

REFERENCE TITLE: unlimited school tuition tax credits

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

# HB 2222

Introduced by  
Representative Fillmore

AN ACT

AMENDING SECTIONS 20-224.06, 20-224.07, 43-1089, 43-1183, 43-1184 AND 43-1603, ARIZONA REVISED STATUTES; RELATING TO SCHOOL TUITION 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 20-224.06, Arizona Revised Statutes, is amended to  
3 read:

4 20-224.06. Premium tax credit for contributions to school  
5 tuition organization; low-income scholarships

6 A. A credit is allowed against the premium tax liability incurred by  
7 an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07  
8 for the amount of voluntary cash contributions made by the insurer during the  
9 tax year to a school tuition organization.

10 B. The amount of the credit is the total amount of the insurer's  
11 contributions for the tax year under subsection A of this section ~~that is~~  
12 ~~preapproved by the department of revenue pursuant to section 43-1183,~~  
13 ~~subsection D.~~

14 C. The procedures, conditions, ~~limitations,~~ definitions and other  
15 requirements prescribed by section 43-1183 and title 43, chapter 15 apply to:

- 16 1. Insurers that claim a credit under this section.
- 17 2. Claims for credit under this section.
- 18 3. School tuition organizations that receive contributions from  
19 insurers for the purposes of this section.
- 20 4. Schools that qualify to receive scholarship monies contributed by  
21 insurers for the purposes of this section.
- 22 5. Students who receive scholarships from monies contributed by  
23 insurers for the purposes of this section.

24 D. If the allowable amount of a credit under this section exceeds the  
25 insurer's state premium tax liability, the amount of the claim not used to  
26 offset the premium tax liability may be carried forward as a credit against  
27 the insurer's subsequent years' premium tax liability for a period not to  
28 exceed five taxable years.

29 E. A credit is not allowed if the insurer designates the contribution  
30 for the direct benefit of any specific student.

31 F. An insurer that claims a tax credit against state premium tax  
32 liability is not required to pay any additional retaliatory tax imposed  
33 pursuant to section 20-230 as a result of claiming that tax credit.

34 G. The department of insurance, with the cooperation of the department  
35 of revenue, shall adopt rules and publish and prescribe forms and procedures  
36 necessary for the administration of this section.

37 Sec. 2. Section 20-224.07, Arizona Revised Statutes, is amended to  
38 read:

39 20-224.07. Premium tax credit for contributions to school  
40 tuition organization; displaced students and  
41 students with disabilities

42 A. A credit is allowed against the premium tax liability incurred by  
43 an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07  
44 for the amount of voluntary cash contributions made by the insurer during the  
45 tax year to a school tuition organization.

1 B. The amount of the credit is the total amount of the insurer's  
2 contributions for the tax year under subsection A of this section ~~that is~~  
3 ~~preapproved by the department of revenue pursuant to section 43-1184,~~  
4 ~~subsection D.~~

5 C. The procedures, conditions, ~~limitations,~~ definitions and other  
6 requirements prescribed by section 43-1184 and title 43, chapter 15 apply to:

7 1. Insurers that claim a credit under this section.

8 2. Claims for credit under this section.

9 3. School tuition organizations that receive contributions from  
10 insurers for the purposes of this section.

11 4. Qualified schools that participate under this section.

12 5. Students who receive scholarships from monies contributed by  
13 insurers for the purposes of this section.

14 D. If the allowable amount of a credit under this section exceeds the  
15 insurer's state premium tax liability, the amount of the claim not used to  
16 offset the premium tax liability may be carried forward as a credit against  
17 the insurer's subsequent years' premium tax liability for a period not to  
18 exceed five taxable years.

19 E. A credit is not allowed if the insurer designates the contribution  
20 for the direct benefit of any specific student.

21 F. An insurer that claims a tax credit against state premium tax  
22 liability is not required to pay any additional retaliatory tax imposed  
23 pursuant to section 20-230 as a result of claiming that tax credit.

24 G. The department of insurance, with the cooperation of the department  
25 of revenue, shall adopt rules necessary for the administration of this  
26 section.

27 Sec. 3. Section 43-1089, Arizona Revised Statutes, is amended to read:

28 43-1089. Credit for contributions to school tuition  
29 organization; definitions

30 A. A credit is allowed against the taxes imposed by this title for the  
31 ~~FULL~~ amount of voluntary cash contributions by the taxpayer or on the  
32 taxpayer's behalf pursuant to section 43-401, subsection I during the taxable  
33 year to a school tuition organization that is certified pursuant to chapter  
34 16 of this title at the time of donation. ~~Except as provided by subsection C~~  
35 ~~of this section, the amount of the credit shall not exceed:~~

36 ~~1. Five hundred dollars in any taxable year for a single individual or~~  
37 ~~a head of household.~~

38 ~~2. One thousand dollars in any taxable year for a married couple~~  
39 ~~filing a joint return.~~

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

43 ~~C. For each taxable year beginning on or after January 1, the~~  
44 ~~department shall adjust the dollar amounts prescribed by subsection A,~~  
45 ~~paragraphs 1 and 2 of this section according to the average annual change in~~

~~1 the metropolitan Phoenix consumer price index published by the United States  
2 bureau of labor statistics, except that the dollar amounts shall not be  
3 revised downward below the amounts allowed in the prior taxable year. The  
4 revised dollar amounts shall be raised to the nearest whole dollar.~~

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

~~E.~~ D. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

~~F.~~ E. The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any dependent of the taxpayer or if the taxpayer designates a student beneficiary as a condition of the taxpayer's contribution to the school tuition organization. The tax credit is not allowed if the taxpayer, with the intent to benefit the taxpayer's dependent, agrees with one or more other taxpayers to designate each taxpayer's contribution to the school tuition organization for the direct benefit of the other taxpayer's dependent.

~~G.~~ F. For the purposes of this section, a contribution, for which a credit is claimed, that is made on or before the fifteenth day of the fourth month following the close of the taxable year may be applied to either the current or preceding taxable year and is considered to have been made on the last day of that taxable year.

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

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

- (a) Hearing impairment.
- (b) Visual impairment.
- (c) Developmental delay.
- (d) Preschool severe delay.
- (e) Speech/language impairment.

2. "Qualified school":

(a) Means a nongovernmental primary school or secondary school or a preschool for handicapped students that is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 1997.

(b) Does not include a charter school or programs operated by charter schools.



1           ~~E.~~ C. If the allowable tax credit exceeds the taxes otherwise due  
2 under this title on the claimant's income, or if there are no taxes due under  
3 this title, the taxpayer may carry the amount of the claim not used to offset  
4 the taxes under this title forward for not more than five consecutive taxable  
5 years' income tax liability.

6           ~~F.~~ D. Co-owners of a business, including corporate partners in a  
7 partnership, may each claim only the pro rata share of the credit allowed  
8 under this section based on the ownership interest. The total of the credits  
9 allowed all such owners may not exceed the amount that would have been  
10 allowed a sole owner.

11           ~~G.~~ E. The credit allowed by this section is in lieu of any deduction  
12 pursuant to section 170 of the internal revenue code and taken for state tax  
13 purposes.

14           ~~H.~~ F. A taxpayer shall not claim a credit under this section and also  
15 under section 43-1184 with respect to the same contribution.

16           ~~I.~~ G. The tax credit is not allowed if the taxpayer designates the  
17 taxpayer's contribution to the school tuition organization for the direct  
18 benefit of any specific student.

19           ~~J.~~ H. The department of revenue, with the cooperation of the  
20 department of insurance, shall adopt rules and publish and prescribe forms  
21 and procedures necessary for the administration of this section.

22           ~~K.~~ I. For the purposes of this section, "qualified school":

23           1. Means a nongovernmental primary school or secondary school:

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

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

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

34           2. Does not include a charter school or programs operated by charter  
35 schools.

36           Sec. 5. Section 43-1184, Arizona Revised Statutes, is amended to read:

37           43-1184. Credit for contributions to school tuition  
38   organization; displaced students; students with  
39   disabilities; definition

40           A. Beginning from and after June 30, 2009, a credit is allowed against  
41 the taxes imposed by this title for the amount of voluntary cash  
42 contributions made by the taxpayer during the taxable year to a school  
43 tuition organization that is certified pursuant to chapter 15 of this title  
44 at the time of donation.

1           B. The amount of the credit is the total amount of the taxpayer's  
2 contributions for the taxable year under subsection A of this section ~~and is~~  
3 ~~preapproved by the department of revenue pursuant to subsection D of this~~  
4 ~~section.~~

5           ~~C. The department of revenue:~~

6           ~~1. Shall not allow tax credits under this section and section~~  
7 ~~20-224.07 that exceed in the aggregate a combined total of five million~~  
8 ~~dollars in any fiscal year.~~

9           ~~2. Shall preapprove tax credits under this section and section~~  
10 ~~20-224.07 subject to subsection D of this section.~~

11           ~~3. Shall allow the tax credits under this section and section~~  
12 ~~20-224.07 on a first come, first served basis.~~

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

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

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



1           A taxpayer may not claim a tax credit if the taxpayer  
2           agrees to swap donations with another taxpayer to benefit either  
3           taxpayer's own dependent.

4           D. In evaluating applications and awarding, designating or reserving  
5           scholarships, a school tuition organization:

6           1. Shall not award, designate or reserve a scholarship solely on the  
7           recommendation of any person contributing money to the organization, but may  
8           consider the recommendation among other factors.

9           2. Shall consider the financial need of applicants.

10          E. A qualified school shall not accept an educational scholarship or  
11          tuition grant from a school tuition organization in an amount that exceeds  
12          the school's total cost of educating the student in whose name the  
13          scholarship or grant is received.