

REFERENCE TITLE: **STO tax credits; repeal**

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

HB 2654

Introduced by
Representatives Campbell, Farley, Patterson, Wheeler: Alston, Heinz,
Hobbs, Meyer

AN ACT

REPEALING SECTIONS 20-224.06, 20-224.07, 43-1089, 43-1183 AND 43-1184, ARIZONA REVISED STATUTES; REPEALING TITLE 43, CHAPTERS 15 AND 16, ARIZONA REVISED STATUTES; AMENDING SECTIONS 20-224, 42-2001, 43-222, 43-401, 43-1021 AND 43-1121, ARIZONA REVISED STATUTES; RELATING TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 A. Sections 20-224.06, 20-224.07, 43-1089, 43-1183 and 43-1184,
4 Arizona Revised Statutes, are repealed.

5 B. Title 43, chapters 15 and 16, Arizona Revised Statutes, are
6 repealed.

7 Sec. 2. Section 20-224, Arizona Revised Statutes, is amended to read:
8 20-224. Premium tax

9 A. On or before March 1 of each year each authorized domestic insurer,
10 each other insurer and each formerly authorized insurer referred to in
11 section 20-206, subsection B shall file with the director a report in a form
12 prescribed by the director showing total direct premium income including
13 policy membership and other fees and all other considerations for insurance
14 from all classes of business whether designated as a premium or otherwise
15 received by it during the preceding calendar year on account of policies and
16 contracts covering property, subjects or risks located, resident or to be
17 performed in this state, after deducting from such total direct premium
18 income applicable cancellations, returned premiums, the amount of reduction
19 in or refund of premiums allowed to industrial life policyholders for payment
20 of premiums direct to an office of the insurer and all policy dividends,
21 refunds, savings coupons and other similar returns paid or credited to
22 policyholders within this state and not reapplied as premiums for new,
23 additional or extended insurance. No deduction shall be made of the cash
24 surrender values of policies or contracts. Considerations received on
25 annuity contracts, as well as the unabsorbed portion of any premium deposit,
26 shall not be included in total direct premium income, and neither shall be
27 subject to tax. The report shall separately indicate the total direct fire
28 insurance premium income received from property located in the incorporated
29 cities and towns certified by the state fire marshal pursuant to section
30 9-951, subsection B, as procuring the services of a private fire company.

31 B. Coincident with the filing of such tax report each insurer shall
32 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a
33 tax of 2.0 per cent of such net premiums, except that the tax on fire
34 insurance premiums on property located in an incorporated city or town
35 certified by the state fire marshal pursuant to section 9-951, subsection B,
36 as procuring the services of a private fire company is .66 per cent, the tax
37 on all other fire insurance premiums is 2.2 per cent and the tax on health
38 care service and disability insurance premiums is as prescribed under
39 sections 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to
40 subsection E of this section shall be deducted from the tax payable pursuant
41 to this subsection. Each insurer shall reflect the cost savings attributable
42 to the lower tax in fire insurance premiums charged on property located in an
43 incorporated city or town certified by the state fire marshal pursuant to
44 section 9-951, subsection B, as procuring the services of a private fire
45 company. No insurer shall be liable to the state or to any other person, or

1 shall be subject to regulatory action, relating to the calculation or
2 submittal of fire insurance premium taxes based in good faith upon the state
3 fire marshal's certification.

4 C. Eighty-five per cent of the tax paid under this section by an
5 insurer on account of premiums received for fire insurance shall be
6 separately specified in the report and shall be apportioned in the manner
7 provided by sections 9-951, 9-952 and 9-972, except that all of the tax so
8 allocated to a fund of a municipality or fire district that has no volunteer
9 fire fighters or pension obligations to volunteer fire fighters shall be
10 appropriated to the account of the municipality or fire district in the
11 public safety personnel retirement system and all of the tax so allocated to
12 a fund of a municipality or fire district that has both full-time paid fire
13 fighters and volunteer fire fighters or pension obligations to full-time paid
14 fire fighters or volunteer fire fighters shall be appropriated to the account
15 of the municipality or fire district in the public safety personnel
16 retirement system where it shall be reallocated by actuarial procedures
17 proportionately to the municipality or fire district for the account of the
18 full-time paid fire fighters and to the municipality or fire district for the
19 account of the volunteer fire fighters. A municipality or fire district
20 shall provide to the public safety personnel retirement system all
21 information that the system deems necessary to perform the reallocation
22 prescribed by this section. A full accounting of such reallocation shall be
23 forwarded to the municipality or fire district and their local boards.

24 D. This section shall not apply to title insurance, and such insurers
25 shall be taxed as provided in section 20-1566.

26 E. Any insurer that paid or is required to pay a tax of two thousand
27 dollars or more on net premiums received during the preceding calendar year,
28 pursuant to subsection B of this section and sections 20-224.01, 20-837,
29 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of
30 each month from March through August a report for that month, on a form
31 prescribed by the director, accompanied by a payment in an amount equal to
32 fifteen per cent of the amount paid or required to be paid during the
33 preceding calendar year pursuant to subsection B of this section and sections
34 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and
35 payable on or before the fifteenth day of each month and shall be made to the
36 director for deposit, pursuant to sections 35-146 and 35-147.

37 F. Except for the tax paid on fire insurance premiums pursuant to
38 subsections B and C of this section, an insurer may claim a premium tax
39 credit if the insurer qualifies for a credit pursuant to section 20-224.03,
40 ~~OR 20-224.04, 20-224.06 or 20-224.07.~~

41 G. On receipt of a properly documented claim, a refund shall be
42 provided to an insurer from available funds for the excess amount of any fire
43 insurance premium improperly paid by the insurer. The insurer shall reflect
44 the refund in the fire insurance premiums charged on the property that was
45 charged the excessive amount.

1 Sec. 3. Section 42-2001, Arizona Revised Statutes, is amended to read:
2 42-2001. Definitions
3 In this article, unless the context otherwise requires:
4 1. "Affidavits" includes forms received to report nontaxable estates.
5 2. "Confidential information":
6 (a) Includes the following information whether it concerns individual
7 taxpayers or is aggregate information for specifically identified taxpayers:
8 (i) Returns and reports filed with the department for income tax,
9 withholding tax, transaction privilege tax, luxury tax, use tax, rental
10 occupancy tax, property tax, estate tax and severance tax.
11 (ii) Affidavits, reports or other information filed relating to
12 taxable and nontaxable estates.
13 (iii) Applications for transaction privilege licenses, luxury tax
14 licenses, use tax licenses and withholding licenses.
15 (iv) Information discovered concerning taxes and receipts by the
16 department, whether or not by compulsory process.
17 (v) Return information obtained from the United States internal
18 revenue service and United States bureau of alcohol, tobacco and firearms.
19 (vi) Information supplied at the special request of the department by
20 a taxpayer which the taxpayer requests to be held in confidence.
21 (vii) Guidelines, standards or procedures that are established by the
22 department for, or other information relating to, selecting returns or
23 taxpayers for examination or settling or compromising any tax liability.
24 (viii) A taxpayer's identity, the nature, source or amount of the
25 taxpayer's income, payments, receipts, deductions, exemptions, credits,
26 assets, liabilities, net worth, tax liability, tax withheld, deficiencies,
27 overassessments or tax payments, whether the taxpayer's return was, is being
28 or will be examined or subject to investigation, collection or processing or
29 any other data received by, recorded by, prepared by, furnished to or
30 collected by the department with respect to a return or with respect to the
31 termination, or possible existence, of liability of any person for any tax,
32 penalty or interest imposed pursuant to this title or title 43.
33 (ix) Information supplied by an employee to an employer regarding the
34 employee's election to have the employee's withholding tax reduced for the
35 purposes of contributions to qualifying charitable organizations, ~~qualified~~
36 ~~school-tuition-organizations~~ or public schools pursuant to section 43-401,
37 subsection ~~H~~ I.
38 (b) Does not include information which is otherwise a public record.
39 3. "Report" includes a notice of insurance payments, a request for a
40 release of a bank account and an inventory of a safe deposit box.
41 4. "Return" includes any form prescribed by the department and any
42 supporting schedules, attachments and lists.
43 5. "Tax administration" includes assessment, collection,
44 investigation, litigation, statistical gathering functions, enforcement,

1 policy making functions or management of those functions of the tax revenue
2 laws of this state.

3 6. "Taxpayer", with respect to a joint return, means either party.

4 Sec. 4. Section 43-222, Arizona Revised Statutes, is amended to read:

5 43-222. Income tax credit review schedule

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

8 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,
9 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
10 43-1175 and 43-1182.

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

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, ~~AND~~ 43-1170.01 ~~and 43-1184~~.

20 Sec. 5. Section 43-401, Arizona Revised Statutes, is amended to read:

21 43-401. Withholding tax; rates; election by employee

22 A. Except as provided by subsection B of this section, every employer
23 at the time of the payment of wages, salary, bonus or other emolument to any
24 employee whose compensation is for services performed within this state shall
25 deduct and retain from the compensation an amount that is determined by the
26 department pursuant to subsection D of this section or that is equal to a
27 percentage, determined pursuant to subsection C of this section, of the total
28 amount of the federal income tax deducted and withheld by an employer from
29 the total value of such wages, bonus or other emolument of an employee under
30 the provisions of the United States internal revenue code computed without
31 deductions for any amount withheld.

32 B. An employer may voluntarily elect to not withhold tax during
33 December by notifying:

34 1. The department on a form prescribed by the department.

35 2. The employer's employees in writing in a manner prescribed by the
36 department.

37 C. The percentage deducted and retained under subsection A of this
38 section:

39 1. Through April 30, 2009 shall be:

40 (a) If the employee's annual compensation is less than fifteen
41 thousand dollars, ten per cent, nineteen per cent, twenty-three per cent,
42 twenty-five per cent, thirty-one per cent or thirty-seven per cent, at the
43 employee's election pursuant to subsection G of this section.

44 (b) If the employee's annual compensation is fifteen thousand dollars
45 or more, nineteen per cent, twenty-three per cent, twenty-five per cent,

1 thirty-one per cent or thirty-seven per cent, at the employee's election
2 pursuant to subsection G of this section.

3 (c) Zero per cent at the election of an employee who had no state
4 income tax liability in the prior taxable year and expects to have no state
5 income tax liability for the current taxable year.

6 2. Beginning from and after April 30, 2009 through December 31, 2009,
7 if an employee's rate of withholding under paragraph 1 of this subsection
8 immediately before May 1, 2009 was:

9 (a) Zero per cent at the election of an employee who had no state
10 income tax liability in the prior taxable year and expects to have no state
11 income tax liability for the current taxable year, the withholding tax rate
12 shall remain zero per cent.

13 (b) Ten per cent, the withholding tax rate shall be increased to 11.5
14 per cent.

15 (c) Nineteen per cent, the withholding tax rate shall be increased to
16 21.9 per cent.

17 (d) Twenty-three per cent, the withholding tax rate shall be increased
18 to 26.5 per cent.

19 (e) Twenty-five per cent, the withholding tax rate shall be increased
20 to 28.8 per cent.

21 (f) Thirty-one per cent, the withholding tax rate shall be increased
22 to 35.7 per cent.

23 (g) Thirty-seven per cent, the withholding tax rate shall be increased
24 to 42.6 per cent.

25 3. Beginning from and after December 31, 2009 through June 30, 2010,
26 if an employee's rate of withholding under paragraph 2 of this subsection
27 immediately before January 1, 2010 was:

28 (a) Zero per cent at the election of an employee who had no state
29 income tax liability in the prior taxable year and expects to have no state
30 income tax liability for the current taxable year, the withholding tax rate
31 shall remain zero per cent.

32 (b) 11.5 per cent, the withholding tax rate shall be decreased to 10.7
33 per cent.

34 (c) 21.9 per cent, the withholding tax rate shall be decreased to 20.3
35 per cent.

36 (d) 26.5 per cent, the withholding tax rate shall be decreased to 24.5
37 per cent.

38 (e) 28.8 per cent, the withholding tax rate shall be decreased to 26.7
39 per cent.

40 (f) 35.7 per cent, the withholding tax rate shall be decreased to 33.1
41 per cent.

42 (g) 42.6 per cent, the withholding tax rate shall be decreased to 39.5
43 per cent.

44 D. Beginning from and after June 30, 2010, the amount deducted and
45 retained under subsection A of this section shall be prescribed by tables

1 adopted by the department. On or before March 15, 2010, the department shall
2 submit to the joint legislative budget committee a copy of the table.

3 E. If the amount collected and payable by the employer to the
4 department in each of the preceding four calendar quarters did not exceed an
5 average of one thousand five hundred dollars, the amount collected shall be
6 paid to the department on or before April 30, July 31, October 31 and January
7 31 for the preceding calendar quarter. If such amount exceeded one thousand
8 five hundred dollars in each of the preceding four calendar quarters, the
9 employer shall pay to the department the amount the employer deducts and
10 retains pursuant to this section at the same time as the employer is required
11 to make deposits of federal tax pursuant to section 6302 of the internal
12 revenue code. On or before April 30, July 31, October 31 and January 31 each
13 year the employer shall reconcile the amounts payable during the preceding
14 calendar quarter in a manner prescribed by the department, except that if the
15 full amount collected and payable is paid timely to the department under this
16 subsection, the employer may reconcile the amounts on or before May 10,
17 August 10, November 10 and February 10 each year. The department by rule may
18 allow and determine which employers qualify for annual payments of
19 withholding taxes, with an annual report by the employer pursuant to section
20 43-412, subsection B, if the qualifying employer has established sufficient
21 payment history to indicate that the employer is current and in good standing
22 pursuant to standards established by rule. For any business which has not
23 had a withholding certificate for the four preceding consecutive quarters,
24 the quarterly average shall be computed in a manner prescribed by the
25 department.

26 F. If an employer fails to make a timely monthly payment because prior
27 to that reporting period it reported on a quarterly basis instead of on a
28 monthly basis, the department shall notify the employer that it is out of
29 compliance with this section. Notwithstanding section 42-1125, the
30 department shall not assess a penalty against an employer for failing to make
31 a timely monthly payment if the employer had filed and remitted all taxes due
32 on a quarterly basis and brings all filings and payments into current
33 compliance within thirty days after being notified by the department.

34 G. Each employee shall elect the amount authorized by subsection C of
35 this section to be withheld for application toward the employee's state
36 income tax liability. The election provided under this subsection shall be
37 exercised by each employee, in writing on a form prescribed by the
38 department. The election shall be made within five days of employment. Each
39 employer shall notify the employees of the election made available under this
40 subsection and shall have election forms available at all times. Each form
41 shall be completed in triplicate, with one copy each for the department, the
42 employer and the employee. The employer shall file a copy of each completed
43 form with the department. Any employee failing to complete an election form
44 as prescribed shall be deemed to have elected the smallest applicable
45 withholding percentage.

1 H. Before July 1 of each year, each employer who chooses to not
2 withhold tax pursuant to subsection B of this section shall notify each
3 employee that:

4 1. State income taxes will not be withheld from compensation in
5 December.

6 2. The employee may elect to change the rate of withholding tax
7 prescribed by this section to compensate for the resulting change in annual
8 withholdings from the employee's compensation.

9 I. At an employee's written request, the employer may agree to reduce
10 the amount withheld under this section by the amount of credit that the
11 employee represents to the employer that the employee will qualify for and be
12 entitled to under sections 43-1088, ~~43-1089~~ and 43-1089.01. The employee's
13 request must include the name and address of the qualifying charitable
14 organization, ~~qualified school tuition organization~~ or public school. Within
15 thirty days after agreeing to the employee's request, the employer shall
16 reduce the withholding amount by the amount of the credit, but not below
17 zero, prorated for the number of pay periods remaining in the employee's
18 taxable year after the employee makes the request. If an employer agrees to
19 reduce the withholding amount pursuant to this subsection, the following
20 apply:

21 1. Within fifteen days after the end of each calendar quarter, the
22 employer must pay the entire amount of the reduction in withholding tax for
23 that quarter to the designated charitable organization, ~~school tuition~~
24 ~~organization~~ or public school. These payments are considered to be on the
25 employee's behalf, and not the employer's, for the purposes of qualifying for
26 the income tax credits under sections 43-1088, ~~43-1089~~ and 43-1089.01.

27 2. The employee is responsible and accountable for the accuracy and
28 the amount of reduction in withholding tax and the payments to the charitable
29 organization, ~~school tuition organization~~ or public school.

30 3. The employer is responsible and accountable to the charitable
31 organization, ~~school tuition organization~~ or public school, to the employee
32 and to the department for actually making the required payments.

33 4. Within thirty days after the end of each calendar year, or within
34 fifteen days after the termination of employment, the employer must furnish
35 to each electing employee and to the department a statement of the amount
36 withheld and paid on behalf of the employee during that year.

37 Sec. 6. Section 43-1021, Arizona Revised Statutes, is amended to read:
38 43-1021. Additions to Arizona gross income

39 In computing Arizona adjusted gross income, the following amounts shall
40 be added to Arizona gross income:

41 1. A beneficiary's share of the fiduciary adjustment to the extent
42 that the amount determined by section 43-1333 increases the beneficiary's
43 Arizona gross income.

- 1 2. An amount equal to the "ordinary income portion" of a lump sum
2 distribution that was excluded from federal adjusted gross income pursuant to
3 section 402(d) of the internal revenue code.
- 4 3. The amount of interest income received on obligations of any state,
5 territory or possession of the United States, or any political subdivision
6 thereof, located outside the state of Arizona, reduced, for tax years
7 beginning from and after December 31, 1996, by the amount of any interest on
8 indebtedness and other related expenses that were incurred or continued to
9 purchase or carry those obligations and that are not otherwise deducted or
10 subtracted in arriving at Arizona gross income.
- 11 4. Annuity income received during the taxable year to the extent that
12 the sum of the proceeds received from such annuity in all taxable years prior
13 to and including the current taxable year exceeds the total consideration and
14 premiums paid by the taxpayer. This paragraph applies only to those
15 annuities with respect to which the first payment was received prior to
16 December 31, 1978.
- 17 5. The excess of a partner's share of partnership taxable income
18 required to be included under chapter 14, article 2 of this title over the
19 income required to be reported under section 702(a)(8) of the internal
20 revenue code.
- 21 6. The excess of a partner's share of partnership losses determined
22 pursuant to section 702(a)(8) of the internal revenue code over the losses
23 allowable under chapter 14, article 2 of this title.
- 24 7. The amount by which the adjusted basis of property described in
25 this paragraph and computed pursuant to the internal revenue code exceeds the
26 adjusted basis of such property computed pursuant to this title and the
27 income tax act of 1954, as amended. 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, except depreciable property
30 used in a trade or business.
- 31 8. The amount of depreciation or amortization of costs of any capital
32 investment that is deducted pursuant to section 167 or 179 of the internal
33 revenue code by a qualified defense contractor with respect to which an
34 election is made to amortize pursuant to section 43-1024.
- 35 9. The amount of gain from the sale or other disposition of a capital
36 investment which a qualified defense contractor has elected to amortize
37 pursuant to section 43-1024.
- 38 10. Amounts withdrawn from the Arizona state retirement system, the
39 corrections officer retirement plan, the public safety personnel retirement
40 system, the elected officials' retirement plan or a county or city retirement
41 plan by an employee upon termination of employment before retirement to the
42 extent they were deducted in arriving at Arizona taxable income in any year.
- 43 11. That portion of the net operating loss included in federal adjusted
44 gross income which has already been taken as a net operating loss for Arizona

- 1 purposes or which is separately taken as a subtraction under the special net
2 operating loss transition rule.
- 3 12. Any nonitemized amount deducted pursuant to section 170 of the
4 internal revenue code representing contributions to an educational
5 institution which denies admission, enrollment or board and room
6 accommodations on the basis of race, color or ethnic background except those
7 institutions primarily established for the education of American Indians.
- 8 13. The amount paid as taxes on property in this state with respect to
9 which a credit is claimed under section 43-1078.
- 10 14. Amounts withdrawn from a medical savings account by the individual
11 during the taxable year computed pursuant to section 220(f) of the internal
12 revenue code and not included in federal adjusted gross income.
- 13 15. Any amount of agricultural water conservation expenses that were
14 deducted pursuant to the internal revenue code for which a credit is claimed
15 under section 43-1084.
- 16 16. The amount by which the depreciation or amortization computed under
17 the internal revenue code with respect to property for which a credit was
18 taken under section 43-1080 exceeds the amount of depreciation or
19 amortization computed pursuant to the internal revenue code on the Arizona
20 adjusted basis of the property.
- 21 17. The amount by which the adjusted basis computed under the internal
22 revenue code with respect to property for which a credit was claimed under
23 section 43-1080 and which is sold or otherwise disposed of during the taxable
24 year exceeds the adjusted basis of the property computed under section
25 43-1080.
- 26 18. The amount by which the depreciation or amortization computed under
27 the internal revenue code with respect to property for which a credit was
28 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
29 depreciation or amortization computed pursuant to the internal revenue code
30 on the Arizona adjusted basis of the property.
- 31 19. The amount by which the adjusted basis computed under the internal
32 revenue code with respect to property for which a credit was claimed under
33 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise
34 disposed of during the taxable year exceeds the adjusted basis of the
35 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
36 applicable.
- 37 20. The deduction referred to in section 1341(a)(4) of the internal
38 revenue code for restoration of a substantial amount held under a claim of
39 right.
- 40 21. The amount by which a net operating loss carryover or capital loss
41 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
42 code exceeds the net operating loss carryover or capital loss carryover
43 allowable pursuant to section 43-1029, subsection F.

- 1 22. Any amount deducted pursuant to section 170 of the internal revenue
2 code representing contributions to ~~a school tuition organization or~~ a public
3 school for which a credit is claimed under section ~~43-1089 or~~ 43-1089.01.
- 4 23. Any amount deducted in computing Arizona gross income as expenses
5 for installing solar stub outs or electric vehicle recharge outlets in this
6 state with respect to which a credit is claimed pursuant to section 43-1090.
- 7 24. Any wage expenses deducted pursuant to the internal revenue code
8 for which a credit is claimed under section 43-1087 and representing net
9 increases in qualified employment positions for employment of temporary
10 assistance for needy families recipients.
- 11 25. Any amount deducted for conveying ownership or development rights
12 of property to an agricultural preservation district under section 48-5702
13 for which a credit is claimed under section 43-1081.02.
- 14 26. The amount of any depreciation allowance allowed pursuant to
15 section 167(a) of the internal revenue code to the extent not previously
16 added.
- 17 27. With respect to property for which an expense deduction was taken
18 pursuant to section 179 of the internal revenue code, the amount in excess of
19 twenty-five thousand dollars.
- 20 28. The amount of any deductions that are claimed in computing federal
21 adjusted gross income representing expenses for which a credit is claimed
22 under either section 43-1075 or 43-1075.01 or both.
- 23 29. The amount by which the depreciation or amortization computed under
24 the internal revenue code with respect to property for which a credit was
25 taken under section 43-1090.01 exceeds the amount of depreciation or
26 amortization computed pursuant to the internal revenue code on the Arizona
27 adjusted basis of the property.
- 28 30. The amount by which the adjusted basis computed under the internal
29 revenue code with respect to property for which a credit was claimed under
30 section 43-1090.01 and which is sold or otherwise disposed of during the
31 taxable year exceeds the adjusted basis of the property computed under
32 section 43-1090.01.
- 33 31. The amount of a nonqualified withdrawal, as defined in section
34 15-1871, from a college savings plan established pursuant to section 529 of
35 the internal revenue code that is made to a distributee to the extent the
36 amount is not included in computing federal adjusted gross income, except
37 that the amount added under this paragraph shall not exceed the difference
38 between the amount subtracted under section 43-1022 in prior taxable years
39 and the amount added under this section in any prior taxable years.
- 40 32. The amount of unemployment compensation that is excluded from
41 federal adjusted gross income pursuant to section 85(c) of the internal
42 revenue code as added by section 1007 of the American recovery and
43 reinvestment act of 2009 (P.L. 111-5).
- 44 33. The amount of discharge of indebtedness income that is deferred and
45 excluded from the computation of federal adjusted gross income or federal

1 taxable income in the current taxable year pursuant to section 108(i) of the
2 internal revenue code as added by section 1231 of the American recovery and
3 reinvestment act of 2009 (P.L. 111-5).

4 34. The amount of any previously deferred original issue discount that
5 was deducted in computing federal adjusted gross income or federal taxable
6 income in the current year pursuant to section 108(i) of the internal revenue
7 code as added by section 1231 of the American recovery and reinvestment act
8 of 2009 (P.L. 111-5), to the extent that the amount was previously subtracted
9 from Arizona gross income pursuant to section 43-1022, paragraph 33.

10 Sec. 7. Section 43-1121, Arizona Revised Statutes, is amended to read:

11 43-1121. Additions to Arizona gross income; corporations

12 In computing Arizona taxable income for a corporation, the following
13 amounts shall be added to Arizona gross income:

14 1. The amounts computed pursuant to section 43-1021, paragraphs 3
15 through 9, 12, 26, 27, 33 and 34.

16 2. The amount of dividend income received from corporations and
17 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal
18 revenue code.

19 3. Taxes which are based on income paid to states, local governments
20 or foreign governments and which were deducted in computing federal taxable
21 income.

22 4. Expenses and interest relating to tax-exempt income on indebtedness
23 incurred or continued to purchase or carry obligations the interest on which
24 is wholly exempt from the tax imposed by this title. Financial institutions,
25 as defined in section 6-101, shall be governed by section 43-961,
26 paragraph 2.

27 5. Commissions, rentals and other amounts paid or accrued to a
28 domestic international sales corporation controlled by the payor corporation
29 if the domestic international sales corporation is not required to report its
30 taxable income to this state because its income is not derived from or
31 attributable to sources within this state. If the domestic international
32 sales corporation is subject to article 4 of this chapter, the department
33 shall prescribe by rule the method of determining the portion of the
34 commissions, rentals and other amounts which are paid or accrued to the
35 controlled domestic international sales corporation and which shall be
36 deducted by the payor. For the purposes of this paragraph, "control" means
37 direct or indirect ownership or control of fifty per cent or more of the
38 voting stock of the domestic international sales corporation by the payor
39 corporation.

40 6. Federal income tax refunds received during the taxable year to the
41 extent they were deducted in arriving at Arizona taxable income in a previous
42 year.

43 7. The amount of net operating loss taken pursuant to section 172 of
44 the internal revenue code.

- 1 8. The amount of exploration expenses determined pursuant to section
2 617 of the internal revenue code to the extent that they exceed seventy-five
3 thousand dollars and to the extent that the election is made to defer those
4 expenses not in excess of seventy-five thousand dollars.
- 5 9. Amortization of costs incurred to install pollution control devices
6 and deducted pursuant to the internal revenue code or the amount of deduction
7 for depreciation taken pursuant to the internal revenue code on pollution
8 control devices for which an election is made pursuant to section 43-1129.
- 9 10. The amount of depreciation or amortization of costs of child care
10 facilities deducted pursuant to section 167 or 188 of the internal revenue
11 code for which an election is made to amortize pursuant to section 43-1130.
- 12 11. Arizona state income tax refunds received, to the extent the amount
13 of the refunds is not already included in Arizona gross income, if a tax
14 benefit was derived by deduction of this amount in a prior year.
- 15 12. The amount paid as taxes on property in this state by a qualified
16 defense contractor with respect to which a credit is claimed under section
17 43-1166.
- 18 13. The loss of an insurance company that is exempt under section
19 43-1201 to the extent that it is included in computing Arizona gross income
20 on a consolidated return pursuant to section 43-947.
- 21 14. The amount by which the depreciation or amortization computed under
22 the internal revenue code with respect to property for which a credit was
23 taken under section 43-1169 exceeds the amount of depreciation or
24 amortization computed pursuant to the internal revenue code on the Arizona
25 adjusted basis of the property.
- 26 15. The amount by which the adjusted basis computed under the internal
27 revenue code with respect to property for which a credit was claimed under
28 section 43-1169 and which is sold or otherwise disposed of during the taxable
29 year exceeds the adjusted basis of the property computed under section
30 43-1169.
- 31 16. The amount by which the depreciation or amortization computed under
32 the internal revenue code with respect to property for which a credit was
33 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
34 depreciation or amortization computed pursuant to the internal revenue code
35 on the Arizona adjusted basis of the property.
- 36 17. The amount by which the adjusted basis computed under the internal
37 revenue code with respect to property for which a credit was claimed under
38 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed
39 of during the taxable year exceeds the adjusted basis of the property
40 computed under section 43-1170 or 43-1170.01, as applicable.
- 41 18. The deduction referred to in section 1341(a)(4) of the internal
42 revenue code for restoration of a substantial amount held under a claim of
43 right.

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

4 20. Any amount deducted in computing Arizona taxable income as expenses
5 for installing solar stub outs or electric vehicle recharge outlets in this
6 state with respect to which a credit is claimed pursuant to section 43-1176.

7 21. Any wage expenses deducted pursuant to the internal revenue code
8 for which a credit is claimed under section 43-1175 and representing net
9 increases in qualified employment positions for employment of temporary
10 assistance for needy families recipients.

11 22. Any amount of expenses that were deducted pursuant to the internal
12 revenue code and for which a credit is claimed under section 43-1178.

13 23. Any amount deducted for conveying ownership or development rights
14 of property to an agricultural preservation district under section 48-5702
15 for which a credit is claimed under section 43-1180.

16 24. The amount of any deduction that is claimed in computing Arizona
17 gross income and that represents a donation of a school site for which a
18 credit is claimed under section 43-1181.

19 25. The amount of any deductions that are claimed in computing federal
20 taxable income representing expenses for which a credit is claimed under
21 either section 43-1163 or 43-1163.01 or both.

22 26. Any amount deducted in computing Arizona taxable income as expenses
23 for installing water conservation system plumbing stub outs in this state
24 with respect to which a credit is claimed pursuant to section 43-1182.

25 ~~27. Any amount deducted pursuant to section 170 of the internal revenue~~
26 ~~code representing contributions to a school tuition organization for which a~~
27 ~~credit is claimed under section 43-1183 or 43-1184.~~

28 Sec. 8. Requirements for enactment: two-thirds vote

29 Pursuant to article IX, section 22, Constitution of Arizona, this act
30 is effective only on the affirmative vote of at least two-thirds of the
31 members of each house of the legislature and is effective immediately on the
32 signature of the governor or, if the governor vetoes this act, on the
33 subsequent affirmative vote of at least three-fourths of the members of each
34 house of the legislature.