

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

HB 2636

Introduced by
Representatives Court, Ash, Gowan, Kavanagh, Mesnard, Montenegro, Seel,
Williams; Burges, Carter, Fann, Fillmore, Forese, Harper, Jones, Judd,
Olson, Pratt, Proud, Stevens, Tobin, Ugenti, Urie, Vogt, Senator Antenori

AN ACT

PROVIDING FOR THE DELAYED REPEAL OF TITLE 43, CHAPTER 10, ARTICLES 1, 2, 3 AND 4, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 43-1021, 43-1022, 43-1024, 43-1025, 43-1027, 43-1028, 43-1029, 43-1030, 43-1031, 43-1032, 43-1041, 43-1042, 43-1073, 43-1094, 43-1095 AND 43-1098, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 1; AMENDING SECTIONS 43-1091, 43-1094, 43-1095, 43-1096, 43-1097 AND 43-1098, 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. Delayed repeal

3 A. From and after December 31, 2012:

4 1. Title 43, chapter 10, articles 1 and 2, Arizona Revised Statutes,
5 are repealed.

6 2. Sections 43-1021, 43-1022, 43-1024, 43-1025, 43-1027, 43-1028,
7 43-1029, 43-1030, 43-1031, 43-1032 and 43-1042, Arizona Revised Statutes, are
8 repealed.

9 B. From and after December 31, 2013:

10 1. Title 43, chapter 10, article 3, Arizona Revised Statutes, is
11 repealed.

12 2. Sections 43-1041 and 43-1094, Arizona Revised Statutes, are
13 repealed.

14 C. From and after December 31, 2014:

15 1. Title 43, chapter 10, article 4, Arizona Revised Statutes, is
16 repealed.

17 2. Sections 43-1073, 43-1095 and 43-1098, Arizona Revised Statutes,
18 are repealed.

19 Sec. 2. Title 43, chapter 10, Arizona Revised Statutes, is amended by
20 adding a new article 1, to read:

21 ARTICLE 1. GENERAL PROVISIONS

22 43-1001. Definitions

23 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

24 1. "HEAD OF HOUSEHOLD" HAS THE SAME MEANING PRESCRIBED BY SECTIONS
25 2(b) AND 2(c) OF THE INTERNAL REVENUE CODE. HEAD OF HOUSEHOLD INCLUDES AN
26 INDIVIDUAL WHO MEETS THE QUALIFICATIONS OF A SURVIVING SPOUSE UNDER SECTION
27 2(a) OF THE INTERNAL REVENUE CODE.

28 2. "MARRIED PERSON" MEANS A MARRIED PERSON ON THE LAST DAY OF THE
29 TAXABLE YEAR SUBJECT TO THE RULES PRESCRIBED IN SECTION 43-1002.

30 3. "PERSON" MEANS AN INDIVIDUAL.

31 4. "SINGLE PERSON" MEANS ANY PERSON WHO IS NOT MARRIED OR WHO WAS
32 LEGALLY SEPARATED ON THE LAST DAY OF THE PERSON'S TAXABLE YEAR.

33 5. "SPOUSE" MEANS THE WIFE OR HUSBAND OF THE TAXPAYER.

34 6. "TAXABLE INCOME" OF A RESIDENT INDIVIDUAL MEANS THE INDIVIDUAL'S
35 FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR, COMPUTED PURSUANT TO THE
36 INTERNAL REVENUE CODE, AND ANY FURTHER ADJUSTMENTS REQUIRED BY THIS CHAPTER.

37 7. "TAXABLE YEAR" MEANS THE TAXABLE PERIOD ON THE BASIS OF WHICH A
38 TAXPAYER IS REQUIRED TO FILE A FEDERAL INCOME TAX RETURN PURSUANT TO THE
39 INTERNAL REVENUE CODE, OR THE CALENDAR YEAR IF THE TAXPAYER IS NOT REQUIRED
40 TO FILE A FEDERAL INCOME TAX RETURN.

41 43-1002. Married person; application of definition

42 THE FOLLOWING RULES APPLY TO THE DEFINITION OF "MARRIED PERSON" IN
43 SECTION 43-1001:

1 1. AN INDIVIDUAL WHO IS LEGALLY SEPARATED FROM THE INDIVIDUAL'S SPOUSE
2 UNDER A DECREE OF DISSOLUTION OF MARRIAGE OR OF SEPARATE MAINTENANCE IS NOT
3 CONSIDERED TO BE MARRIED.

4 2. A TAXPAYER IS CONSIDERED TO BE MARRIED AT THE CLOSE OF THE TAXABLE
5 YEAR IF THE TAXPAYER'S SPOUSE DIED DURING THE TAXABLE YEAR AND THE TAXPAYER
6 WOULD HAVE BEEN CONSIDERED MARRIED AT THE DATE OF THE DEATH OF THE SPOUSE.

7 43-1003. Policy

8 IT IS THE INTENT OF THE LEGISLATURE TO ADOPT AND ENACT THE POLICY OF
9 PROVIDING A FAIR AND SIMPLIFIED METHOD FOR INDIVIDUAL TAXPAYERS IN THIS STATE
10 TO COMPUTE THE INCOME TAXES DUE TO THIS STATE. THIS TAX IS CHARACTERIZED BY
11 THE FOLLOWING OBJECTIVES:

12 1. AVOIDING NUMEROUS COMPLEX CALCULATIONS REFLECTING MULTIPLE
13 EXEMPTIONS, DEDUCTIONS, ADDITIONS, SUBTRACTIONS AND TAX RATES. WHEN THE TAX
14 LAW IS TOO COMPLEX, THE TAXPAYER IS ALIENATED FROM AND HOSTILE TO THE LAW.

15 2. BASING SIMPLIFIED CALCULATIONS ON A TAX BASE AT LEAST AS BROAD AS
16 THE TAXPAYER'S ADJUSTED GROSS INCOME ON THE FEDERAL INCOME TAX RETURN.

17 3. TRANSITIONING TO A SINGLE LOW TAX RATE FOR ALL TAXPAYERS.

18 4. PROMOTING THE INTEGRITY OF THIS STATE'S TAX LAW THROUGH SIMPLICITY,
19 FAIRNESS AND EASE OF COMPLIANCE.

20 5. BROADENING THE TAXABLE INCOME BASE SO THAT THE LOWEST POSSIBLE TAX
21 RATE IS APPLIED TO THE TAXPAYER'S INCOME.

22 43-1004. Levy of tax

23 THERE IS LEVIED AND THE DEPARTMENT SHALL COLLECT A TAX ON THE INCOME OF
24 EACH RESIDENT OF THIS STATE AND ON THE INCOME OF EACH NONRESIDENT THAT IS
25 DERIVED FROM SOURCES IN THIS STATE.

26 43-1005. Computing taxable income

27 TAXABLE INCOME IS COMPUTED BEGINNING WITH THE TAXPAYER'S FEDERAL
28 ADJUSTED GROSS INCOME, AND MAKING THE FOLLOWING ADJUSTMENTS, IF NECESSARY:

29 1. ADD THE FOLLOWING AMOUNTS, IF APPLICABLE:

30 (a) WITH RESPECT TO PROPERTY FOR WHICH AN EXPENSE DEDUCTION WAS TAKEN
31 PURSUANT TO SECTION 179 OF THE INTERNAL REVENUE CODE, THE AMOUNT IN EXCESS OF
32 TWENTY-FIVE THOUSAND DOLLARS.

33 (b) THE AMOUNT OF ANY DEPRECIATION ALLOWANCE ALLOWED PURSUANT TO
34 SECTION 167(a) OF THE INTERNAL REVENUE CODE TO THE EXTENT NOT PREVIOUSLY
35 ADDED.

36 (c) THE AMOUNT BY WHICH THE DEPRECIATION OR AMORTIZATION COMPUTED
37 UNDER THE INTERNAL REVENUE CODE WITH RESPECT TO PROPERTY FOR WHICH A CREDIT
38 WAS TAKEN UNDER SECTION 43-1080, 43-1081, 43-1081.01 OR 43-1090.01 EXCEEDS
39 THE AMOUNT OF DEPRECIATION OR AMORTIZATION COMPUTED PURSUANT TO THE INTERNAL
40 REVENUE CODE ON THE ARIZONA ADJUSTED BASIS OF THE PROPERTY.

41 (d) ANY AMOUNT OF AGRICULTURAL WATER CONSERVATION EXPENSES THAT WERE
42 DEDUCTED PURSUANT TO THE INTERNAL REVENUE CODE FOR WHICH A CREDIT IS CLAIMED
43 UNDER SECTION 43-1084.

- 1 2. SUBTRACT THE FOLLOWING AMOUNTS, IF APPLICABLE:
- 2 (a) INTEREST INCOME RECEIVED ON OBLIGATIONS OF THE UNITED STATES, LESS
- 3 ANY INTEREST ON INDEBTEDNESS, OR OTHER RELATED EXPENSES, AND DEDUCTED IN
- 4 ARRIVING AT FEDERAL ADJUSTED GROSS INCOME, WHICH WERE INCURRED OR CONTINUED
- 5 TO PURCHASE OR CARRY SUCH OBLIGATIONS.
- 6 (b) ANY AMOUNT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME PURSUANT TO
- 7 SECTION 86 OF THE INTERNAL REVENUE CODE, RELATING TO TAXATION OF SOCIAL
- 8 SECURITY AND RAILROAD RETIREMENT BENEFITS.
- 9 (c) WITH RESPECT TO PROPERTY THAT IS SOLD OR OTHERWISE DISPOSED OF
- 10 DURING THE TAXABLE YEAR BY A TAXPAYER THAT COMPLIED WITH PARAGRAPH 1,
- 11 SUBDIVISION (b) OF THIS SECTION WITH RESPECT TO THAT PROPERTY, THE AMOUNT OF
- 12 DEPRECIATION THAT HAS BEEN ALLOWED PURSUANT TO SECTION 167(a) OF THE INTERNAL
- 13 REVENUE CODE TO THE EXTENT THAT THE AMOUNT HAS NOT ALREADY REDUCED ARIZONA
- 14 TAXABLE INCOME IN THE CURRENT OR PRIOR TAXABLE YEARS.
- 15 (d) WITH RESPECT TO PROPERTY FOR WHICH AN ADJUSTMENT WAS MADE UNDER
- 16 PARAGRAPH 1, SUBDIVISION (a) OF THIS SECTION, AN AMOUNT EQUAL TO ONE-FIFTH OF
- 17 THE AMOUNT OF THE ADJUSTMENT PURSUANT TO PARAGRAPH 1, SUBDIVISION (a) OF THIS
- 18 SECTION IN THE YEAR IN WHICH THE AMOUNT WAS ADJUSTED UNDER PARAGRAPH 1,
- 19 SUBDIVISION (a) OF THIS SECTION AND IN EACH OF THE FOLLOWING FOUR YEARS.

20 43-1006. Tax rates

21 FOR THE PURPOSES OF THIS CHAPTER, THE TAX IS DETERMINED IN THE
22 FOLLOWING MANNER:

23 1. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2012
24 THROUGH DECEMBER 31, 2013:

25 (a) IN THE CASE OF A SINGLE PERSON OR A MARRIED PERSON FILING
26 SEPARATELY:

<u>IF TAXABLE INCOME IS</u>	<u>THE TAX IS</u>
\$0 -- \$10,000	2.08% OF TAXABLE INCOME
\$10,001 -- \$25,000	\$208 PLUS 2.25% OF THE EXCESS OVER \$10,000
\$25,001 -- \$50,000	\$546 PLUS 2.57% OF THE EXCESS OVER \$25,000
\$50,001 -- \$150,000	\$1,188 PLUS 3.65% OF THE EXCESS OVER \$50,000
\$150,001 AND OVER	\$4,838 PLUS 3.85% OF THE EXCESS OVER \$150,000

33 (b) IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN OR A SINGLE
34 PERSON WHO IS A HEAD OF A HOUSEHOLD:

<u>IF TAXABLE INCOME IS</u>	<u>THE TAX IS</u>
\$0 -- \$20,000	2.08% OF TAXABLE INCOME
\$20,001 -- \$50,000	\$416 PLUS 2.25% OF THE EXCESS OVER \$20,000
\$50,001 -- \$100,000	\$1,091 PLUS 2.57% OF THE EXCESS OVER \$50,000
\$100,001 -- \$300,000	\$2,376 PLUS 3.65% OF THE EXCESS OVER \$100,000
\$300,001 AND OVER	\$9,676 PLUS 3.85% OF THE EXCESS OVER \$300,000

41 2. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2013
42 THROUGH DECEMBER 31, 2014:

1 (a) IN THE CASE OF A SINGLE PERSON OR A MARRIED PERSON FILING
2 SEPARATELY:

<u>IF TAXABLE INCOME IS</u>	<u>THE TAX IS</u>
\$0 -- \$25,000	2.08% OF TAXABLE INCOME
\$25,001 -- \$50,000	\$520 PLUS 2.25% OF THE EXCESS OVER \$25,000
\$50,001 -- \$150,000	\$1,082 PLUS 2.60% OF THE EXCESS OVER \$50,000
\$150,001 AND OVER	\$3,682 PLUS 2.95% OF THE EXCESS OVER \$150,000

8 (b) IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN OR A SINGLE
9 PERSON WHO IS A HEAD OF A HOUSEHOLD:

<u>IF TAXABLE INCOME IS</u>	<u>THE TAX IS</u>
\$0 -- \$50,000	2.08% OF TAXABLE INCOME
\$50,001 -- \$100,000	\$1,040 PLUS 2.25% OF THE EXCESS OVER \$50,000
\$100,001 -- \$300,000	\$2,165 PLUS 2.60% OF THE EXCESS OVER \$100,000
\$300,001 AND OVER	\$7,365 PLUS 2.95% OF THE EXCESS OVER \$300,000

15 3. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2014, THE
16 TAX IS 2.08% OF TAXABLE INCOME.

17 Sec. 3. Section 43-1091, Arizona Revised Statutes, is amended to read:
18 43-1091. Gross income of a nonresident

19 A. In the case of nonresidents, ~~Arizona-gross~~ income THAT IS TAXABLE
20 IN THIS STATE includes only that portion of federal adjusted gross income
21 ~~which represents income~~ from sources ~~within~~ IN this state.

22 B. IN COMPUTING A NONRESIDENT INDIVIDUAL'S TAXABLE INCOME UNDER THIS
23 CHAPTER, THE TAXPAYER SHALL ADJUST THE INCOME FROM SOURCES IN THIS STATE AS
24 PROVIDED BY SECTION 43-1005 AND AS OTHERWISE PROVIDED BY THIS ARTICLE.

25 Sec. 4. Section 43-1094, Arizona Revised Statutes, is amended to read:
26 43-1094. Adjusted gross income of a nonresident

27 ~~A. In computing Arizona adjusted gross income, a nonresident~~
28 ~~individual should make such adjustments as are included in sections 43-1021~~
29 ~~and 43-1022 which apply to income included in his Arizona gross income except~~
30 ~~as provided in subsection B of this section.~~

31 ~~B. For a nonresident individual the exemption allowed by section~~
32 ~~43-1022, paragraph 1 shall be~~ THROUGH DECEMBER 31, 2013 AN EXEMPTION IS
33 allowed in an amount equal to that percentage of the exemptions set forth in
34 section 43-1023 which his Arizona gross income is of his federal adjusted
35 gross income.

36 Sec. 5. Section 43-1095, Arizona Revised Statutes, is amended to read:
37 43-1095. Taxable income of a nonresident

38 A. THROUGH DECEMBER 31, 2014, in computing Arizona taxable income a
39 nonresident taxpayer, except a member of the armed forces, shall be allowed
40 that percentage of the exemptions set forth in section 43-1043 which the
41 taxpayer's Arizona gross income is of the federal adjusted gross income.

42 B. In the case of a nonresident taxpayer the standard deduction
43 allowed THROUGH DECEMBER 31, 2013 in section 43-1041 ~~and the itemized~~
44 ~~deductions allowed in section 43-1042~~ shall be allowed in the percentage

1 which the taxpayer's Arizona gross income is of the federal adjusted gross
2 income.

3 Sec. 6. Section 43-1096, Arizona Revised Statutes, is amended to read:
4 43-1096. Credit for income taxes paid by nonresident:
5 definitions

6 A. Subject to the following conditions, nonresidents shall be allowed
7 a credit against taxes imposed by this title for net income taxes imposed by
8 and paid to the state or country of residence on income taxable under this
9 title:

10 1. The credit shall be allowed only if the state or country of
11 residence either does not tax income of residents of this state derived from
12 sources ~~within~~ IN that state or country or allows residents of this state a
13 credit against taxes imposed by that state or country on the income for taxes
14 paid or payable under this title.

15 2. The credit shall not be allowed for taxes paid to a state or
16 country which allows its residents a credit against the taxes imposed by that
17 state or country for income taxes paid or payable under this title
18 irrespective of whether its residents are allowed a credit against the taxes
19 imposed by this title for income taxes paid to that state or country.

20 3. The credit shall be allowed only for the proportion of the taxes
21 paid to the state or country of residence as the income taxable under this
22 title and also subject to tax in the state or country of residence bears to
23 the entire income on which the taxes paid to the state or country of
24 residence are imposed.

25 4. The credit shall not exceed the proportion of the tax payable under
26 this title as the income taxable under this title and also subject to tax in
27 the state or country of residence bears to the entire income taxable under
28 this title.

29 B. For the purposes of this section, net income taxes imposed by
30 another country include taxes that qualify for a credit under sections 901
31 and 903 of the internal revenue code and the regulations under those
32 sections.

33 C. For the purposes of this section:

34 1. "Entire income on which the taxes paid to the state or country of
35 residence are imposed" means the other state's or country's adjusted gross
36 income computed under the equivalent of ~~section 43-1001, but does not include~~
37 ~~any exemption allowable under the equivalent of section 43-1023~~ ARTICLE 1 OF
38 THIS CHAPTER.

39 2. "Entire income taxable under this title" means ~~Arizona adjusted~~
40 ~~gross~~ TAXABLE income ~~computed under section 43-1094 but does not include any~~
41 ~~exemption allowed~~ under section ~~43-1023~~ 43-1091.

42 3. "Income taxable under this title and also subject to tax in the
43 state or country of residence" means the portion of income that is included
44 in entire income THAT IS taxable under this title AND that is also included
45 in the entire income on which the taxes paid to the state or country of

1 residence are imposed. ~~The taxpayer shall increase or reduce the portion of~~
2 ~~income that is included in the entire income taxable under this title by any~~
3 ~~related additions under section 43-1021 and by any related subtractions under~~
4 ~~section 43-1022.~~ The taxpayer shall increase or reduce the portion of income
5 that is included in the entire income on which taxes paid to the state or
6 country of residence are imposed by any ~~related~~ additions and subtractions
7 under the other state's ~~equivalent of sections 43-1021 and 43-1022, as~~
8 ~~applicable~~ LAW.

9 4. "Tax payable under this title" means the income tax imposed by this
10 state on the taxpayer's ~~taxable~~ income ~~computed under section 43-1095~~ THAT IS
11 TAXABLE minus all of the following:

- 12 (a) The reduction amount received under section 16-954, subsection A.
- 13 (b) Any tax credit amount claimed under section 16-954, subsection B.
- 14 (c) Any tax credit amount claimed for the taxable year under article 5
15 of this chapter but not including the credit amount allowed under this
16 section.

17 Sec. 7. Section 43-1097, Arizona Revised Statutes, is amended to read:
18 ~~43-1097.~~ Change of residency status

19 A. During the tax year in which a taxpayer changes from a resident to
20 a nonresident, ~~Arizona taxable~~ income THAT IS TAXABLE UNDER THIS TITLE shall
21 include all of the following:

22 1. All income ~~and deductions~~ realized or recognized, or both,
23 depending on the taxpayer's method of accounting, during the period the
24 individual was a resident, and any income accrued by a cash basis taxpayer
25 prior to the time the taxpayer became a nonresident of this state.

26 2. All income ~~and deductions~~ earned in Arizona or derived from Arizona
27 sources after the time the taxpayer became a nonresident of this state.

28 B. During the tax year in which a taxpayer changes from a nonresident
29 to a resident, ~~Arizona taxable~~ income THAT IS TAXABLE UNDER THIS TITLE shall
30 include all of the following:

31 1. All income ~~and deductions~~ realized or recognized, or both,
32 depending on the taxpayer's method of accounting, during the period the
33 individual was a resident, except any income accrued by a cash basis taxpayer
34 prior to the time the taxpayer became a resident of this state.

35 2. All income ~~and deductions~~ earned in Arizona or derived from Arizona
36 sources prior to the time the taxpayer became a resident of this state.

37 Sec. 8. Section 43-1098, Arizona Revised Statutes, is amended to read:
38 ~~43-1098.~~ Apportionment of exemptions

39 A. Any resident taxpayer, other than an active member of the armed
40 forces of the United States or any other auxiliary branch, who commences or
41 terminates his residency in this state during any one taxable year shall
42 prorate the following on the basis of the proportion which such taxpayer's
43 total Arizona gross income bears to the federal adjusted gross income:

44 1. The personal exemption provided in section 43-1043 THROUGH DECEMBER
45 31, 2014.

1 2. The exemptions provided in section 43-1023 for the blind, for
2 persons age sixty-five or older and for dependents **THROUGH DECEMBER 31, 2013.**

3 B. The percentage of exemption allowed shall be computed by dividing
4 the taxpayer's Arizona adjusted gross income by the federal adjusted gross
5 income.

6 Sec. 9. Task force; determination of final income tax rate;
7 report; delayed repeal

8 A. A task force to determine the final state individual income tax
9 rate is established consisting of:

10 1. The members of the economic estimates commission.

11 2. Two additional members, one of whom is appointed by the president
12 of the senate and one of whom is appointed by the speaker of the house of
13 representatives.

14 B. On or before December 31, 2011, the task force shall recommend
15 individual income tax rates and additional changes that support the purposes
16 of this act by broadening the taxable base to be used for the purposes of
17 title 43, chapter 10, Arizona Revised Statutes, as amended by this act,
18 according to the following requirements:

19 1. The rates shall reflect the calculation of individual income tax
20 liability as provided by title 43, chapter 10, Arizona Revised Statutes, as
21 amended by this act.

22 2. The final rate shall not exceed three per cent of individual
23 taxable income.

24 3. The same rate shall apply with respect to single persons, married
25 persons filing separately, married persons filing jointly and single persons
26 who are heads of households.

27 C. The task force may use independent outside resources and expertise
28 at the department of revenue, universities and independent private research
29 organizations.

30 D. The task force shall report its findings and recommendations to the
31 governor, the speaker of the house of representatives, the president of the
32 senate, the chairpersons of the house of representatives ways and means
33 committee and the senate finance committee, the joint legislative budget
34 committee and the department of revenue.

35 E. This section is repealed from and after September 30, 2012.

36 Sec. 10. Conforming legislation

37 The legislative council staff shall prepare proposed legislation
38 conforming the Arizona Revised Statutes to the provisions of this act for
39 consideration in the fiftieth legislature, second regular session.

40 Sec. 11. Effective date

41 Sections 2 through 8 of this act are effective and apply to taxable
42 years beginning from and after December 31, 2012.