Senate Engrossed

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1312

AN ACT

AMENDING SECTION 20-224.06, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-3357 AND 42-3358; AMENDING TITLE 42, CHAPTER 5, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-5207 AND 42-5208; AMENDING SECTIONS 43-1089, 43-1183, 43-1184, 43-1502, 43-1503, 43-1504, 43-1505, 43-1507, 43-1602, 43-1603 AND 43-1605, ARIZONA REVISED STATUTES; RELATING TO TAX CREDITS FOR CONTRIBUTIONS TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 20-224.06, Arizona Revised Statutes, is amended to read:

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

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

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

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

1. Insurers that claim a credit under this section.

2. Claims for credit under this section.

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

4. Schools that qualify to receive scholarship monies contributed by insurers for the purposes of this section.

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

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

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

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

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

Sec. 2. Title 42, chapter 3, article 8, Arizona Revised Statutes, is amended by adding sections 42-3357 and 42-3358, to read:

42-3357. Credit for contributions to school tuition organization; low-income scholarships

A. A CREDIT IS ALLOWED AGAINST THE LUXURY TAX LIABILITY INCURRED PURSUANT TO THIS CHAPTER AND PAYABLE BY A WHOLESALER PURSUANT TO SECTION 42-3353 OR 42-3354 OR BY A DOMESTIC FARM WINERY OR DOMESTIC MICROBREWERY PURSUANT TO SECTION 42-3355 FOR CONTRIBUTIONS TO A SCHOOL TUITION

ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR LOW-INCOME STUDENTS AS PROVIDED BY SECTIONS 43-1183 AND 43-1504.

B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S VOLUNTARY CASH CONTRIBUTIONS.

C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 43-1183 APPLY TO:

1. WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWERIES THAT CLAIM A CREDIT UNDER THIS SECTION.

2. CLAIMS FOR CREDIT UNDER THIS SECTION.

3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWERIES FOR THE PURPOSES OF THIS SECTION.

4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY WHOLESALERS, DOMESTIC WINERIES AND DOMESTIC MICROBREWERIES FOR THE PURPOSES OF THIS SECTION.

5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY WHOLESALERS, DOMESTIC WINERIES AND DOMESTIC MICROBREWERIES FOR THE PURPOSES OF THIS SECTION.

D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE TAXPAYER'S LUXURY TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE LUXURY TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT LUXURY TAX LIABILITY FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS.

E. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION 43-1183 WITH RESPECT TO THE SAME CONTRIBUTION.

42-3358. Credit for contributions to school tuition organization; scholarships for displaced students and students with disabilities

A. A CREDIT IS ALLOWED AGAINST THE LUXURY TAX LIABILITY INCURRED PURSUANT TO THIS CHAPTER AND PAYABLE BY A WHOLESALER PURSUANT TO SECTION 42-3353 OR 42-3354 OR BY A DOMESTIC FARM WINERY OR DOMESTIC MICROBREWERY PURSUANT TO SECTION 42-3355 FOR CONTRIBUTIONS TO A SCHOOL TUITION ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR DISPLACED STUDENTS AND STUDENTS WITH DISABILITIES AS PROVIDED BY SECTIONS 43-1184 AND 43-1505.

B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S VOLUNTARY CASH CONTRIBUTIONS.

C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 43-1184 APPLY TO:

1. WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWERIES THAT CLAIM A CREDIT UNDER THIS SECTION.

2. CLAIMS FOR CREDIT UNDER THIS SECTION.

3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWERIES FOR THE PURPOSES OF THIS SECTION.

4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY WHOLESALERS, DOMESTIC WINERIES AND DOMESTIC MICROBREWERIES FOR THE PURPOSES OF THIS SECTION.

5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY WHOLESALERS, DOMESTIC WINERIES AND DOMESTIC MICROBREWERIES FOR THE PURPOSES OF THIS SECTION.

D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE TAXPAYER'S LUXURY TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE LUXURY TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT LUXURY TAX LIABILITY FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS.

E. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION 43-1184 WITH RESPECT TO THE SAME CONTRIBUTION.

Sec. 3. Title 42, chapter 5, article 5, Arizona Revised Statutes, is amended by adding sections 42-5207 and 42-5208, to read:

42-5207. Credit for contributions to school tuition organization; low-income scholarships

A. A CREDIT IS ALLOWED AGAINST THE SEVERANCE TAX LIABILITY INCURRED PURSUANT TO THIS CHAPTER BY A SEVERER PURSUANT TO SECTION 42-5202 FOR CONTRIBUTIONS TO A SCHOOL TUITION ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR LOW-INCOME STUDENTS AS PROVIDED BY SECTIONS 43-1183 AND 43-1504.

B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S VOLUNTARY CASH CONTRIBUTIONS.

C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 43-1183 APPLY TO:

1. SEVERERS THAT CLAIM A CREDIT UNDER THIS SECTION.

2. CLAIMS FOR CREDIT UNDER THIS SECTION.

3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM SEVERERS FOR THE PURPOSES OF THIS SECTION.

4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY SEVERERS FOR THE PURPOSES OF THIS SECTION.

5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY SEVERERS FOR THE PURPOSES OF THIS SECTION.

D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE TAXPAYER'S SEVERANCE TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE SEVERANCE TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT SEVERANCE TAX LIABILITY FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS.

E. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION 43-1183 WITH RESPECT TO THE SAME CONTRIBUTION.

42-5208. Credit for contributions to school tuition organization; scholarships for displaced students and students with disabilities

A. A CREDIT IS ALLOWED AGAINST THE SEVERANCE TAX LIABILITY INCURRED PURSUANT TO THIS CHAPTER BY A SEVERER PURSUANT TO SECTION 42-5202 FOR CONTRIBUTIONS TO A SCHOOL TUITION ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR DISPLACED STUDENTS AND STUDENTS WITH DISABILITIES AS PROVIDED BY SECTIONS 43-1184 AND 43-1505.

B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S VOLUNTARY CASH CONTRIBUTIONS.

C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 43-1184 APPLY TO:

1. SEVERERS THAT CLAIM A CREDIT UNDER THIS SECTION.

2. CLAIMS FOR CREDIT UNDER THIS SECTION.

3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM SEVERERS FOR THE PURPOSES OF THIS SECTION.

4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY SEVERERS FOR THE PURPOSES OF THIS SECTION.

5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY SEVERERS FOR THE PURPOSES OF THIS SECTION.

D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE TAXPAYER'S SEVERANCE TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE SEVERANCE TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT SEVERANCE TAX LIABILITY FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS.

E. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION 43-1184 WITH RESPECT TO THE SAME CONTRIBUTION.

Sec. 4. Section 43-1089, Arizona Revised Statutes, is amended to read:

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

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

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

2. One thousand FIVE HUNDRED dollars in any taxable year for a married couple filing a joint return.

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

C. For each taxable year beginning on or after January 1, the department shall adjust the dollar amounts prescribed by subsection A, paragraphs 1 and 2 of this section according to the average annual change in the metropolitan Phoenix consumer price index published by the United States bureau of labor statistics, except that the dollar amounts shall not be revised downward below the amounts allowed in the prior taxable year. The revised dollar amounts shall be raised to the nearest whole dollar.

D. 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. 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. 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. 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. 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.

Sec. 5. Section 43-1183, Arizona Revised Statutes, is amended to read:

43-1183. Credit for contributions to school tuition organization; definition

A. Beginning from and after June 30, 2006, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization that is certified pursuant to chapter 15 of this title at the time of donation.

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

~~C. The department of revenue:~~

~~1. Shall not allow tax credits under this section and section 20-224.06 that exceed in the aggregate a combined total of ten million dollars in any fiscal year. Beginning in fiscal year 2007-2008, the aggregate dollar amount of the tax credit cap from the previous fiscal year shall be annually increased by twenty per cent.~~

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

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

~~D. For the purposes of subsection C, paragraph 2 of this section, before making a contribution to a school tuition organization, the taxpayer under this title or title 20 must notify the school tuition organization of the total amount of contributions that the taxpayer intends to make to the school tuition organization. Before accepting the contribution, the school tuition organization shall request preapproval from the department of revenue for the taxpayer's intended contribution amount. The department of revenue shall preapprove or deny the requested amount within twenty days after receiving the request from the school tuition organization. If the department of revenue preapproves the request, the school tuition organization shall immediately notify the taxpayer, and the department of insurance in the case of a credit under section 20-224.06, that the requested amount was preapproved by the department of revenue. In order to receive a tax credit under this subsection, the taxpayer shall make the contribution to the school tuition organization within ten days after receiving notice from the school tuition organization that the requested amount was preapproved. If the school tuition organization does not receive the preapproved contribution from the taxpayer within the required ten days, the school tuition organization shall immediately notify the department of revenue, and the department of insurance in the case of a credit under section 20-224.06, and the department of revenue shall no longer include this preapproved contribution amount when calculating the limit prescribed in subsection C, paragraph 1 of this section.~~

~~E.~~ 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.

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

~~G.~~ E. 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.

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

~~I.~~ G. 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 specific student.

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

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

1. Means a nongovernmental primary school or secondary school:

(a) 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, 2005.

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

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

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

Sec. 6. Section 43-1184, Arizona Revised Statutes, is amended to read:

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

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

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

~~C. The department of revenue:~~

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

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

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

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

~~E.~~ 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.

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

~~G.~~ E. 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.

~~H.~~ F. A taxpayer shall not claim a credit under this section and also under section 43-1183 with respect to the same contribution.

~~I.~~ G. 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 specific student.

~~J.~~ H. The department of revenue shall adopt rules necessary for the administration of this section.

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

1. 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, 2009.

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

Sec. 7. Section 43-1502, Arizona Revised Statutes, is amended to read:

43-1502. Certification as a school tuition organization

A. A nonprofit organization in this state that is exempt or has applied for exemption from federal taxation under section 501(c)(3) of the internal revenue code may apply to the department of revenue for certification as a school tuition organization, and the department shall certify the school tuition organization if it meets the requirements prescribed by this chapter. An organization must apply for certification on a form prescribed and furnished on request by the department.

B. The department shall:

1. Maintain a public registry of currently certified school tuition organizations.

2. Make the registry available to the public on request.

3. Post the registry on the department's official website.

C. The department shall send written notice by certified mail to a school tuition organization if the department determines that the school tuition organization has engaged in any of the following activities:

1. Failing or refusing to allocate at least ninety per cent of annual revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07, 42-3357, 42-3358, 42-5207, 42-5208, 43-1183 AND 43-1184 for educational scholarships or tuition grants.

2. Failing or refusing to file the annual reports required by section 43-1506.

3. Limiting availability of scholarships to students of only one school.

4. Encouraging, facilitating or knowingly permitting taxpayers to engage in actions prohibited by this article.

D. A school tuition organization that receives notice from the department pursuant to subsection C of this section has ninety days to correct the violation identified by the department in the notice. If a school tuition organization fails or refuses to comply after ninety days, the department may remove the organization from the list of certified school tuition organizations and shall make available to the public notice of removal as soon as possible. An organization that is removed from the list of certified school tuition organizations must notify any taxpayer who attempts to make a contribution that the contribution is not eligible for the tax credit and offer to refund all donations received after the date of the notice of termination of certification.

E. A school tuition organization may request an administrative hearing on the revocation of its certification as provided by title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, a decision of the department is subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 8. Section 43-1503, Arizona Revised Statutes, is amended to read:

43-1503. Operational requirements for school tuition organizations

A. A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under sections 43-1183 and 43-1184, ~~and~~ insurance premium tax credits under sections 20-224.06 and 20-224.07, LUXURY TAX CREDITS UNDER SECTIONS 42-3357 AND 42-3358 AND SEVERANCE TAX CREDITS UNDER SECTIONS 42-5207 AND 42-5208 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' or custodians' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety per cent of its annual revenue FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07, 42-3357, 42-3358, 42-5207, 42-5208, 43-1183 AND 43-1184 for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. Must allow the department of revenue to verify that the educational scholarships and tuition grants that are issued are awarded to students who attend a qualified school.

Sec. 9. Section 43-1504, Arizona Revised Statutes, is amended to read:

43-1504. Special provisions; corporate donations for low-income scholarships; rules

A. A school tuition organization that receives contributions from a corporation for the purposes of section 20-224.06, 42-3357, 42-5207 or 43-1183 must use at least ninety per cent of those contributions to provide educational scholarships or tuition grants only to children whose family income does not exceed one hundred eighty-five per cent of the income limit

required to qualify a child for reduced price lunches under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) and who either:

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

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

3. Received an educational scholarship or tuition grant under paragraph 1 or 2 OR CHAPTER 16, ARTICLE 1 OF THIS TITLE if the children continue to attend a qualified school in a subsequent year.

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

C. In 2006, a school tuition organization shall not issue an educational scholarship or a tuition grant for the purposes of section 20-224.06, 42-3357, 42-5207 or 43-1183 in an amount that exceeds four thousand two hundred dollars for students in a kindergarten program or grades one through eight or five thousand five hundred dollars for students in grades nine through twelve. In each year after 2006, the limitation amount for a scholarship or a grant under this subsection shall be increased by one hundred dollars.

D. A school tuition organization shall require that student beneficiaries use the educational scholarships or tuition grants on a full-time basis. If a child leaves the school before completing an entire school year, the school shall refund a prorated amount of the educational scholarship or tuition grant to the school tuition organization that issued the scholarship or grant. The school tuition organization shall allocate any refunds it receives under this subsection for educational scholarships or tuition grants ~~in the following year~~.

E. Students who receive an educational scholarship or tuition grant under this section shall be allowed to attend any qualified school of their parents' choice.

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

Sec. 10. Section 43-1505, Arizona Revised Statutes, is amended to read:

43-1505. Special provisions; corporate donations for displaced students and students with disabilities; definition

A. A school tuition organization that receives contributions for the purposes of section ~~28-224.07~~ 20-224.07, 42-3358, 42-5208 or 43-1184 must use at least ninety per cent of those contributions to provide educational scholarships or tuition grants to qualified students who either:

1. Received a grant or scholarship under title 15, chapter 8, article 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic year.

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

3. Qualified for an educational scholarship or tuition grant under paragraph 1 or 2 OF THIS SUBSECTION if the qualified student continues to attend a qualified school in a subsequent year.

4. ENROLL IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM OR A PRESCHOOL PROGRAM FOR CHILDREN WITH DISABILITIES.

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

C. A school tuition organization shall require that student beneficiaries use the educational scholarships or tuition grants on a full-time basis. If a child leaves the school before completing an entire school year, the school shall refund a prorated amount of the educational scholarship or tuition grant to the school tuition organization that issued the scholarship or grant. The school tuition organization shall allocate any refunds it receives under this subsection for educational scholarships or tuition grants ~~in the following year~~.

D. Qualified students who receive an educational scholarship or tuition grant under this section shall be allowed to attend any qualified school of their custodians' choice.

E. For the purposes of this section, "qualified student" means a student who has been either:

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

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

Sec. 11. Section 43-1507, Arizona Revised Statutes, is amended to read:

43-1507. Audits and financial reviews

A. On or before September 30 of each year, each school tuition organization that received one million dollars or more in total donations in the previous fiscal year shall provide for a financial audit of the organization. The audit must be conducted in accordance with generally accepted auditing standards and must evaluate the organization's compliance with ~~the fiscal requirements of this article~~ SECTION 43-1503, SUBSECTION B, PARAGRAPH 1. The audit must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted accounting standards.

B. On or before September 30 of each year, each school tuition organization that received less than one million dollars in total donations in the previous fiscal year shall provide for a financial review of the organization. The review must be conducted in accordance with standards for accounting and review services and must evaluate the organization's compliance with the fiscal requirements of this article. The review must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted accounting standards.

C. Within five days after receiving the audit or financial review, the school tuition organization shall file a signed copy of the audit or financial review with the department.

D. The school tuition organization shall pay the fees and costs of the certified public accountant under this section from the organization's operating monies. The fees and costs shall be excluded from the calculation of total revenues spent on scholarships and tuition grants.

Sec. 12. Section 43-1602, Arizona Revised Statutes, is amended to read:

43-1602. Certification as a school tuition organization

A. A nonprofit organization in this state that is exempt or has applied for exemption from federal taxation under section 501(c)(3) of the internal revenue code may apply to the department of revenue for certification as a school tuition organization, and the department shall certify the school tuition organization if it meets the requirements prescribed by this chapter. An organization must apply for certification on a form prescribed and furnished on request by the department.

B. The department shall:

1. Maintain a public registry of currently certified school tuition organizations.

2. Make the registry available to the public on request.

3. Post the registry on the department's official website.

C. The department shall send written notice by certified mail to a school tuition organization if the department determines that the school tuition organization has engaged in any of the following activities:

1. Failing or refusing to allocate at least ninety per cent of annual revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTION 43-1089 for educational scholarships or tuition grants.

2. Failing or refusing to file the annual reports required by section 43-1604.

3. Limiting availability of scholarships to students of only one school.

4. Encouraging, facilitating or knowingly permitting taxpayers to engage in actions prohibited by this article.

5. Awarding, restricting or reserving educational scholarships or tuition grants for use by a particular student based solely on the recommendation of the donor.

D. A school tuition organization that receives notice from the department pursuant to subsection C of this section has ninety days to correct the violation identified by the department in the notice. If a school tuition organization fails or refuses to comply after ninety days, the department may remove the organization from the list of certified school tuition organizations and shall make available to the public notice of removal as soon as possible. An organization that is removed from the list of certified school tuition organizations must notify any taxpayer who attempts to make a contribution that the contribution is not eligible for the tax credit and offer to refund all donations received after the date of the notice of termination of certification.

E. A school tuition organization may request an administrative hearing on the revocation of its certification as provided by title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, a decision of the department is subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 13. Section 43-1603, Arizona Revised Statutes, is amended to read:

43-1603. Operational requirements for school tuition organizations; notice; qualified schools

A. A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under section 43-1089 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety per cent of its annual revenue FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTION 43-1089 for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. May allow donors to recommend student beneficiaries, but shall not award, designate or reserve scholarships solely on the basis of donor recommendations.

4. Shall not allow donors to designate student beneficiaries as a condition of any contribution to the organization, or facilitate, encourage or knowingly permit the exchange of beneficiary student designations in violation of section 43-1089, subsection F.

C. A school tuition organization shall include the following notice in any printed materials soliciting donations, in applications for scholarships and on its website:

Notice

A school tuition organization cannot award, restrict or reserve scholarships solely on the basis of a donor's recommendation.

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

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

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

2. Shall consider the financial need of applicants.

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

E. IF AN INDIVIDUAL EDUCATIONAL SCHOLARSHIP OR TUITION GRANT EXCEEDS THE BASE TUITION FOR THAT STUDENT, THE AMOUNT IN EXCESS SHALL BE RETURNED TO THE SCHOOL TUITION ORGANIZATION THAT MADE THE AWARD OR GRANT. THE SCHOOL TUITION ORGANIZATION MAY ALLOCATE THE RETURNED FUNDS AS A MULTIYEAR AWARD FOR THAT STUDENT AND REPORT THE AWARD PURSUANT TO SECTION 43-1604, PARAGRAPH 5, SUBDIVISION (b) OR MAY ALLOCATE THE RETURNED FUNDS FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FOR OTHER STUDENTS.

Sec. 14. Section 43-1605, Arizona Revised Statutes, is amended to read:

43-1605. Audits and financial reviews

A. On or before September 30 of each year, each school tuition organization that received one million dollars or more in total donations in the previous fiscal year shall provide for a financial audit of the organization. The audit must be conducted in accordance with generally accepted auditing standards and must evaluate the organization's compliance with ~~the fiscal requirements of this article~~ SECTION 43-1603, SUBSECTION B, PARAGRAPH 1. The audit must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

B. On or before September 30 of each year, each school tuition organization that received less than one million dollars in total donations in the previous fiscal year shall provide for a financial review of the organization. The review must be conducted in accordance with standards for accounting and review services and must evaluate the organization's compliance with the fiscal requirements of this article. The review must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

C. Within five days after receiving the audit or financial review, the school tuition organization shall file a signed copy of the audit or financial review with the department.

D. The school tuition organization shall pay the fees and costs of the certified public accountant under this section from the organization's operating monies. The fees and costs shall be excluded from the calculation of total revenues spent on scholarships and tuition grants.