

REFERENCE TITLE: **small business income; tax subtraction**

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

# **SB 1264**

Introduced by  
Senators McGuire, Miranda: Allen S, Farnsworth D, Lesko

**AN ACT**

**AMENDING SECTION 43-1022, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1024; RELATING TO INCOME TAX SUBTRACTIONS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1022, Arizona Revised Statutes, is amended to  
3 read:

4 43-1022. Subtractions from Arizona gross income

5 In computing Arizona adjusted gross income, the following amounts shall  
6 be subtracted from Arizona gross income:

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

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

11 (a) The United States government service retirement and disability  
12 fund, retired or retainer pay of the uniformed services of the United States,  
13 the United States foreign service retirement and disability system and any  
14 other retirement system or plan established by federal law.

15 (b) The Arizona state retirement system, the corrections officer  
16 retirement plan, the public safety personnel retirement system, the elected  
17 officials' retirement plan, an optional retirement program established by the  
18 Arizona board of regents under section 15-1628, an optional retirement  
19 program established by a community college district board under section  
20 15-1451 or a retirement plan established for employees of a county, city or  
21 town in this state.

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

25 4. Interest income received on obligations of the United States, less  
26 any interest on indebtedness, or other related expenses, and deducted in  
27 arriving at Arizona gross income, which were incurred or continued to  
28 purchase or carry such obligations.

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

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

35 7. The amount by which the adjusted basis of property described in  
36 this paragraph and computed pursuant to this title and the income tax act of  
37 1954, as amended, exceeds the adjusted basis of such property computed  
38 pursuant to the internal revenue code. This paragraph shall apply to all  
39 property that is held for the production of income and that is sold or  
40 otherwise disposed of during the taxable year other than depreciable property  
41 used in a trade or business.

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

44 9. The portion of any wages or salaries paid or incurred by the  
45 taxpayer for the taxable year that is equal to the amount of the federal work

1 opportunity credit, the empowerment zone employment credit, the credit for  
2 employer paid social security taxes on employee cash tips and the Indian  
3 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
4 and 1396 of the internal revenue code.

5 10. The amount of prizes or winnings less than five thousand dollars in  
6 a single taxable year from any of the state lotteries established and  
7 operated pursuant to title 5, chapter 5.1, article 1.

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

14 12. The amount included in federal adjusted gross income pursuant to  
15 section 86 of the internal revenue code, relating to taxation of social  
16 security and railroad retirement benefits.

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

22 14. The amount of unreimbursed medical and hospital costs, adoption  
23 counseling, legal and agency fees and other nonrecurring costs of adoption  
24 not to exceed three thousand dollars. In the case of a husband and wife who  
25 file separate returns, the subtraction may be taken by either taxpayer or may  
26 be divided between them, but the total subtractions allowed both husband and  
27 wife shall not exceed three thousand dollars. The subtraction under this  
28 paragraph may be taken for the costs that are described in this paragraph and  
29 that are incurred in prior years, but the subtraction may be taken only in  
30 the year during which the final adoption order is granted.

31 15. The amount authorized by section 43-1027 for the taxable year  
32 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

33 16. The amount by which a net operating loss carryover or capital loss  
34 carryover allowable pursuant to section 43-1029, subsection F exceeds the net  
35 operating loss carryover or capital loss carryover allowable pursuant to  
36 section 1341(b)(5) of the internal revenue code.

37 17. Any amount of qualified educational expenses that is distributed  
38 from a qualified state tuition program determined pursuant to section 529 of  
39 the internal revenue code and that is included in income in computing federal  
40 adjusted gross income.

41 18. Any item of income resulting from an installment sale that has been  
42 properly subjected to income tax in another state in a previous taxable year  
43 and that is included in Arizona gross income in the current taxable year.

44 19. The amount authorized by section 43-1030 relating to holocaust  
45 survivors.

1           20. For property placed in service:

2           (a) In taxable years beginning before December 31, 2012, an amount  
3 equal to the depreciation allowable pursuant to section 167(a) of the  
4 internal revenue code for the taxable year computed as if the election  
5 described in section 168(k)(2)(D)(iii) of the internal revenue code had been  
6 made for each applicable class of property in the year the property was  
7 placed in service.

8           (b) In taxable years beginning from and after December 31, 2012  
9 through December 31, 2013, an amount determined in the year the asset was  
10 placed in service based on the calculation in subdivision (a) of this  
11 paragraph. In the first taxable year beginning from and after December 31,  
12 2013, the taxpayer may elect to subtract the amount necessary to make the  
13 depreciation claimed to date for the purposes of this title the same as it  
14 would have been if subdivision (c) of this paragraph had applied for the  
15 entire time the asset was in service. Subdivision (c) of this paragraph  
16 applies for the remainder of the asset's life. If the taxpayer does not make  
17 the election under this subdivision, subdivision (a) of this paragraph  
18 applies for the remainder of the asset's life.

19           (c) In taxable years beginning from and after December 31, 2013, an  
20 amount equal to the depreciation allowable pursuant to section 167(a) of the  
21 internal revenue code for the taxable year as computed as if the additional  
22 allowance for depreciation had been ten ~~per-cent~~ PERCENT of the amount  
23 allowed pursuant to section 168(k) of the internal revenue code.

24           21. With respect to property that is sold or otherwise disposed of  
25 during the taxable year by a taxpayer that complied with section 43-1021,  
26 paragraph 16 with respect to that property, the amount of depreciation that  
27 has been allowed pursuant to section 167(a) of the internal revenue code to  
28 the extent that the amount has not already reduced Arizona taxable income in  
29 the current or prior taxable years.

30           22. With respect to property for which an adjustment was made under  
31 section 43-1021, paragraph 17, an amount equal to one-fifth of the amount of  
32 the adjustment pursuant to section 43-1021, paragraph 17 in the year in which  
33 the amount was adjusted under section 43-1021, paragraph 17 and in each of  
34 the following four years.

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

39           (a) Two thousand dollars for a single individual or a head of  
40 household.

41           (b) Four thousand dollars for a married couple filing a joint return.  
42 In the case of a husband and wife who file separate returns, the subtraction  
43 may be taken by either taxpayer or may be divided between them, but the total  
44 subtractions allowed both husband and wife shall not exceed four thousand  
45 dollars.

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

6           25. The amount of previously deferred discharge of indebtedness income  
7 that is included in the computation of federal adjusted gross income in the  
8 current taxable year pursuant to section 108(i) of the internal revenue code  
9 as added by section 1231 of the American recovery and reinvestment act of  
10 2009 (P.L. 111-5), to the extent that the amount was previously added to  
11 Arizona gross income pursuant to section 43-1021, paragraph 19.

12           26. The portion of the net operating loss carryforward that would have  
13 been allowed as a deduction in the current year pursuant to section 172 of  
14 the internal revenue code if the election described in section 172(b)(1)(H)  
15 of the internal revenue code had not been made in the year of the loss that  
16 exceeds the actual net operating loss carryforward that was deducted in  
17 arriving at federal adjusted gross income. This subtraction only applies to  
18 taxpayers who made an election under section 172(b)(1)(H) of the internal  
19 revenue code as amended by section 1211 of the American recovery and  
20 reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the  
21 worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

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

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

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

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

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

38 For the purposes of this paragraph, a transferee that receives an asset by  
39 gift or at the death of a transferor is considered to have acquired the asset  
40 when the asset was acquired by the transferor. If the date an asset is  
41 acquired cannot be verified, a subtraction under this paragraph is not  
42 allowed.

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



1 (f) ANY OTHER FORM OF BUSINESS WHERE A DISTRIBUTIVE SHARE OF BUSINESS  
2 INCOME IS SUBJECT TO TAX UNDER THIS CHAPTER ONLY IN THE INDIVIDUAL CAPACITY  
3 OF ITS OWNERS.

4 Sec. 3. Retroactivity

5 A. This act applies retroactively to taxable years beginning from and  
6 after December 31, 2015.

7 B. Notwithstanding section 43-1024, subsection C, Arizona Revised  
8 Statutes, this act applies retroactively with respect to business income  
9 received from a qualifying small business that was organized before December  
10 31, 2015 as follows:

11 1. If a qualifying small business was organized from and after  
12 December 31, 2014 through December 31, 2015, business income from the  
13 business is eligible for subtraction under section 43-1024, Arizona Revised  
14 Statutes, only if received from and after December 31, 2015 through December  
15 31, 2019.

16 2. If a qualifying small business was organized from and after  
17 December 31, 2013 through December 31, 2014, business income from the  
18 business is eligible for subtraction under section 43-1024, Arizona Revised  
19 Statutes, only if received from and after December 31, 2015 through December  
20 31, 2018.

21 3. If a qualifying small business was organized from and after  
22 December 31, 2012 through December 31, 2013, business income from the  
23 business is eligible for subtraction under section 43-1024, Arizona Revised  
24 Statutes, only if received from and after December 31, 2015 through December  
25 31, 2017.

26 4. If a qualifying small business was organized from and after  
27 December 31, 2011 through December 31, 2012, business income from the  
28 business is eligible for subtraction under section 43-1024, Arizona Revised  
29 Statutes, only if received from and after December 31, 2015 through December  
30 31, 2016.