

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HOUSE BILL 2617

AN ACT

AMENDING SECTIONS 43-222, 43-1021 AND 43-1022, ARIZONA REVISED STATUTES;
AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING
SECTION 43-1089.04; AMENDING SECTIONS 43-1121, 43-1183, 43-1184, 43-1503 AND
43-1603, ARIZONA REVISED STATUTES; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 43-222. Income tax credit review schedule

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

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

9 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,
10 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

11 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,
12 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1090,
13 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

14 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
15 43-1170, ~~and~~ 43-1178 **AND** 43-1089.04.

16 5. For years ending in 4 and 9, sections 43-1076, 43-1076.01,
17 43-1081.01, 43-1083.01, 43-1084, 43-1162, 43-1162.01, 43-1164.01, 43-1170.01
18 and 43-1184 and, beginning in 2019, sections 43-1083.03 and 43-1164.04.

19 Sec. 2. Section 43-1021, Arizona Revised Statutes, is amended to read:

20 43-1021. Additions to Arizona gross income

21 In computing Arizona adjusted gross income, the following amounts shall
22 be added to Arizona gross income:

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

26 2. An amount equal to the ~~"ordinary income portion"~~ of a lump sum
27 distribution that was excluded from federal adjusted gross income pursuant to
28 section 402(d) of the internal revenue code.

29 3. The amount of interest income received on obligations of any state,
30 territory or possession of the United States, or any political subdivision
31 thereof, located outside the state of Arizona, reduced, for tax years
32 beginning from and after December 31, 1996, by the amount of any interest on
33 indebtedness and other related expenses that were incurred or continued to
34 purchase or carry those obligations and that are not otherwise deducted or
35 subtracted in arriving at Arizona gross income.

36 4. Annuity income received during the taxable year to the extent that
37 the sum of the proceeds received from such annuity in all taxable years prior
38 to and including the current taxable year exceeds the total consideration and
39 premiums paid by the taxpayer. This paragraph applies only to those
40 annuities with respect to which the first payment was received prior to
41 December 31, 1978.

42 5. The excess of a partner's share of partnership taxable income
43 required to be included under chapter 14, article 2 of this title over the
44 income required to be reported under section 702(a)(8) of the internal
45 revenue code.

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

4 7. The amount by which the adjusted basis of property described in
5 this paragraph and computed pursuant to the internal revenue code exceeds the
6 adjusted basis of such property computed pursuant to this title and the
7 income tax act of 1954, as amended. This paragraph shall apply to all
8 property ~~which~~ THAT is held for the production of income and ~~which~~ THAT is
9 sold or otherwise disposed of during the taxable year, except depreciable
10 property used in a trade or business.

11 8. The amount of depreciation or amortization of costs of any capital
12 investment that is deducted pursuant to section 167 or 179 of the internal
13 revenue code by a qualified defense contractor with respect to which an
14 election is made to amortize pursuant to section 43-1024.

15 9. The amount of gain from the sale or other disposition of a capital
16 investment which a qualified defense contractor has elected to amortize
17 pursuant to section 43-1024.

18 10. Amounts withdrawn from the Arizona state retirement system, the
19 corrections officer retirement plan, the public safety personnel retirement
20 system, the elected officials' retirement plan or a county or city retirement
21 plan by an employee ~~upon~~ ON termination of employment before retirement to
22 the extent they were deducted in arriving at Arizona taxable income in any
23 year.

24 11. That portion of the net operating loss included in federal adjusted
25 gross income ~~which~~ THAT has already been taken as a net operating loss for
26 Arizona purposes or ~~which~~ THAT is separately taken as a subtraction under the
27 special net operating loss transition rule.

28 12. Any nonitemized amount deducted pursuant to section 170 of the
29 internal revenue code representing contributions to an educational
30 institution ~~which~~ THAT denies admission, enrollment or board and room
31 accommodations on the basis of race, color or ethnic background except those
32 institutions primarily established for the education of American Indians.

33 13. Amounts withdrawn from a medical savings account by the individual
34 during the taxable year computed pursuant to section 220(f) of the internal
35 revenue code and not included in federal adjusted gross income.

36 14. Any amount of agricultural water conservation expenses that were
37 deducted pursuant to the internal revenue code for which a credit is claimed
38 under section 43-1084.

39 15. The amount by which the depreciation or amortization computed under
40 the internal revenue code with respect to property for which a credit was
41 taken under section 43-1080 exceeds the amount of depreciation or
42 amortization computed pursuant to the internal revenue code on the Arizona
43 adjusted basis of the property.

44 16. The amount by which the adjusted basis computed under the internal
45 revenue code with respect to property for which a credit was claimed under

1 section 43-1080 and ~~which~~ THAT is sold or otherwise disposed of during the
2 taxable year exceeds the adjusted basis of the property computed under
3 section 43-1080.

4 17. The amount by which the depreciation or amortization computed under
5 the internal revenue code with respect to property for which a credit was
6 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
7 depreciation or amortization computed pursuant to the internal revenue code
8 on the Arizona adjusted basis of the property.

9 18. The amount by which the adjusted basis computed under the internal
10 revenue code with respect to property for which a credit was claimed under
11 section 43-1074.02, 43-1081 or 43-1081.01 and ~~which~~ THAT is sold or otherwise
12 disposed of during the taxable year exceeds the adjusted basis of the
13 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
14 applicable.

15 19. The deduction referred to in section 1341(a)(4) of the internal
16 revenue code for restoration of a substantial amount held under a claim of
17 right.

18 20. The amount by which a net operating loss carryover or capital loss
19 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
20 code exceeds the net operating loss carryover or capital loss carryover
21 allowable pursuant to section 43-1029, subsection F.

22 21. Any amount deducted pursuant to section 170 of the internal revenue
23 code representing contributions to a school tuition organization or a public
24 school for which a credit is claimed under section 43-1089, 43-1089.01, ~~or~~
25 43-1089.03 OR 43-1089.04.

26 22. Any amount deducted in computing Arizona gross income as expenses
27 for installing solar stub outs or electric vehicle recharge outlets in this
28 state with respect to which a credit is claimed pursuant to section 43-1090.

29 23. Any wage expenses deducted pursuant to the internal revenue code
30 for which a credit is claimed under section 43-1087 and representing net
31 increases in qualified employment positions for employment of temporary
32 assistance for needy families recipients.

33 24. Any amount deducted for conveying ownership or development rights
34 of property to an agricultural preservation district under section 48-5702
35 for which a credit is claimed under section 43-1081.02.

36 25. The amount of any depreciation allowance allowed pursuant to
37 section 167(a) of the internal revenue code to the extent not previously
38 added.

39 26. With respect to property for which an expense deduction was taken
40 pursuant to section 179 of the internal revenue code, the amount in excess of
41 twenty-five thousand dollars.

42 ~~27. The amount of any deductions that are claimed in computing federal~~
43 ~~adjusted gross income representing expenses for which a credit is claimed~~
44 ~~under either section 43-1075 or 43-1075.01 or both.~~

1 ~~28.~~ 27. The amount by which the depreciation or amortization computed
2 under the internal revenue code with respect to property for which a credit
3 was taken under section 43-1090.01 exceeds the amount of depreciation or
4 amortization computed pursuant to the internal revenue code on the Arizona
5 adjusted basis of the property.

6 ~~29.~~ 28. The amount by which the adjusted basis computed under the
7 internal revenue code with respect to property for which a credit was claimed
8 under section 43-1090.01 and ~~which~~ THAT is sold or otherwise disposed of
9 during the taxable year exceeds the adjusted basis of the property computed
10 under section 43-1090.01.

11 ~~30.~~ 29. The amount of a nonqualified withdrawal, as defined in section
12 15-1871, from a college savings plan established pursuant to section 529 of
13 the internal revenue code that is made to a distributee to the extent the
14 amount is not included in computing federal adjusted gross income, except
15 that the amount added under this paragraph shall not exceed the difference
16 between the amount subtracted under section 43-1022 in prior taxable years
17 and the amount added under this section in any prior taxable years.

18 ~~31.~~ 30. The amount of unemployment compensation that is excluded from
19 federal adjusted gross income pursuant to section 85(c) of the internal
20 revenue code as added by section 1007 of the American recovery and
21 reinvestment act of 2009 (P.L. 111-5).

22 ~~32.~~ 31. The amount of discharge of indebtedness income that is
23 deferred and excluded from the computation of federal adjusted gross income
24 or federal taxable income in the current taxable year pursuant to section
25 108(i) of the internal revenue code as added by section 1231 of the American
26 recovery and reinvestment act of 2009 (P.L. 111-5).

27 ~~33.~~ 32. The amount of any previously deferred original issue discount
28 that was deducted in computing federal adjusted gross income or federal
29 taxable income in the current year pursuant to section 108(i) of the internal
30 revenue code as added by section 1231 of the American recovery and
31 reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was
32 previously subtracted from Arizona gross income pursuant to section 43-1022,
33 paragraph 31.

34 ~~34.~~ 33. For taxable years beginning from and after December 31, 2011
35 through December 31, 2014, the amount of any deduction that is claimed in
36 computing federal adjusted gross income for health insurance premiums or
37 contributions to a health savings account for which a credit is claimed under
38 section 43-1087.01.

39 Sec. 3. Section 43-1022, Arizona Revised Statutes, is amended to read:

40 ~~43-1022.~~ Subtractions from Arizona gross income

41 In computing Arizona adjusted gross income, the following amounts shall
42 be subtracted from Arizona gross income:

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

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

4 (a) The United States government service retirement and disability
5 fund, retired or retainer pay of the uniformed services of the United States,
6 the United States foreign service retirement and disability system and any
7 other retirement system or plan established by federal law.

8 (b) The Arizona state retirement system, the corrections officer
9 retirement plan, the public safety personnel retirement system, the elected
10 officials' retirement plan, an optional retirement program established by the
11 Arizona board of regents under section 15-1628, an optional retirement
12 program established by a community college district board under section
13 15-1451 or a retirement plan established for employees of a county, city or
14 town in this state.

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

18 4. The amount of any distributions from an individual retirement
19 account as provided for in section 408 of the internal revenue code or from a
20 qualified retirement plan of a self-employed individual as provided for in
21 section 401 of the internal revenue code to the extent that total adjustments
22 made pursuant to this paragraph in all tax years do not exceed the total of
23 all contributions made by the taxpayer to such plans before December 31,
24 1975, which were included in computing Arizona taxable income.

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

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

33 7. The amount of any income tax refunds that were received from states
34 other than Arizona and that were included as income in computing federal
35 adjusted gross income.

36 8. Annuity income included in federal adjusted gross income pursuant
37 to section 72 of the internal revenue code if the first payment with respect
38 to such annuity was received before December 31, 1978.

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

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

1 11. The amount by which the adjusted basis of property described in
2 this paragraph and computed pursuant to this title and the income tax act of
3 1954, as amended, exceeds the adjusted basis of such property computed
4 pursuant to the internal revenue code. This paragraph shall apply to all
5 property that is held for the production of income and that is sold or
6 otherwise disposed of during the taxable year other than depreciable property
7 used in a trade or business.

8 12. The amount allowed by section 43-1024 for amortization, by a
9 qualified defense contractor certified by the Arizona commerce authority
10 under section 41-1508, of a capital investment for private commercial
11 activities.

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

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

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

23 16. The amount of prizes or winnings less than five thousand dollars in
24 a single taxable year from any of the state lotteries established and
25 operated pursuant to title 5, chapter 5.1, article 1, except that all such
26 winnings before March 22, 1983, including periodic distributions from such
27 winnings made after March 22, 1983, may be subtracted.

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

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

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

42 20. The amount of unreimbursed medical and hospital costs, adoption
43 counseling, legal and agency fees and other nonrecurring costs of adoption
44 not to exceed three thousand dollars. In the case of a husband and wife who
45 file separate returns, the subtraction may be taken by either taxpayer or may

1 be divided between them, but the total subtractions allowed both husband and
2 wife shall not exceed three thousand dollars. The subtraction under this
3 paragraph may be taken for the costs that are described in this paragraph and
4 that are incurred in prior years, but the subtraction may be taken only in
5 the year during which the final adoption order is granted.

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

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

10 (a) An eligible individual may subtract:

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

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

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

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

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

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

33 26. The amount authorized by section 43-1030 relating to holocaust
34 survivors.

35 27. For property placed in service:

36 (a) In taxable years ending through December 31, 2012, an amount equal
37 to the depreciation allowable pursuant to section 167(a) of the internal
38 revenue code for the taxable year computed as if the election described in
39 section 168(k)(2)(D)(iii) of the internal revenue code had been made for each
40 applicable class of property in the year the property was placed in service.

41 (b) In taxable years beginning from and after December 31, 2012
42 through December 31, 2013, an amount determined in the year the asset was
43 placed in service based on the calculation in subdivision (a) of this
44 paragraph. In the first taxable year beginning from and after December 31,
45 2013, the amount necessary to make the depreciation claimed to date for the

1 purposes of this title the same as it would have been if subdivision (c) of
2 this paragraph had applied for the entire time the asset was in service.
3 Subdivision (c) of this paragraph applies for the remainder of the asset's
4 life.

5 (c) In taxable years beginning from and after December 31, 2013, an
6 amount equal to the depreciation allowable pursuant to section 167(a) of the
7 internal revenue code for the taxable year as computed as if the additional
8 allowance for depreciation had been ten per cent of the amount allowed
9 pursuant to section 168(k) of the internal revenue code.

10 28. With respect to property that is sold or otherwise disposed of
11 during the taxable year by a taxpayer that complied with section 43-1021,
12 paragraph 25 with respect to that property, the amount of depreciation that
13 has been allowed pursuant to section 167(a) of the internal revenue code to
14 the extent that the amount has not already reduced Arizona taxable income in
15 the current or prior taxable years.

16 29. With respect to property for which an adjustment was made under
17 section 43-1021, paragraph 26, an amount equal to one-fifth of the amount of
18 the adjustment pursuant to section 43-1021, paragraph 26 in the year in which
19 the amount was adjusted under section 43-1021, paragraph 26 and in each of
20 the following four years.

21 30. The amount contributed during the taxable year to college savings
22 plans established pursuant to section 529 of the internal revenue code to the
23 extent that the contributions were not deducted in computing federal adjusted
24 gross income. The amount subtracted shall not exceed:

25 (a) Seven hundred fifty dollars for a single individual or a head of
26 household.

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

32 31. The amount of any original issue discount that was deferred and not
33 allowed to be deducted in computing federal adjusted gross income or federal
34 taxable income in the current taxable year pursuant to section 108(i) of the
35 internal revenue code as added by section 1231 of the American recovery and
36 reinvestment act of 2009 (P.L. 111-5).

37 32. The amount of previously deferred discharge of indebtedness income
38 that is included in the computation of federal adjusted gross income or
39 federal taxable income in the current taxable year pursuant to section 108(i)
40 of the internal revenue code as added by section 1231 of the American
41 recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the
42 amount was previously added to Arizona gross income pursuant to section
43 43-1021, paragraph ~~32~~ 31.

44 33. The portion of the net operating loss carryforward that would have
45 been allowed as a deduction in the current year pursuant to section 172 of

1 the internal revenue code if the election described in section 172(b)(1)(H)
2 of the internal revenue code had not been made in the year of the loss that
3 exceeds the actual net operating loss carryforward that was deducted in
4 arriving at federal adjusted gross income. This subtraction only applies to
5 taxpayers who made an election under section 172(b)(1)(H) of the internal
6 revenue code as amended by section 1211 of the American recovery and
7 reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the
8 worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

9 34. For taxable years beginning from and after December 31, 2013, the
10 amount of any net capital gain included in federal adjusted gross income for
11 the taxable year derived from investment in a qualified small business as
12 determined by the Arizona commerce authority pursuant to section 41-1518.

13 35. An amount of any net long-term capital gain included in federal
14 adjusted gross income for the taxable year that is derived from an investment
15 in an asset acquired after December 31, 2011, as follows:

16 (a) For taxable years beginning from and after December 31, 2012
17 through December 31, 2013, ten per cent of the net long-term capital gain
18 included in federal adjusted gross income.

19 (b) For taxable years beginning from and after December 31, 2013
20 through December 31, 2014, twenty per cent of the net long-term capital gain
21 included in federal adjusted gross income.

22 (c) For taxable years beginning from and after December 31, 2014,
23 twenty-five per cent of the net long-term capital gain included in federal
24 adjusted gross income.

25 36. If an individual is not claiming itemized deductions pursuant to
26 section 43-1042, the amount of premium costs for long-term care insurance, as
27 defined in section 20-1691.

28 37. With respect to a long-term health care savings account established
29 pursuant to section 43-1032, the amount deposited by the taxpayer in the
30 account during the taxable year to the extent that the taxpayer's
31 contributions are included in the taxpayer's federal adjusted gross income.

32 Sec. 4. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
33 amended by adding section 43-1089.04, to read:

34 43-1089.04. Pro rata tax credit for business contributions to
35 school tuition organizations; definition

36 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE
37 PRO RATA AMOUNT OF CONTRIBUTIONS MADE BY A BUSINESS PURSUANT TO SECTION
38 43-1183, SUBSECTION F OR SECTION 43-1184, SUBSECTION F, OR BOTH. ALL OTHER
39 REQUIREMENTS OF SECTION 43-1183 OR SECTION 43-1184 AND THE APPLICABLE
40 SECTIONS OF CHAPTER 15 OF THIS TITLE MUST BE MET.

41 B. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
42 STOCKHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL
43 REVENUE CODE, MAY EACH CLAIM THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER
44 SECTIONS 43-1183 AND 43-1184 BASED ON THE TAXPAYER'S OWNERSHIP INTEREST. THE

1 TOTAL OF THE CREDITS ALLOWED ALL THE OWNERS OF A BUSINESS MAY NOT EXCEED THE
2 AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER OF A BUSINESS.

3 C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER
4 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
5 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE
6 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE
7 YEARS' INCOME TAX LIABILITY.

8 D. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION
9 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX
10 PURPOSES.

11 E. THE TAX CREDIT IS NOT ALLOWED IF THE BUSINESS DESIGNATES THE
12 CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT BENEFIT OF ANY
13 DEPENDENT OF THE TAXPAYER CLAIMING A CREDIT UNDER THIS SECTION OR IF THE
14 BUSINESS DESIGNATES A STUDENT BENEFICIARY AS A CONDITION OF THE CONTRIBUTION
15 TO THE SCHOOL TUITION ORGANIZATION. THE TAX CREDIT IS NOT ALLOWED IF THE
16 BUSINESS, WITH THE INTENT TO BENEFIT THE TAXPAYER'S DEPENDENT, AGREES WITH
17 ONE OR MORE OTHER BUSINESSES OR TAXPAYERS TO DESIGNATE EACH CONTRIBUTION TO
18 THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT BENEFIT OF THE OTHER
19 TAXPAYER'S DEPENDENT.

20 F. FOR THE PURPOSES OF THIS SECTION, "BUSINESS" MEANS A PARTNERSHIP OR
21 AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE.

22 Sec. 5. Section 43-1121, Arizona Revised Statutes, is amended to read:
23 43-1121. Additions to Arizona gross income; corporations

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

26 1. The amounts computed pursuant to section 43-1021, paragraphs 3
27 through 9, 12, 25, 26, 31, 32, ~~AND 33 and 34.~~

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

31 3. Taxes which are based on income paid to states, local governments
32 or foreign governments and which were deducted in computing federal taxable
33 income.

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

39 5. Commissions, rentals and other amounts paid or accrued to a
40 domestic international sales corporation controlled by the payor corporation
41 if the domestic international sales corporation is not required to report its
42 taxable income to this state because its income is not derived from or
43 attributable to sources within this state. If the domestic international
44 sales corporation is subject to article 4 of this chapter, the department
45 shall prescribe by rule the method of determining the portion of the

1 commissions, rentals and other amounts which are paid or accrued to the
2 controlled domestic international sales corporation and which shall be
3 deducted by the payor. For the purposes of this paragraph, "control" means
4 direct or indirect ownership or control of fifty per cent or more of the
5 voting stock of the domestic international sales corporation by the payor
6 corporation.

7 6. Federal income tax refunds received during the taxable year to the
8 extent they were deducted in arriving at Arizona taxable income in a previous
9 year.

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

12 8. The amount of exploration expenses determined pursuant to section
13 617 of the internal revenue code to the extent that they exceed seventy-five
14 thousand dollars and to the extent that the election is made to defer those
15 expenses not in excess of seventy-five thousand dollars.

16 9. Amortization of costs incurred to install pollution control devices
17 and deducted pursuant to the internal revenue code or the amount of deduction
18 for depreciation taken pursuant to the internal revenue code on pollution
19 control devices for which an election is made pursuant to section 43-1129.

20 10. The amount of depreciation or amortization of costs of child care
21 facilities deducted pursuant to section 167 or 188 of the internal revenue
22 code for which an election is made to amortize pursuant to section 43-1130.

23 11. Arizona state income tax refunds received, to the extent the amount
24 of the refunds is not already included in Arizona gross income, if a tax
25 benefit was derived by deduction of this amount in a prior year.

26 12. The loss of an insurance company that is exempt under section
27 43-1201 to the extent that it is included in computing Arizona gross income
28 on a consolidated return pursuant to section 43-947.

29 13. The amount by which the depreciation or amortization computed under
30 the internal revenue code with respect to property for which a credit was
31 taken under section 43-1169 exceeds the amount of depreciation or
32 amortization computed pursuant to the internal revenue code on the Arizona
33 adjusted basis of the property.

34 14. The amount by which the adjusted basis computed under the internal
35 revenue code with respect to property for which a credit was claimed under
36 section 43-1169 and which is sold or otherwise disposed of during the taxable
37 year exceeds the adjusted basis of the property computed under section
38 43-1169.

39 15. The amount by which the depreciation or amortization computed under
40 the internal revenue code with respect to property for which a credit was
41 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
42 depreciation or amortization computed pursuant to the internal revenue code
43 on the Arizona adjusted basis of the property.

44 16. The amount by which the adjusted basis computed under the internal
45 revenue code with respect to property for which a credit was claimed under

1 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed
2 of during the taxable year exceeds the adjusted basis of the property
3 computed under section 43-1170 or 43-1170.01, as applicable.

4 17. The deduction referred to in section 1341(a)(4) of the internal
5 revenue code for restoration of a substantial amount held under a claim of
6 right.

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

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

13 20. Any wage expenses deducted pursuant to the internal revenue code
14 for which a credit is claimed under section 43-1175 and representing net
15 increases in qualified employment positions for employment of temporary
16 assistance for needy families recipients.

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

19 22. Any amount deducted for conveying ownership or development rights
20 of property to an agricultural preservation district under section 48-5702
21 for which a credit is claimed under section 43-1180.

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

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

28 ~~25.~~ 24. Any amount deducted in computing Arizona taxable income as
29 expenses for installing water conservation system plumbing stub outs in this
30 state with respect to which a credit is claimed pursuant to section 43-1182.

31 ~~26.~~ 25. Any amount deducted pursuant to section 170 of the internal
32 revenue code representing contributions to a school tuition organization for
33 which a credit is claimed under section 43-1183 or 43-1184.

34 Sec. 6. Section 43-1183, Arizona Revised Statutes, is amended to read:

35 43-1183. Credit for contributions to school tuition
36 organization

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

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

1 C. The department of revenue:
2 1. Shall not allow tax credits under this section and section
3 20-224.06 that exceed in the aggregate a combined total of ten million
4 dollars in any fiscal year. Beginning in fiscal year 2007-2008, the
5 aggregate dollar amount of the tax credit cap from the previous fiscal year
6 shall be annually increased by twenty per cent.
7 2. Shall preapprove tax credits under this section and section
8 20-224.06 subject to subsection D of this section.
9 3. Shall allow the tax credits under this section and section
10 20-224.06 on a first come, first served basis.
11 D. For the purposes of subsection C, paragraph 2 of this section,
12 before making a contribution to a school tuition organization, the taxpayer
13 under this title or title 20 must notify the school tuition organization of
14 the total amount of contributions that the taxpayer intends to make to the
15 school tuition organization. Before accepting the contribution, the school
16 tuition organization shall request preapproval from the department of revenue
17 for the taxpayer's intended contribution amount. The department of revenue
18 shall preapprove or deny the requested amount within twenty days after
19 receiving the request from the school tuition organization. If the
20 department of revenue preapproves the request, the school tuition
21 organization shall immediately notify the taxpayer, and the department of
22 insurance in the case of a credit under section 20-224.06, that the requested
23 amount was preapproved by the department of revenue. In order to receive a
24 tax credit under this subsection, the taxpayer shall make the contribution to
25 the school tuition organization within twenty days after receiving notice
26 from the school tuition organization that the requested amount was
27 preapproved. If the school tuition organization does not receive the
28 preapproved contribution from the taxpayer within the required twenty days,
29 the school tuition organization shall immediately notify the department of
30 revenue, and the department of insurance in the case of a credit under
31 section 20-224.06, and the department of revenue shall no longer include this
32 preapproved contribution amount when calculating the limit prescribed in
33 subsection C, paragraph 1 of this section.
34 E. If the allowable tax credit exceeds the taxes otherwise due under
35 this title on the claimant's income, or if there are no taxes due under this
36 title, the taxpayer may carry the amount of the claim not used to offset the
37 taxes under this title forward for not more than five consecutive taxable
38 years' income tax liability.
39 F. Co-owners of a business, including ~~corporate~~ partners in a
40 partnership, ~~AND STOCKHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361~~
41 ~~OF THE INTERNAL REVENUE CODE~~, may each claim only the pro rata share of the
42 credit allowed under this section based on the ownership interest. The total
43 of the credits allowed all such owners may not exceed the amount that would
44 have been allowed a sole owner.

1 G. The credit allowed by this section is in lieu of any deduction
2 pursuant to section 170 of the internal revenue code and taken for state tax
3 purposes.

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

6 I. The tax credit is not allowed if the taxpayer designates the
7 taxpayer's contribution to the school tuition organization for the direct
8 benefit of any specific student.

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

12 Sec. 7. Section 43-1184, Arizona Revised Statutes, is amended to read:
13 43-1184. Credit for contributions to school tuition
14 organization; displaced students; students with
15 disabilities

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

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

25 C. The department of revenue:

26 1. Shall not allow tax credits under this section and section
27 20-224.07 that exceed in the aggregate a combined total of five million
28 dollars in any fiscal year.

29 2. Shall preapprove tax credits under this section and section
30 20-224.07 subject to subsection D of this section.

31 3. Shall allow the tax credits under this section and section
32 20-224.07 on a first come, first served basis.

33 D. For the purposes of subsection C, paragraph 2 of this section,
34 before making a contribution to a school tuition organization, the taxpayer
35 under this title or title 20 must notify the school tuition organization of
36 the total amount of contributions that the taxpayer intends to make to the
37 school tuition organization. Before accepting the contribution, the school
38 tuition organization shall request preapproval from the department of revenue
39 for the taxpayer's intended contribution amount. The department of revenue
40 shall preapprove or deny the requested amount within twenty days after
41 receiving the request from the school tuition organization. If the
42 department of revenue preapproves the request, the school tuition
43 organization shall immediately notify the taxpayer that the requested amount
44 was preapproved by the department of revenue. In order to receive a tax
45 credit under this subsection, the taxpayer shall make the contribution to the

1 school tuition organization within twenty days after receiving notice from
2 the school tuition organization that the requested amount was preapproved.
3 If the school tuition organization does not receive the preapproved
4 contribution from the taxpayer within the required twenty days, the school
5 tuition organization shall immediately notify the department of revenue and
6 the department shall no longer include this preapproved contribution amount
7 when calculating the limit prescribed in subsection C, paragraph 1 of this
8 section.

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

14 F. Co-owners of a business, including ~~corporate~~ partners in a
15 partnership, ~~AND STOCKHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361~~
16 ~~OF THE INTERNAL REVENUE CODE~~, may each claim only the pro rata share of the
17 credit allowed under this section based on the ownership interest. The total
18 of the credits allowed all such owners may not exceed the amount that would
19 have been allowed a sole owner.

20 G. The credit allowed by this section is in lieu of any deduction
21 pursuant to section 170 of the internal revenue code and taken for state tax
22 purposes.

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

25 I. The tax credit is not allowed if the taxpayer designates the
26 taxpayer's contribution to the school tuition organization for the direct
27 benefit of any specific student.

28 J. The department of revenue shall adopt rules necessary for the
29 administration of this section.

30 Sec. 8. Section 43-1503, Arizona Revised Statutes, is amended to read:
31 43-1503. Operational requirements for school tuition
32 organizations

33 A. A certified school tuition organization must be established to
34 receive contributions from taxpayers for the purposes of income tax credits
35 under sections 43-1183 and 43-1184 and insurance premium tax credits under
36 sections 20-224.06 and 20-224.07 and to pay educational scholarships or
37 tuition grants to allow students to attend any qualified school of their
38 parents' or custodians' choice.

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

41 1. Must allocate at least ninety per cent of its annual revenue from
42 contributions made for the purposes of sections 20-224.06, 20-224.07, 43-1183
43 and 43-1184 for educational scholarships or tuition grants.

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

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

4 2. Shall consider the financial need of applicants.

5 E. A taxpayer's contribution to a school tuition organization that
6 exceeds the amount of the credit allowed by section 43-1089 but does not
7 exceed the amount of the credit allowed by section 43-1089.03 is considered a
8 contribution pursuant to section 43-1089.03. A school tuition organization
9 must use at least ninety per cent of contributions made pursuant to section
10 43-1089.03 for educational scholarships or tuition grants for students to
11 whom any of the following applies:

12 1. Attended a governmental primary or secondary school as a full-time
13 student as defined in section 15-901 or attended a preschool program that
14 offers services to students with disabilities at a governmental school for at
15 least ninety days of the prior fiscal year and transferred from a
16 governmental school to a qualified school.

17 2. Enrolls in a qualified school in a kindergarten program or a
18 preschool program that offers services to students with disabilities.

19 3. Is the dependent of a member of the armed forces of the United
20 States who is stationed in this state pursuant to military orders.

21 4. Received an educational scholarship or tuition grant under
22 paragraph 1, 2 or 3 of this subsection or under chapter 15 of this title if
23 the student continues to attend a qualified school in a subsequent year.

24 F. In awarding educational scholarships or tuition grants from
25 contributions made pursuant to section 43-1089.03, a school tuition
26 organization shall give priority to students and siblings of students on a
27 waiting list for scholarships if the school tuition organization maintains a
28 waiting list.

29 G. If an individual educational scholarship or tuition grant exceeds
30 the school's total cost of educating that student, the amount in excess shall
31 be returned to the school tuition organization that made the award or
32 grant. The school tuition organization may allocate the returned monies as a
33 multiyear award for that student and report the award pursuant to section
34 43-1604, paragraph 5, subdivision (b) or may allocate the returned monies for
35 educational scholarships or tuition grants for other students.

36 Sec. 10. Purpose

37 The purpose of section 43-1089.04, Arizona Revised Statutes, as added
38 by this act, is to provide an individual credit for contributions made by a
39 business to school tuition organizations.

40 Sec. 11. Retroactivity

41 This act applies retroactively to taxable years from and after December
42 31, 2012.