REFERENCE TITLE: STO; income tax credit cap

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2185

Introduced by
Representatives Udall: Biasiucci, Blackman

AN ACT

AMENDING SECTION 43-1183, ARIZONA REVISED STATUTES; RELATING TO SCHOOL TUITION ORGANIZATION SCHOLARSHIPS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 43-1183, Arizona Revised Statutes, is amended to read:

43-1183. Credit for contributions to school tuition organization

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

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

C. The department of revenue:

1. Shall not allow tax credits under this section and section 20-224.06 that exceed in the aggregate a combined total of ~~ten million dollars~~ $10,000,000 in any fiscal year. Beginning in fiscal year 2007-2008 THROUGH FISCAL YEAR 2018-2019, the aggregate dollar amount of the tax credit cap from the previous fiscal year shall be annually increased by twenty percent. BEGINNING IN FISCAL YEAR 2019-2020, THE AGGREGATE DOLLAR AMOUNT OF THE TAX CREDIT CAP FROM THE PREVIOUS FISCAL YEAR SHALL BE ANNUALLY INCREASED BY THE GREATER OF EITHER:

(a) THE PERCENTAGE OF THE ANNUAL INCREASE, IF ANY, IN THE METROPOLITAN PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS.

(b) TWO PERCENT.

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

3. Shall allow the tax credits under this section and section 20-224.06 on a ~~first come, first served~~ FIRST-COME, FIRST-SERVED basis.

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

subsection, the taxpayer shall make the contribution to the school tuition organization within twenty days after receiving notice from the school tuition organization that the requested amount was preapproved. If the school tuition organization does not receive the preapproved contribution from the taxpayer within the required twenty days, the school tuition organization shall immediately notify the department of revenue, and the department of insurance in the case of a credit under section 20-224.06, and the department of revenue shall no longer include this preapproved contribution amount when calculating the limit prescribed in subsection C, paragraph 1 of this section.

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

F. Co-owners of a business, including corporate partners in a partnership and stockholders of an S corporation as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed a sole owner.

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

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

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

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

Sec. 2. Retroactivity

This act applies retroactively to from and after June 30, 2019.