

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 2

By: Senator J. Hendren

For An Act To Be Entitled

AN ACT TO REDUCE THE INCOME TAX IMPOSED ON CERTAIN INDIVIDUALS, TRUSTS, AND ESTATES; TO INCREASE THE STANDARD DEDUCTION FOR INCOME TAX PURPOSES; TO CREATE AN EARNED INCOME TAX CREDIT; TO CREATE THE EARNED INCOME TAX CREDIT TRUST FUND; TO FUND INCOME TAX REDUCTIONS THROUGH NEW TAXES ON CIGARETTES AND E-CIGARETTES; TO IMPOSE A PRIVILEGE TAX ON E-CIGARETTES; TO IMPOSE A SPECIAL EXCISE TAX ON THE RETAIL SALE OF CIGARETTES; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE AN EARNED INCOME TAX CREDIT, AN INCREASED STANDARD DEDUCTION, AND AN INDIVIDUAL INCOME TAX REDUCTION; AND TO PROVIDE FUNDING FOR INCOME TAX REDUCTIONS THROUGH NEW TAXES ON CIGARETTES AND E-CIGARETTES.

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

SECTION 1. Arkansas Code Title 19, Chapter 5, Subchapter 11, is amended to add an additional section to read as follows:

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

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

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



- (1) The funds deposited under § 26-57-1703;
- (2) Any remaining balances carried forward from year to year;

and

- (3) Any other funds authorized or provided by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26-51-515. Earned income tax credit.

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

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

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

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

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

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

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

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

Subchapter 17 – Special Excise Tax on Cigarettes

26-57-1701. Special excise tax.

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

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

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

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

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

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

26-57-1703. Distribution of revenues.

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

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

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

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

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

26-57-1704. Rules.

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

Subchapter 18 – E-Cigarette Privilege Tax

26-57-1801. Definition.

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

26-57-1802. Privilege tax.

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

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

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

26-57-1804. Invoices.

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

Tax".

26-57-1805. Distribution of revenues.

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

26-57-1806. Applicability.

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

26-57-1807. Rules.

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

SECTION 6. DO NOT CODIFY. Rules.

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

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

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

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

SECTION 7. EFFECTIVE DATES.

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

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

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