

REFERENCE TITLE: income tax exemption; military pensions

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1025

Introduced by
Senator Harper: Representative Groe

AN ACT

AMENDING SECTIONS 43-1022, 43-1122, 43-1127 AND 43-1333, ARIZONA REVISED
STATUTES; RELATING TO INCOME TAX SUBTRACTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1022, Arizona Revised Statutes, is amended to
3 read:

4 43-1022. Subtractions from Arizona gross income

5 In computing Arizona adjusted gross income, the following amounts shall
6 be subtracted from Arizona gross income:

7 1. The amount of exemptions allowed by section 43-1023.

8 2. Benefits, annuities and pensions in an amount totaling not more
9 than two thousand five hundred dollars received from one or more of the
10 following:

11 (a) The United States government service retirement and disability
12 fund, ~~retired or retainer pay of the uniformed services of the United States,~~
13 the United States foreign service retirement and disability system and any
14 other retirement system or plan established by federal law, **EXCEPT AS**
15 **PROVIDED BY PARAGRAPH 3 OF THIS SECTION.**

16 (b) The Arizona state retirement system, the corrections officer
17 retirement plan, the public safety personnel retirement system, the elected
18 officials' retirement plan, an optional retirement program established by the
19 Arizona board of regents under section 15-1628, an optional retirement
20 program established by a community college district board under section
21 15-1451 or a retirement plan established for employees of a county, city or
22 town in this state.

23 **3. THE AMOUNT OF BENEFITS, ANNUITIES AND PENSIONS RECEIVED DURING THE**
24 **TAXABLE YEAR AS RETIRED OR RETAINER PAY AND SURVIVOR BENEFITS OF THE**
25 **UNIFORMED SERVICES OF THE UNITED STATES.**

26 ~~3-~~ 4. A beneficiary's share of the fiduciary adjustment to the extent
27 that the amount determined by section 43-1333 decreases the beneficiary's
28 Arizona gross income.

29 ~~4-~~ 5. The amount of any distributions from an individual retirement
30 account as provided for in section 408 of the internal revenue code or from a
31 qualified retirement plan of a self-employed individual as provided for in
32 section 401 of the internal revenue code to the extent that total adjustments
33 made pursuant to this paragraph in all tax years do not exceed the total of
34 all contributions made by the taxpayer to such plans prior to December 31,
35 1975, which were included in computing Arizona taxable income.

36 ~~5-~~ 6. The amount of income on an installment receivable which is
37 recognized pursuant to the internal revenue code and which has already been
38 recognized on the death of the taxpayer for purposes of this title for tax
39 years ending before January 1, 1990.

40 ~~6-~~ 7. Interest income received on obligations of the United States,
41 less any interest on indebtedness, or other related expenses, and deducted in
42 arriving at Arizona gross income, which were incurred or continued to
43 purchase or carry such obligations.

1 ~~7.~~ 8. The amount of any income tax refunds which were received from
2 states other than Arizona and which were included as income in computing
3 federal adjusted gross income.

4 ~~8.~~ 9. Annuity income included in federal adjusted gross income
5 pursuant to section 72 of the internal revenue code if the first payment with
6 respect to such annuity was received prior to December 31, 1978.

7 ~~9.~~ 10. The excess of a partner's share of income required to be
8 included under section 702(a)(8) of the internal revenue code over the income
9 required to be included under chapter 14, article 2 of this title.

10 ~~10.~~ 11. The excess of a partner's share of partnership losses
11 determined pursuant to chapter 14, article 2 of this title over the losses
12 allowable under section 702(a)(8) of the internal revenue code.

13 ~~11.~~ 12. The amount by which the adjusted basis of property described
14 in this paragraph and computed pursuant to this title and the income tax act
15 of 1954, as amended, exceeds the adjusted basis of such property computed
16 pursuant to the internal revenue code. This paragraph shall apply to all
17 property which is held for the production of income and which is sold or
18 otherwise disposed of during the taxable year other than depreciable property
19 used in a trade or business.

20 ~~12.~~ 13. The amount allowed by section 43-1024 for amortization, by a
21 qualified defense contractor certified by the department of commerce under
22 section 41-1508, of a capital investment for private commercial activities.

23 ~~13.~~ 14. The amount of gain included in federal adjusted gross income
24 on the sale or other disposition of a capital investment that a qualified
25 defense contractor has elected to amortize pursuant to section 43-1024.

26 ~~14.~~ 15. The amount allowed by section 43-1025 for contributions during
27 the taxable year of agricultural crops to charitable organizations.

28 ~~15.~~ 16. The portion of any wages or salaries paid or incurred by the
29 taxpayer for the taxable year that is equal to the amount of the federal work
30 opportunity credit, the empowerment zone employment credit, the credit for
31 employer paid social security taxes on employee cash tips and the Indian
32 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
33 and 1396 of the internal revenue code.

34 ~~16.~~ 17. The amount of prizes or winnings less than five thousand
35 dollars in a single taxable year from any of the state lotteries established
36 and operated pursuant to title 5, chapter 5, article 1, except that all such
37 winnings before March 22, 1983, including periodic distributions from such
38 winnings made after March 22, 1983, may be subtracted.

39 ~~17.~~ 18. The amount of exploration expenses that is determined pursuant
40 to section 617 of the internal revenue code, that has been deferred in a
41 taxable year ending before January 1, 1990 and for which a subtraction has
42 not previously been made. The subtraction shall be made on a ratable basis
43 as the units of produced ores or minerals discovered or explored as a result
44 of this exploration are sold.

1 ~~18-~~ 19. The amount included in federal adjusted gross income pursuant
 2 to section 86 of the internal revenue code, relating to taxation of social
 3 security and railroad retirement benefits.

4 ~~19-~~ 20. To the extent not already excluded from Arizona gross income
 5 under the internal revenue code, compensation received for active service as
 6 a member of the reserves, THE national guard or the armed forces of the
 7 United States, including compensation for service in a combat zone as
 8 determined under section 112 of the internal revenue code.

9 ~~20-~~ 21. The amount of unreimbursed medical and hospital costs,
 10 adoption counseling, legal and agency fees and other nonrecurring costs of
 11 adoption not to exceed three thousand dollars. In the case of a husband and
 12 wife who file separate returns, the subtraction may be taken by either
 13 taxpayer or may be divided between them, but the total subtractions allowed
 14 both husband and wife shall not exceed three thousand dollars. The
 15 subtraction under this paragraph may be taken for the costs that are
 16 described in this paragraph and that are incurred in prior years, but the
 17 subtraction may be taken only in the year during which the final adoption
 18 order is granted.

19 ~~21-~~ 22. The amount authorized by section 43-1027 for the taxable year
 20 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

21 ~~22-~~ 23. With respect to a medical savings account established pursuant
 22 to section 43-1028:

- 23 (a) An eligible individual may subtract:
- 24 (i) The amount of contributions made by the individual's employer
 25 during the taxable year to the individual's medical savings account pursuant
 26 to section 43-1028 to the extent that the employer contributions are included
 27 in the individual's federal adjusted gross income.
- 28 (ii) The amount deposited by the individual in the account during the
 29 taxable year to the extent that the individual's contributions are included
 30 in the individual's federal adjusted gross income.

31 (b) The individual's employer may subtract the amount of contributions
 32 made by the employer to a medical savings account established on the
 33 individual's behalf to the extent that the contributions are not deductible
 34 under the internal revenue code.

35 ~~23-~~ 24. The amount by which a net operating loss carryover or capital
 36 loss carryover allowable pursuant to section 43-1029, subsection F exceeds
 37 the net operating loss carryover or capital loss carryover allowable pursuant
 38 to section 1341(b)(5) of the internal revenue code.

39 ~~24-~~ 25. Any amount of qualified educational expenses that is
 40 distributed from a qualified state tuition program determined pursuant to
 41 section 529 of the internal revenue code and that is included in income in
 42 computing federal adjusted gross income.

43 ~~25-~~ 26. Any item of income resulting from an installment sale that has
 44 been properly subjected to income tax in another state in a previous taxable

1 year and that is included in Arizona gross income in the current taxable
2 year.

3 ~~26-~~ 27. The amount authorized by section 43-1030 relating to holocaust
4 survivors.

5 ~~27-~~ 28. The amount authorized by section 43-1031 for constructing an
6 energy efficient residence.

7 ~~28-~~ 29. An amount equal to the depreciation allowable pursuant to
8 section 167(a) of the internal revenue code for the taxable year computed as
9 if the election described in section 168(k)(2)(D)(iii) of the internal
10 revenue code had been made for each applicable class of property in the year
11 the property was placed in service.

12 ~~29-~~ 30. With respect to property that is sold or otherwise disposed of
13 during the taxable year by a taxpayer that complied with section 43-1021,
14 paragraph 26 with respect to that property, the amount of depreciation that
15 has been allowed pursuant to section 167(a) of the internal revenue code to
16 the extent that the amount has not already reduced Arizona taxable income in
17 the current or prior taxable years.

18 ~~30-~~ 31. With respect to property for which an adjustment was made
19 under section 43-1021, paragraph 27, an amount equal to one-fifth of the
20 amount of the adjustment pursuant to section 43-1021, paragraph 27 in the
21 year in which the amount was adjusted under section 43-1021, paragraph 27 and
22 in each of the following four years.

23 Sec. 2. Section 43-1122, Arizona Revised Statutes, is amended to read:

24 ~~43-1122.~~ Subtractions from Arizona gross income; corporations

25 In computing Arizona taxable income for a corporation, the following
26 amounts shall be subtracted from Arizona gross income:

27 1. The amounts computed pursuant to section 43-1022, paragraphs ~~8- 9~~
28 through ~~15, 28, 29~~ 16, 29, 30 and ~~30~~ 31. For THE purposes of this paragraph,
29 "federal adjusted gross income" as used in section 43-1022 means "federal
30 taxable income".

31 2. The amount of Arizona capital loss carryover as defined in section
32 43-1124 in an amount not to exceed one thousand dollars.

33 3. With respect to a financial institution as defined in section
34 6-101, expenses and interest relating to tax-exempt income disallowed
35 pursuant to section 265 of the internal revenue code.

36 4. Dividends received from another corporation owned or controlled
37 directly or indirectly by a recipient corporation. ~~"Control"~~ For THE
38 purposes of this paragraph, "CONTROL" means direct or indirect ownership or
39 control of fifty per cent or more of the voting stock of the payor
40 corporation by the recipient corporation. Dividends shall have the meaning
41 provided in section 316 of the internal revenue code. This subtraction shall
42 apply without regard to ~~the provisions of~~ section 43-961, paragraph 2 and
43 article 4 of this chapter. A corporation that has its commercial domicile,
44 as defined in section 43-1131, in this state may subtract the full amount of

1 the dividends. A corporation that does not have its commercial domicile in
2 this state may subtract:

3 (a) For its taxable year beginning in 1990, an amount equal to
4 one-half of the dividends.

5 (b) For taxable years beginning in 1991 and thereafter, the full
6 amount of the dividends.

7 5. Interest income received on obligations of the United States.

8 6. The amount of dividend income from foreign corporations.

9 7. The amount of net operating loss allowed by section 43-1123.

10 8. The amount of any state income tax refunds received which were
11 included as income in computing federal taxable income.

12 9. The amount of expense recapture included in income pursuant to
13 section 617 of the internal revenue code for mine exploration expenses.

14 10. The amount of deferred exploration expenses allowed by section
15 43-1127.

16 11. The amount of exploration expenses related to the exploration of
17 oil, gas or geothermal resources, computed in the same manner and on the same
18 basis as a deduction for mine exploration pursuant to section 617 of the
19 internal revenue code. This computation is subject to the adjustments
20 contained in section 43-1121, paragraph 8 and paragraphs 9 and 10 of this
21 section relating to exploration expenses.

22 12. The amortization of pollution control devices allowed by section
23 43-1129.

24 13. The amount of amortization of the cost of child care facilities
25 pursuant to section 43-1130.

26 14. The amount of income from a domestic international sales
27 corporation required to be included in the income of its shareholders
28 pursuant to section 995 of the internal revenue code.

29 15. The income of an insurance company that is exempt under section
30 43-1201 to the extent that it is included in computing Arizona gross income
31 on a consolidated return pursuant to section 43-947.

32 16. The amount of contributions by the taxpayer during the taxable year
33 to medical savings accounts established on behalf of the taxpayer's employees
34 as provided by section 43-1028, to the extent that the contributions are not
35 deductible under the internal revenue code.

36 17. The amount by which a capital loss carryover allowable pursuant to
37 section 43-1130.01, subsection F exceeds the capital loss carryover allowable
38 pursuant to section 1341(b)(5) of the internal revenue code.

39 Sec. 3. Section 43-1127, Arizona Revised Statutes, is amended to read:
40 43-1127. Deferred exploration expenses

41 A. The amount of exploration expenses added to Arizona gross income
42 pursuant to section 43-1121, paragraph 8 may be subtracted on a ratable basis
43 as the units of produced ores or minerals discovered or explored by reason of
44 such expenditures are sold. An election made for any taxable year shall be
45 binding for such year.

1 B. If such property is sold, it shall be treated in the same manner
2 and on the same basis as property held for the production of income pursuant
3 to section 43-1021, paragraph 7 or section 43-1022, paragraph ~~11~~ 12.

4 Sec. 4. Section 43-1333, Arizona Revised Statutes, is amended to read:
5 43-1333. Fiduciary adjustment; allocation of shares

6 A. The fiduciary adjustment for a resident estate or trust shall be
7 the net amount of the additions and subtractions required by sections 43-1021
8 and 43-1022 including the addition required by section 43-1021, paragraph 1
9 or the subtraction required by section 43-1022, paragraph ~~3~~ 4 if the estate
10 or trust is a beneficiary of another estate or trust.

11 B. In the case of a nonresident estate or trust, the fiduciary
12 adjustment shall be the net amount of the additions and subtractions required
13 by sections 43-1021 and 43-1022 that are derived from or related to income
14 from sources within this state.

15 C. The estate or trust and its beneficiaries shall apportion the
16 fiduciary adjustment in the same proportion as their respective shares of
17 federal distributable net income of the estate or trust.

18 D. If the estate or trust has no federal distributable net income for
19 the taxable year, the share of each beneficiary in the fiduciary adjustment
20 shall be in proportion to the beneficiary's share of the estate or trust
21 income for the year, under local law or terms of the instrument, that is
22 required to be distributed currently and any other amounts of the income
23 distributed in the year. Any balance of the fiduciary adjustment shall be
24 allocated to the estate or trust.

25 E. In the case of a nonresident beneficiary of an estate or trust,
26 including a nonresident estate or trust that is a beneficiary of another
27 estate or trust, the addition required by section 43-1021, paragraph 1 or the
28 subtraction required by section 43-1022, paragraph ~~3~~ 4 shall be limited to
29 that portion of the beneficiary's share of the fiduciary adjustment that is
30 derived from or related to income from sources within this state.

31 F. Notwithstanding subsection A of this section, a trust established
32 as a medical savings account trust pursuant to section 43-1028 shall not add
33 the amount of interest income received on obligations of a state, territory
34 or possession of the United States, or a political subdivision of a state,
35 territory or possession of the United States that is located outside of this
36 state.