



HOUSE OF REPRESENTATIVES

HB 2617

school tuition organizations; preapproval; entities
Sponsors: Representatives Olson, Allen, Boyer, et al.

DPA Committee on Ways and Means

X Caucus and COW

House Engrossed

OVERVIEW

HB 2617 requires the Department of Revenue (DOR) to establish a website for processing requests for preapproval of school tuition organization (STO) contributions and outlines requirements associated with the tax credit allowed for a limited liability company (LLC) or a small business corporation that makes contributions to an STO.

HISTORY

A credit may be claimed for donations to a non-governmental primary or secondary STO that allocates at least 90% of its annual revenue to educational scholarships or tuition grants. The maximum credit is \$500 for taxpayers filing as single or head of household and \$1,000 for married couples filing jointly. Arizona Revised Statutes (A.R.S.) § 43-1089 allows a five-year carry forward of the credit.

Laws 2012, Chapter 4 created a new tax credit for cash contributions to STOs. The maximum credit is \$500 for taxpayers filing as single or head of household and \$1,000 for married couples filing jointly. The credit is only available if the tax filer has already claimed the maximum amount under the existing STO tax credit program for individuals. DOR is required to adjust the maximum credit amount for inflation each year.

A corporate taxpayer may claim an income tax credit, up to the full amount of the donation, for contributions made to an STO that provides education scholarships and tuition grants either to children of low-income families (A.R.S. § 43-1183) or to children with disabilities or children in foster care (A.R.S. § 43-1184). If the taxpayer is an insurer, the credit may be applied against their insurance premium tax liability. The full amount of the low-income tax credit approved by DOR pursuant to A.R.S. § 43-1183 for both corporate income tax credits and insurance premium tax credits is capped at \$10 million per year, with the cap increasing by 20% per year. The full amount of the children with disabilities and children in foster care tax credit approved by DOR pursuant to A.R.S. § 43-1184 is capped at \$5 million per year. A taxpayer may carry forward the unused portion of either credit for five years.

PROVISIONS

- Directs DOR to establish a website to electronically accept and process a request from an STO for preapproval of a taxpayer's intended contribution amount.
- Removes the requirement for DOR to pre-approve or deny a requested amount within 20 days after receiving the request from the STO.
- Requires DOR to issue a printable notice stating whether the taxpayer's request was preapproved or denied.

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- Specifies that the allowable tax credit that may be apportioned to a member of an LLC is the amount of tax liability for the member's share of profits calculated at the effective tax rate for the member's total income.
 - Directs the LLC to allocate the credit in the manner provided in an operating agreement.
- Specifies that the allowable tax credit that may be apportioned to a stockholder in a small business corporation that makes an election to distribute earnings first, pursuant to federal law, is the amount of tax liability for the stockholder's share of income calculated at the effective tax rate for the stockholder's total income.
- Allows a member of an LLC or a stockholder in a small business corporation who is apportioned a credit allowed for a taxpayer to take any additional income tax credits provided in statute.
- Defines *effective tax rate* as the actual tax rate paid when the taxpayer's amount of tax due is divided by the taxpayer's total income.
- Specifies that *taxpayer* includes:
 - A small business corporation that makes an election to distribute earnings first for the taxable year. The corporation must apportion the credit as required by law.
 - An LLC that elects to be treated as a corporation for federal income tax purposes.
- Applies the above provisions to both the tax credit allowed for contributions to an STO that provides education scholarships and tuition grants to children of low-income families and an STO that provides education scholarships and tuition grants to children with disabilities or children in foster care.

AMENDMENTS

Committee on Ways and Means

- Clarifies the manner in which tax credits for an LLC taxed as a partnership or as a sole proprietor will be apportioned.
- Clarifies the manner in which tax credits for any corporation will be apportioned.
- Limits the amount of apportioned tax credit applied against the income tax of a member of an LLC or a stockholder in a corporation to the taxpayer's income included in Arizona adjusted gross income, multiplied by the effective tax rate on all Arizona adjusted gross income.
- Defines *effective tax rate* as the gross income tax computed before any credits, divided by the Arizona adjusted gross income.
- Removes qualifying language relating to LLCs from the definition of *taxpayer* so that all LLCs are included.