

REFERENCE TITLE: *internal revenue code conformity*

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1168

Introduced by
Senator Yarbrough

AN ACT

AMENDING SECTIONS 42-1001 AND 43-105, ARIZONA REVISED STATUTES; RELATING TO
TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-1001, Arizona Revised Statutes, is amended to
3 read:

4 42-1001. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Board" or "state board" means either the state board of tax
7 appeals or the state board of equalization, as applicable.

8 2. "Court" means the tax court or superior court, whichever is
9 applicable.

10 3. "Department" means the department of revenue.

11 4. "Director" means the director of the department.

12 5. "Internal revenue code" means the United States internal revenue
13 code of 1986, as amended and in effect as of January 1, ~~2012~~ 2013, including
14 those provisions that became effective during ~~2011~~ 2012 with the specific
15 adoption of their retroactive effective dates but excluding all changes to
16 the code enacted after January 1, ~~2012~~ 2013.

17 Sec. 2. Section 43-105, Arizona Revised Statutes, is amended to read:

18 43-105. Internal revenue code; definition; application

19 A. FOR THE PURPOSES OF COMPUTING INCOME TAX PURSUANT TO THIS TITLE,
20 FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2012, "INTERNAL
21 REVENUE CODE" MEANS THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS
22 AMENDED, IN EFFECT ON JANUARY 1, 2013, INCLUDING THOSE PROVISIONS THAT BECAME
23 EFFECTIVE DURING 2012 WITH THE SPECIFIC ADOPTION OF ALL FEDERAL RETROACTIVE
24 EFFECTIVE DATES, BUT EXCLUDING ANY CHANGE TO THE CODE ENACTED AFTER JANUARY
25 3, 2013.

26 ~~A-~~ B. For the purposes of computing income tax pursuant to this
27 title, for taxable years beginning from and after December 31, 2011 THROUGH
28 DECEMBER 31, 2012, "internal revenue code" means the United States internal
29 revenue code of 1986, as amended, in effect on January 1, 2012, including
30 those provisions that became effective during 2011 with the specific adoption
31 of all federal retroactive effective dates, ~~but excluding any change to the~~
32 ~~code enacted after January 1, 2012~~ AND INCLUDING THOSE PROVISIONS OF THE FAA
33 MODERNIZATION AND REFORM ACT (P.L. 112-95), THE MOVING AHEAD FOR PROGRESS IN
34 THE 21ST CENTURY ACT (P.L. 112-141) AND THE AMERICAN TAXPAYER RELIEF ACT OF
35 2012 (P.L. 112-240) THAT ARE RETROACTIVELY EFFECTIVE DURING TAXABLE YEARS
36 BEGINNING FROM AND AFTER DECEMBER 31, 2011 THROUGH DECEMBER 31, 2012.

37 ~~B-~~ C. For the purposes of computing income tax pursuant to this
38 title, for taxable years beginning from and after December 31, 2010 through
39 December 31, 2011, "internal revenue code" means the United States internal
40 revenue code of 1986, as amended, in effect on January 1, 2011, including
41 those provisions that became effective during 2010 with the specific adoption
42 of all federal retroactive effective dates, and including those provisions of
43 Public Law 112-40 AND THE MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT
44 (P.L. 112-141) that are retroactively effective during taxable years
45 beginning from and after December 31, 2010 through December 31, 2011.

1 ~~C~~. D. For the purposes of computing income tax pursuant to this
2 title, for taxable years beginning from and after December 31, 2009 through
3 December 31, 2010, "internal revenue code" means the United States internal
4 revenue code of 1986, as amended, in effect on January 1, 2010, including
5 those provisions that became effective during 2009 with the specific adoption
6 of all federal retroactive effective dates, and including those provisions of
7 the temporary extension act of 2010 (P.L. 111-144), the hiring incentives to
8 restore employment act (P.L. 111-147), the patient protection and affordable
9 care act (P.L. 111-148), the health care and education reconciliation act of
10 2010 (P.L. 111-152), the preservation of access to care for medicare
11 beneficiaries and pension relief act of 2010 (P.L. 111-192), the Dodd-Frank
12 wall street reform and consumer protection act (P.L. 111-203), the small
13 business jobs act of 2010 (P.L. 111-240), the claims resolution act of 2010
14 (P.L. 111-291), the tax relief, unemployment insurance reauthorization, and
15 job creation act of 2010 (P.L. 111-312) and the regulated investment company
16 modernization act of 2010 (P.L. 111-325) that are retroactively effective
17 during taxable years beginning from and after December 31, 2009 through
18 December 31, 2010.

19 ~~D~~. E. For purposes of computing income tax pursuant to this title,
20 for taxable years beginning from and after December 31, 2008 through December
21 31, 2009, "internal revenue code" means the United States internal revenue
22 code of 1986, as amended, in effect on January 1, 2009, including those
23 provisions that became effective during 2008 with the specific adoption of
24 all federal retroactive effective dates, and including those provisions of
25 the American recovery and reinvestment act of 2009 (P.L. 111-5) except
26 section 1211, the consumer assistance to recycle and save act of 2009
27 (P.L. 111-32), the worker, homeownership, and business assistance act of 2009
28 (P.L. 111-92) except section 13, the hiring incentives to restore employment
29 act (P.L. 111-147), the patient protection and affordable care act (P.L.
30 111-148), the preservation of access to care for medicare beneficiaries and
31 pension relief act of 2010 (P.L. 111-192), the small business jobs act of
32 2010 (P.L. 111-240) and the tax relief, unemployment insurance
33 reauthorization, and job creation act of 2010 (P.L. 111-312), that are
34 retroactively effective during taxable years beginning from and after
35 December 31, 2008 through December 31, 2009.

36 ~~E~~. F. For purposes of computing income tax pursuant to this title,
37 for taxable years beginning from and after December 31, 2007 through December
38 31, 2008, "internal revenue code" means the United States internal revenue
39 code of 1986, as amended, in effect on January 1, 2008, including those
40 provisions that became effective during 2007 with the specific adoption of
41 all federal retroactive effective dates and including those provisions of the
42 economic stimulus act of 2008 (P.L. 110-185), the heroes earnings assistance
43 and relief tax act of 2008 (P.L. 110-245), the heartland, habitat, harvest
44 and horticulture act of 2008 (P.L. 110-246), the housing assistance tax act
45 of 2008 (P.L. 110-289), the emergency economic stabilization act of 2008

1 (P.L. 110-343), the worker, retiree, and employer recovery act of 2008
2 (P.L. 110-458), the American recovery and reinvestment act of 2009
3 (P.L. 111-5) except section 1211 and the worker, homeownership, and business
4 assistance act of 2009 (P.L. 111-92) except section 13 that are retroactively
5 effective during taxable years beginning from and after December 31, 2007
6 through December 31, 2008.

7 ~~F.~~ G. For purposes of computing income tax pursuant to this title,
8 for taxable years beginning from and after December 31, 2006 through December
9 31, 2007, "internal revenue code" means the United States internal revenue
10 code of 1986, as amended, in effect on January 1, 2007, including those
11 provisions that became effective during 2006 with the specific adoption of
12 all federal retroactive effective dates and including those provisions of the
13 small business and work opportunity tax act of 2007 (P.L. 110-28), the energy
14 independence and security act of 2007 (P.L. 110-140), Public Law 110-141, the
15 mortgage forgiveness debt relief act of 2007 (P.L. 110-142), the tax
16 technical corrections act of 2007 (P.L. 110-172), the economic stimulus act
17 of 2008 (P.L. 110-185), the heroes earnings assistance and relief tax act of
18 2008 (P.L. 110-245), the heartland, habitat, harvest and horticulture act of
19 2008 (P.L. 110-246), the housing assistance tax act of 2008 (P.L. 110-289),
20 the emergency economic stabilization act of 2008 (P.L. 110-343) and the
21 worker, retiree, and employer recovery act of 2008 (P.L. 110-458) that are
22 retroactively effective during taxable years beginning from and after
23 December 31, 2006 through December 31, 2007.

24 ~~G.~~ H. For purposes of computing income tax pursuant to this title,
25 for taxable years beginning from and after December 31, 2005 through December
26 31, 2006, "internal revenue code" means the United States internal revenue
27 code of 1986, as amended, in effect on January 1, 2006, including those
28 provisions that became effective during 2005 with the specific adoption of
29 all federal retroactive effective dates and including those provisions of the
30 tax increase prevention and reconciliation act of 2005 (P.L. 109-222), the
31 pension protection act of 2006 (P.L. 109-280), the tax relief and health care
32 act of 2006 (P.L. 109-432), the small business and work opportunity tax act
33 of 2007 (P.L. 110-28), the mortgage forgiveness debt relief act of 2007
34 (P.L. 110-142), the tax technical corrections act of 2007 (P.L. 110-172), the
35 heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246) and
36 the housing assistance tax act of 2008 (P.L. 110-289) that are retroactively
37 effective during taxable years beginning from and after December 31, 2005
38 through December 31, 2006.

39 ~~H.~~ I. For purposes of computing income tax pursuant to this title,
40 for taxable years beginning from and after December 31, 2004 through December
41 31, 2005, "internal revenue code" means the United States internal revenue
42 code of 1986, as amended, in effect on January 1, 2005, including those
43 provisions that became effective during 2004 with the specific adoption of
44 all federal retroactive effective dates and including those provisions of the
45 Katrina emergency tax relief act of 2005 (P.L. 109-73), the energy tax

1 incentives act of 2005 (title XIII of the energy policy act of 2005
2 (P.L. 109-58)), the gulf opportunity zone act of 2005 (P.L. 109-135), the tax
3 technical corrections act of 2007 (P.L. 110-172), the heartland, habitat,
4 harvest and horticulture act of 2008 (P.L. 110-246) and the housing
5 assistance tax act of 2008 (P.L. 110-289) that are retroactively effective
6 during taxable years beginning from and after December 31, 2004 through
7 December 31, 2005.

8 ~~I.~~ J. For purposes of computing income tax pursuant to this title,
9 for taxable years beginning from and after December 31, 2003 through December
10 31, 2004, "internal revenue code" means the United States internal revenue
11 code of 1986, as amended, in effect on January 1, 2004, including those
12 provisions that became effective during 2003 with the specific adoption of
13 all federal retroactive effective dates and including those provisions of the
14 working families tax relief act of 2004 (P.L. 108-311), the American jobs
15 creation act of 2004 (P.L. 108-357), the Katrina emergency tax relief act of
16 2005 (P.L. 109-73), the energy tax incentives act of 2005 (title XIII of the
17 energy policy act of 2005 (P.L. 109-58)), the gulf opportunity zone act of
18 2005 (P.L. 109-135), the tax technical corrections act of 2007 (P.L. 110-172)
19 and the heartland, habitat, harvest and horticulture act of 2008
20 (P.L. 110-246) that are retroactively effective during taxable years
21 beginning from and after December 31, 2003 through December 31, 2004.

22 ~~J.~~ K. For purposes of computing income tax pursuant to this title,
23 for taxable years beginning from and after December 31, 2002 through December
24 31, 2003, "internal revenue code" means the United States internal revenue
25 code of 1986, as amended, in effect on January 1, 2003, including those
26 provisions that became effective during 2002 with the specific adoption of
27 all federal retroactive effective dates and including those provisions of the
28 working families tax relief act of 2004 (P.L. 108-311), the American jobs
29 creation act of 2004 (P.L. 108-357), the jobs and growth tax relief
30 reconciliation act of 2003 (P.L. 108-27), the military family tax relief act
31 of 2003 (P.L. 108-121), the medicare prescription drug, improvement, and
32 modernization act of 2003 (P.L. 108-173), the tax technical corrections act
33 of 2007 (P.L. 110-172) and the heartland, habitat, harvest and horticulture
34 act of 2008 (P.L. 110-246) that are retroactively effective during taxable
35 years beginning from and after December 31, 2002 through December 31, 2003.

36 ~~K. For purposes of computing income tax pursuant to this title, for~~
37 ~~taxable years beginning from and after December 31, 2001 through December 31,~~
38 ~~2002, "internal revenue code" means the United States internal revenue code~~
39 ~~of 1986, as amended, in effect on March 9, 2002, including those provisions~~
40 ~~that became effective during 2001 with the specific adoption of all federal~~
41 ~~retroactive effective dates and including those provisions of the working~~
42 ~~families tax relief act of 2004 (P.L. 108-311), the American jobs creation~~
43 ~~act of 2004 (P.L. 108-357), the jobs and growth tax relief reconciliation act~~
44 ~~of 2003 (P.L. 108-27), the military family tax relief act of 2003~~
45 ~~(P.L. 108-121), the tax technical corrections act of 2007 (P.L. 110-172) and~~

1 ~~the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246)~~
2 ~~that are retroactively effective during taxable years beginning from and~~
3 ~~after December 31, 2001 through December 31, 2002.~~

4 Sec. 3. Credit in lieu of conforming to retroactive provision
5 of Public Law 112-95, section 1106

6 A. Arizona does not conform to the retroactive provision of Public Law
7 112-95, section 1106 for taxable years beginning from and after December 31,
8 2001 through December 31, 2011.

9 B. For the taxable year beginning from and after December 31, 2012
10 through December 31, 2013, any taxpayer that would have received a refund of
11 Arizona income tax if Arizona had conformed to the retroactive provision
12 described in subsection A of this section is allowed a credit against the
13 taxes imposed by title 43, Arizona Revised Statutes.

14 C. The credit provided under subsection B of this section is equal to
15 the reduction in Arizona income tax that would have occurred if Arizona had
16 conformed to the retroactive provision of Public Law 112-95, section 1106 for
17 taxable years beginning from and after December 31, 2001 through December 31,
18 2011.

19 D. If the allowable tax credit determined under subsection C of this
20 section exceeds the income tax otherwise due on the taxpayer's income
21 pursuant to title 43, Arizona Revised Statutes, or if there is no income tax
22 due on taxpayer's income, the amount of the credit not used as an offset
23 against the taxpayer's income taxes shall be paid to the taxpayer in the same
24 manner as a refund pursuant to section 42-1118, Arizona Revised Statutes.
25 Refunds made pursuant to this subsection are subject to setoff pursuant to
26 section 42-1122, Arizona Revised Statutes. If the department of revenue
27 determines that a refund is incorrect or invalid, the excess refund may be
28 treated as a tax deficiency pursuant to section 42-1108, Arizona Revised
29 Statutes.

30 E. A credit shall not be allowed pursuant to this section if the
31 credit is not claimed with the taxpayer's original timely filed, including
32 extensions, individual income tax return for the taxable year.