case of a married couple, each spouse shall be
3 entitled to claim a standard deduction of:

4 (A) For the tax year beginning January 1, 2014, two
5 thousand dollars (\$2,000); ~~and~~

6 (B) For tax years beginning on and after January 1, 2015,
7 two thousand two hundred dollars (\$2,200); and

8 (C) For tax years beginning on and after January 1, 2022,
9 three thousand three hundred dollars (\$3,300).

10
11 SECTION 4. Arkansas Code Title 26, Chapter 51, Subchapter 5, is
12 amended to add an additional section to read as follows:

13 26-51-515. Earned income tax credit.

14 (a) There is allowed an income tax credit against the income tax
15 imposed by this chapter in the amount determined under subsection (b) of this
16 section.

17 (b)(1) By December 31, 2023, and by December 31 of each following
18 year, the Secretary of the Department of Finance and Administration shall
19 determine the percentage of the credit allowed to a taxpayer under 26 U.S.C.
20 § 32, as it existed on January 1, 2021, that the state may allow under this
21 section based on the amount of money in the Earned Income Tax Credit Trust
22 Fund as of the date of the secretary's determination.

23 (2)(A) The credit allowed under this section shall be at least
24 five percent (5%) of the credit allowed to a taxpayer under 26 U.S.C. § 32,
25 as it existed on January 1, 2021, if there are sufficient funds in the Earned
26 Income Tax Credit Trust Fund.

27 (B) If there are not sufficient funds in the Earned Income
28 Tax Credit Trust Fund to support the amount of credit stated in subdivision
29 (b)(2)(A) of this section, the amount of the credit allowed under this
30 section shall be the maximum amount for which there are sufficient funds in
31 the Earned Income Tax Credit Trust Fund.

32 (3) The amount determined under subdivision (b)(1) shall apply
33 for the tax year in which the determination is made.

34 (c) If the amount of the income tax credit allowed under this section
35 exceeds the taxpayer's income tax liability, the excess shall be refunded to
36 the taxpayer.

1 (d) The Department of Finance and Administration shall annually notify
2 taxpayers of their potential eligibility for the income tax credit allowed
3 under this section.

4
5 SECTION 5. Arkansas Code Title 26, Chapter 57, is amended to add
6 additional subchapters to read as follows:

7 Subchapter 17 – Special Excise Tax on Cigarettes

8
9 26-57-1701. Special excise tax.

10 (a) There is levied a special excise tax of twenty percent (20%) upon
11 all retail receipts or proceeds derived from the sale of cigarettes, as
12 defined in § 26-57-203.

13 (b) The tax levied under this section is in addition to all other
14 taxes now imposed and cumulative to the Arkansas Gross Receipts Act of 1941,
15 § 26-52-101 et seq.

16
17 26-57-1702. Imposition, reporting, remittance, and administration of
18 excise tax.

19 (a) Every retailer in this state shall collect the tax levied under
20 this subchapter from the consumer in addition to the established retail price
21 of cigarettes and shall file a return and remittance with the Secretary of
22 the Department of Finance and Administration on or before the twentieth day
23 of each calendar month for the preceding month.

24 (b) Failure to file the return and remittance on the due date shall be
25 cause for the secretary to enter an assessment for the return and remittance
26 and add as a penalty ten percent (10%) of the amount of tax found to be due.

27 (c) A return and remittance under this section shall be filed
28 electronically as prescribed by the secretary in accordance with rules
29 adopted by the secretary.

30
31 26-57-1703. Distribution of revenues.

32 The revenues derived from the excise tax on cigarettes levied under
33 this subchapter shall be deposited as follows to reduce the income tax burden
34 on individual taxpayers:

35 (1)(A) For fiscal year 2022, the first fifty-five million
36 dollars (\$55,000,000) shall be deposited into the General Revenue Fund

1 Account of the State Apportionment Fund to be used to offset the cost of
2 reducing individual income taxes.

3 (B) Beginning July 1, 2022, the first eighty-three million
4 seven hundred thousand dollars (\$83,700,000) shall be deposited into the
5 General Revenue Fund Account of the State Apportionment Fund to be used to
6 offset the cost of reducing individual income taxes; and

7 (2) Any remaining revenues shall be deposited into the Earned
8 Income Tax Credit Trust Fund to be used to determine the amount of the earned
9 income tax credit the state shall allow under § 26-51-515.

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11 26-57-1704. Rules.

12 The Secretary of the Department of Finance and Administration may adopt
13 rules to implement and administer this subchapter.

14
15 Subchapter 18 – E-Cigarette Privilege Tax

16
17 26-57-1801. Definition.

18 As used in this subchapter, "e-cigarette" means a vapor product or an
19 e-liquid product, as those terms are defined in § 26-57-203.

20
21 26-57-1802. Privilege tax.

22 There is levied a privilege tax on e-cigarettes sold in this state that
23 is equal to the total tax levied on tobacco products as defined in § 26-57-
24 203 other than cigarettes.

25
26 26-57-1803. Imposition, reporting, remittance, and administration of
27 privilege tax.

28 Except as otherwise provided in this subchapter, the privilege tax
29 levied under § 26-57-1802 shall be imposed, reported, remitted, and
30 administered in the same manner and at the same time as taxes on tobacco
31 products under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et
32 seq.

33
34 26-57-1804. Invoices.

35 The privilege tax levied under § 26-57-1802 shall be separately stated
36 and identified on each invoice or statement as the "E-cigarette Privilege

1 Tax".

2

3 26-57-1805. Distribution of revenues.

4 The revenues collected under this subchapter shall be general revenues
5 and shall be credited to the General Revenue Fund Account of the State
6 Apportionment Fund to be distributed as authorized under § 19-5-
7 202(b)(2)(B)(iii).

8

9 26-57-1806. Applicability.

10 The privilege tax levied under § 26-57-1802 applies to e-cigarettes
11 sold on and after the effective date of this subchapter.

12

13 26-57-1807. Rules.

14 The Secretary of the Department of Finance and Administration, the
15 Director of Arkansas Tobacco Control, and the Arkansas Tobacco Control Board
16 shall adopt rules necessary to implement and allow for the enforcement of
17 this subchapter.

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19 SECTION 6. DO NOT CODIFY. Rules.

20 (a) When adopting the initial rules required under this act, the final
21 rules shall be filed with the Secretary of State for adoption under § 25-15-
22 204(f):

23 (1) On or before September 1, 2021; or

24 (2) If approval under § 10-3-309 has not occurred by September
25 1, 2021, as soon as practicable after approval under § 10-3-309.

26 (b) The Secretary of the Department of Finance and Administration, the
27 Director of Arkansas Tobacco Control, and the Arkansas Tobacco Control Board
28 shall file the proposed rules with the Legislative Council under § 10-3-
29 309(c) sufficiently in advance of September 1, 2021, so that the Legislative
30 Council may consider the rules for approval before September 1, 2021.

31

32 SECTION 7. EFFECTIVE DATES.

33 (a) Sections 2 and 3 of this act are effective for tax years beginning
34 or after January 1, 2022.

35 (b) Section 4 of this act is effective for tax years beginning on or
36 after January 1, 2023.

1 (c) Section 5 of this act is effective on the first day of the second
2 calendar month following the effective date of this act.

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