

REFERENCE TITLE: individual income tax; identity theft

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

## **SB 1372**

Introduced by  
Senators Aboud, Aguirre, Miranda, Pesquiera, Rios: Hale, Johnson, Landrum  
Taylor; Representatives Brown, Sinema

AN ACT

AMENDING SECTIONS 43-432 AND 43-1022, ARIZONA REVISED STATUTES; RELATING TO  
INDIVIDUAL INCOME TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-432, Arizona Revised Statutes, is amended to  
3 read:

4 43-432. Refund for excess withholding

5 A. When the total amount withheld under section 43-401 exceeds the  
6 amount of the tax on the employee's entire taxable income as computed under  
7 this title, the department ~~shall~~, after auditing the annual return filed by  
8 the employee in accordance with chapter 3 of this title, and without  
9 requiring a filing of a refund claim as provided in section 42-1106,  
10 subsection A, **SHALL** refund the amount of the excess withheld, subject to  
11 setoff for debts pursuant to section 42-1122. Failure of the department to  
12 make such refund shall not limit the right of the taxpayer to file a claim  
13 for a refund as provided in chapter 6, article 1 of this title. If the  
14 excess tax withheld is less than one dollar, no refund shall be made unless  
15 specifically requested by the taxpayer at the time such return is filed. In  
16 no event shall any excess be allowed as a credit against any tax accruing on  
17 a return filed for a year subsequent to the year during which such excess was  
18 withheld, ~~the provisions of~~ chapter 6 of this title notwithstanding.

19 B. The department may make separate refunds of withheld taxes upon  
20 request by a husband or wife who has filed a joint return, the refund payable  
21 to each spouse being proportioned to the gross earnings of each shown by the  
22 information returns filed by the employer or otherwise shown to the  
23 satisfaction of the department. If a taxpayer entitled to a refund under  
24 this subsection dies, the department **OF REVENUE** may certify to the department  
25 of administration that the refund be made to the taxpayer's duly appointed  
26 executor, administrator or personal representative.

27 **C. NOTWITHSTANDING THIS SECTION, THE DEPARTMENT SHALL NOT REFUND ANY**  
28 **AMOUNT OF TAX WITHHELD UNDER SECTION 43-401 ON INCOME EARNED BY AN INDIVIDUAL**  
29 **USING ANOTHER TAXPAYER'S IDENTITY IN VIOLATION OF SECTION 13-2008, 13-2009 OR**  
30 **13-2010.**

31 Sec. 2. Section 43-1022, Arizona Revised Statutes, is amended to read:

32 43-1022. Subtractions from Arizona gross income

33 In computing Arizona adjusted gross income, the following amounts shall  
34 be subtracted from Arizona gross income:

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

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

39 (a) The United States government service retirement and disability  
40 fund, retired or retainer pay of the uniformed services of the United States,  
41 the United States foreign service retirement and disability system and any  
42 other retirement system or plan established by federal law.

43 (b) The Arizona state retirement system, the corrections officer  
44 retirement plan, the public safety personnel retirement system, the elected  
45 officials' retirement plan, an optional retirement program established by the

1 Arizona board of regents under section 15-1628, an optional retirement  
2 program established by a community college district board under section  
3 15-1451 or a retirement plan established for employees of a county, city or  
4 town in this state.

5 3. A beneficiary's share of the fiduciary adjustment to the extent  
6 that the amount determined by section 43-1333 decreases the beneficiary's  
7 Arizona gross income.

8 4. The amount of any distributions from an individual retirement  
9 account as provided for in section 408 of the internal revenue code or from a  
10 qualified retirement plan of a self-employed individual as provided for in  
11 section 401 of the internal revenue code to the extent that total adjustments  
12 made pursuant to this paragraph in all tax years do not exceed the total of  
13 all contributions made by the taxpayer to such plans prior to December 31,  
14 1975, which were included in computing Arizona taxable income.

15 5. The amount of income on an installment receivable which is  
16 recognized pursuant to the internal revenue code and which has already been  
17 recognized on the death of the taxpayer for purposes of this title for tax  
18 years ending before January 1, 1990.

19 6. Interest income received on obligations of the United States, less  
20 any interest on indebtedness, or other related expenses, and deducted in  
21 arriving at Arizona gross income, which were incurred or continued to  
22 purchase or carry such obligations.

23 7. The amount of any income tax refunds which were received from  
24 states other than Arizona and which were included as income in computing  
25 federal adjusted gross income.

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

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

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

35 11. The amount by which the adjusted basis of property described in  
36 this paragraph and computed pursuant to this title and the income tax act of  
37 1954, as amended, exceeds the adjusted basis of such property computed  
38 pursuant to the internal revenue code. This paragraph shall apply to all  
39 property which is held for the production of income and which is sold or  
40 otherwise disposed of during the taxable year other than depreciable property  
41 used in a trade or business.

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

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

4           14. The amount allowed by section 43-1025 for contributions during the  
5 taxable year of agricultural crops to charitable organizations.

6           15. The portion of any wages or salaries paid or incurred by the  
7 taxpayer for the taxable year that is equal to the amount of the federal work  
8 opportunity credit, the empowerment zone employment credit, the credit for  
9 employer paid social security taxes on employee cash tips and the Indian  
10 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
11 and 1396 of the internal revenue code.

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

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

23           18. The amount included in federal adjusted gross income pursuant to  
24 section 86 of the internal revenue code, relating to taxation of social  
25 security and railroad retirement benefits.

26           19. To the extent not already excluded from Arizona gross income under  
27 the internal revenue code, compensation received for active service as a  
28 member of the reserves, the national guard or the armed forces of the United  
29 States, including compensation for service in a combat zone as determined  
30 under section 112 of the internal revenue code.

31           20. The amount of unreimbursed medical and hospital costs, adoption  
32 counseling, legal and agency fees and other nonrecurring costs of adoption  
33 not to exceed three thousand dollars. In the case of a husband and wife who  
34 file separate returns, the subtraction may be taken by either taxpayer or may  
35 be divided between them, but the total subtractions allowed both husband and  
36 wife shall not exceed three thousand dollars. The subtraction under this  
37 paragraph may be taken for the costs that are described in this paragraph and  
38 that are incurred in prior years, but the subtraction may be taken only in  
39 the year during which the final adoption order is granted.

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

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

44           (a) An eligible individual may subtract:

1 (i) The amount of contributions made by the individual's employer  
2 during the taxable year to the individual's medical savings account pursuant  
3 to section 43-1028 to the extent that the employer contributions are included  
4 in the individual's federal adjusted gross income.

5 (ii) The amount deposited by the individual in the account during the  
6 taxable year to the extent that the individual's contributions are included  
7 in the individual's federal adjusted gross income.

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

12 23. The amount by which a net operating loss carryover or capital loss  
13 carryover allowable pursuant to section 43-1029, subsection F exceeds the net  
14 operating loss carryover or capital loss carryover allowable pursuant to  
15 section 1341(b)(5) of the internal revenue code.

16 24. Any amount of qualified educational expenses that is distributed  
17 from a qualified state tuition program determined pursuant to section 529 of  
18 the internal revenue code and that is included in income in computing federal  
19 adjusted gross income.

20 25. Any item of income resulting from an installment sale that has been  
21 properly subjected to income tax in another state in a previous taxable year  
22 and that is included in Arizona gross income in the current taxable year.

23 26. The amount authorized by section 43-1030 relating to holocaust  
24 survivors.

25 27. The amount authorized by section 43-1031 for constructing an energy  
26 efficient residence.

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

32 29. With respect to property that is sold or otherwise disposed of  
33 during the taxable year by a taxpayer that complied with section 43-1021,  
34 paragraph 26 with respect to that property, the amount of depreciation that  
35 has been allowed pursuant to section 167(a) of the internal revenue code to  
36 the extent that the amount has not already reduced Arizona taxable income in  
37 the current or prior taxable years.

38 30. With respect to property for which an adjustment was made under  
39 section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of  
40 the adjustment pursuant to section 43-1021, paragraph 27 in the year in which  
41 the amount was adjusted under section 43-1021, paragraph 27 and in each of  
42 the following four years.

43 31. For taxable years beginning from and after December 31, 2007  
44 through December 31, 2012, the amount contributed during the taxable year to  
45 college savings plans established pursuant to section 529 of the internal

1 revenue code to the extent that the contributions were not deducted in  
2 computing federal adjusted gross income. The amount subtracted shall not  
3 exceed:

4 (a) Seven hundred fifty dollars for a single individual or a head of  
5 household.

6 (b) One thousand five hundred dollars for a married couple filing a  
7 joint return. In the case of a husband and wife who file separate returns,  
8 the subtraction may be taken by either taxpayer or may be divided between  
9 them, but the total subtractions allowed both husband and wife shall not  
10 exceed one thousand five hundred dollars.

11 32. ANY AMOUNT INCLUDED IN THE TAXPAYER'S ARIZONA GROSS INCOME  
12 ATTRIBUTABLE TO INCOME EARNED BY ANOTHER INDIVIDUAL USING THE TAXPAYER'S  
13 IDENTITY IN VIOLATION OF SECTION 13-2008, 13-2009 OR 13-2010. TO QUALIFY FOR  
14 THE SUBTRACTION UNDER THIS PARAGRAPH, THE TAXPAYER MUST SUBMIT WITH THE  
15 INCOME TAX RETURN A COPY OF THE POLICE REPORT OF THE VIOLATION.