

REFERENCE TITLE: legal tender; taxation; regulation

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

## **SB 1141**

Introduced by  
Senator Farnsworth D; Representative Coleman; Senators Allen S, Burges;  
Representatives Borrelli, Bowers, Cobb, Norgaard, Townsend

AN ACT

AMENDING TITLE 1, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7; AMENDING SECTIONS 43-1022 AND 43-1122, ARIZONA REVISED STATUTES; RELATING TO LEGAL TENDER AND SPECIE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 1, Arizona Revised Statutes, is amended by adding  
3 chapter 7, to read:

4 CHAPTER 7  
5 LEGAL TENDER

6 ARTICLE 1. GENERAL PROVISIONS

7 1-701. Definitions

8 IN THE STATUTES AND LAWS OF THIS STATE, UNLESS THE CONTEXT OTHERWISE  
9 REQUIRES:

10 1. "LEGAL TENDER" MEANS A MEDIUM OF EXCHANGE, INCLUDING COINS WITH  
11 PRECIOUS METAL CONTENT, THAT IS AUTHORIZED BY THE UNITED STATES CONSTITUTION  
12 OR CONGRESS FOR THE PAYMENT OF DEBTS, PUBLIC CHARGES, TAXES AND DUES.

13 2. "SPECIE" MEANS GOLD OR SILVER COIN, BAR OR ROUND.

14 1-702. Specie legal tender; compulsory use prohibited

15 EXCEPT AS EXPRESSLY PROVIDED BY CONTRACT, A PERSON MAY NOT COMPEL ANY  
16 OTHER PERSON, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE TO TENDER  
17 OR ACCEPT SPECIE LEGAL TENDER.

18 1-703. Legal tender; regulation prohibited

19 LEGAL TENDER AND SPECIE ARE MONEY AND ARE NOT SUBJECT TO REGULATION AS  
20 PROPERTY OTHER THAN MONEY.

21 1-704. Public monies; insurance requirements

22 SPECIE LEGAL TENDER THAT IS HELD AS PUBLIC MONIES SHALL BE INSURED FOR  
23 LOSS OR DAMAGE, EXCEPT THAT FEDERAL CREDIT INSURANCE IS NOT REQUIRED.

24 Sec. 2. Section 43-1022, Arizona Revised Statutes, is amended to read:

25 43-1022. Subtractions from Arizona gross income

26 In computing Arizona adjusted gross income, the following amounts shall  
27 be subtracted from Arizona gross income:

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

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

32 (a) The United States government service retirement and disability  
33 fund, retired or retainer pay of the uniformed services of the United States,  
34 the United States foreign service retirement and disability system and any  
35 other retirement system or plan established by federal law.

36 (b) The Arizona state retirement system, the corrections officer  
37 retirement plan, the public safety personnel retirement system, the elected  
38 officials' retirement plan, an optional retirement program established by the  
39 Arizona board of regents under section 15-1628, an optional retirement  
40 program established by a community college district board under section  
41 15-1451 or a retirement plan established for employees of a county, city or  
42 town in this state.

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

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

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

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

11           7. The amount by which the adjusted basis of property described in  
12 this paragraph and computed pursuant to this title and the income tax act of  
13 1954, as amended, exceeds the adjusted basis of such property computed  
14 pursuant to the internal revenue code. This paragraph shall apply to all  
15 property that is held for the production of income and that is sold or  
16 otherwise disposed of during the taxable year other than depreciable property  
17 used in a trade or business.

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

20           9. The portion of any wages or salaries paid or incurred by the  
21 taxpayer for the taxable year that is equal to the amount of the federal work  
22 opportunity credit, the empowerment zone employment credit, the credit for  
23 employer paid social security taxes on employee cash tips and the Indian  
24 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
25 and 1396 of the internal revenue code.

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

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

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

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

43           14. The amount of unreimbursed medical and hospital costs, adoption  
44 counseling, legal and agency fees and other nonrecurring costs of adoption  
45 not to exceed three thousand dollars. In the case of a husband and wife who

1 file separate returns, the subtraction may be taken by either taxpayer or may  
2 be divided between them, but the total subtractions allowed both husband and  
3 wife shall not exceed three thousand dollars. The subtraction under this  
4 paragraph may be taken for the costs that are described in this paragraph and  
5 that are incurred in prior years, but the subtraction may be taken only in  
6 the year during which the final adoption order is granted.

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

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

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

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

21 19. The amount authorized by section 43-1030 relating to holocaust  
22 survivors.

23 20. For property placed in service:

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

30 (b) In taxable years beginning from and after December 31, 2012  
31 through December 31, 2013, an amount determined in the year the asset was  
32 placed in service based on the calculation in subdivision (a) of this  
33 paragraph. In the first taxable year beginning from and after December 31,  
34 2013, the taxpayer may elect to subtract the amount necessary to make the  
35 depreciation claimed to date for the purposes of this title the same as it  
36 would have been if subdivision (c) of this paragraph had applied for the  
37 entire time the asset was in service. Subdivision (c) of this paragraph  
38 applies for the remainder of the asset's life. If the taxpayer does not make  
39 the election under this subdivision, subdivision (a) of this paragraph  
40 applies for the remainder of the asset's life.

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

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

7           22. With respect to property for which an adjustment was made under  
8 section 43-1021, paragraph 17, an amount equal to one-fifth of the amount of  
9 the adjustment pursuant to section 43-1021, paragraph 17 in the year in which  
10 the amount was adjusted under section 43-1021, paragraph 17 and in each of  
11 the following four years.

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

16           (a) Two thousand dollars for a single individual or a head of  
17 household.

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

23           24. The amount of any original issue discount that was deferred and  
24 not allowed to be deducted in computing federal adjusted gross income in the  
25 current taxable year pursuant to section 108(i) of the internal revenue code  
26 as added by section 1231 of the American recovery and reinvestment act of  
27 2009 (P.L. 111-5).

28           25. The amount of previously deferred discharge of indebtedness income  
29 that is included in the computation of federal adjusted gross income in the  
30 current taxable year pursuant to section 108(i) of the internal revenue code  
31 as added by section 1231 of the American recovery and reinvestment act of  
32 2009 (P.L. 111-5), to the extent that the amount was previously added to  
33 Arizona gross income pursuant to section 43-1021, paragraph 19.

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

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

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

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

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

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

17 For the purposes of this paragraph, a transferee that receives an asset by  
18 gift or at the death of a transferor is considered to have acquired the asset  
19 when the asset was acquired by the transferor. If the date an asset is  
20 acquired cannot be verified, a subtraction under this paragraph is not  
21 allowed.

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

25 30. With respect to a long-term health care savings account established  
26 pursuant to section 43-1032, the amount deposited by the taxpayer in the  
27 account during the taxable year to the extent that the taxpayer's  
28 contributions are included in the taxpayer's federal adjusted gross income.

29 31. THE AMOUNT OF ANY NET CAPITAL GAIN INCLUDED IN FEDERAL ADJUSTED  
30 GROSS INCOME FOR THE TAXABLE YEAR THAT IS DERIVED FROM THE EXCHANGE OF ONE  
31 KIND OF LEGAL TENDER FOR ANOTHER KIND OF LEGAL TENDER OR SPECIE.

32 Sec. 3. Section 43-1122, Arizona Revised Statutes, is amended to read:  
33 43-1122. Subtractions from Arizona gross income: corporations

34 In computing Arizona taxable income for a corporation, the following  
35 amounts shall be subtracted from Arizona gross income:

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

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

42 3. The amount by which the adjusted basis of property described in  
43 this paragraph and computed pursuant to this title and the income tax act of  
44 1954, as amended, exceeds the adjusted basis of such property computed  
45 pursuant to the internal revenue code. This paragraph applies to all

1 property that is held for the production of income and that is sold or  
2 otherwise disposed of during the taxable year other than depreciable property  
3 used in a trade or business.

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

6 5. The portion of any wages or salaries paid or incurred by the  
7 taxpayer for the taxable year that is equal to the amount of the federal work  
8 opportunity credit, the empowerment zone employment credit, the credit for  
9 employer paid social security taxes on employee cash tips and the Indian  
10 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
11 and 1396 of the internal revenue code.

12 6. With respect to property that is sold or otherwise disposed of  
13 during the taxable year by a taxpayer that complied with section 43-1121,  
14 paragraph 5 with respect to that property, the amount of depreciation that  
15 has been allowed pursuant to section 167(a) of the internal revenue code to  
16 the extent that the amount has not already reduced Arizona taxable income in  
17 the current TAXABLE YEAR or prior taxable years.

18 7. With respect to property for which an adjustment was made under  
19 section 43-1121, paragraph 6, an amount equal to one-fifth of the amount of  
20 the adjustment pursuant to section 43-1121, paragraph 6 in the year in which  
21 the amount was adjusted under section 43-1121, paragraph 6 and in each of the  
22 following four years.

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

28 9. The amount of previously deferred discharge of indebtedness income  
29 that is included in the computation of federal taxable income in the current  
30 taxable year pursuant to section 108(i) of the internal revenue code as added  
31 by section 1231 of the American recovery and reinvestment act of 2009  
32 (P.L. 111-5), to the extent that the amount was previously added to Arizona  
33 gross income pursuant to section 43-1121, paragraph 7.

34 10. With respect to a financial institution as defined in section  
35 6-101, expenses and interest relating to tax-exempt income disallowed  
36 pursuant to section 265 of the internal revenue code.

37 11. Dividends received from another corporation owned or controlled  
38 directly or indirectly by a recipient corporation. For the purposes of this  
39 paragraph, "control" means direct or indirect ownership or control of fifty  
40 ~~per cent~~ PERCENT or more of the voting stock of the payor corporation by the  
41 recipient corporation. Dividends shall have the meaning provided in section  
42 316 of the internal revenue code. This subtraction shall apply without  
43 regard to section 43-961, paragraph 2 and article 4 of this chapter.

44 12. Interest income received on obligations of the United States.

45 13. The amount of dividend income from foreign corporations.

1           14. The amount of net operating loss allowed by section 43-1123.

2           15. The amount of any state income tax refunds received ~~which~~ THAT  
3 were included as income in computing federal taxable income.

4           16. The amount of expense recapture included in income pursuant to  
5 section 617 of the internal revenue code for mine exploration expenses.

6           17. The amount of deferred exploration expenses allowed by section  
7 43-1127.

8           18. The amount of exploration expenses related to the exploration of  
9 oil, gas or geothermal resources, computed in the same manner and on the same  
10 basis as a deduction for mine exploration pursuant to section 617 of the  
11 internal revenue code. This computation is subject to the adjustments  
12 contained in section 43-1121, paragraph 15 and paragraphs 16 and 17 of this  
13 section relating to exploration expenses.

14           19. The amortization of pollution control devices allowed by section  
15 43-1129.

16           20. The amount of amortization of the cost of child care facilities  
17 pursuant to section 43-1130.

18           21. The amount of income from a domestic international sales  
19 corporation required to be included in the income of its shareholders  
20 pursuant to section 995 of the internal revenue code.

21           22. The income of an insurance company that is exempt under section  
22 43-1201 to the extent that it is included in computing Arizona gross income  
23 on a consolidated return pursuant to section 43-947.

24           23. The amount by which a capital loss carryover allowable pursuant to  
25 section 43-1130.01, subsection F exceeds the capital loss carryover allowable  
26 pursuant to section 1341(b)(5) of the internal revenue code.

27           24. An amount equal to the depreciation allowable pursuant to section  
28 167(a) of the internal revenue code for the taxable year computed as if the  
29 election described in section 168(k)(2)(D)(iii) of the internal revenue code  
30 had been made for each applicable class of property in the year the property  
31 was placed in service.

32           25. THE AMOUNT OF ANY NET CAPITAL GAIN INCLUDED IN FEDERAL TAXABLE  
33 INCOME FOR THE TAXABLE YEAR THAT IS DERIVED FROM THE EXCHANGE OF ONE KIND OF  
34 LEGAL TENDER FOR ANOTHER KIND OF LEGAL TENDER OR SPECIE.