

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2152

AN ACT

AMENDING TITLE 42, CHAPTER 3, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-3357 AND 42-3358; AMENDING SECTIONS 43-1502, 43-1503, 43-1504 AND 43-1505, ARIZONA REVISED STATUTES; RELATING TO TAX CREDITS FOR CONTRIBUTIONS TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 42, chapter 3, article 8, Arizona Revised Statutes,
3 is amended by adding sections 42-3357 and 42-3358, to read:

4 42-3357. Credit for contributions to school tuition
5 organization; low-income scholarships

6 A. A CREDIT IS ALLOWED AGAINST THE LUXURY TAX LIABILITY INCURRED
7 PURSUANT TO THIS CHAPTER AND PAYABLE BY A WHOLESALER PURSUANT TO SECTION
8 42-3353 OR 42-3354 OR BY A FARM WINERY, MANUFACTURER, MICROBREWERY OR CRAFT
9 DISTILLER PURSUANT TO SECTION 42-3355 FOR CONTRIBUTIONS TO A SCHOOL TUITION
10 ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR LOW-INCOME STUDENTS AS
11 PROVIDED BY SECTIONS 43-1183 AND 43-1504.

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

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

16 1. WHOLESALERS, FARM WINERIES, MANUFACTURERS, MICROBREWERIES AND CRAFT
17 DISTILLERS THAT CLAIM A CREDIT UNDER THIS SECTION.

18 2. CLAIMS FOR CREDIT UNDER THIS SECTION.

19 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM
20 WHOLESALERS, FARM WINERIES, MANUFACTURERS, MICROBREWERIES AND CRAFT
21 DISTILLERS FOR THE PURPOSES OF THIS SECTION.

22 4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY
23 WHOLESALERS, FARM WINERIES, MANUFACTURERS, MICROBREWERIES AND CRAFT
24 DISTILLERS FOR THE PURPOSES OF THIS SECTION.

25 5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY
26 WHOLESALERS, FARM WINERIES, MANUFACTURERS, MICROBREWERIES AND CRAFT
27 DISTILLERS FOR THE PURPOSES OF THIS SECTION.

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

33 E. A TAXPAYER MAY NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION
34 43-1183 WITH RESPECT TO THE SAME CONTRIBUTION.

35 42-3358. Credit for contributions to school tuition
36 organization; scholarships for displaced students
37 and students with disabilities

38 A. A CREDIT IS ALLOWED AGAINST THE LUXURY TAX LIABILITY INCURRED
39 PURSUANT TO THIS CHAPTER AND PAYABLE BY A WHOLESALER PURSUANT TO SECTION
40 42-3353 OR 42-3354 OR BY A FARM WINERY, MANUFACTURER, MICROBREWERY OR CRAFT
41 DISTILLER PURSUANT TO SECTION 42-3355 FOR CONTRIBUTIONS TO A SCHOOL TUITION
42 ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR DISPLACED STUDENTS AND
43 STUDENTS WITH DISABILITIES AS PROVIDED BY SECTIONS 43-1184 AND 43-1505.

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

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

3 1. WHOLESALERS, FARM WINERIES, MANUFACTURERS, MICROBREWERIES AND CRAFT
4 DISTILLERS THAT CLAIM A CREDIT UNDER THIS SECTION.

5 2. CLAIMS FOR CREDIT UNDER THIS SECTION.

6 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM
7 WHOLESALERS, FARM WINERIES, MANUFACTURERS, MICROBREWERIES AND CRAFT
8 DISTILLERS FOR THE PURPOSES OF THIS SECTION.

9 4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY
10 WHOLESALERS, FARM WINERIES, MANUFACTURERS, MICROBREWERIES AND CRAFT
11 DISTILLERS FOR THE PURPOSES OF THIS SECTION.

12 5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY
13 WHOLESALERS, FARM WINERIES, MANUFACTURERS, MICROBREWERIES AND CRAFT
14 DISTILLERS FOR THE PURPOSES OF THIS SECTION.

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

20 E. A TAXPAYER MAY NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION
21 43-1184 WITH RESPECT TO THE SAME CONTRIBUTION.

22 Sec. 2. Section 43-1502, Arizona Revised Statutes, is amended to read:
23 43-1502. Certification as a school tuition organization

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

31 B. The department shall:

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

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

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

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

39 1. ~~Failing~~ FAILED or ~~refusing~~ REFUSED to allocate at least ninety ~~per~~
40 ~~cent~~ PERCENT of annual revenues from contributions made for the purposes of
41 sections 20-224.06, 20-224.07, 42-3357, 42-3358, 43-1183 and 43-1184 for
42 educational scholarships or tuition grants.

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

45 3. ~~Limiting~~ LIMITED THE availability of scholarships to students of
46 only one school.

1 4. ~~Encouraging, facilitating~~ ENCOURAGED, FACILITATED or knowingly
2 ~~permitting~~ PERMITTED taxpayers to engage in actions prohibited by this
3 article.

4 5. Knowingly ~~colluding~~ COLLUDED with any other school tuition
5 organization to circumvent the limits of section 43-1504, subsection C.

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

17 E. A school tuition organization may request an administrative hearing
18 on the revocation of its certification as provided by title 41, chapter 6,
19 article 10. Except as provided in section 41-1092.08, subsection H, a
20 decision of the department is subject to judicial review pursuant to title
21 12, chapter 7, article 6.

22 Sec. 3. Section 43-1503, Arizona Revised Statutes, is amended to read:

23 43-1503. Operational requirements for school tuition
24 organizations

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

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

34 1. Must allocate at least ninety ~~per cent~~ PERCENT of its annual
35 revenue from contributions made for the purposes of sections 20-224.06,
36 20-224.07, 42-3357, 42-3358, 43-1183 and 43-1184 for educational scholarships
37 or tuition grants.

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

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

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

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

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

7 Sec. 5. Section 43-1505, Arizona Revised Statutes, is amended to read:
8 43-1505. Special provisions; corporate donations for displaced
9 students and students with disabilities; definition

10 A. A school tuition organization that receives contributions for the
11 purposes of section 20-224.07, 42-3358 or 43-1184 must use at least ninety
12 ~~per-cent~~ PERCENT of those contributions to provide educational scholarships
13 or tuition grants to qualified students.

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

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

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

34 E. For the purposes of this section, "qualified student" means a
35 student, including a student who previously qualified for an educational
36 scholarship or tuition grant under this section and continues to attend a
37 qualified school, who has been either:

38 1. Placed in foster care pursuant to title 8, chapter 4 at any time
39 before the student graduates from high school or obtains a general
40 equivalency diploma.

41 2. Identified as having a disability under section 504 of the
42 rehabilitation act (29 United States Code section 794) or identified at any
43 time by a school district as a child with a disability as defined in section
44 15-761 or a child with a disability who is eligible to receive services from
45 a school district under section 15-763.