

REFERENCE TITLE: health savings accounts; tax incentives

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

HB 2556

Introduced by
Representatives Court, Ash, Fillmore, Williams: Carter, Jones, McLain,
Urie, Vogt

AN ACT

AMENDING SECTIONS 43-222 AND 43-1022, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1087.01; AMENDING SECTION 43-1122, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1185; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-222, Arizona Revised Statutes, is amended to
3 read:

4 43-222. Income tax credit review schedule

5 The joint legislative income tax credit review committee shall review
6 the following income tax credits:

7 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,
8 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
9 43-1175 and 43-1182.

10 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,
11 43-1083.02, 43-1085.01, 43-1087.01, 43-1164.02, 43-1164.03, ~~and~~ 43-1183 **AND**
12 43-1185.

13 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,
14 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1164, 43-1167,
15 43-1169, 43-1176 and 43-1181.

16 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
17 43-1170 and 43-1178.

18 5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,
19 43-1083.01, 43-1084, 43-1162, 43-1164.01, 43-1170.01 and 43-1184.

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

21 43-1022. Subtractions from Arizona gross income

22 In computing Arizona adjusted gross income, the following amounts shall
23 be subtracted from Arizona gross income:

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

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

28 (a) The United States government service retirement and disability
29 fund, retired or retainer pay of the uniformed services of the United States,
30 the United States foreign service retirement and disability system and any
31 other retirement system or plan established by federal law.

32 (b) The Arizona state retirement system, the corrections officer
33 retirement plan, the public safety personnel retirement system, the elected
34 officials' retirement plan, an optional retirement program established by the
35 Arizona board of regents under section 15-1628, an optional retirement
36 program established by a community college district board under section
37 15-1451 or a retirement plan established for employees of a county, city or
38 town in this state.

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

42 4. The amount of any distributions from an individual retirement
43 account as provided for in section 408 of the internal revenue code or from a
44 qualified retirement plan of a self-employed individual as provided for in
45 section 401 of the internal revenue code to the extent that total adjustments

1 made pursuant to this paragraph in all tax years do not exceed the total of
2 all contributions made by the taxpayer to such plans ~~prior to~~ BEFORE December
3 31, 1975, which were included in computing Arizona taxable income.

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

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

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

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

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

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

24 11. The amount by which the adjusted basis of property described in
25 this paragraph and computed pursuant to this title and the income tax act of
26 1954, as amended, exceeds the adjusted basis of such property computed
27 pursuant to the internal revenue code. This paragraph shall apply to all
28 property which is held for the production of income and which is sold or
29 otherwise disposed of during the taxable year other than depreciable property
30 used in a trade or business.

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

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

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

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

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

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

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

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

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

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

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

33 (a) An eligible individual may subtract:

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

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

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

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

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

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

12 26. The amount authorized by section 43-1030 relating to holocaust
13 survivors.

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

16 28. An amount equal to the depreciation allowable pursuant to section
17 167(a) of the internal revenue code for the taxable year computed as if the
18 election described in section 168(k)(2)(D)(iii) of the internal revenue code
19 had been made for each applicable class of property in the year the property
20 was placed in service.

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

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

32 31. For taxable years beginning from and after December 31, 2007
33 through December 31, 2012, the amount contributed during the taxable year to
34 college savings plans established pursuant to section 529 of the internal
35 revenue code to the extent that the contributions were not deducted in
36 computing federal adjusted gross income. The amount subtracted shall not
37 exceed:

38 (a) Seven hundred fifty dollars for a single individual or a head of
39 household.

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

1 AMOUNT OF THE CREDIT IS THREE HUNDRED SIXTY DOLLARS FOR EVERY EMPLOYEE WHO IS
2 ENROLLED IN THE QUALIFIED HEALTH INSURANCE PLAN AS PRESCRIBED IN THIS
3 SECTION.

4 B. TO QUALIFY FOR THE CREDIT, THE EMPLOYER MUST:

5 1. HAVE NOT PROVIDED HEALTH INSURANCE COVERAGE TO ITS EMPLOYEES FOR
6 THE NINETY DAYS IMMEDIATELY PRECEDING THE OFFER OF THE QUALIFIED HEALTH
7 INSURANCE PLAN IN THE TAXABLE YEAR IN WHICH THE EMPLOYER INITIALLY CLAIMS THE
8 CREDIT UNDER THIS SECTION.

9 2. OFFER THE QUALIFIED HEALTH INSURANCE PLAN TO EVERY EMPLOYEE.

10 3. PAY AT LEAST THREE HUNDRED SIXTY DOLLARS DURING THE TAXABLE YEAR
11 FOR HEALTH INSURANCE PREMIUMS FOR EVERY EMPLOYEE WHO IS ENROLLED IN THE
12 QUALIFIED HEALTH INSURANCE PLAN.

13 4. PROVIDE THE HEALTH INSURANCE PLAN TO THE ENROLLED EMPLOYEE FOR AT
14 LEAST TWELVE CONSECUTIVE MONTHS.

15 C. 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 THREE CONSECUTIVE TAXABLE
19 YEARS' INCOME TAX LIABILITY. THE EMPLOYER MAY ONLY CLAIM A TAX CREDIT UNDER
20 THIS SECTION FOR THREE TAXABLE YEARS, NOT INCLUDING ANY TAXABLE YEAR FOR
21 WHICH CARRYFORWARD IS CLAIMED UNDER THIS SUBSECTION.

22 D. FOR THE PURPOSES OF THIS SECTION:

23 1. "EMPLOYER" MEANS A TAXPAYER WHO EMPLOYS AT LEAST TWO AND NOT MORE
24 THAN FIFTY EMPLOYEES WHO ARE RESIDENTS OF THIS STATE.

25 2. "HEALTH SAVINGS ACCOUNT" MEANS A HEALTH SAVINGS ACCOUNT THAT IS
26 ESTABLISHED UNDER SECTION 223 OF THE INTERNAL REVENUE CODE.

27 3. "QUALIFIED HEALTH INSURANCE PLAN" MEANS A HIGH DEDUCTIBLE PLAN THAT
28 INCLUDES CATASTROPHIC HEALTH CARE COVERAGE AND THAT IS ESTABLISHED UNDER A
29 HEALTH SAVINGS ACCOUNT.

30 Sec. 4. Section 43-1122, Arizona Revised Statutes, is amended to read:

31 43-1122. Subtractions from Arizona gross income: corporations

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

34 1. The amounts computed pursuant to section 43-1022, paragraphs 8
35 through 15, 28, 29, 30, 33 and 34. For the purposes of this paragraph,
36 "federal adjusted gross income" as used in section 43-1022 means "federal
37 taxable income".

38 2. The amount of Arizona capital loss carryover as defined in section
39 43-1124 in an amount not to exceed one thousand dollars.

40 3. With respect to a financial institution as defined in section
41 6-101, expenses and interest relating to tax-exempt income disallowed
42 pursuant to section 265 of the internal revenue code.

43 4. Dividends received from another corporation owned or controlled
44 directly or indirectly by a recipient corporation. For the purposes of this
45 paragraph, "control" means direct or indirect ownership or control of fifty

1 per cent or more of the voting stock of the payor corporation by the
2 recipient corporation. Dividends shall have the meaning provided in section
3 316 of the internal revenue code. This subtraction shall apply without
4 regard to ~~the provisions of~~ section 43-961, paragraph 2 and article 4 of this
5 chapter. A corporation that has its commercial domicile, as defined in
6 section 43-1131, in this state may subtract the full amount of the dividends.
7 A corporation that does not have its commercial domicile in this state may
8 subtract:

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

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

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

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

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

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

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

20 10. The amount of deferred exploration expenses allowed by section
21 43-1127.

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

28 12. The amortization of pollution control devices allowed by section
29 43-1129.

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

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

35 15. The income of an insurance company that is exempt under section
36 43-1201 to the extent that it is included in computing Arizona gross income
37 on a consolidated return pursuant to section 43-947.

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

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

1 18. NOTWITHSTANDING SECTION 43-102, SUBSECTION B, THE AMOUNT OF
2 CONTRIBUTIONS BY THE TAXPAYER ON BEHALF OF THE TAXPAYER'S EMPLOYEES DURING
3 THE TAXABLE YEAR TO HEALTH SAVINGS ACCOUNTS ESTABLISHED UNDER SECTION 223 OF
4 THE INTERNAL REVENUE CODE.

5 Sec. 5. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
6 amended by adding section 43-1185, to read:

7 43-1185. Credit for qualified health insurance plans;
8 definitions

9 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011, A
10 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR AN EMPLOYER
11 THAT PROVIDES A QUALIFIED HEALTH INSURANCE PLAN FOR ITS EMPLOYEES. THE
12 AMOUNT OF THE CREDIT IS THREE HUNDRED SIXTY DOLLARS FOR EVERY EMPLOYEE WHO IS
13 ENROLLED IN THE QUALIFIED HEALTH INSURANCE PLAN AS PRESCRIBED IN THIS
14 SECTION.

15 B. TO QUALIFY FOR THE CREDIT, THE EMPLOYER MUST:

16 1. HAVE NOT PROVIDED HEALTH INSURANCE COVERAGE TO ITS EMPLOYEES FOR
17 THE NINETY DAYS IMMEDIATELY PRECEDING THE OFFER OF THE QUALIFIED HEALTH
18 INSURANCE PLAN IN THE TAXABLE YEAR IN WHICH THE EMPLOYER INITIALLY CLAIMS THE
19 CREDIT UNDER THIS SECTION.

20 2. OFFER THE QUALIFIED HEALTH INSURANCE PLAN TO EVERY EMPLOYEE.

21 3. PAY AT LEAST THREE HUNDRED SIXTY DOLLARS DURING THE TAXABLE YEAR
22 FOR HEALTH INSURANCE PREMIUMS FOR EVERY EMPLOYEE WHO IS ENROLLED IN THE
23 QUALIFIED HEALTH INSURANCE PLAN.

24 4. PROVIDE THE HEALTH INSURANCE PLAN TO THE ENROLLED EMPLOYEE FOR AT
25 LEAST TWELVE CONSECUTIVE MONTHS.

26 C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER
27 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
28 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE
29 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN THREE CONSECUTIVE TAXABLE
30 YEARS' INCOME TAX LIABILITY. THE EMPLOYER MAY ONLY CLAIM A TAX CREDIT UNDER
31 THIS SECTION FOR THREE TAXABLE YEARS, NOT INCLUDING ANY TAXABLE YEAR FOR
32 WHICH CARRYFORWARD IS CLAIMED UNDER THIS SUBSECTION.

33 D. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
34 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
35 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
36 ALLOWED ALL OF THE OWNERS OF THE BUSINESS SHALL NOT EXCEED THE AMOUNT THAT
37 WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.

38 E. FOR THE PURPOSES OF THIS SECTION:

39 1. "EMPLOYER" MEANS A TAXPAYER WHO EMPLOYS AT LEAST TWO AND NOT MORE
40 THAN FIFTY EMPLOYEES WHO ARE RESIDENTS OF THIS STATE.

41 2. "HEALTH SAVINGS ACCOUNT" MEANS A HEALTH SAVINGS ACCOUNT THAT IS
42 ESTABLISHED UNDER SECTION 223 OF THE INTERNAL REVENUE CODE.

43 3. "QUALIFIED HEALTH INSURANCE PLAN" MEANS A HIGH DEDUCTIBLE PLAN THAT
44 INCLUDES CATASTROPHIC HEALTH CARE COVERAGE AND THAT IS ESTABLISHED UNDER A
45 HEALTH SAVINGS ACCOUNT.

1 Sec. 6. Purpose

2 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
3 enacts sections 43-1087.01 and 43-1185, Arizona Revised Statutes, as added by
4 this act, to encourage taxpayers in this state to provide health insurance
5 plans to the taxpayer's employees.