

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 80
HOUSE BILL 2286

AN ACT

AMENDING SECTION 43-1088, ARIZONA REVISED STATUTES; RELATING TO INDIVIDUAL
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 43-1088, Arizona Revised Statutes, is amended to
3 read:

4 43-1088. Credit for contribution to qualifying charitable
5 organizations: definitions

6 A. ~~For taxable years beginning from and after December 31, 1997,~~ A
7 credit is allowed against the taxes imposed by this title for voluntary cash
8 contributions made by the taxpayer during the taxable year to a qualifying
9 charitable organization ~~as determined pursuant to subsection F of this~~
10 ~~section, but not exceeding~~ TO EXCEED:

11 1. Two hundred dollars in any taxable year for a single individual or
12 a head of household.

13 ~~2. Three hundred dollars in taxable year 2005 for a married couple~~
14 ~~filing a joint return.~~

15 ~~3.~~ 2. Four hundred dollars in ANY taxable year ~~2006 and any~~
16 ~~subsequent year~~ for a married couple filing a joint return.

17 B. A husband and wife who file separate returns for a taxable year in
18 which they could have filed a joint return may each claim only one-half of
19 the tax credit that would have been allowed for a joint return.

20 C. If the allowable tax credit exceeds the taxes otherwise due under
21 this title on the claimant's income, or if there are no taxes due under this
22 title, the taxpayer may carry forward the amount of the claim not used to
23 offset the taxes under this title for not more than five consecutive taxable
24 years' income tax liability.

25 D. The credit allowed by this section:

26 1. IS ALLOWED ONLY IF THE TAXPAYER ITEMIZES DEDUCTIONS PURSUANT TO
27 SECTION 43-1042 FOR THE TAXABLE YEAR.

28 2. Is in lieu of a deduction pursuant to section 170 of the internal
29 revenue code and taken for state tax purposes.

30 E. Taxpayers taking a credit authorized by this section shall provide
31 the name of the qualifying charitable organization and the amount of the
32 contribution to the department of revenue on forms provided by the
33 department.

34 ~~F. The credit under this section applies only to contributions to~~
35 ~~qualifying charitable organizations that exceed the total amount deducted~~
36 ~~pursuant to section 170 of the internal revenue code in the taxpayer's~~
37 ~~baseline year. The taxpayer's baseline year is:~~

38 ~~1. The 1996 taxable year if the taxpayer deducted charitable~~
39 ~~contributions pursuant to section 170 of the internal revenue code in the~~
40 ~~1996 taxable year.~~

41 ~~2. If the taxpayer did not deduct charitable contributions pursuant to~~
42 ~~section 170 of the internal revenue code in the 1996 taxable year, the~~
43 ~~taxpayer's baseline year is the first taxable year after 1996 that the~~
44 ~~taxpayer deducted charitable contributions pursuant to section 170 of the~~
45 ~~internal revenue code.~~

1 ~~G.~~ F. A qualifying charitable organization shall provide the
2 department of revenue with a written certification that it meets all criteria
3 to be considered a qualifying charitable organization. The organization
4 shall also notify the department of any changes that may affect the
5 qualifications under this section.

6 G. THE CHARITABLE ORGANIZATION'S WRITTEN CERTIFICATION MUST BE SIGNED
7 BY AN OFFICER OF THE ORGANIZATION UNDER PENALTY OF PERJURY. THE WRITTEN
8 CERTIFICATION MUST INCLUDE THE FOLLOWING:

9 1. VERIFICATION OF THE ORGANIZATION'S STATUS UNDER SECTION 501(c)(3)
10 OF THE INTERNAL REVENUE CODE OR VERIFICATION THAT THE ORGANIZATION IS A
11 DESIGNATED COMMUNITY ACTION AGENCY THAT RECEIVES COMMUNITY SERVICES BLOCK
12 GRANT PROGRAM MONIES PURSUANT TO 42 UNITED STATES CODE SECTION 9901.

13 2. FINANCIAL DATA INDICATING THE ORGANIZATION'S BUDGET FOR THE
14 ORGANIZATION'S PRIOR OPERATING YEAR AND THE AMOUNT OF THAT BUDGET SPENT ON
15 SERVICES TO RESIDENTS OF THIS STATE WHO EITHER:

16 (a) RECEIVE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BENEFITS.

17 (b) ARE LOW INCOME RESIDENTS OF THIS STATE.

18 (c) ARE CHRONICALLY ILL OR PHYSICALLY DISABLED CHILDREN.

19 3. A STATEMENT THAT THE ORGANIZATION PLANS TO CONTINUE SPENDING AT
20 LEAST FIFTY PER CENT OF ITS BUDGET ON SERVICES TO RESIDENTS OF THIS STATE WHO
21 RECEIVE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BENEFITS, WHO ARE LOW INCOME
22 RESIDENTS OF THIS STATE OR WHO ARE CHRONICALLY ILL OR PHYSICALLY DISABLED
23 CHILDREN.

24 H. THE DEPARTMENT SHALL REVIEW EACH WRITTEN CERTIFICATION AND
25 DETERMINE WHETHER THE ORGANIZATION MEETS ALL THE CRITERIA TO BE CONSIDERED A
26 QUALIFYING CHARITABLE ORGANIZATION AND NOTIFY THE ORGANIZATION OF ITS
27 DETERMINATION. THE DEPARTMENT MAY ALSO PERIODICALLY REQUEST RECERTIFICATION
28 FROM THE ORGANIZATION. The department shall compile and make available to
29 the public a list of the qualifying CHARITABLE organizations.

30 ~~H.~~ I. For the purposes of this section:

31 1. "CHRONICALLY ILL OR PHYSICALLY DISABLED CHILDREN" HAS THE SAME
32 MEANING PRESCRIBED IN SECTION 36-262.

33 ~~1.~~ 2. "Low income residents" means persons whose household income is
34 less than one hundred fifty per cent of the federal poverty level.

35 ~~2.~~ 3. "Qualifying charitable organization" means a charitable
36 organization that is exempt from federal income taxation under section
37 501(c)(3) of the internal revenue code or is a designated community action
38 agency that receives community services block grant program monies pursuant
39 to 42 United States Code section 9901. The organization must spend at least
40 fifty per cent of its budget on services to residents of this state who
41 receive temporary assistance for needy families benefits or low income
42 residents of this state and their households OR TO CHRONICALLY ILL OR
43 PHYSICALLY DISABLED CHILDREN WHO ARE RESIDENTS OF THIS STATE. Taxpayers
44 choosing to make donations through an umbrella charitable organization that
45 collects donations on behalf of member charities shall designate that the

1 donation be directed to a member charitable organization that would qualify
2 under this section on a stand-alone basis.

3 ~~3.~~ 4. "Services" means cash assistance, medical care, child care,
4 food, clothing, shelter, job placement and job training services or any other
5 assistance that is reasonably necessary to meet immediate basic needs and
6 that is provided and used in this state.

7 Sec. 2. Recertification process

8 All charitable organizations that have previously submitted a written
9 certification under section 43-1088, Arizona Revised Statutes, as amended by
10 this act, must send the department of revenue another written certification
11 containing all of the information required under section 43-1088, subsection
12 G, Arizona Revised Statutes, as amended by this act. The department of
13 revenue shall determine whether the organization meets all the criteria to be
14 considered a qualifying charitable organization and notify the organization
15 of its determination. An organization that fails to comply with this
16 section:

17 1. No longer qualifies as a qualifying charitable organization, and
18 the department of revenue shall remove the organization from the department's
19 published list.

20 2. May be added to the department of revenue's list if, at a later
21 date, it submits a written certification that complies with section 43-1088,
22 subsections F and G, Arizona Revised Statutes, as amended by this act, and
23 the department of revenue determines that the organization is a qualifying
24 organization.

25 Sec. 3. Retroactivity

26 Section 43-1088, Arizona Revised Statutes, as amended by this act,
27 applies retroactively to taxable years beginning from and after December 31,
28 2008.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.