

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SENATE BILL 1048

AN ACT

AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1089.04; AMENDING SECTIONS 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.

16 5. For years ending in 4 and 9, sections 43-1076, 43-1076.01,
17 43-1081.01, 43-1083.01, 43-1084, 43-1089.04, 43-1162, 43-1162.01, 43-1164.01,
18 43-1170.01 and 43-1184 and, beginning in 2019, sections 43-1083.03 and
19 43-1164.04.

20 Sec. 2. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
21 amended by adding section 43-1089.04, to read:

22 43-1089.04. Pro rata tax credit for business contributions to
23 school tuition organizations; definition

24 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE
25 PRO RATA AMOUNT OF CONTRIBUTIONS MADE BY A BUSINESS PURSUANT TO SECTION
26 43-1183, SUBSECTION F OR SECTION 43-1184, SUBSECTION F, OR BOTH. ALL OTHER
27 REQUIREMENTS OF SECTION 43-1183 OR 43-1184 AND THE APPLICABLE SECTIONS OF
28 CHAPTER 15 OF THIS TITLE MUST BE MET.

29 B. CO-OWNERS OF A BUSINESS MAY EACH CLAIM THE PRO RATA SHARE OF THE
30 CREDIT ALLOWED UNDER SECTIONS 43-1183 AND 43-1184 BASED ON THE TAXPAYER'S
31 OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL THE OWNERS OF A
32 BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER
33 OF A BUSINESS.

34 C. 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 D. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION
40 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX
41 PURPOSES.

42 E. THE TAX CREDIT IS NOT ALLOWED IF THE BUSINESS DESIGNATES THE
43 CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT BENEFIT OF ANY
44 DEPENDENT OF THE TAXPAYER CLAIMING A CREDIT UNDER THIS SECTION OR IF THE
45 BUSINESS DESIGNATES A STUDENT BENEFICIARY AS A CONDITION OF THE CONTRIBUTION

1 TO THE SCHOOL TUITION ORGANIZATION. THE TAX CREDIT IS NOT ALLOWED IF THE
2 BUSINESS, WITH THE INTENT TO BENEFIT THE TAXPAYER'S DEPENDENT, AGREES WITH
3 ONE OR MORE OTHER BUSINESSES OR TAXPAYERS TO DESIGNATE EACH CONTRIBUTION TO
4 THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT BENEFIT OF THE OTHER
5 TAXPAYER'S DEPENDENT.

6 F. FOR THE PURPOSES OF THIS SECTION, "BUSINESS" MEANS AN S CORPORATION
7 AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE.

8 Sec. 3. Section 43-1183, Arizona Revised Statutes, is amended to read:

9 43-1183. Credit for contributions to school tuition
10 organization

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

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

20 C. The department of revenue:

21 1. Shall not allow tax credits under this section and section
22 20-224.06 that exceed in the aggregate a combined total of ten million
23 dollars in any fiscal year. Beginning in fiscal year 2007-2008, the
24 aggregate dollar amount of the tax credit cap from the previous fiscal year
25 shall be annually increased by twenty per cent.

26 2. Shall preapprove tax credits under this section and section
27 20-224.06 subject to subsection D of this section.

28 3. Shall allow the tax credits under this section and section
29 20-224.06 on a first come, first served basis.

30 D. For the purposes of subsection C, paragraph 2 of this section,
31 before making a contribution to a school tuition organization, the taxpayer
32 under this title or title 20 must notify the school tuition organization of
33 the total amount of contributions that the taxpayer intends to make to the
34 school tuition organization. Before accepting the contribution, the school
35 tuition organization shall request preapproval from the department of revenue
36 for the taxpayer's intended contribution amount. The department of revenue
37 shall preapprove or deny the requested amount within twenty days after
38 receiving the request from the school tuition organization. If the
39 department of revenue preapproves the request, the school tuition
40 organization shall immediately notify the taxpayer, and the department of
41 insurance in the case of a credit under section 20-224.06, that the requested
42 amount was preapproved by the department of revenue. In order to receive a
43 tax credit under this subsection, the taxpayer shall make the contribution to
44 the school tuition organization within twenty days after receiving notice
45 from the school tuition organization that the requested amount was

1 preapproved. If the school tuition organization does not receive the
2 preapproved contribution from the taxpayer within the required twenty days,
3 the school tuition organization shall immediately notify the department of
4 revenue, and the department of insurance in the case of a credit under
5 section 20-224.06, and the department of revenue shall no longer include this
6 preapproved contribution amount when calculating the limit prescribed in
7 subsection C, paragraph 1 of this section.

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

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

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

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

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

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

30 Sec. 4. Section 43-1184, Arizona Revised Statutes, is amended to read:
31 43-1184. Credit for contributions to school tuition
32 organization; displaced students; students with
33 disabilities

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

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

1 C. The department of revenue:

2 1. Shall not allow tax credits under this section and section
3 20-224.07 that exceed in the aggregate a combined total of five million
4 dollars in any fiscal year.

5 2. Shall preapprove tax credits under this section and section
6 20-224.07 subject to subsection D of this section.

7 3. Shall allow the tax credits under this section and section
8 20-224.07 on a first come, first served basis.

9 D. For the purposes of subsection C, paragraph 2 of this section,
10 before making a contribution to a school tuition organization, the taxpayer
11 under this title or title 20 must notify the school tuition organization of
12 the total amount of contributions that the taxpayer intends to make to the
13 school tuition organization. Before accepting the contribution, the school
14 tuition organization shall request preapproval from the department of revenue
15 for the taxpayer's intended contribution amount. The department of revenue
16 shall preapprove or deny the requested amount within twenty days after
17 receiving the request from the school tuition organization. If the
18 department of revenue preapproves the request, the school tuition
19 organization shall immediately notify the taxpayer that the requested amount
20 was preapproved by the department of revenue. In order to receive a tax
21 credit under this subsection, the taxpayer shall make the contribution to the
22 school tuition organization within twenty days after receiving notice from
23 the school tuition organization that the requested amount was preapproved.
24 If the school tuition organization does not receive the preapproved
25 contribution from the taxpayer within the required twenty days, the school
26 tuition organization shall immediately notify the department of revenue and
27 the department shall no longer include this preapproved contribution amount
28 when calculating the limit prescribed in subsection C, paragraph 1 of this
29 section.

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

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

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

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

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

4 J. The department of revenue shall adopt rules necessary for the
5 administration of this section.

6 Sec. 5. Section 43-1503, Arizona Revised Statutes, is amended to read:
7 43-1503. Operational requirements for school tuition
8 organizations

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

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

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

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

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

25 4. Must not knowingly collude with any other school tuition
26 organization to circumvent the limits of section 43-1504, subsection C.

27 **5. MUST NOT AWARD EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO**
28 **STUDENTS WHO ARE SIMULTANEOUSLY ENROLLED IN A DISTRICT SCHOOL OR CHARTER**
29 **SCHOOL AND A QUALIFIED SCHOOL.**

30 Sec. 6. Section 43-1603, Arizona Revised Statutes, is amended to read:
31 43-1603. Operational requirements for school tuition
32 organizations; notice; qualified schools

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 43-1089 and 43-1089.03 and to pay educational scholarships or
36 tuition grants to allow students to attend any qualified school of their
37 parents' choice.

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

40 1. Must allocate at least ninety per cent of its annual revenue from
41 contributions made for the purposes of sections 43-1089 and 43-1089.03 for
42 educational scholarships or tuition grants.

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

1 F. In awarding educational scholarships or tuition grants from
2 contributions made pursuant to section 43-1089.03, a school tuition
3 organization shall give priority to students and siblings of students on a
4 waiting list for scholarships if the school tuition organization maintains a
5 waiting list.

6 G. If an individual educational scholarship or tuition grant exceeds
7 the school's total cost of educating that student, the amount in excess shall
8 be returned to the school tuition organization that made the award or grant.
9 The school tuition organization may allocate the returned monies as a
10 multiyear award for that student and report the award pursuant to section
11 43-1604, paragraph 5, subdivision (b) or may allocate the returned monies for
12 educational scholarships or tuition grants for other students.

13 Sec. 7. Purpose

14 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
15 enacts section 43-1089.04, Arizona Revised Statutes, as added by this act, to
16 provide an individual credit for contributions made by a business to school
17 tuition organizations.

18 Sec. 8. Retroactivity

19 This act is effective and applies retroactively to taxable years from
20 and after December 31, 2013.