

REFERENCE TITLE: school tuition credit; contribution date

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HB 2496

Introduced by

Representatives Lesko, Ash, Barnes, Kavanagh, Seel, Senators Gray L, Huppenthal, Melvin, Pearce R: Representatives Barto, Biggs, Burges, Court, Gowan, Jones, McComish, Montenegro, Murphy, Pratt, Quelland, Stevens, Weiers JP, Senators Allen S, Burns, Gorman, Pierce S, Verschoor

AN ACT

AMENDING SECTIONS 43-1089, 43-1183 AND 43-1184, ARIZONA REVISED STATUTES;
RELATING TO SCHOOL TUITION 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 43-1089, Arizona Revised Statutes, is amended to
3 read:
4 43-1089. Credit for contributions to school tuition
5 organization: definitions
6 A. A credit is allowed against the taxes imposed by this title for the
7 amount of voluntary cash contributions by the taxpayer or on the taxpayer's
8 behalf pursuant to section 43-401, subsection ~~H~~ I during the taxable year to
9 a school tuition organization, but not exceeding:
10 1. Five hundred dollars in any taxable year for a single individual or
11 a head of household.
12 2. Eight hundred twenty-five dollars in taxable year 2005 for a
13 married couple filing a joint return.
14 3. One thousand dollars in taxable year 2006 and any subsequent
15 taxable year for a married couple filing a joint return.
16 B. A husband and wife who file separate returns for a taxable year in
17 which they could have filed a joint return may each claim only one-half of
18 the tax credit that would have been allowed for a joint return.
19 C. If the allowable tax credit exceeds the taxes otherwise due under
20 this title on the claimant's income, or if there are no taxes due under this
21 title, the taxpayer may carry the amount of the claim not used to offset the
22 taxes under this title forward for not more than five consecutive taxable
23 years' income tax liability.
24 D. The credit allowed by this section is in lieu of any deduction
25 pursuant to section 170 of the internal revenue code and taken for state tax
26 purposes.
27 E. The tax credit is not allowed if the taxpayer designates the
28 taxpayer's contribution to the school tuition organization for the direct
29 benefit of any dependent of the taxpayer.
30 F. A school tuition organization that receives a voluntary cash
31 contribution pursuant to subsection A shall report electronically to the
32 department, in a form prescribed by the department, by February 28 of each
33 year the following information:
34 1. The name, address and contact name of the school tuition
35 organization.
36 2. The total number of contributions received during the previous
37 calendar year.
38 3. The total dollar amount of contributions received during the
39 previous calendar year.
40 4. The total number of children awarded educational scholarships or
41 tuition grants during the previous calendar year.
42 5. The total dollar amount of educational scholarships and tuition
43 grants awarded during the previous calendar year.
44 6. For each school to which educational scholarships or tuition grants
45 were awarded:

1 (a) The name and address of the school.

2 (b) The number of educational scholarships and tuition grants awarded
3 during the previous calendar year.

4 (c) The total dollar amount of educational scholarships and tuition
5 grants awarded during the previous calendar year.

6 G. FOR THE PURPOSES OF THIS SECTION, A CONTRIBUTION, FOR WHICH A
7 CREDIT IS CLAIMED, THAT IS MADE ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH
8 MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR MAY BE APPLIED TO EITHER THE
9 CURRENT OR PRECEDING TAXABLE YEAR AND IS CONSIDERED TO HAVE BEEN MADE ON THE
10 LAST DAY OF THAT TAXABLE YEAR.

11 ~~G.~~ H. For the purposes of this section:

12 1. "Handicapped student" means a student who has any of the following
13 conditions:

14 (a) Hearing impairment.

15 (b) Visual impairment.

16 (c) Developmental delay.

17 (d) Preschool severe delay.

18 (e) Speech/language impairment.

19 2. "Qualified school" means a nongovernmental primary school or
20 secondary school or a preschool for handicapped students that is located in
21 this state, that does not discriminate on the basis of race, color, handicap,
22 familial status or national origin and that satisfies the requirements
23 prescribed by law for private schools in this state on January 1, 1997.

24 3. "School tuition organization" means a charitable organization in
25 this state that is exempt from federal taxation under section 501(c)(3) of
26 the internal revenue code and that allocates at least ninety per cent of its
27 annual revenue for educational scholarships or tuition grants to children to
28 allow them to attend any qualified school of their parents' choice. In
29 addition, to qualify as a school tuition organization the charitable
30 organization shall provide educational scholarships or tuition grants to
31 students without limiting availability to only students of one school.

32 Sec. 2. Section 43-1183, Arizona Revised Statutes, is amended to read:

33 43-1183. Credit for contributions to school tuition
34 organization; definitions

35 A. Beginning from and after June 30, 2006, a credit is allowed against
36 the taxes imposed by this title for the amount of voluntary cash
37 contributions made by the taxpayer during the taxable year to a school
38 tuition organization.

39 B. The amount of the credit is the total amount of the taxpayer's
40 contributions for the taxable year under subsection A of this section and is
41 preapproved by the department of revenue pursuant to subsection D of this
42 section.

43 C. The department of revenue:

44 1. Shall not allow tax credits under this section and section
45 20-224.06 that exceed in the aggregate a combined total of ten million

1 dollars in any fiscal year. Beginning in fiscal year 2007-2008, the
2 aggregate dollar amount of the tax credit cap from the previous fiscal year
3 shall be annually increased by twenty per cent.

4 2. Shall preapprove tax credits under this section and section
5 20-224.06 subject to subsection D of this section.

6 3. Shall allow the tax credits under this section and section
7 20-224.06 on a first come, first served basis.

8 D. For the purposes of subsection C, paragraph 2 of this section,
9 before making a contribution to a school tuition organization, the taxpayer
10 under this title or title 20 must notify the school tuition organization of
11 the total amount of contributions that the taxpayer intends to make to the
12 school tuition organization. Before accepting the contribution, the school
13 tuition organization shall request preapproval from the department of revenue
14 for the taxpayer's intended contribution amount. The department of revenue
15 shall preapprove or deny the requested amount within twenty days after
16 receiving the request from the school tuition organization. If the
17 department of revenue preapproves the request, the school tuition
18 organization shall immediately notify the taxpayer, and the department of
19 insurance in the case of a credit under section 20-224.06, that the requested
20 amount was preapproved by the department of revenue. In order to receive a
21 tax credit under this subsection, the taxpayer shall make the contribution to
22 the school tuition organization within ten days after receiving notice from
23 the school tuition organization that the requested amount was preapproved.
24 If the school tuition organization does not receive the preapproved
25 contribution from the taxpayer within the required ten days, the school
26 tuition organization shall immediately notify the department of revenue, and
27 the department of insurance in the case of a credit under section 20-224.06,
28 and the department of revenue shall no longer include this preapproved
29 contribution amount when calculating the limit prescribed in subsection C,
30 paragraph 1 of this section.

31 E. A school tuition organization that receives contributions under
32 this section or section 20-224.06 shall allow the department of revenue to
33 verify that the educational scholarships and tuition grants that are issued
34 pursuant to this section are awarded to students who attend a qualified
35 school.

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

41 G. Co-owners of a business, including corporate partners in a
42 partnership, may each claim only the pro rata share of the credit allowed
43 under this section based on the ownership interest. The total of the credits
44 allowed all such owners may not exceed the amount that would have been
45 allowed a sole owner.

1 H. The credit allowed by this section is in lieu of any deduction
2 pursuant to section 170 of the internal revenue code and taken for state tax
3 purposes.

4 I. A taxpayer shall not claim a credit under this section and also
5 under section 43-1184 with respect to the same contribution.

6 J. The tax credit is not allowed if the taxpayer designates the
7 taxpayer's contribution to the school tuition organization for the direct
8 benefit of any specific student.

9 K. A school tuition organization that receives contributions under
10 this section or section 20-224.06 shall use at least ninety per cent of those
11 contributions to provide educational scholarships or tuition grants only to
12 children whose family income does not exceed one hundred eighty-five per cent
13 of the income limit required to qualify a child for reduced price lunches
14 under the national school lunch and child nutrition acts (42 United States
15 Code sections 1751 through 1785) and who either:

16 1. Attended a governmental primary or secondary school as a full-time
17 student as defined in section 15-901 for at least the first one hundred days
18 of the prior fiscal year and transferred from a governmental primary or
19 secondary school to a qualified school.

20 2. Enroll in a qualified school in a kindergarten program.

21 3. Received an educational scholarship or tuition grant under
22 paragraph 1 or 2 of this subsection if the children continue to attend a
23 qualified school in a subsequent year.

24 L. In 2006, a school tuition organization shall not issue an
25 educational scholarship or a tuition grant in an amount that exceeds four
26 thousand two hundred dollars for students in a kindergarten program or grades
27 one through eight or five thousand five hundred dollars for students in
28 grades nine through twelve. In each year after 2006, the limitation amount
29 for a scholarship or a grant under this subsection shall be increased by one
30 hundred dollars.

31 M. A child is still eligible to receive an educational scholarship or
32 tuition grant under subsection K of this section if the child meets the
33 criteria to receive a reduced price lunch but does not actually claim that
34 benefit.

35 N. The school tuition organization shall require that the children use
36 the educational scholarships or tuition grants on a full-time basis. If a
37 child leaves the qualified school before completing an entire school year,
38 the qualified school shall refund a prorated amount of the educational
39 scholarship or tuition grant to the school tuition organization that issued
40 the educational scholarship or tuition grant to the child. Any refunds
41 received by the school tuition organization under this subsection shall be
42 allocated for educational scholarships or tuition grants to qualified
43 children in the following year.

1 0. Children who receive educational scholarships or tuition grants
2 under this section shall be allowed to attend any qualified school of their
3 parents' choice.

4 P. A school tuition organization that receives a voluntary cash
5 contribution pursuant to this section or section 20-224.06 shall report to
6 the department of revenue and the department of insurance, in a form
7 prescribed by the department of revenue, by June 30 of each year the
8 following information:

9 1. The name, address and contact name of the school tuition
10 organization.

11 2. The total number of contributions received during the previous
12 calendar year, identified for the purposes of this section or section
13 20-224.06.

14 3. The total dollar amount of contributions received during the
15 previous calendar year, identified for the purposes of this section or
16 section 20-224.06.

17 4. The total number of children awarded educational scholarships or
18 tuition grants during the previous calendar year.

19 5. The total dollar amount of educational scholarships and tuition
20 grants awarded during the previous calendar year.

21 6. For each school to which educational scholarships or tuition grants
22 were awarded:

23 (a) The name and address of the school.

24 (b) The number of educational scholarships and tuition grants awarded
25 during the previous calendar year.

26 (c) The total dollar amount of educational scholarships and tuition
27 grants awarded during the previous calendar year.

28 7. Verification that an independent review of financial statements
29 according to generally accepted accounting principles was completed by a
30 certified public accountant for the previous calendar year.

31 Q. FOR THE PURPOSES OF THIS SECTION, A CONTRIBUTION, FOR WHICH A
32 CREDIT IS CLAIMED, THAT IS MADE ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH
33 MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR MAY BE APPLIED TO EITHER THE
34 CURRENT OR PRECEDING TAXABLE YEAR AND IS CONSIDERED TO HAVE BEEN MADE ON THE
35 LAST DAY OF THAT TAXABLE YEAR.

36 ~~Q.~~ R. The department of revenue, with the cooperation of the
37 department of insurance, shall adopt rules and publish and prescribe forms
38 and procedures necessary for the administration of this section.

39 ~~R.~~ S. For the purposes of this section:

40 1. "Qualified school" means a nongovernmental primary school or
41 secondary school:

42 (a) That is located in this state, that does not discriminate on the
43 basis of race, color, handicap, familial status or national origin and that
44 satisfies the requirements prescribed by law for private schools in this
45 state on January 1, 2005.

1 (b) That annually administers and makes available to the public the
2 aggregate test scores of its students on a nationally standardized
3 norm-referenced achievement test, preferably the Arizona instrument to
4 measure standards test administered pursuant to section 15-741.

5 (c) That requires all teaching staff and any personnel that have
6 unsupervised contact with students to be fingerprinted.

7 2. "School tuition organization" means a charitable organization in
8 this state that both:

9 (a) Is exempt from federal taxation under section 501(c)(3) of the
10 internal revenue code and that allocates ninety per cent of its annual
11 revenue for educational scholarships or tuition grants to children to allow
12 them to attend any qualified school of their parents' choice.

13 (b) Provides educational scholarships or tuition grants to students
14 without limiting availability to only students of one school.

15 Sec. 3. Section 43-1184, Arizona Revised Statutes, is amended to read:
16 43-1184. Credit for contributions to school tuition
17 organization; displaced students; students with
18 disabilities; definitions

19 A. Beginning from and after June 30, 2009, a credit is allowed against
20 the taxes imposed by this title for the amount of voluntary cash
21 contributions made by the taxpayer during the taxable year to a school
22 tuition organization.

23 B. The amount of the credit is the total amount of the taxpayer's
24 contributions for the taxable year under subsection A of this section and is
25 preapproved by the department of revenue pursuant to subsection D of this
26 section.

27 C. The department of revenue:

28 1. Shall not allow tax credits under this section and section
29 20-224.07 that exceed in the aggregate a combined total of five million
30 dollars in any fiscal year.

31 2. Shall preapprove tax credits under this section and section
32 20-224.07 subject to subsection D of this section.

33 3. Shall allow the tax credits under this section and section
34 20-224.07 on a first come, first served basis.

35 D. For the purposes of subsection C, paragraph 2 of this section,
36 before making a contribution to a school tuition organization, the taxpayer
37 under this title or title 20 must notify the school tuition organization of
38 the total amount of contributions that the taxpayer intends to make to the
39 school tuition organization. Before accepting the contribution, the school
40 tuition organization shall request preapproval from the department of revenue
41 for the taxpayer's intended contribution amount. The department of revenue
42 shall preapprove or deny the requested amount within twenty days after
43 receiving the request from the school tuition organization. If the
44 department of revenue preapproves the request, the school tuition
45 organization shall immediately notify the taxpayer that the requested amount

1 was preapproved by the department of revenue. In order to receive a tax
2 credit under this subsection, the taxpayer shall make the contribution to the
3 school tuition organization within ten days after receiving notice from the
4 school tuition organization that the requested amount was preapproved. If
5 the school tuition organization does not receive the preapproved contribution
6 from the taxpayer within the required ten days, the school tuition
7 organization shall immediately notify the department of revenue and the
8 department shall no longer include this preapproved contribution amount when
9 calculating the limit prescribed in subsection C, paragraph 1 of this
10 section.

11 E. A school tuition organization that receives contributions under
12 this section or section 20-224.07 shall allow the department to verify that
13 the educational scholarships and tuition grants that are issued pursuant to
14 this section are awarded to qualified students who attend a qualified school.

15 F. If the allowable tax credit exceeds the taxes otherwise due under
16 this title on the claimant's income, or if there are no taxes due under this
17 title, the taxpayer may carry the amount of the claim not used to offset the
18 taxes under this title forward for not more than five consecutive taxable
19 years' income tax liability.

20 G. Co-owners of a business, including corporate partners in a
21 partnership, may each claim only the pro rata share of the credit allowed
22 under this section based on the ownership interest. The total of the credits
23 allowed all such owners may not exceed the amount that would have been
24 allowed a sole owner.

25 H. The credit allowed by this section is in lieu of any deduction
26 pursuant to section 170 of the internal revenue code and taken for state tax
27 purposes.

28 I. A taxpayer shall not claim a credit under this section and also
29 under section 43-1183 with respect to the same contribution.

30 J. The tax credit is not allowed if the taxpayer designates the
31 taxpayer's contribution to the school tuition organization for the direct
32 benefit of any specific student.

33 K. A school tuition organization that receives contributions under
34 this section or section 20-224.07 shall use at least ninety per cent of those
35 contributions to provide educational scholarships or tuition grants to
36 qualified students who either:

37 1. Received a grant or scholarship under title 15, chapter 8, article
38 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic
39 year. In fiscal year 2009-2010, the school tuition organization shall give
40 priority to qualified students under this paragraph before providing
41 educational scholarships or tuition grants under paragraph 2 of this
42 subsection.

43 2. Attended a governmental primary or secondary school as a full-time
44 student as defined in section 15-901 for at least the first one hundred days

1 of the prior fiscal year and transferred from a governmental primary or
2 secondary school to a qualified school.

3 3. Received an educational scholarship or tuition grant under
4 paragraph 1 or 2 of this subsection if the qualified student continues to
5 attend a qualified school in a subsequent year.

6 L. The amount of an educational scholarship or a tuition grant that is
7 issued by a school tuition organization under this section shall not exceed
8 the cost of tuition for the student to attend the qualified school or ninety
9 per cent of the amount of state aid that otherwise would be computed for the
10 student as provided in title 15, chapter 9, article 5, whichever is less. On
11 request from a school tuition organization, the department of education shall
12 provide to the school tuition organization in a timely manner the amount
13 computed for the student under this subsection that represents the ninety per
14 cent limitation prescribed in this subsection.

15 M. The school tuition organization shall require that the qualified
16 student use the educational scholarship or tuition grant on a full-time
17 basis. If a qualified student leaves the qualified school before completing
18 an entire school year, the qualified school shall refund a prorated amount of
19 the educational scholarship or tuition grant to the school tuition
20 organization that issued the educational scholarship or tuition grant to the
21 student. Any refunds received by the school tuition organization under this
22 subsection shall be allocated for educational scholarships or tuition grants
23 to qualified students in the following year.

24 N. Qualified students who receive educational scholarships or tuition
25 grants under this section shall be allowed to attend any qualified school of
26 their custodians' choice.

27 O. A school tuition organization that receives a voluntary cash
28 contribution pursuant to this section or section 20-224.07 shall report to
29 the department of revenue, in a form prescribed by the department of revenue,
30 by June 30 of each year the following information:

31 1. The name, address and contact name of the school tuition
32 organization.

33 2. The total number of contributions received during the previous
34 calendar year, identified for the purposes of this section or section
35 20-224.07.

36 3. The total dollar amount of contributions received during the
37 previous calendar year, identified for the purposes of this section or
38 section 20-224.07.

39 4. The total number of qualified students awarded educational
40 scholarships or tuition grants during the previous calendar year.

41 5. The total dollar amount of educational scholarships and tuition
42 grants awarded during the previous calendar year.

43 6. The percentage of the total dollar amount of educational
44 scholarships and tuition grants awarded to students during the previous
45 calendar year for each paragraph under subsection K of this section.

1 7. For each qualified school to which educational scholarships or
2 tuition grants were awarded:

3 (a) The name and address of the qualified school.

4 (b) The number of educational scholarships and tuition grants awarded
5 during the previous calendar year.

6 (c) The total dollar amount of educational scholarships and tuition
7 grants awarded during the previous calendar year.

8 8. Verification that an independent review of financial statements
9 according to generally accepted accounting principles was completed by a
10 certified public accountant for the previous calendar year.

11 P. FOR THE PURPOSES OF THIS SECTION, A CONTRIBUTION, FOR WHICH A
12 CREDIT IS CLAIMED, THAT IS MADE ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH
13 MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR MAY BE APPLIED TO EITHER THE
14 CURRENT OR PRECEDING TAXABLE YEAR AND IS CONSIDERED TO HAVE BEEN MADE ON THE
15 LAST DAY OF THAT TAXABLE YEAR.

16 ~~P.~~ Q. The department of revenue shall adopt rules necessary for the
17 administration of this section.

18 ~~Q.~~ R. For the purposes of this section:

19 1. "Custodian" means a resident of this state who is a parent or an
20 authorized out-of-home care provider or, if none, the legal guardian of a
21 qualifying student.

22 2. "Qualified school" means a nongovernmental primary school or
23 secondary school or a preschool for handicapped students that is located in
24 this state, that does not discriminate on the basis of race, color, handicap,
25 familial status or national origin and that satisfies the requirements
26 prescribed by law for private schools in this state on January 1, 2009.

27 3. "Qualified student" means a student who has been either:

28 (a) Placed in foster care pursuant to title 8, chapter 5 at any time
29 before the student graduates from high school or obtains a general
30 equivalency diploma.

31 (b) Identified as having a disability under section 504 of the
32 rehabilitation act (29 United States Code section 794) or identified by a
33 school district as a child with a disability as defined in section 15-761 or
34 a child with a disability who is eligible to receive services from a school
35 district under section 15-763.

36 4. "School tuition organization" means a charitable organization in
37 this state that both:

38 (a) Is exempt from federal taxation under section 501(c)(3) of the
39 internal revenue code and that allocates ninety per cent of its annual
40 revenue for educational scholarships or tuition grants to qualified students
41 to allow them to attend any qualified school of their custodians' choice.

42 (b) Provides educational scholarships or tuition grants to students
43 without limiting availability to only students of one school.