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Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HOUSE BILL 2059

AN ACT

AMENDING SECTIONS 43-1081 AND 43-1170, ARIZONA REVISED STATUTES; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-1081, Arizona Revised Statutes, is amended to
3 read:

4 43-1081. Credit for pollution control equipment

5 A. A credit is allowed against the taxes imposed by this title for
6 expenses that the taxpayer incurred during the taxable year to purchase real
7 or personal property that is used in the taxpayer's trade or business in this
8 state to control or prevent pollution. The amount of the credit is equal to
9 ten per cent of the purchase price.

10 B. Property that qualifies for the credit under this section includes
11 that portion of a structure, building, installation, excavation, machine,
12 equipment or device and any attachment or addition to or reconstruction,
13 replacement or improvement of that property that is directly used,
14 constructed, or installed in this state for the purpose of meeting or
15 exceeding rules or regulations adopted by the United States environmental
16 protection agency, the department of environmental quality or a political
17 subdivision of this state to prevent, monitor, control or reduce air, water
18 or land pollution **THAT RESULTS FROM THE TAXPAYER'S DIRECT OPERATING**
19 **ACTIVITIES IN CONDUCTING A TRADE OR BUSINESS IN THIS STATE.**

20 C. The credit allowed pursuant to this section does not apply to:

21 1. The purchase of any personal property that is attached to a motor
22 vehicle.

23 2. **ANY PROPERTY THAT HAS A SUBSTANTIAL USE FOR A PURPOSE OTHER THAN**
24 **THE PURPOSES DESCRIBED IN SUBSECTION B.**

25 3. **ANY PORTION OF POLLUTION CONTROL PROPERTY THAT IS INCLUDED AS A**
26 **STANDARD AND INTEGRAL PART OF ANOTHER PROPERTY.**

27 ~~E.~~ D. Amounts that qualify for a credit under this section must be
28 includible in the taxpayer's adjusted basis for the property. The adjusted
29 basis of any property with respect to which the taxpayer has claimed a credit
30 shall be reduced by the amount of credit claimed with respect to that
31 asset. This credit does not affect the deductibility for depreciation or
32 amortization of the remaining adjusted basis of the asset.

33 ~~D.~~ E. Co-owners of a business, including partners in a partnership
34 and shareholders of an S corporation, as defined in section 1361 of the
35 internal revenue code, may each claim only the pro rata share of the credit
36 allowed under this section based on the ownership interest. The total of the
37 credits allowed all such owners may not exceed the amount that would have
38 been allowed a sole owner.

39 ~~E.~~ F. If the allowable tax credit exceeds the taxes otherwise due
40 under this title on the claimant's income, or if there are no taxes due under
41 this title, the taxpayer may carry the amount of the claim not used to offset
42 the taxes under this title forward for not more than five taxable years'
43 income tax liability.

44 ~~F. For 1995 and 1996, the maximum credit that a taxpayer may claim~~
45 ~~under this section is seven hundred fifty thousand dollars in a taxable~~
46 ~~year. For all years after 1996,~~

1 G. The maximum credit that a taxpayer may claim under this section is
2 five hundred thousand dollars in a taxable year.

3 Sec. 2. Section 43-1170, Arizona Revised Statutes, is amended to read:
4 43-1170. Credit for pollution control equipment

5 A. A credit is allowed against the taxes imposed by this title for
6 expenses that the taxpayer incurred during the taxable year to purchase real
7 or personal property that is used in the taxpayer's trade or business in this
8 state to control or prevent pollution. The amount of the credit is equal to
9 ten per cent of the purchase price.

10 B. Property that qualifies for the credit under this section includes
11 that portion of a structure, building, installation, excavation, machine,
12 equipment or device and any attachment or addition to or reconstruction,
13 replacement or improvement of that property that is directly used,
14 constructed or installed in this state for the purpose of meeting or
15 exceeding rules or regulations adopted by the United States environmental
16 protection agency, the department of environmental quality or a political
17 subdivision of this state to prevent, monitor, control or reduce air, water
18 or land pollution **THAT RESULTS FROM THE TAXPAYER'S DIRECT OPERATING**
19 **ACTIVITIES IN CONDUCTING A TRADE OR BUSINESS IN THIS STATE.**

20 C. The credit allowed pursuant to this section does not apply to:

21 1. The purchase of any personal property that is attached to a motor
22 vehicle.

23 2. **ANY PROPERTY THAT HAS A SUBSTANTIAL USE FOR A PURPOSE OTHER THAN**
24 **THE PURPOSES DESCRIBED IN SUBSECTION B.**

25 3. **ANY PORTION OF POLLUTION CONTROL PROPERTY THAT IS INCLUDED AS A**
26 **STANDARD AND INTEGRAL PART OF ANOTHER PROPERTY.**

27 ~~C.~~ D. Amounts that qualify for a credit under this section must be
28 includible in the taxpayer's adjusted basis for the property. The adjusted
29 basis of any property with respect to which the taxpayer has claimed a credit
30 shall be reduced by the amount of credit claimed with respect to that
31 asset. This credit does not affect the deductibility for depreciation or
32 amortization of the remaining adjusted basis of the asset.

33 ~~D.~~ E. Co-owners of a business, including corporate partners in a
34 partnership, may each claim only the pro rata share of the credit allowed
35 under this section based on the ownership interest. The total of the credits
36 allowed all such owners may not exceed the amount that would have been
37 allowed a sole owner.

38 ~~E.~~ F. If the allowable tax credit exceeds the taxes otherwise due
39 under this title on the claimant's income, or if there are no taxes due under
40 this title, the taxpayer may carry the amount of the claim not used to offset
41 the taxes under this title forward for not more than five taxable years'
42 income tax liability.

43 ~~F. A taxpayer who claims a credit for pollution control equipment~~
44 ~~under this section may not claim a credit under section 43-1164 for the same~~
45 ~~equipment.~~

1 G. ~~For 1995 and 1996, the maximum credit that a taxpayer may claim~~
2 ~~under this section is seven hundred fifty thousand dollars in a taxable~~
3 ~~year. For all years after 1996,~~ The maximum credit that a taxpayer may claim
4 under this section is five hundred thousand dollars in a taxable year.