

REFERENCE TITLE: tax corrections act of 2020

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1348

Introduced by
Senator Mesnard

AN ACT

AMENDING SECTIONS 9-500.39, 11-269.17, 41-1516, 41-1520, 42-2201, 42-2202, 42-5001, 42-5014, 42-5069, 42-5071, 42-13302, 43-222, 43-301, 43-1021, 43-1022, 43-1023, 43-1024, 43-1029 AND 43-1076, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1080, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1081.01, 43-1089.02, 43-1121, 43-1122, 43-1123, 43-1124, 43-1127 AND 43-1130.01, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1162, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1169, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1170.01 AND 43-1181, ARIZONA REVISED STATUTES; AMENDING LAWS 2019, CHAPTER 273, SECTION 36; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-500.39, Arizona Revised Statutes, is amended
3 to read:

4 9-500.39. Limits on regulation of vacation rentals and
5 short-term rentals; state preemption; definitions

6 A. A city or town may not prohibit vacation rentals or short-term
7 rentals.

8 B. A city or town may not restrict the use of or regulate vacation
9 rentals or short-term rentals based on their classification, use or
10 occupancy except as provided in this section. A city or town may regulate
11 vacation rentals or short-term rentals for the following purposes:

12 1. Protecting the public's health and safety, including rules and
13 regulations related to fire and building codes, health and sanitation,
14 transportation or traffic control, solid or hazardous waste and pollution
15 control, and designation of an emergency point of contact, if the city or
16 town demonstrates that the rule or regulation is for the primary purpose
17 of protecting the public's health and safety.

18 2. Adopting and enforcing residential use and zoning ordinances,
19 including ordinances related to noise, protection of welfare, property
20 maintenance and other nuisance issues, if the ordinance is applied in the
21 same manner as other property classified under sections 42-12003 and
22 42-12004.

23 3. Limiting or prohibiting the use of a vacation rental or
24 short-term rental for the purposes of housing sex offenders, operating or
25 maintaining a sober living home, selling illegal drugs, liquor control or
26 pornography, obscenity, nude or topless dancing and other adult-oriented
27 businesses.

28 4. Requiring the owner of a vacation rental or short-term rental to
29 provide the city or town with contact information for the owner or the
30 owner's designee who is responsible for responding to complaints in a
31 timely manner in person, over the phone or by email at any time of day
32 before offering for rent or renting the vacation rental or short-term
33 rental.

34 C. Within thirty days after a verified violation, a city or town
35 shall notify the department of revenue and the owner of the vacation
36 rental or short-term rental of the verified violation of the city's or
37 town's applicable laws, regulations or ordinances and, if the owner of the
38 vacation rental or short-term rental received the verified violation,
39 whether the city or town imposed a civil penalty on the owner of the
40 vacation rental or short-term rental and the amount of the civil penalty,
41 if assessed. If multiple verified violations arise out of the same
42 response to an incident at a vacation rental or short-term rental, those
43 verified violations are considered one verified violation for the purpose
44 of assessing civil penalties pursuant to section ~~42-1125, subsection~~
45 ~~42-1125.02, SUBSECTION B.~~

1 D. If the owner of a vacation rental or short-term rental has
2 provided contact information to a city or town pursuant to subsection B,
3 paragraph 4 of this section and if the city or town issues a citation for
4 a violation of the city's or town's applicable laws, regulations or
5 ordinances or a state law that occurred on the owner's vacation rental or
6 short-term rental property, the city or town shall make a reasonable
7 attempt to notify the owner or the owner's designee of the citation within
8 seven business days after the citation is issued using the contact
9 information provided pursuant to subsection B, paragraph 4 of this
10 section. If the owner of a vacation rental or short-term rental has not
11 provided contact information pursuant to subsection B, paragraph 4 of this
12 section, the city or town is not required to provide such notice.

13 E. This section does not exempt an owner of a residential rental
14 property, as defined in section 33-1901, from maintaining with the
15 assessor of the county in which the property is located information
16 required under title 33, chapter 17, article 1.

17 F. A vacation rental or short-term rental may not be used for
18 nonresidential uses, including for a special event that would otherwise
19 require a permit or license pursuant to a city or town ordinance or a
20 state law or rule or for a retail, restaurant, banquet space or other
21 similar use.

22 G. For the purposes of this section:

23 1. "Transient" has the same meaning prescribed in section 42-5070.

24 2. "Vacation rental" or "short-term rental" means any individually
25 or collectively owned single-family or one-to-four-family house or
26 dwelling unit or any unit or group of units in a condominium, cooperative
27 or timeshare, that is also a transient public lodging establishment or
28 owner-occupied residential home offered for transient use if the
29 accommodations are not classified for property taxation under section
30 42-12001. Vacation rental and short-term rental do not include a unit
31 that is used for any nonresidential use, including retail, restaurant,
32 banquet space, event center or another similar use.

33 3. "Verified violation" means a finding of guilt or civil
34 responsibility for violating any state law or local ordinance relating to
35 a purpose prescribed in subsection B or F of this section that has been
36 finally adjudicated.

37 Sec. 2. Section 11-269.17, Arizona Revised Statutes, is amended to
38 read:

39 11-269.17. Limits on regulation of vacation rentals and
40 short-term rentals; state preemption;
41 definitions

42 A. A county may not prohibit vacation rentals or short-term
43 rentals.

44 B. A county may not restrict the use of or regulate vacation
45 rentals or short-term rentals based on their classification, use or

1 occupancy except as provided in this section. A county may regulate
2 vacation rentals or short-term rentals for the following purposes:

3 1. Protecting the public's health and safety, including rules and
4 regulations related to fire and building codes, health and sanitation,
5 transportation or traffic control, solid or hazardous waste and pollution
6 control, and designation of an emergency point of contact, if the county
7 demonstrates that the rule or regulation is for the primary purpose of
8 protecting the public's health and safety.

9 2. Adopting and enforcing residential use and zoning ordinances,
10 including ordinances related to noise, protection of welfare, property
11 maintenance and other nuisance issues, if the ordinance is applied in the
12 same manner as other property classified under sections 42-12003 and
13 42-12004.

14 3. Limiting or prohibiting the use of a vacation rental or
15 short-term rental for the purposes of housing sex offenders, operating or
16 maintaining a sober living home, selling illegal drugs, liquor control or
17 pornography, obscenity, nude or topless dancing and other adult-oriented
18 businesses.

19 4. Requiring the owner of a vacation rental or short-term rental to
20 provide the county with contact information for the owner or the owner's
21 designee who is responsible for responding to complaints in a timely
22 manner in person, over the phone or by email at any time of day before
23 offering for rent or renting the vacation rental or short-term rental.

24 C. Within thirty days after a verified violation, a county shall
25 notify the department of revenue and the owner of the vacation rental or
26 short-term rental of the verified violation of the county's applicable
27 laws, regulations or ordinances and, if the property owner received the
28 verified violation, whether the county imposed a civil penalty on the
29 owner of the vacation rental or short-term rental and the amount of the
30 civil penalty, if assessed. If multiple verified violations arise out of
31 the same response to an incident at a vacation rental or short-term
32 rental, those verified violations are considered one verified violation
33 for the purpose of assessing civil penalties pursuant to section ~~42-1125,~~
34 ~~subsection AA~~ 42-1125.02, SUBSECTION B.

35 D. If the owner of a vacation rental or short-term rental has
36 provided contact information to a county pursuant to subsection B,
37 paragraph 4 of this section and if the county issues a citation for a
38 violation of the county's applicable laws, regulations or ordinances or a
39 state law that occurred on the owner's vacation rental or short-term
40 rental property, the county shall make a reasonable attempt to notify the
41 owner or the owner's designee of the citation within seven business days
42 after the citation is issued using the contact information provided
43 pursuant to subsection B, paragraph 4 of this section. If the owner of a
44 vacation rental or short-term rental has not provided contact information

1 pursuant to subsection B, paragraph 4 of this section, the county is not
2 required to provide such notice.

3 E. This section does not exempt an owner of a residential rental
4 property, as defined in section 33-1901, from maintaining with the
5 assessor of the county in which the property is located information
6 required under title 33, chapter 17, article 1.

7 F. A vacation rental or short-term rental may not be used for
8 nonresidential uses, including for a special event that would otherwise
9 require a permit or license pursuant to a county ordinance or a state law
10 or rule or for a retail, restaurant, banquet space or other similar use.

11 G. For the purposes of this section:

12 1. "Transient" has the same meaning prescribed in section 42-5070.

13 2. "Vacation rental" or "short-term rental" means any individually
14 or collectively owned single-family or one-to-four-family house or
15 dwelling unit or any unit or group of units in a condominium, cooperative
16 or timeshare, that is also a transient public lodging establishment or
17 owner-occupied residential home offered for transient use if the
18 accommodations are not classified for property taxation under section
19 42-12001. Vacation rental and short-term rental do not include a unit
20 that is used for any nonresidential use, including retail, restaurant,
21 banquet space, event center or another similar use.

22 3. "Verified violation" means a finding of guilt or civil
23 responsibility for violating any state law or local ordinance relating to
24 a purpose prescribed in subsection B or F of this section that has been
25 finally adjudicated.

26 Sec. 3. Section 41-1516, Arizona Revised Statutes, is amended to
27 read:

28 41-1516. Healthy forest enterprise incentives; definitions

29 A. The Arizona commerce authority shall:

30 1. Implement a program to encourage counties, cities and towns to
31 provide local incentives to economic enterprises that promote forest
32 health in this state.

33 2. Identify and certify to the department of revenue the names of
34 and relevant information relating to qualified businesses for the purposes
35 of available state tax incentives for economic enterprises that promote
36 forest health in this state.

37 B. To qualify for state tax incentives pursuant to this section, a
38 business:

39 1. Must be primarily engaged in a qualifying project. The business
40 shall submit to the authority evidence that it is engaged in a qualifying
41 project as follows:

42 (a) The business operation must enhance or sustain forest health,
43 sustain or recover watershed or improve public safety.

44 (b) If the qualifying forest product is on federal land, the
45 business shall submit a letter from the federal agency administering the

1 land, or official records or documents produced in connection with the
2 project, stating that the business is primarily engaged in the business of
3 harvesting or processing qualifying forest products for commercial use as
4 follows:

5 (i) At least seventy ~~per cent~~ PERCENT of the harvested or processed
6 products, measured by weight, must be qualifying forest products.

7 (ii) At least seventy-five ~~per cent~~ PERCENT of the qualifying
8 forest products, measured by weight, must be harvested from sources in
9 this state.

10 (c) If the qualifying forest product is not on federal land, the
11 business shall submit a letter from the state forester stating that the
12 business is primarily engaged in the business of harvesting or processing
13 qualifying forest products for commercial use as follows:

14 (i) At least seventy ~~per cent~~ PERCENT of the harvested or processed
15 products must be qualifying forest products.

16 (ii) At least seventy-five ~~per cent~~ PERCENT of the harvested or
17 processed products must be from areas in this state.

18 (d) If the business is engaged in transporting qualifying forest
19 products, it must submit a letter from the state forester or United States
20 forest service, or official records or documents produced in connection
21 with the project, stating that all of the qualifying forest products it
22 transports are harvested from areas in this state. In addition, the
23 business must submit evidence to the authority that at least seventy-five
24 ~~per cent~~ PERCENT of the mileage traveled by its units each year are for
25 transporting qualifying forest products from or to qualifying projects
26 described in subdivision (b) or (c) of this paragraph, unless a lower
27 mileage is due to forest closures or weather conditions that are beyond
28 the control of the business.

29 2. Must employ at least one permanent full-time employee.

30 3. Must agree to furnish to the authority information relating to
31 the amount of state tax benefits that the business receives each year.

32 4. Must enter into a memorandum of understanding with the authority
33 containing:

34 (a) Employment goals. Each year the business must report in
35 writing to the authority its performance in achieving the goals.

36 (b) A commitment to continue in business and use the qualifying
37 equipment primarily on qualifying projects in this state as described in
38 paragraph 1 of this subsection, other than for reasons beyond the control
39 of the business. The authority shall consult with the department of
40 revenue in designing the memorandum of understanding to incorporate the
41 legal qualifications for the available tax incentives and shall include
42 the requirement that any qualifying equipment that is purchased or leased
43 free of transaction privilege or use tax must continue to be used in this
44 state for the term of the memorandum of understanding or the duration of
45 its operational life, whichever is shorter.

1 (c) Provisions considered necessary by the authority to ensure the
2 competency and responsibility of businesses that qualify under this
3 section, including registration or other accreditation with trade and
4 professional organizations and compliance with best management and
5 operational practices used by governmental agencies in awarding forestry
6 contracts.

7 (d) The authorization for the authority to terminate, adjust or
8 recapture all or part of the tax benefits provided to the business on
9 noncompliance with the law, noncompliance with the terms of the memorandum
10 or violation of the terms of any contracts with the federal or state
11 government relating to the qualifying project. The authority shall notify
12 the department of revenue of the conditions of noncompliance. The
13 department of revenue may also terminate the certification if it obtains
14 information indicating a failure to qualify and comply. The department of
15 revenue may require the business to file appropriate amended tax returns
16 or to file appropriate use tax returns reflecting the recapture of the
17 direct or indirect tax benefits.

18 5. Must submit a copy of the certification to the department of
19 revenue for approval before using the certification for purposes of any
20 tax incentive. The department of revenue shall review and approve the
21 certification in a timely manner if the business is in good standing with
22 the department and is not delinquent in the payment of any tax collected
23 by the department. A failure to approve or deny the certification within
24 sixty days after the date the business submits it to the department
25 constitutes approval of the certification.

26 C. For the purposes of section 42-5075, subsection B, paragraph 18,
27 the authority shall certify prime contractors that contract for the
28 construction of any building, or other structure, project, development or
29 improvement owned by a qualified business for purposes of a qualifying
30 project described in subsection B, paragraph 1 of this section.

31 D. To obtain and maintain certification under this section, a
32 business must:

33 1. Apply to the authority.

34 2. Submit and retain copies of all required information, including
35 information relating to the actual or projected number of employees in
36 this state.

37 3. Allow inspections and audits to verify the qualification and
38 accuracy of information submitted to the authority.

39 E. Certification under this section is valid for sixty calendar
40 months from the date of issuance. A business must apply for
41 recertification at least thirty days before the current certification
42 expires. The application for recertification shall be in a form
43 prescribed by the authority and shall confirm that the business is
44 continuing in a qualifying project and is in compliance with all
45 requirements prescribed for certification.

1 F. Within sixty days after receiving a complete and correct
2 application and all required information as prescribed by this section,
3 the authority shall grant or deny certification and give written notice by
4 certified mail to the applicant. The applicant is certified as a
5 qualified business on the date the notice of certification is delivered to
6 the applicant. A failure to respond within sixty days after receiving a
7 complete and correct application constitutes approval of the application.

8 G. The certification shall state an effective date with respect to
9 each authorized tax incentive, which, in each case, must be at the start
10 of a taxable year or taxable period.

11 H. On or before March 1 of each year, each qualifying business
12 shall make a report to the authority on all business activity in the
13 preceding calendar year. Business information contained in the reports is
14 confidential and shall not be disclosed to the public except as provided
15 by this section and except that a copy of the report shall be transmitted
16 to the department of revenue. The report shall be in a form prescribed by
17 the authority and include:

18 1. Information prescribed by the authority with respect to both
19 qualifying projects and other projects and business activity that do not
20 qualify for purposes of this section.

21 2. Employment information necessary to confirm eligibility for
22 income tax ~~credits~~ CREDIT as prescribed by ~~sections~~ SECTION 43-1076 ~~and~~
23 ~~43-1162~~.

24 3. The quantity, measured by weight, of qualifying forest products
25 harvested, transported or processed.

26 I. On or before May 1 of each year, the authority shall report to
27 the joint legislative budget committee:

28 1. The quantity, measured by weight, of qualifying forest products
29 reported by harvesters, by transporters and by processors in the preceding
30 calendar year.

31 2. The number of new full-time employees hired in qualified
32 employment positions in this state in the preceding calendar year and
33 reported for tax credit purposes.

34 3. The total number of all full-time employees employed in
35 qualified employment positions in this state in the preceding calendar
36 year and reported for tax credit purposes.

37 J. For THE purposes of administering and ensuring compliance with
38 this section, agents of the authority may enter, and a qualified business
39 shall allow access to, a qualifying project site at reasonable times and
40 on reasonable notice to:

41 1. Inspect the facilities at the site.

42 2. Obtain factual data and records pertinent to and required by law
43 to be kept for purposes of tax incentives.

44 3. Otherwise ascertain compliance with law and the terms of the
45 memorandum of understanding.

1 K. The authority shall revoke the business' certification and
2 notify the department of revenue and county assessor if either:

3 1. Within thirty days after a formal request from the authority or
4 the department of revenue, the business fails or refuses to provide the
5 information or access for inspections required by this section.

6 2. The business no longer meets the terms and conditions required
7 for qualification for the applicable tax incentives.

8 L. For the purposes of this section:

9 1. "Forest health" means the degree to which the integrity of the
10 forest is sustained, including reducing the risk of catastrophic wildfire
11 and destructive insect infestation, benefiting wildland habitats,
12 watersheds and communities.

13 2. "Harvesting" means all operations relating to felling or
14 otherwise removing trees and other forest plant growth and preparing them
15 for transport for subsequent processing.

16 3. "Processing" means:

17 (a) Any change in the physical structure of qualifying forest
18 products removed from a qualifying project into a marketable commercial
19 product or component of a product that has commercial value to a consumer
20 or purchaser and that is ready to be used with or without further altering
21 its form.

22 (b) Burning qualifying forest products in the process of commercial
23 electrical generation or commercial thermal energy production for heating
24 or cooling, regardless of the physical structure of the forest product
25 before burning.

26 4. "Qualifying equipment" means equipment used directly in
27 harvesting or processing qualifying forest products removed from a
28 qualifying project. Qualifying equipment does not include self-propelled
29 vehicles required to be licensed by this state, but may include other
30 licensed vehicles as provided by this paragraph. Qualifying equipment
31 includes:

32 (a) Forest thinning and residue removal equipment, including
33 mulching and masticating equipment, feller-bunchers, skidders, log
34 loaders, portable chippers and grinders, slash bundlers, delimiters, log
35 trailers, chip trailers and other trailers that are uniquely designed for
36 handling forest products and that are licensed for operation on public
37 highways.

38 (b) Forest residue receiving and handling equipment, including
39 truck dumpers, log unloaders, scales, log decking facilities and equipment
40 and chip pile facilities.

41 (c) Sorting and processing equipment, including portable and
42 stationary log loaders, ~~front-end~~ FRONT-END loaders, ~~fork lifts~~ FORKLIFTS
43 and cranes, chippers and grinders, screens, decks and debarkers, saws and
44 sawmill equipment, firewood processing, wood residue baling and bagging

1 equipment, kilns, planing and molding equipment and laminating and joining
2 equipment.

3 (d) Forest waste and residue disposal and processing equipment,
4 including:

5 (i) Processing and sizing equipment, hogs, chippers, screens,
6 pelletizers and wood splitters.

7 (ii) Transporting and handling equipment, including loaders,
8 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

9 (iii) Waste use equipment, including fuel feed, storage bins,
10 boilers and combustors.

11 (iv) Waste project use equipment, including generators, switchgear
12 and substations and on-site distribution systems.

13 (v) Generated waste disposal equipment, including ash silos and
14 wastewater treatment and disposal equipment.

15 (vi) Shop and maintenance equipment and major spares having a value
16 of more than ~~five thousand dollars~~ \$5,000 each.

17 5. "Qualifying forest products" means dead standing and fallen
18 timber, and forest thinnings associated with the harvest of small diameter
19 timber, slash, wood chips, peelings, brush and other woody vegetation,
20 removed from federal, state and other public forest land and from private
21 forest land.

22 6. "Qualifying project" means harvesting, transporting or processing
23 qualifying forest products as required for certification pursuant to this
24 section.

25 Sec. 4. Section 41-1520, Arizona Revised Statutes, is amended to
26 read:

27 41-1520. International operations center; utility relief;
28 certification; revocation; definitions

29 A. Utility relief is allowed for the owner or operator of an
30 international operations center that is certified pursuant to this
31 section.

32 B. To qualify for the utility relief, the owner or operator must
33 submit to the authority an application in a form prescribed by the
34 authority that includes all of the following:

35 1. The owner's or operator's name, address and telephone number.

36 2. The address of the site where the facility is or will be
37 located, including, if applicable, information sufficient to identify the
38 specific portion or portions of the facility comprising the international
39 operations center.

40 C. Within sixty days after receiving a complete and correct
41 application, the authority shall review the application and either issue a
42 written certification that the international operations center qualifies
43 for the utility relief or provide written reasons for its denial. A
44 failure to approve or deny the application within sixty days after the
45 date of submittal constitutes certification of the international

1 operations center, and the authority shall issue written certification to
2 the owner or operator within fourteen days. The authority shall send a
3 copy of the certification to the department of revenue.

4 D. The owner or operator of the international operations center
5 must achieve both of the following investment requirements after taking
6 into account the combined investments made by the owner or operator:

7 1. A minimum annual investment of \$100,000,000 in new capital
8 assets, including costs of land, buildings and international operations
9 center equipment in each of ten consecutive taxable years of the owner or
10 operator. Investments greater than \$100,000,000 in any taxable year may
11 be carried forward as a credit toward the investment requirement in future
12 years.

13 2. On or before the tenth anniversary of certification, a minimum
14 investment of at least \$1,250,000,000 in new capital assets, including
15 costs of land, buildings and international operations center equipment.

16 E. Within thirty days after the end of each taxable year following
17 certification, and within thirty days after the tenth anniversary of
18 certification, the owner or operator shall furnish the authority written
19 information demonstrating whether the certified international operations
20 center has or has not satisfied the investment requirements prescribed in
21 subsection D of this section. Until the investment requirements
22 prescribed in subsection D of this section are met, the owner or operator
23 shall keep detailed records of all capital investment in the international
24 operations center, including costs of land, buildings and international
25 operations center equipment, and all utility relief directly received by
26 the owner or operator.

27 F. If the authority determines that the requirements of this
28 section have not been satisfied, the authority may revoke the
29 certification of the international operations center and notify the
30 department of revenue in writing. The owner or operator may appeal the
31 revocation. The authority may give special consideration or allow a
32 temporary exception if there is extraordinary hardship due to factors
33 beyond the owner's or operator's control. If certification is revoked,
34 the department of revenue shall order the owner or operator to forfeit
35 further entitlement to utility relief. If the owner or operator fails to
36 make a minimum capital investment of \$100,000,000 in a taxable year,
37 taking into account any excess investment amounts carried forward from
38 previous years, the owner or operator may avoid revocation of its
39 certification by paying to the department of revenue within sixty days
40 after the end of the taxable year the amount of the utility relief
41 provided pursuant to this section in that year.

42 G. The authority and the department of revenue shall prescribe
43 forms and procedures as necessary for the purposes of this section.

44 H. Proprietary business information contained in the application
45 form described in subsection B of this section and the written notice

1 described in subsection F of this section are confidential and may not be
2 disclosed to the public, except that the information shall be transmitted
3 to the department of revenue. The authority or the department of revenue
4 may disclose the name of an international operations center that has been
5 certified pursuant to this section.

6 I. Except as provided in subsection F of this section, on
7 certification, the international operations center remains certified
8 unless ownership of the international operations center is sold, conveyed,
9 transferred or otherwise directly or indirectly disposed of to another
10 entity in which the original owner holds less than a controlling interest.
11 For the purposes of this subsection, "controlling interest" means at least
12 eighty percent of the voting shares of a corporation or of the interests
13 in a noncorporate entity.

14 J. An owner or operator may be composed of a single entity or
15 affiliated entities.

16 K. For the purposes of this section:

17 1. "International operations center" means a facility that is
18 subject to the investment thresholds under subsection D of this section
19 and that self-consumes renewable energy from a qualified facility pursuant
20 to section 43-1164.05, subsection ~~C~~ B.

21 2. "Utility relief" means the mitigation of the tax burden on the
22 retail purchaser of electricity or natural gas through the application of
23 section 42-5063, subsection C, paragraph 7, section 42-5159, subsection G,
24 paragraph 2 and section 42-6012, paragraph 2.

25 Sec. 5. Section 42-2201, Arizona Revised Statutes, is amended to
26 read:

27 42-2201. Election for relief from joint and several
28 liability; definition

29 A. Notwithstanding section 43-301, subsection ~~B~~ C and section
30 43-562, after filing a joint income tax return pursuant to section 43-309,
31 a taxpayer may seek relief from joint and several liability under the
32 following circumstances:

33 1. There is an understatement of tax attributable to erroneous
34 items of one of the taxpayers filing the joint return.

35 2. The taxpayer making an election under this section establishes
36 that in signing the return the taxpayer did not know, and had no reason to
37 know, that there was an understatement.

38 3. Taking into account all of the facts and circumstances, it is
39 inequitable to hold that taxpayer liable for the deficiency attributable
40 to the understatement.

41 B. If a taxpayer qualifies for relief under subsection A of this
42 section, the relief extends to the amount of liability for tax, interest
43 and penalties that is attributable to the understatement.

44 C. If a taxpayer would qualify for relief under subsection A of
45 this section except that under subsection A, paragraph 2 the taxpayer

1 establishes that in signing the return the taxpayer did not know, and had
2 no reason to know, the extent of the understatement, the relief extends
3 only to the extent the liability for tax, interest and penalties is
4 attributable to the portion of the understatement of which the taxpayer
5 did not know and had no reason to know.

6 D. The department shall make any determination under this section
7 without regard to community property laws.

8 E. An election made by an individual under this section after the
9 department has collected tax attributable to the erroneous items is
10 considered to be a claim for refund pursuant to section 42-1118. The
11 individual making an election after making the payment shall make the
12 election within six months after making the payment or within the time
13 limits prescribed by section 42-1106, whichever period expires later.

14 F. A taxpayer may appeal a determination under this section
15 pursuant to section 42-1251 or 42-1253.

16 G. Except in the case of a jeopardy assessment under section
17 42-1111, the department shall not levy or proceed in court to collect any
18 tax for taxable years from which the taxpayer is claiming relief under
19 this section until all determinations are final. The period of
20 limitations under section 42-1104 is suspended for the same period for
21 which collection activities are suspended.

22 H. The department shall notify and allow the other joint filer to
23 participate in any administrative proceeding under this section.

24 I. For the purposes of this section, "understatement" has the same
25 meaning prescribed by section 6662(d)(2)(A) of the internal revenue code.

26 Sec. 6. Section 42-2202, Arizona Revised Statutes, is amended to
27 read:

28 42-2202. Separate liability election; definition

29 A. Notwithstanding section 43-301, subsection ~~B~~ C and section
30 43-562, a taxpayer who filed a joint income tax return under section
31 43-309 for a taxable year and who meets the following requirements may
32 elect to limit the taxpayer's liability pursuant to this section with
33 respect to a deficiency assessed for that return:

34 1. At the time the election is filed, the electing taxpayer is no
35 longer married to, or is legally separated from, the spouse with whom the
36 taxpayer filed the joint return.

37 2. The electing taxpayer was not a member of the same household as
38 the spouse with whom the joint return was filed at any time during the
39 twelve month period ending on the date the election is filed.

40 B. If the department grants relief under this section, the
41 taxpayer's liability for any deficiency assessed with respect to the
42 return shall not exceed the portion of the deficiency properly allocable
43 to the electing taxpayer.

44 C. The department shall allocate a deficiency under this section as
45 follows:

1 1. The portion of any deficiency allocated to an individual under
2 this section is the amount that bears the same ratio to the deficiency as
3 the net amount of items taken into account in computing the deficiency and
4 allocable to the individual under subsection D of this section bears to
5 the net amount of all items taken into account in computing the
6 deficiency.

7 2. If all or part of a deficiency is attributable to the
8 disallowance of a credit, and that credit is allocated to one individual
9 under subsection D of this section, the deficiency or portion shall be
10 allocated to that individual. That amount shall not be taken into account
11 under paragraph 1 of this subsection.

12 D. For the purposes of this section, items giving rise to the
13 deficiency shall be allocated as follows:

14 1. Any item giving rise to a deficiency on a joint return shall be
15 allocated to the individuals filing the return in the same manner as it
16 would have been allocated if the individuals had filed separate returns
17 for the taxable year, without regard to community property laws.

18 2. An item otherwise allocable to an individual under paragraph 1
19 of this subsection shall be allocated to the other individual filing the
20 joint return to the extent the item gave rise to a tax benefit on the
21 joint return to the other individual.

22 3. The director may provide for allocation of any item in a
23 different manner if the department establishes that the different
24 allocation is appropriate due to fraud of one or both individuals.

25 E. If the tax liability of the taxpayer's child is included on the
26 joint return:

27 1. The child's liability shall be disregarded in computing the
28 liability of either spouse.

29 2. The child's liability shall be allocated appropriately between
30 the spouses.

31 F. Any deficiency that is assessed with respect to the return shall
32 not exceed the portion of the deficiency properly allocable to the
33 individual.

34 G. Each electing individual under this section has the burden of
35 proof with respect to establishing the portion of any deficiency allocable
36 to that individual.

37 H. An election under this section is invalid if the department
38 demonstrates that assets were transferred between individuals filing a
39 joint return as part of a fraudulent scheme by those individuals.

40 I. If the department demonstrates that an individual making an
41 election under this section had actual knowledge at the time the
42 individual signed the return of any item giving rise to all or part of a
43 deficiency that is not allocable to that individual under subsection E of
44 this section, the election does not apply to that deficiency. This

1 subsection does not apply if the individual with actual knowledge
2 establishes that the return was signed under duress.

3 J. Any determination under this section shall be made without
4 regard to community property laws.

5 K. An election made by an individual under this section after the
6 department has collected tax attributable to the deficiency is considered
7 to be a claim for refund pursuant to section 42-1118. The individual
8 making an election after making the payment must make the election within
9 six months after making the payment or within the time limits prescribed
10 by section 42-1106, whichever period expires later.

11 L. A taxpayer may appeal a determination under this section
12 pursuant to section 42-1251 or 42-1253.

13 M. Except in the case of a jeopardy assessment under section
14 42-1111, the department may not levy or proceed in court to collect any
15 tax for taxable years from which the taxpayer is claiming relief under
16 this section until all determinations are final. The period of
17 limitations under section 42-1104 is suspended for the same period for
18 which collection activities are suspended.

19 N. The department shall notify and allow the other joint filer to
20 participate in any administrative proceeding under this section.

21 O. The portion of the deficiency for which the electing individual
22 is liable, without regard to this subsection, shall be increased by the
23 value of any disqualified asset, as defined in section 6015(c)(4)(B) of
24 the internal revenue code, transferred to the individual.

25 P. For the purposes of this section, "deficiency" has the same
26 meaning prescribed by section 6211 of the internal revenue code.

27 Sec. 7. Section 42-5001, Arizona Revised Statutes, is amended to
28 read:

29 42-5001. Definitions

30 In this article and article 2 of this chapter, unless the context
31 otherwise requires:

32 1. "Business" includes all activities or acts, personal or
33 corporate, that are engaged in or caused to be engaged in with the object
34 of gain, benefit or advantage, either directly or indirectly, but does not
35 include either:

36 (a) Casual activities or sales.

37 (b) The transfer of electricity from a solar photovoltaic
38 generation system to an electric utility distribution system.

39 2. "Distribution base" means the portion of the revenues derived
40 from the tax levied by this article and articles 5 and 8 of this chapter
41 designated for distribution to counties, municipalities and other purposes
42 according to section 42-5029, subsection D.

43 3. "Engaging", when used with reference to engaging or continuing
44 in business, includes the exercise of corporate or franchise powers.

1 4. "Gross income" means the gross receipts of a taxpayer derived
2 from trade, business, commerce or sales and the value proceeding or
3 accruing from the sale of tangible personal property or service, or both,
4 and without any deduction on account of losses.

5 5. "Gross proceeds of sales" means the value proceeding or accruing
6 from the sale of tangible personal property without any deduction on
7 account of the cost of property sold, expense of any kind or losses, but
8 cash discounts allowed and taken on sales are not included as gross
9 income.

10 6. Gross income and gross proceeds of sales do not include goods,
11 wares or merchandise, or the value thereof, returned by customers if the
12 sale price is refunded either in cash or by credit, or the value of
13 merchandise traded in on the purchase of new merchandise when the trade-in
14 allowance is deducted from the sales price of the new merchandise before
15 completion of the sale.

16 7. "Gross receipts" means the total amount of the sale, lease or
17 rental price, as the case may be, of the retail sales of retailers,
18 including any services that are a part of the sales, valued in money,
19 whether received in money or otherwise, including all receipts, cash,
20 credits and property of every kind or nature, and any amount for which
21 credit is allowed by the seller to the purchaser without any deduction
22 from the amount on account of the cost of the property sold, materials
23 used, labor or service performed, interest paid, losses or any other
24 expense. Gross receipts do not include cash discounts allowed and taken
25 or the sale price of property returned by customers if the full sale price
26 is refunded either in cash or by credit.

27 8. "Marketplace" means a physical or electronic place, platform or
28 forum, including a store, booth, internet website, catalog or dedicated
29 sales software application, where products, including tangible personal
30 property, are offered for sale.

31 9. "Marketplace facilitator":

32 (a) Means a person that facilitates a retail sale by a marketplace
33 seller by listing or advertising for sale by the marketplace seller in a
34 marketplace tangible personal property and, either directly or indirectly,
35 through agreements or arrangements with third parties collecting payment
36 from the purchaser and transmitting that payment to the marketplace
37 seller, regardless of whether the marketplace facilitator receives
38 compensation for the marketplace facilitator's services.

39 (b) Does not include a payment processor business that is appointed
40 to handle payment transactions from various channels, such as charge
41 cards, credit cards and debit cards, and whose sole activity with respect
42 to marketplace sales is to handle transactions between two parties.

43 10. "Marketplace seller" means a person that makes retail sales
44 through any physical or electronic marketplace that is operated by a
45 marketplace facilitator.

1 11. "Person" or "company" includes an individual, firm,
2 partnership, joint venture, association, corporation, estate, trust,
3 marketplace facilitator or remote seller, this state, any county, city,
4 town, district, other than a school district, or other political
5 subdivision and any other group or combination acting as a unit, and the
6 plural as well as the singular number.

7 12. "Qualifying community health center":

8 (a) Means an entity that is recognized as nonprofit under section
9 501(c)(3) of the United States internal revenue code, that is a
10 community-based, primary care clinic that has a community-based board of
11 directors and that is either:

12 (i) The sole provider of primary care in the community.

13 (ii) A nonhospital affiliated clinic that is located in a federally
14 designated medically underserved area in this state.

15 (b) Includes clinics that are being constructed as qualifying
16 community health centers.

17 13. "Qualifying health care organization" means an entity that is
18 recognized as nonprofit under section 501(c) of the United States internal
19 revenue code and that uses, saves or invests at least eighty percent of
20 all monies that it receives from all sources each year only for health and
21 medical related educational and charitable services, as documented by
22 annual financial audits prepared by an independent certified public
23 accountant, performed according to generally accepted auditing standards
24 and filed annually with the department. Monies that are used, saved or
25 invested to lease, purchase or construct a facility for health and medical
26 related education and charitable services are included in the eighty
27 percent requirement.

28 14. "Qualifying health sciences educational institution" means an
29 entity that is recognized as nonprofit under section 501(c) of the United
30 States internal revenue code and that solely provides graduate and
31 postgraduate education in the health sciences. For the purposes of this
32 paragraph, "health sciences" includes medicine, nursing, physician's
33 assistant studies, pharmacy, physical therapy, occupational therapy,
34 biomedical sciences, podiatry, clinical psychology, cardiovascular
35 science, nurse anesthesia, dentistry, optometry and veterinary medicine.

36 15. "Qualifying hospital" means any of the following:

37 (a) A licensed hospital that is organized and operated exclusively
38 for charitable purposes, no part of the net earnings of which inures to
39 the benefit of any private shareholder or individual.

40 (b) A licensed nursing care institution or a licensed residential
41 care institution or a residential care facility operated in conjunction
42 with a licensed nursing care institution or a licensed kidney dialysis
43 center that provides medical services, nursing services or health related
44 services and that is not used or held for profit.

1 (c) A hospital, nursing care institution or residential care
2 institution that is operated by the federal government, this state or a
3 political subdivision of this state.

4 (d) A facility that is under construction and that on completion
5 will be a facility under subdivision (a), (b) or (c) of this paragraph.

6 16. "Remote seller" means a person that sells products for delivery
7 into this state and that does not have a physical presence or other legal
8 requirement to obtain a transaction privilege tax license in this state
9 other than because the person's business exceeds the threshold provided in
10 section ~~42-5043~~ 42-5044.

11 17. "Retailer" includes every person engaged in the business
12 classified under the retail classification pursuant to section 42-5061
13 and, when in the opinion of the department it is necessary for the
14 efficient administration of this article, includes dealers, distributors,
15 supervisors, employers and salesmen, representatives, peddlers or
16 canvassers as the agents of the dealers, distributors, supervisors or
17 employers under whom they operate or from whom they obtain the tangible
18 personal property sold by them, whether in making sales on their own
19 behalf or on behalf of the dealers, distributors, supervisors or
20 employers.

21 18. "Sale" means any transfer of title or possession, or both,
22 exchange, barter, lease or rental, conditional or otherwise, in any manner
23 or by any means whatever, including consignment transactions and auctions
24 and transactions facilitated by a marketplace facilitator on behalf of a
25 marketplace seller, of tangible personal property or other activities
26 taxable under this chapter, for a consideration, and includes:

27 (a) Any transaction by which the possession of property is
28 transferred but the seller retains the title as security for the payment
29 of the price.

30 (b) Fabricating tangible personal property for consumers who
31 furnish either directly or indirectly the materials used in the
32 fabrication work.

33 (c) Furnishing, preparing or serving for a consideration any
34 tangible personal property consumed on the premises of the person
35 furnishing, preparing or serving the tangible personal property.

36 19. "Solar daylighting" means a device that is specifically
37 designed to capture and redirect the visible portion of the solar beam,
38 while controlling the infrared portion, for use in illuminating interior
39 building spaces in lieu of artificial lighting.

40 20. "Solar energy device" means a system or series of mechanisms
41 that are designed primarily to provide heating, to provide cooling, to
42 produce electrical power, to produce mechanical power, to provide solar
43 daylighting or to provide any combination of the foregoing by means of
44 collecting and transferring solar generated energy into such uses either
45 by active or passive means, including wind generator systems that produce

1 electricity. Solar energy systems may also have the capability of storing
2 solar energy for future use. Passive systems shall clearly be designed as
3 a solar energy device, such as a trombe wall, and not merely as a part of
4 a normal structure, such as a window.

5 21. "Tangible personal property" means personal property that may
6 be seen, weighed, measured, felt or touched or that is in any other manner
7 perceptible to the senses.

8 22. "Taxpayer" means any person who is liable for any tax imposed
9 by this article.

10 23. "Tax year" or "taxable year" means either the calendar year or
11 the taxpayer's fiscal year, if permission is obtained from the department
12 to use a fiscal year as the tax period instead of the calendar year.

13 24. "Wholesaler" or "jobber" means any person who sells tangible
14 personal property for resale and not for consumption by the purchaser.

15 Sec. 8. Section 42-5014, Arizona Revised Statutes, is amended to
16 read:

17 42-5014. Return and payment of tax; estimated tax;
18 extensions; abatements

19 A. Except as provided in subsection B, C, D, E or F of this
20 section, the taxes levied under this article:

21 1. Are due and payable monthly in the form required by section
22 42-5018 for the amount of the tax, to the department, on or before the
23 twentieth day of the month next succeeding the month in which the tax
24 accrues.

25 2. Are delinquent as follows:

26 (a) For taxpayers that are required or elect to file and pay
27 electronically in any month, if not received by the department on or
28 before the last business day of the month.

29 (b) For all other taxpayers, if not received by the department on
30 or before the business day preceding the last business day of the month.

31 B. The department, for any taxpayer whose estimated annual
32 liability for taxes imposed or administered by this article or chapter 6
33 of this title is between \$2,000 and \$8,000, shall authorize the taxpayer
34 to pay the taxes on a quarterly basis. The department, for any taxpayer
35 whose estimated annual liability for taxes imposed by this article is less
36 than \$2,000, shall authorize the taxpayer to pay the taxes on an annual
37 basis. For the purposes of this subsection, the taxes due under this
38 article:

39 1. For taxpayers that are authorized to pay on a quarterly basis,
40 are due and payable monthly in the form required by section 42-5018 for
41 the amount of the tax, to the department, on or before the twentieth day
42 of the month next succeeding the quarter in which the tax accrues.

1 2. For taxpayers that are authorized to pay on an annual basis, are
2 due and payable monthly in the form required by section 42-5018 for the
3 amount of the tax, to the department, on or before the twentieth day of
4 January next succeeding the year in which the tax accrues.

5 3. Are delinquent as follows:

6 (a) For taxpayers that are required or elect to file and pay
7 electronically in any quarter, if not received by the department on or
8 before the last business day of the month.

9 (b) For all other taxpayers that are required to file and pay
10 quarterly, if not received by the department on or before the business day
11 preceding the last business day of the month.

12 (c) For taxpayers that are required or elect to file and pay
13 electronically on an annual basis, if not received by the department on or
14 before the last business day of January.

15 (d) For all other taxpayers that are required to file and pay
16 annually, if not received by the department on or before the business day
17 preceding the last business day of January.

18 C. The department may require a taxpayer whose business is of a
19 transient character to file the return and remit the taxes imposed by this
20 article on a daily, a weekly or a transaction-by-transaction basis, and
21 those returns and payments are due and payable on the date fixed by the
22 department without a grace period otherwise allowed by this section. For
23 the purposes of this subsection, "business of a transient character" means
24 sales activity by a taxpayer not regularly engaged in selling within this
25 state that is conducted from vehicles, portable stands, rented spaces,
26 structures or booths, or concessions at fairs, carnivals, circuses,
27 festivals or similar activities for not more than thirty consecutive days.

28 D. If the business entity under which a taxpayer reports and pays
29 income tax under title 43 has an annual total tax liability under this
30 article, article 6 of this chapter and chapter 6, article 3 of this title
31 of \$1,000,000 or more in 2019, \$1,600,000 or more in 2020, \$2,300,000 or
32 more in 2021, \$3,100,000 or more in 2022, ~~OR~~ OR \$4,100,000 or more in 2023
33 and each year thereafter, based on the actual tax liability in the
34 preceding calendar year, regardless of the number of offices at which the
35 taxes imposed by this article, article 6 of this chapter or chapter 6,
36 article 3 of this title are collected, or if the taxpayer can reasonably
37 anticipate such liability in the current year, the taxpayer shall report
38 on a form prescribed by the department and pay an estimated tax payment
39 each June. Any other taxpayer may voluntarily elect to pay the estimated
40 tax payment pursuant to this subsection. The payment shall be made on or
41 before June 20 IN THE SAME MANNER AS THE TAXPAYER IS REQUIRED TO MAKE
42 REGULAR PAYMENTS and is delinquent if not received by the department on or
43 before the LAST business day ~~preceding the last business day~~ of June IF
44 THE TAXPAYER IS REQUIRED TO MAKE THE PAYMENT BY ELECTRONIC MEANS OR
45 DELINQUENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY

1 OF JUNE for those taxpayers ~~electing~~ ALLOWED to file by mail, or
2 delinquent if not received by the department on the business day preceding
3 the last business day of June for those taxpayers ~~electing~~ ALLOWED to file
4 in person. The estimated tax paid shall be credited against the
5 taxpayer's tax liability under this article, article 6 of this chapter and
6 chapter 6, article 3 of this title for the month of June for the current
7 calendar year. The estimated tax payment shall equal either:

8 1. One-half of the actual tax liability under this article plus
9 one-half of any tax liability under article 6 of this chapter and chapter
10 6, article 3 of this title for May of the current calendar year.

11 2. The actual tax liability under this article plus any tax
12 liability under article 6 of this chapter and chapter 6, article 3 of this
13 title for the first fifteen days of June of the current calendar year.

14 E. An online lodging marketplace, as defined in section 42-5076,
15 that is registered with the department pursuant to section 42-5005,
16 subsection L:

17 1. Shall remit to the department the applicable taxes payable
18 pursuant to section 42-5076 and chapter 6 of this title with respect to
19 each online lodging transaction, as defined in section 42-5076,
20 facilitated by the online lodging marketplace.

21 2. Shall report the taxes monthly and remit the aggregate total
22 amounts for each of the respective taxing jurisdictions.

23 3. Shall not be required to list or otherwise identify any
24 individual online lodging operator, as defined in section 42-5076, on any
25 return or any attachment to a return.

26 F. A person who is licensed pursuant to title 32, chapter 20 and
27 who is licensed with the department pursuant to section 42-5005,
28 subsection M shall:

29 1. File a consolidated return monthly with respect to all managed
30 properties for which the licensee files an electronic consolidated tax
31 return pursuant to section 42-6013.

32 2. Remit to the department the aggregate total amount of the
33 applicable taxes payable pursuant to this chapter and chapter 6 of this
34 title for all of the respective taxing jurisdictions with respect to the
35 managed properties.

36 G. The taxpayer shall prepare a return showing the amount of the
37 tax for which the taxpayer is liable for the preceding month, and shall
38 mail or deliver the return to the department in the same manner and time
39 as prescribed for the payment of taxes in subsection A of this section.
40 If the taxpayer fails to file the return in the manner and time as
41 prescribed for the payment of taxes in subsection A of this section, the
42 amount of the tax required to be shown on the return is subject to the
43 penalty imposed pursuant to section 42-1125, subsection X, without any
44 reduction for taxes paid on or before the due date of the return. The
45 return shall be verified by the oath of the taxpayer or an authorized

1 agent or as prescribed by the department pursuant to section 42-1105,
2 subsection B.

3 H. Any person who is taxable under this article and who makes cash
4 and credit sales shall report the cash and credit sales separately and may
5 apply for and obtain from the department an extension of time to pay taxes
6 due on the credit sales. The department shall grant the extension under
7 such rules as the department prescribes. When the extension is granted,
8 the taxpayer shall thereafter include in each monthly report all
9 collections made on such credit sales during the month next preceding and
10 shall pay the taxes due at the time of filing such a report.

11 I. The returns required under this article shall be made on forms
12 prescribed by the department and shall capture data with sufficient
13 specificity to meet the needs of all taxing jurisdictions.

14 J. Any person who is engaged in or conducting business in two or
15 more locations or under two or more business names shall file the return
16 required under this article using an electronic filing program established
17 by the department.

18 K. For taxable periods beginning from and after December 31, 2017,
19 any taxpayer with an annual total tax liability under this chapter and
20 chapter 6 of this title of \$20,000 or more, based on the actual tax
21 liability in the preceding calendar year, regardless of the number of
22 offices at which the taxes imposed by this chapter or chapter 6 of this
23 title are collected, or a taxpayer that can reasonably anticipate that
24 liability in the current year, shall file the return required under this
25 article using an electronic filing program established by the department.

26 L. For taxable periods beginning from and after December 31, 2018,
27 any taxpayer with an annual total tax liability under this chapter and
28 chapter 6 of this title of \$10,000 or more, based on the actual tax
29 liability in the preceding calendar year, regardless of the number of
30 offices at which the taxes imposed by this chapter or chapter 6 of this
31 title are collected, or a taxpayer that can reasonably anticipate that
32 liability in the current year, shall file the return required under this
33 article using an electronic filing program established by the department.

34 M. For taxable periods beginning from and after December 31, 2019,
35 any taxpayer with an annual total tax liability under this chapter and
36 chapter 6 of this title of \$5,000 or more, based on the actual tax
37 liability in the preceding calendar year, regardless of the number of
38 offices at which the taxes imposed by this chapter or chapter 6 of this
39 title are collected, or a taxpayer that can reasonably anticipate that
40 liability in the current year, shall file the return required under this
41 article using an electronic filing program established by the department.

42 N. For taxable periods beginning from and after December 31, 2020,
43 any taxpayer with an annual total tax liability under this chapter and
44 chapter 6 of this title of \$500 or more, based on the actual tax liability
45 in the preceding calendar year, regardless of the number of offices at

1 which the taxes imposed by this chapter or chapter 6 of this title are
2 collected, or a taxpayer that can reasonably anticipate that liability in
3 the current year, shall file the return required under this article using
4 an electronic filing program established by the department.

5 O. Any taxpayer that is required to report and pay using an
6 electronic filing program established by the department may apply to the
7 director, on a form prescribed by the department, for an annual waiver
8 from the electronic filing requirement. The director may grant a waiver,
9 which may be renewed, if any of the following applies:

- 10 1. The taxpayer has no computer.
- 11 2. The taxpayer has no internet access.
- 12 3. Any other circumstance considered to be worthy by the director
13 exists.

14 P. A waiver is not required if the return cannot be electronically
15 filed for reasons beyond the taxpayer's control, including situations in
16 which the taxpayer was instructed by either the internal revenue service
17 or the department of revenue to file by paper.

18 Q. The department, for good cause, may extend the time for making
19 any return required by this article and may grant such reasonable
20 additional time within which to make the return as it deems proper, but
21 the time for filing the return shall not be extended beyond the first day
22 of the third month next succeeding the regular due date of the return.

23 R. The department, with the approval of the attorney general, may
24 abate small tax balances if the administration costs exceed the amount of
25 tax due.

26 S. For the purposes of subsection D of this section, "taxpayer"
27 means the business entity under which the business reports and pays state
28 income taxes regardless of the number of offices at which the taxes
29 imposed by this article, article 6 of this chapter or chapter 6, article 3
30 of this title are collected.

31 Sec. 9. Section 42-5069, Arizona Revised Statutes, is amended to
32 read:

33 42-5069. Commercial lease classification; definitions

34 A. The commercial lease classification is comprised of the business
35 of leasing for a consideration the use or occupancy of real property.

36 B. A person who, as a lessor, leases or rents for a consideration
37 under one or more leases or rental agreements the use or occupancy of real
38 property that is used by the lessee for commercial purposes is deemed to
39 be engaged in business and subject to the tax imposed by article 1 of this
40 chapter, but this subsection does not include leases or rentals of real
41 property used for residential or agricultural purposes.

42 C. The commercial lease classification does not include:

- 43 1. Any business activities that are classified under the transient
44 lodging classification.

1 2. Activities engaged in by the Arizona exposition and state fair
2 board or county fair commissions in connection with events sponsored by
3 those entities.

4 3. Leasing real property to a lessee who subleases the property if
5 the lessee is engaged in business classified under the commercial lease
6 classification or the transient lodging classification.

7 4. Leasing real property pursuant to a written lease agreement
8 entered into before December 1, 1967. This exclusion does not apply to
9 the businesses of hotels, guest houses, dude ranches and resorts, rooming
10 houses, apartment houses, office buildings, automobile storage garages,
11 parking lots or tourist camps, or to the extension or renewal of any such
12 written lease agreement.

13 5. Leasing real property between affiliated companies, businesses,
14 persons or reciprocal insurers. For the purposes of this paragraph:

15 (a) "Affiliated companies, businesses, persons or reciprocal
16 insurers" means the lessor holds a controlling interest in the lessee, the
17 lessee holds a controlling interest in the lessor, affiliated persons hold
18 a controlling interest in both the lessor and the lessee, or an unrelated
19 person holds a controlling interest in both the lessor and lessee.

20 (b) "Affiliated persons" means members of an individual's family or
21 persons who have ownership or control of a business entity.

22 (c) "Controlling interest" means direct or indirect ownership of at
23 least eighty percent of the voting shares of a corporation or of the
24 interests in a company, business or person other than a corporation.

25 (d) "Members of an individual's family" means the individual's
26 spouse and brothers and sisters, whether by whole or half blood, including
27 adopted persons, ancestors and lineal descendants.

28 (e) "Reciprocal insurers" has the same meaning prescribed in
29 section 20-762.

30 6. Leasing real property for boarding horses.

31 7. Leasing or renting real property or the right to use real
32 property at exhibition events in this state sponsored, operated or
33 conducted by a nonprofit organization that is exempt from taxation under
34 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if
35 the organization is associated with major league baseball teams or a
36 national touring professional golfing association and no part of the
37 organization's net earnings inures to the benefit of any private
38 shareholder or individual. This paragraph does not apply to an
39 organization that is owned, managed or controlled, in whole or in part, by
40 a major league baseball team, or its owners, officers, employees or
41 agents, or by a major league baseball association or professional golfing
42 association, or its owners, officers, employees or agents, unless the
43 organization conducted or operated exhibition events in this state before
44 January 1, 2018 that were exempt from taxation under section 42-5073.

1 8. Leasing or renting real property or the right to use real
2 property for use as a rodeo featuring primarily farm and ranch animals in
3 this state sponsored, operated or conducted by a nonprofit organization
4 that is exempt from taxation under section 501(c)(3), 501(c)(4),
5 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part
6 of the organization's net earnings inures to the benefit of any private
7 shareholder or individual.

8 9. Leasing or renting dwelling units, lodging facilities or trailer
9 or mobile home spaces if the units, facilities or spaces are intended to
10 serve as the principal or permanent place of residence for the lessee or
11 renter or if the unit, facility or space is leased or rented to a single
12 tenant thirty or more consecutive days.

13 10. Leasing or renting real property and improvements for use
14 primarily for religious worship by a nonprofit organization that is exempt
15 from taxation under section 501(c)(3) of the internal revenue code and no
16 part of the organization's net earnings inures to the benefit of any
17 private shareholder or individual.

18 ~~11. Leasing or renting real property used for agricultural purposes~~
19 ~~under either of the following circumstances:~~

20 ~~(a) The lease or rental is between family members, trusts, estates,~~
21 ~~corporations, partnerships, joint venturers or similar entities, or any~~
22 ~~combination thereof, if the individuals or at least eighty percent of the~~
23 ~~beneficiaries, shareholders, partners or joint venturers share a family~~
24 ~~relationship as parents or ancestors of parents, children or descendants~~
25 ~~of children, siblings, cousins of the first degree, aunts, uncles, nieces~~
26 ~~or nephews of the first degree, spouses of any of the listed relatives and~~
27 ~~listed relatives by the half-blood or by adoption.~~

28 ~~(b) The lessor leases or rents real property used for agricultural~~
29 ~~purposes under no more than three leases or rental agreements.~~

30 ~~12.~~ 11. Leasing, renting or granting the right to use real
31 property to vendors or exhibitors by a trade or industry association that
32 is a qualifying organization pursuant to section 513(d)(3)(C) of the
33 internal revenue code for a period not to exceed twenty-one days in
34 connection with an event that meets all of the following conditions:

35 (a) The majority of such vending or exhibition activities relate to
36 the nature of the trade or business sponsoring the event.

37 (b) The event is held in conjunction with a formal business meeting
38 of the trade or industry association.

39 (c) The event is organized by the persons engaged in the particular
40 trade or industry.

41 ~~13.~~ 12. Leasing, renting or granting the right to use real
42 property for a period not to exceed twenty-one days by a coliseum, civic
43 center, civic plaza, convention center, auditorium or arena owned by this
44 state or any of its political subdivisions.

1 ~~14.~~ 13. Leasing or subleasing real property used by a nursing care
2 institution as defined in section 36-401 that is licensed pursuant to
3 title 36, chapter 4.

4 ~~15.~~ 14. Leasing or renting an eligible facility as defined in
5 section 28-7701.

6 ~~16.~~ 15. Granting or providing rights to real property that
7 constitute a profit à prendre for the severance of minerals, including all
8 rights to use the surface or subsurface of the property as is necessary or
9 convenient to the right to sever the minerals. This paragraph does not
10 exclude from the commercial lease classification leasehold rights to the
11 real property that are granted in addition to and not included within the
12 right of profit à prendre, but the tax base for the grant of such a
13 leasehold right, if the gross income derived from the grant is not
14 separately stated from the gross income derived from the grant of the
15 profit à prendre, shall not exceed the fair market value of the leasehold
16 rights computed after excluding the value of all rights under the profit à
17 prendre. For the purposes of this paragraph, "profit à prendre" means a
18 right to use the land of another to mine minerals, and carries with it the
19 right of entry and the right to remove and take the minerals from the land
20 and also includes the right to use the surface of the land as is necessary
21 and convenient for exercise of the profit.

22 ~~17.~~ 16. The leasing or renting of space to make attachments to
23 utility poles as follows:

24 (a) By a person that is engaged in business under section 42-5063
25 or 42-5064 or that is a cable operator.

26 (b) To a person that is engaged in business under section 42-5063
27 or 42-5064 or that is a cable operator.

28 D. The tax base for the commercial lease classification is the
29 gross proceeds of sales or gross income derived from the business, but
30 reimbursements to the lessor for utility service shall be deducted from
31 the tax base.

32 E. Notwithstanding section 42-1104, subsection B, paragraph 1,
33 subdivision (b) and paragraph 2, the failure to file tax returns for the
34 commercial lease classification that report gross income derived from any
35 agreement that constitutes, in whole or in part, a grant of a right of
36 profit à prendre for the severance of minerals does not constitute an
37 exception to the general rule for the statute of limitations.

38 F. For the purposes of this section:

39 1. "Cable operator" has the same meaning prescribed in section
40 9-505 and includes a video service provider.

41 2. "Leasing" includes renting.

42 3. "Real property" includes any improvements, rights or interest in
43 such property.

1 4. "Utility pole" means any wooden, metal or other pole used for
2 utility purposes and the pole's appurtenances that are attached or
3 authorized for attachment by the person controlling the pole.

4 Sec. 10. Section 42-5071, Arizona Revised Statutes, is amended to
5 read:

6 42-5071. Personal property rental classification; definitions

7 A. The personal property rental classification is comprised of the
8 business of leasing or renting tangible personal property for a
9 consideration. The tax does not apply to:

10 1. Leasing or renting films, tapes or slides used by theaters or
11 movies, which are engaged in business under the amusement classification,
12 or used by television stations or radio stations.

13 2. Activities engaged in by the Arizona exposition and state fair
14 board or county fair commissions in connection with events sponsored by
15 such entities.

16 3. Leasing or renting tangible personal property by a parent
17 ~~corporation~~ BUSINESS ENTITY to a subsidiary ~~corporation~~ BUSINESS ENTITY or
18 by a subsidiary ~~corporation~~ BUSINESS ENTITY to another subsidiary of the
19 same parent ~~corporation~~ BUSINESS ENTITY if taxes were paid under this
20 chapter on the gross proceeds or gross income accruing from the initial
21 sale of the tangible personal property. For the purposes of this
22 paragraph, "subsidiary" means a ~~corporation~~ BUSINESS ENTITY of which at
23 least eighty percent of the voting shares are owned by the parent
24 ~~corporation~~ BUSINESS ENTITY.

25 4. Operating coin-operated washing, drying and dry cleaning
26 machines or coin-operated car washing machines at establishments for the
27 use of such machines.

28 5. Leasing or renting tangible personal property for incorporation
29 into or comprising any part of a qualified environmental technology
30 facility as described in section 41-1514.02. This paragraph shall apply
31 for ten full consecutive calendar or fiscal years following the initial
32 lease or rental by each qualified environmental technology manufacturer,
33 producer or processor.

34 6. Leasing or renting aircraft, flight simulators or similar
35 training equipment to students or staff by nonprofit, accredited
36 educational institutions that offer associate or baccalaureate degrees in
37 aviation or aerospace related fields.

38 7. Leasing or renting photographs, transparencies or other creative
39 works used by this state on internet websites, in magazines or in other
40 publications that encourage tourism.

41 8. Leasing or renting certified ignition interlock devices
42 installed pursuant to the requirements prescribed by section 28-1461. For
43 the purposes of this paragraph, "certified ignition interlock device" has
44 the same meaning prescribed in section 28-1301.

1 9. The leasing or renting of space to make attachments to utility
2 poles, as follows:

3 (a) By a person that is engaged in business under section 42-5063
4 or 42-5064 or that is a cable operator.

5 (b) To a person that is engaged in business under section 42-5063
6 or 42-5064 or that is a cable operator.

7 10. Leasing or renting billboards that are designed, intended or
8 used to advertise or inform and that are visible from any street, road or
9 other highway.

10 B. The tax base for the personal property rental classification is
11 the gross proceeds of sales or gross income derived from the business, but
12 the gross proceeds of sales or gross income derived from the following
13 shall be deducted from the tax base:

14 1. Reimbursements by the lessee to the lessor of a motor vehicle
15 for payments by the lessor of the applicable fees and taxes imposed by
16 sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter
17 15, article 2 and article IX, section 11, Constitution of Arizona, to the
18 extent such amounts are separately identified as such fees and taxes and
19 are billed to the lessee.

20 2. Leases or rentals of tangible personal property that, if it had
21 been purchased instead of leased or rented by the lessee, would have been
22 exempt under:

23 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29,
24 49 or 53.

25 (b) Section 42-5061, subsection B, except that a lease or rental of
26 new machinery or equipment is not exempt pursuant to section 42-5061,
27 subsection B, paragraph 13 if the lease is for less than two years.

28 (c) Section 42-5061, subsection I, paragraph 1.

29 (d) Section 42-5061, subsection M.

30 3. Motor vehicle fuel and use fuel that are subject to a tax
31 imposed under title 28, chapter 16, article 1, sales of use fuel to a
32 holder of a valid single trip use fuel tax permit issued under section
33 28-5739 and sales of aviation fuel that are subject to the tax imposed
34 under section 28-8344.

35 4. Leasing or renting a motor vehicle subject to and on which the
36 fee has been paid under title 28, chapter 16, article 4.

37 5. Amounts received by a motor vehicle dealer for the first month
38 of a lease payment if the lease and the lease payment for the first month
39 of the lease are transferred to a third-party leasing company.

40 C. Sales of tangible personal property to be leased or rented to a
41 person engaged in a business classified under the personal property rental
42 classification are deemed to be resale sales.

1 D. In computing the tax base, the gross proceeds of sales or gross
2 income from the lease or rental of a motor vehicle does not include any
3 amount attributable to the car rental surcharge under section 5-839,
4 28-5810 or 48-4234.

5 E. Until December 31, 1988, leasing or renting animals for
6 recreational purposes is exempt from the tax imposed by this section.
7 Beginning January 1, 1989, the gross proceeds or gross income from leasing
8 or renting animals for recreational purposes is subject to taxation under
9 this section. Tax liabilities, penalties and interest paid for taxable
10 periods before January 1, 1989 shall not be refunded unless the taxpayer
11 requesting the refund provides proof satisfactory to the department that
12 the monies paid as taxes will be returned to the customer.

13 F. For the purposes of this section:

14 1. "Cable operator" has the same meaning prescribed by IN section
15 9-505 and includes a video service provider.

16 2. "Utility pole" means any wooden, metal or other pole used for
17 utility purposes and the pole's appurtenances that are attached or
18 authorized for attachment by the person controlling the pole.

19 Sec. 11. Section 42-13302, Arizona Revised Statutes, is amended to
20 read:

21 42-13302. Determining limited value in cases of
22 modifications, omissions and changes

23 A. In the following circumstances the limited property value shall
24 be established at a level or percentage of full cash value that is
25 comparable to that of other properties of the same or a similar use or
26 classification:

27 1. Property that was erroneously totally or partially omitted from
28 the property tax rolls in the preceding tax year, except as a result of
29 this section.

30 2. Property for which a change in use has occurred since the
31 preceding tax year.

32 3. Property that has been modified by construction, destruction or
33 demolition since the preceding valuation year such that the total value of
34 the modification is equal to or greater than fifteen percent of the full
35 cash value.

36 4. Property that has been split, **SUBDIVIDED** or consolidated from
37 January 1 through September 30 of the valuation year, except for cases
38 that result from an action initiated by a governmental entity.

39 B. In the case of property that is split, subdivided or
40 consolidated after September 30 through December 31 of the valuation year,
41 except for cases that result from an action initiated by a governmental
42 entity, the total limited property value of the new parcel or parcels
43 shall be the same as the total limited property value of the original
44 parcel or parcels. For the following valuation year, the limited property
45 value shall be established at a level or percentage of full cash value

1 that is comparable to that of other properties of the same or a similar
2 use or classification. The new parcel or parcels shall retain the same
3 value-adding characteristics that applied to the original parcel before
4 being split or consolidated, except as provided in subsection A, paragraph
5 3 of this section.

6 C. In the case of property that was split, subdivided or
7 consolidated from January 1 through September 30 of the valuation year as
8 a result of an action initiated by a governmental entity, the limited
9 value is the lower of either:

10 1. The level or percentage of full cash value that is comparable to
11 that of other properties of the same or similar use or classification.

12 2. The total limited value for the original parcel or parcels as
13 determined under section 42-13301, and in the following valuation year,
14 the limited property value shall be established pursuant to section
15 42-13301.

16 D. In the case of property that was split, subdivided or
17 consolidated after September 30 through December 31 of the valuation year
18 as a result of an action initiated by a governmental entity, the total
19 limited value for the resulting parcel or parcels is the same as the total
20 limited value for the original parcel or parcels as determined under
21 section 42-13301, and in the following valuation year, the limited
22 property value shall be established as the lower of either:

23 1. The level or percentage of full cash value that is comparable to
24 that of other properties of the same or similar use or classification.

25 2. The limited property value established pursuant to section
26 42-13301.

27 Sec. 12. Section 43-222, Arizona Revised Statutes, is amended to
28 read:

29 43-222. Income tax credit review schedule

30 The joint legislative income tax credit review committee shall
31 review the following income tax credits:

32 1. For years ending in 0 and 5, sections 43-1079.01, 43-1087,
33 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

34 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,
35 43-1083, 43-1083.02, 43-1164.03 and 43-1183.

36 3. For years ending in 2 and 7, sections 43-1073, ~~43-1080~~, 43-1085,
37 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, ~~AND~~
38 43-1169 ~~and 43-1181~~.

39 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081,
40 43-1168, 43-1170 and 43-1178.

41 5. For years ending in 4 and 9, sections 43-1073.01, 43-1076,
42 43-1081.01, 43-1083.03, 43-1084, ~~43-1162~~, 43-1164.04, 43-1164.05,
43 ~~43-1170.01~~ and 43-1184 ~~and, beginning in 2019, sections 43-1083.03 and~~
44 ~~43-1164.04~~.

1 Sec. 13. Section 43-301, Arizona Revised Statutes, is amended to
2 read:

3 43-301. Individual returns; definition

4 A. ~~Am~~ A FULL-YEAR RESIDENT individual ~~whose income is taxable under~~
5 ~~this title~~ shall file a return with the department if, for the taxable
6 year, the ~~individual has any of the following:~~

7 ~~1. An Arizona adjusted gross income of five thousand five hundred~~
8 ~~dollars or over, if single or married filing a separate return.~~

9 ~~2. An Arizona adjusted gross income of eleven thousand dollars or~~
10 ~~over, if married filing a joint return pursuant to section 43-309.~~

11 ~~3. A gross income of fifteen thousand dollars or over, regardless~~
12 ~~of the amount of taxable income~~ INDIVIDUAL'S GROSS INCOME WAS GREATER THAN
13 THE AMOUNT OF THE STANDARD DEDUCTION ALLOWED UNDER SUBSECTION 43-1041,
14 SUBSECTION A AS ADJUSTED FOR INFLATION PURSUANT TO SECTION 43-1041,
15 SUBSECTION H.

16 B. A PART-YEAR RESIDENT OR A NONRESIDENT INDIVIDUAL SHALL FILE A
17 RETURN WITH THE DEPARTMENT IF, FOR THE TAXABLE YEAR, THE INDIVIDUAL'S
18 GROSS INCOME WAS GREATER THAN THE AMOUNT UNDER SUBSECTION A OF THIS
19 SECTION DETERMINED FOR A FULL-YEAR RESIDENT INDIVIDUAL MULTIPLIED BY THE
20 PERCENTAGE THAT THE INDIVIDUAL'S ARIZONA GROSS INCOME IS OF THE
21 INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME.

22 ~~B.~~ C. In the case of a husband and wife, the spouse who controls
23 the disposition of or who receives or spends community income as well as
24 the spouse who is taxable on such income is liable for the payment of
25 taxes imposed by this title on such income. If a joint return is filed,
26 the liability for the tax on the aggregate income is joint and several.

27 ~~C.~~ D. This section applies regardless of whether an individual is
28 required to file a return under the internal revenue code or whether the
29 individual has any federal adjusted gross income for the taxable year.

30 ~~D.~~ E. For the purposes of this section, "gross income" means gross
31 income as defined in the internal revenue code minus income included in
32 gross income but excluded from taxation under this title.

33 Sec. 14. Section 43-1021, Arizona Revised Statutes, is amended to
34 read:

35 43-1021. Addition to Arizona gross income

36 In computing Arizona adjusted gross income, the following amounts
37 shall be added to Arizona gross income:

38 1. A beneficiary's share of the fiduciary adjustment to the extent
39 that the amount determined by section 43-1333 increases the beneficiary's
40 Arizona gross income.

41 2. An amount equal to the ordinary income portion of a lump sum
42 distribution that was excluded from federal adjusted gross income pursuant
43 to the special rule for individuals who attained fifty years of age before
44 January 1, 1986 under Public Law 99-514, section 1122(h)(3).

1 3. The amount of interest income received on obligations of any
2 state, territory or possession of the United States, or any political
3 subdivision thereof, located outside the state of Arizona, reduced, for
4 taxable years beginning from and after December 31, 1996, by the amount of
5 any interest on indebtedness and other related expenses that were incurred
6 or continued to purchase or carry those obligations and that are not
7 otherwise deducted or subtracted in arriving at Arizona gross income.

8 4. The excess of a partner's share of partnership taxable income
9 required to be included under chapter 14, article 2 of this title over the
10 income required to be reported under section 702(a)(8) of the internal
11 revenue code.

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

15 6. Any amount of agricultural water conservation expenses that were
16 deducted pursuant to the internal revenue code for which a credit is
17 claimed under section 43-1084.

18 ~~7. The amount by which the depreciation or amortization computed~~
19 ~~under the internal revenue code with respect to property for which a~~
20 ~~credit was taken under section 43-1080 exceeds the amount of depreciation~~
21 ~~or amortization computed pursuant to the internal revenue code on the~~
22 ~~Arizona adjusted basis of the property.~~

23 ~~8. The amount by which the adjusted basis computed under the~~
24 ~~internal revenue code with respect to property for which a credit was~~
25 ~~claimed under section 43-1080 and that is sold or otherwise disposed of~~
26 ~~during the taxable year exceeds the adjusted basis of the property~~
27 ~~computed under section 43-1080.~~

28 ~~9.~~ 7. The amount by which the depreciation or amortization
29 computed under the internal revenue code with respect to property for
30 which a credit was taken under either section 43-1081 or 43-1081.01
31 exceeds the amount of depreciation or amortization computed pursuant to
32 the internal revenue code on the Arizona adjusted basis of the property.

33 ~~10.~~ 8. The amount by which the adjusted basis computed under the
34 internal revenue code with respect to property for which a credit was
35 claimed under section 43-1074.02, 43-1081 or 43-1081.01 and that is sold
36 or otherwise disposed of during the taxable year exceeds the adjusted
37 basis of the property computed under section 43-1074.02, 43-1081 or
38 43-1081.01, as applicable.

39 ~~11.~~ 9. The deduction referred to in section 1341(a)(4) of the
40 internal revenue code for restoration of a substantial amount held under a
41 claim of right.

42 ~~12.~~ 10. The amount by which a net operating loss carryover or
43 capital loss carryover allowable pursuant to section 1341(b)(5) of the
44 internal revenue code exceeds the net operating loss carryover or capital
45 loss carryover allowable pursuant to section 43-1029, subsection F.

1 ~~13.~~ 11. Any wage expenses deducted pursuant to the internal
2 revenue code for which a credit is claimed under section 43-1087 and
3 representing net increases in qualified employment positions for
4 employment of temporary assistance for needy families recipients.

5 ~~14.~~ 12. The amount of any depreciation allowance allowed pursuant
6 to section 167(a) of the internal revenue code to the extent not
7 previously added.

8 ~~15.~~ 13. The amount of a nonqualified withdrawal, as defined in
9 section 15-1871, from a college savings plan established pursuant to
10 section 529 of the internal revenue code that is made to a distributee to
11 the extent the amount is not included in computing federal adjusted gross
12 income, except that the amount added under this paragraph shall not exceed
13 the difference between the amount subtracted under section 43-1022 in
14 prior taxable years and the amount added under this section in any prior
15 taxable years.

16 ~~16. The amount of discharge of indebtedness income that is deferred
17 and excluded from the computation of federal adjusted gross income in the
18 current taxable year pursuant to section 108(i) of the internal revenue
19 code as added by section 1231 of the American recovery and reinvestment
20 act of 2009 (P.L. 111-5).~~

21 ~~17. The amount of any previously deferred original issue discount
22 that was deducted in computing federal adjusted gross income in the
23 current year pursuant to section 108(i) of the internal revenue code as
24 added by section 1231 of the American recovery and reinvestment act of
25 2009 (P.L. 111-5), to the extent that the amount was previously subtracted
26 from Arizona gross income pursuant to section 43-1022, paragraph 21.~~

27 ~~18.~~ 14. If a subtraction is or has been taken by the taxpayer
28 under section 43-1024, in the current or a prior taxable year for the full
29 amount of eligible access expenditures paid or incurred to comply with the
30 requirements of the Americans with disabilities act of 1990 (P.L. 101-336)
31 or title 41, chapter 9, article 8, any amount of eligible access
32 expenditures that is recognized under the internal revenue code, including
33 any amount that is amortized according to federal amortization schedules,
34 and that is included in computing taxable income for the current taxable
35 year.

36 ~~19.~~ 15. For taxable years beginning from and after December 31,
37 2017, the amount of any net capital loss included in Arizona gross income
38 for the taxable year that is derived from the exchange of one kind of
39 legal tender for another kind of legal tender. For the purposes of this
40 paragraph:

41 (a) "Legal tender" means a medium of exchange, including specie,
42 that is authorized by the United States Constitution or Congress to pay
43 debts, public charges, taxes and dues.

44 (b) "Specie" means coins having precious metal content.

1 Sec. 15. Section 43-1022, Arizona Revised Statutes, is amended to
2 read:

3 43-1022. Subtractions from Arizona gross income

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

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

7 2. Benefits, annuities and pensions in an amount totaling not more
8 than \$2,500 received from one or more of the following:

9 (a) The United States government service retirement and disability
10 fund, the United States foreign service retirement and disability system
11 and any other retirement system or plan established by federal law, except
12 retired or retainer pay of the uniformed services of the United States
13 that ~~qualify~~ QUALIFIES for a subtraction under paragraph ~~29~~ 27 of this
14 section.

15 (b) The Arizona state retirement system, the corrections officer
16 retirement plan, the public safety personnel retirement system, the
17 elected officials' retirement plan, an optional retirement program
18 established by the Arizona board of regents under section 15-1628, an
19 optional retirement program established by a community college district
20 board under section 15-1451 or a retirement plan established for employees
21 of a county, city or 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,
26 minus any interest on indebtedness, or other related expenses, and
27 deducted in arriving at Arizona gross income, that were incurred or
28 continued to purchase or carry such obligations.

29 5. The excess of a partner's share of income required to be
30 included under section 702(a)(8) of the internal revenue code over the
31 income required 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 allowed by section 43-1025 for contributions during
36 the taxable year of agricultural crops to charitable organizations.

37 8. The portion of any wages or salaries paid or incurred by the
38 taxpayer for the taxable year that is equal to the amount of the federal
39 work opportunity credit, the empowerment zone employment credit, the
40 credit for employer paid social security taxes on employee cash tips and
41 the Indian employment credit that the taxpayer received under sections
42 45A, 45B, 51(a) and 1396 of the internal revenue code.

43 9. The amount of exploration expenses that is determined pursuant
44 to section 617 of the internal revenue code, that has been deferred in a
45 taxable year ending before January 1, 1990 and for which a subtraction has

1 not previously been made. The subtraction shall be made on a ratable
2 basis as the units of produced ores or minerals discovered or explored as
3 a result of this exploration are sold.

4 10. The amount included in federal adjusted gross income pursuant
5 to section 86 of the internal revenue code, relating to taxation of social
6 security and railroad retirement benefits.

7 11. To the extent not already excluded from Arizona gross income
8 under the internal revenue code, compensation received for active service
9 as a member of the reserves, the national guard or the armed forces of the
10 United States, including compensation for service in a combat zone as
11 determined under section 112 of the internal revenue code.

12 12. The amount of unreimbursed medical and hospital costs, adoption
13 counseling, legal and agency fees and other nonrecurring costs of adoption
14 not to exceed \$3,000. In the case of a husband and wife who file separate
15 returns, the subtraction may be taken by either taxpayer or may be divided
16 between them, but the total subtractions allowed both husband and wife
17 shall not exceed \$3,000. The subtraction under this paragraph may be
18 taken for the costs that are described in this paragraph and that are
19 incurred in prior years, but the subtraction may be taken only in the year
20 during which the final adoption order is granted.

21 13. The amount authorized by section 43-1027 for the taxable year
22 relating to qualified wood stoves, wood fireplaces or gas fired
23 fireplaces.

24 14. The amount by which a net operating loss carryover or capital
25 loss carryover allowable pursuant to section 43-1029, subsection F exceeds
26 the net operating loss carryover or capital loss carryover allowable
27 pursuant to section 1341(b)(5) of the internal revenue code.

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

32 16. Any item of income resulting from an installment sale that has
33 been properly subjected to income tax in another state in a previous
34 taxable year and that is included in Arizona gross income in the current
35 taxable year.

36 17. The amount authorized by section 43-1030 relating to holocaust
37 survivors.

38 18. For property placed in service:

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

1 (b) In taxable years beginning from and after December 31, 2012
2 through December 31, 2013, an amount determined in the year the asset was
3 placed in service based on the calculation in subdivision (a) of this
4 paragraph. In the first taxable year beginning from and after December
5 31, 2013, the taxpayer may elect to subtract the amount necessary to make
6 the depreciation claimed to date for the purposes of this title the same
7 as it would have been if subdivision (c) of this paragraph had applied for
8 the entire time the asset was in service. Subdivision (c) of this
9 paragraph applies for the remainder of the asset's life. If the taxpayer
10 does not make the election under this subdivision, subdivision (a) of this
11 paragraph applies for the remainder of the asset's life.

12 (c) In taxable years beginning from and after December 31, 2013
13 through December 31, 2015, an amount equal to the depreciation allowable
14 pursuant to section 167(a) of the internal revenue code for the taxable
15 year as computed as if the additional allowance for depreciation had been
16 ten percent of the amount allowed pursuant to section 168(k) of the
17 internal revenue code.

18 (d) In taxable years beginning from and after December 31, 2015
19 through December 31, 2016, an amount equal to the depreciation allowable
20 pursuant to section 167(a) of the internal revenue code for the taxable
21 year as computed as if the additional allowance for depreciation had been
22 fifty-five percent of the amount allowed pursuant to section 168(k) of the
23 internal revenue code.

24 (e) In taxable years beginning from and after December 31, 2016, an
25 amount equal to the depreciation allowable pursuant to section 167(a) of
26 the internal revenue code for the taxable year as computed as if the
27 additional allowance for depreciation had been the full amount allowed
28 pursuant to section 168(k) of the internal revenue code.

29 19. With respect to property that is sold or otherwise disposed of
30 during the taxable year by a taxpayer that complied with section 43-1021,
31 paragraph ~~14~~ 12 with respect to that property, the amount of depreciation
32 that has been allowed pursuant to section 167(a) of the internal revenue
33 code to the extent that the amount has not already reduced Arizona taxable
34 income in the current or prior taxable years.

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

39 (a) \$2,000 for a single individual or a head of household.

40 (b) \$4,000 for a married couple filing a joint return. In the case
41 of a husband and wife who file separate returns, the subtraction may be
42 taken by either taxpayer or may be divided between them, but the total
43 subtractions allowed both husband and wife shall not exceed \$4,000.

44 ~~21. The amount of any original issue discount that was deferred and~~
45 ~~not allowed to be deducted in computing federal adjusted gross income in~~

1 ~~the current taxable year pursuant to section 108(i) of the internal~~
2 ~~revenue code as added by section 1231 of the American recovery and~~
3 ~~reinvestment act of 2009 (P.L. 111-5).~~

4 ~~22. The amount of previously deferred discharge of indebtedness~~
5 ~~income that is included in the computation of federal adjusted gross~~
6 ~~income in the current taxable year pursuant to section 108(i) of the~~
7 ~~internal revenue code as added by section 1231 of the American recovery~~
8 ~~and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount~~
9 ~~was previously added to Arizona gross income pursuant to section 43-1021,~~
10 ~~paragraph 16.~~

11 ~~23.~~ 21. The portion of the net operating loss carryforward that
12 would have been allowed as a deduction in the current year pursuant to
13 section 172 of the internal revenue code if the election described in
14 section 172(b)(1)(H) of the internal revenue code had not been made in the
15 year of the loss that exceeds the actual net operating loss carryforward
16 that was deducted in arriving at federal adjusted gross income. This
17 subtraction only applies to taxpayers who made an election under section
18 172(b)(1)(H) of the internal revenue code as amended by section 1211 of
19 the American recovery and reinvestment act of 2009 (P.L. 111-5) or as
20 amended by section 13 of the worker, homeownership, and business
21 assistance act of 2009 (P.L. 111-92).

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

27 ~~25.~~ 23. An amount of any net long-term capital gain included in
28 federal adjusted gross income for the taxable year that is derived from an
29 investment in an asset acquired after December 31, 2011, as follows:

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

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

36 (c) For taxable years beginning from and after December 31, 2014,
37 twenty-five percent of the net long-term capital gain included in federal
38 adjusted gross income. For the purposes of this paragraph, a transferee
39 that receives an asset by gift or at the death of a transferor is
40 considered to have acquired the asset when the asset was acquired by the
41 transferor. If the date an asset is acquired cannot be verified, a
42 subtraction under this paragraph is not allowed.

43 ~~26.~~ 24. If an individual is not claiming itemized deductions
44 pursuant to section 43-1042, the amount of premium costs for long-term
45 care insurance, as defined in section 20-1691.

1 ~~27.~~ 25. The amount of eligible access expenditures paid or
2 incurred during the taxable year to comply with the requirements of the
3 Americans with disabilities act of 1990 (P.L. 101-336) or title 41,
4 chapter 9, article 8 as provided by section 43-1024.

5 ~~28.~~ 26. For taxable years beginning from and after December 31,
6 2017, the amount of any net capital gain included in Arizona gross income
7 for the taxable year that is derived from the exchange of one kind of
8 legal tender for another kind of legal tender. For the purposes of this
9 paragraph:

10 (a) "Legal tender" means a medium of exchange, including specie,
11 that is authorized by the United States Constitution or Congress to pay
12 debts, public charges, taxes and dues.

13 (b) "Specie" means coins having precious metal content.

14 ~~29.~~ 27. Benefits, annuities and pensions received as retired or
15 retainer pay of the uniformed services of the United States in amounts as
16 follows:

17 (a) For taxable years through December 31, 2018, an amount totaling
18 not more than \$2,500.

19 (b) For taxable years beginning from and after December 31, 2018,
20 an amount totaling not more than \$3,500.

21 Sec. 16. Section 43-1023, Arizona Revised Statutes, is amended to
22 read:

23 43-1023. Exemptions for blind persons and persons sixty-five
24 years of age or older

25 A. A taxpayer is allowed an exemption of \$1,500:

26 1. For a taxpayer who is blind or if either the taxpayer's central
27 visual acuity does not exceed 20/200 in the better eye with correcting
28 lenses or the taxpayer's visual acuity is greater than 20/200 but is
29 accompanied by a limitation in the fields of vision such that the widest
30 diameter of the visual field subtends an angle not greater than twenty
31 degrees.

32 2. For the taxpayer's spouse if a separate return is made by the
33 taxpayer and if the spouse is blind as described in paragraph 1 of this
34 subsection, has no Arizona adjusted gross income for the calendar year in
35 which the taxable year of the taxpayer begins and is not the dependent of
36 another taxpayer. For the purposes of this paragraph, the determination
37 of whether the spouse is blind shall be made at the close of the taxable
38 year of the taxpayer. If the spouse dies during the taxable year, the
39 determination shall be made as of the time of the spouse's death.

40 B. A taxpayer is allowed an exemption of \$2,300 for:

41 1. Each person sixty-five years of age or older regardless of the
42 person's relationship to the taxpayer:

43 (a) If the taxpayer pays more than one-fourth of the total cost of
44 maintaining that person in a nursing care institution or residential care
45 institution licensed pursuant to title 36, chapter 4, or an assisted

1 living facility provider of a type certified pursuant to title 11, chapter
2 2, article 7, if such payments exceed \$800 in the taxable year.

3 (b) If the taxpayer otherwise makes payments exceeding \$800 in the
4 taxable year for home health care or other types of medical care.

5 2. For taxable years beginning from and after December 31, 2003,
6 each birth for which a certificate of birth resulting in stillbirth has
7 been issued pursuant to section 36-330 if the child otherwise would have
8 been a member of the taxpayer's household. The taxpayer may claim the
9 exemption under this paragraph only in the taxable year in which the
10 stillbirth occurred.

11 C. For taxable years beginning from and after December 31, 1998, a
12 resident taxpayer is allowed an exemption of \$10,000 for each parent or
13 ancestor of a parent of the taxpayer, who is sixty-five years of age or
14 older, who requires assistance with activities of daily living and who
15 lives in the taxpayer's principal residence for the entire taxable year,
16 if the taxpayer pays more than one-half of the person's total support and
17 maintenance costs. An exemption under this subsection is in lieu of an
18 exemption under subsection B of this section for the same person.

19 D. ~~The~~ AN exemption under subsection B OR C of this section is in
20 lieu of claiming a credit for the same person under section 43-1073.01.

21 E. A taxpayer is allowed an exemption of \$2,100:

22 1. If the taxpayer has attained sixty-five years of age before the
23 close of the taxable year filing a separate or joint return and the
24 taxpayer is not claimed as a dependent by another taxpayer.

25 2. For the taxpayer's spouse if the spouse has attained sixty-five
26 years of age before the close of the taxable year, a joint return is filed
27 and the spouse is not a dependent of another taxpayer.

28 Sec. 17. Section 43-1024, Arizona Revised Statutes, is amended to
29 read:

30 43-1024. Americans with disabilities act access expenditures

31 A. For taxable years beginning from and after December 31, 2017, in
32 computing Arizona adjusted gross income, a subtraction is allowed under
33 section 43-1022, paragraph ~~27~~ 25 for eligible business access expenditures
34 paid or incurred by the taxpayer during the taxable year in order to
35 comply with the requirements of the Americans with disabilities act of
36 1990 (P.L. 101-336) or title 41, chapter 9, article 8 by retrofitting
37 developed real property that was originally placed in service at least ten
38 years before the current taxable year.

39 B. For the purposes of this section, eligible business access
40 expenditures include reasonable and necessary amounts paid or incurred to:

41 1. Remove any barriers that prevent a business from being
42 accessible to or usable by individuals with disabilities.

43 2. Provide qualified interpreters or other methods of making audio
44 materials available to hearing-impaired individuals.

1 sale to customers in the ordinary course of the taxpayer's trade or
2 business. This subsection does not apply if the deduction arises out of
3 refunds or repayments with respect to rates made by a regulated public
4 utility that is listed in section 7701(a)(33)(A) through (H) of the
5 internal revenue code, if the refunds or repayments are:

6 1. Required to be made by the government, political subdivision,
7 agency or instrumentality referred to in that section.

8 2. Required to be made by an order of a court.

9 3. Made in settlement of litigation or under threat or imminence of
10 litigation.

11 E. If the exclusion under subsection B of this section results in:

12 1. A net operating loss for the prior taxable year or years for
13 purposes of computing the decrease in tax for the prior year or years
14 under subsection B of this section:

15 (a) The loss shall be:

16 (i) Carried over under this chapter to the same extent and in the
17 same manner as was provided under prior law for taxable years beginning on
18 or before December 31, 1989.

19 (ii) Carried back and carried over to the same extent and in the
20 same manner as provided under section 172 of the internal revenue code for
21 taxable years beginning from and after December 31, 1989.

22 (b) No carryover beyond the taxable year may be taken into account.

23 2. A capital loss for the prior taxable year or years, for purposes
24 of computing the decrease in tax for the prior taxable year or years under
25 subsection B of this section:

26 (a) The loss shall be carried back and carried over to the same
27 extent and in the same manner as is provided under section 1212 of the
28 internal revenue code.

29 (b) No carryover beyond the taxable year may be taken into account.

30 F. In computing Arizona taxable income for taxable years subsequent
31 to the current taxable year, the net operating loss or capital loss
32 determined in subsection E of this section shall be taken into account to
33 the same extent and in the same manner as a net operating loss or capital
34 loss sustained for prior taxable years.

35 Sec. 19. Section 43-1076, Arizona Revised Statutes, is amended to
36 read:

37 43-1076. Credit for employment by a healthy forest enterprise

38 A. For taxable years beginning from and after December 31, 2004
39 through December 31, 2024, a credit is allowed against the taxes imposed
40 by this title for net increases in qualified employment positions by a
41 qualified business that is certified by the Arizona commerce authority as
42 a healthy forest enterprise pursuant to section 41-1516.

1 B. Subject to subsection E of this section, the amount of the
2 credit is equal to:

3 1. One-fourth of the taxable wages paid to an employee in a
4 qualified employment position, not to exceed ~~five hundred dollars~~ \$500 per
5 qualified employment position, in the first year or partial year of
6 employment.

7 2. One-third of the taxable wages paid to an employee in a
8 qualified employment position, not to exceed ~~one thousand dollars~~ \$1,000
9 per qualified employment position, in the second year of continuous
10 employment.

11 3. One-half of the taxable wages paid to an employee in a qualified
12 employment position, not to exceed ~~one thousand five hundred dollars~~
13 \$1,500 per qualified employment position, in the third year of continuous
14 employment.

15 C. To qualify for a credit under this section:

16 1. The business must employ at least one new full-time employee in
17 a qualified employment position in the first taxable year in which the
18 credit is claimed.

19 2. Each employee with respect to whom a credit is claimed must
20 reside in this state on the date of hire.

21 3. A qualified employment position must meet all of the following
22 requirements:

23 (a) The position must be full-time employment for a minimum of one
24 thousand five hundred fifty hours per year, unless a shorter period of
25 employment is due to forest closures or weather conditions beyond the
26 taxpayer's control.

27 (b) The job duties must primarily involve or directly support
28 harvesting, transporting or processing qualifying forest products removed
29 from qualifying projects as defined in section 41-1516 into a product
30 having commercial value.

31 (c) The employer must pay compensation at least equal to the wage
32 offer by county as computed annually by the department of economic
33 security research administration division.

34 (d) The employee must have been employed for at least ninety days
35 during the first taxable year. An employee who is hired during the last
36 ninety days of the taxable year shall be considered a new employee during
37 the next taxable year. A qualified employment position that is filled
38 during the last ninety days of the taxable year is considered to be a new
39 qualified employment position for the next taxable year.

40 (e) The employee has not been previously employed by the taxpayer
41 within twelve months before the current date of hire.

42 4. The employer shall provide health insurance coverage for
43 employees as follows:

44 (a) The employer shall pay:

1 (i) At least twenty-five percent of the premium or membership cost
2 of the insurance program in the third year the taxpayer claims a credit
3 under this section. If the taxpayer is self-insured, the taxpayer must
4 pay at least twenty-five percent of a predetermined fixed cost per
5 employee for an insurance program that is payable whether or not the
6 employee has filed claims.

7 (ii) At least forty percent of the premium or membership cost in
8 the fourth year the taxpayer claims a credit under this section. If the
9 taxpayer is self-insured, the taxpayer must pay at least forty percent of
10 a predetermined fixed cost per employee for an insurance program that is
11 payable whether or not the employee has filed claims.

12 (iii) At least fifty percent of the premium or membership cost of
13 the insurance program in the fifth and each subsequent year the taxpayer
14 claims a credit under this section. If the taxpayer is self-insured, the
15 taxpayer must pay at least fifty percent of a predetermined fixed cost per
16 employee for an insurance program that is payable whether or not the
17 employee has filed claims.

18 (b) An employer shall not reduce the amount of health insurance
19 coverage provided to employees before certification by the Arizona
20 commerce authority.

21 D. A credit is allowed for employment in the second and third year
22 only for qualified employment positions for which a credit was allowed and
23 claimed by the taxpayer on the original first and second year tax returns.

24 E. The net increase in the number of qualified employment positions
25 is the lesser of the total number of filled qualified employment positions
26 created during the taxable year or the difference between the average
27 number of full-time employees in the current taxable year and the average
28 number of full-time employees during the immediately preceding taxable
29 year. The net increase in the number of qualified employment positions
30 computed under this subsection may not exceed two hundred qualified
31 employment positions per taxpayer each year.

32 F. A taxpayer who claims a credit under section 43-1074 may not
33 claim a credit under this section with respect to the same employees.

34 G. If the allowable tax credit exceeds the income taxes otherwise
35 due on the claimant's income, or if there are no state income taxes due on
36 the claimant's income, the amount of the claim not used as an offset
37 against income taxes may be carried forward as a tax credit against
38 subsequent years' income tax liability for the period not to exceed five
39 taxable years, provided the business maintains its certification under
40 section 41-1516.

41 H. Co-owners of a business, including **INDIVIDUAL** partners in a
42 partnership ~~and shareholders of an S corporation as defined in section~~
43 ~~1361 of the internal revenue code~~, may each claim only the pro rata share
44 of the credit allowed under this section based on the ownership interest.
45 The total of the credits allowed all such owners of the business may not

1 exceed the amount that would have been allowed for a sole owner of the
2 business.

3 I. If a qualified business changes ownership through
4 reorganization, stock purchase or merger, the new taxpayer may claim first
5 year credits only for one or more qualified employment positions that it
6 created and filled with an eligible employee after the purchase or
7 reorganization was complete. If a person purchases a business that had
8 qualified for first or second year credits or changes ownership through
9 reorganization, stock purchase or merger, the new taxpayer may claim the
10 second or third year credits if it meets the other eligibility
11 requirements of this section. Credits for which a taxpayer qualified
12 before the changes described in this subsection are terminated and lost at
13 the time the changes are implemented.

14 J. If, within five taxable years after first receiving a credit
15 pursuant to this section, the certification of qualification of a business
16 is terminated or revoked under section 41-1516 other than for reasons
17 beyond the control of the business as determined by the Arizona commerce
18 authority, the credits allowed the business pursuant to this section are
19 subject to recapture pursuant to this subsection. This subsection applies
20 only in the case of the termination or revocation of a certification of
21 qualification. This subsection does not apply if, in any taxable year, a
22 taxpayer otherwise does not qualify for or fails to claim the credit under
23 this section. The recapture of credits under this subsection is computed
24 by increasing the amount of taxes imposed in the year following the year
25 in which the qualification of the business was terminated or revoked by an
26 amount determined by multiplying the full amount of all credits previously
27 allowed under this section by a percentage determined as follows:

28 1. If the initial credit under this section was allowed for the
29 taxable year immediately preceding the taxable year in which the
30 certification of qualification of a business is terminated or revoked, one
31 hundred percent.

32 2. If the initial credit under this section was allowed two taxable
33 years before the taxable year in which the certification of qualification
34 of a business is terminated or revoked, eighty percent.

35 3. If the initial credit under this section was allowed three
36 taxable years before the taxable year in which the certification of
37 qualification of a business is terminated or revoked, sixty percent.

38 4. If the initial credit under this section was allowed four
39 taxable years before the taxable year in which the certification of
40 qualification of a business is terminated or revoked, forty percent.

41 5. If the initial credit under this section was allowed five
42 taxable years before the taxable year in which the certification of
43 qualification of a business is terminated or revoked, twenty percent.

44 Sec. 20. Repeal

45 Section 43-1080, Arizona Revised Statutes, is repealed.

1 improvements donated by the taxpayer to a school district or a charter
2 school for use as a school or as a site for the construction of a school.

3 B. To qualify for the credit:

4 1. The real property and improvements must be located in this
5 state.

6 2. The real property and improvements must be conveyed unencumbered
7 and in fee simple, except that:

8 (a) The conveyance must include as a deed restriction and
9 protective covenant running with title to the land the requirement that as
10 long as the donee holds title to the property the property shall only be
11 used as a school or as a site for the construction of a school, subject to
12 subsection I or J of this section.

13 (b) In the case of a donation to a charter school, the donor shall
14 record a lien on the property as provided by subsection J, paragraph 3 of
15 this section.

16 3. The conveyance shall not violate section 15-341, subsection D or
17 section 15-183, subsection U.

18 C. For the purposes of this section, the value of the donated
19 property is the property's fair market value as determined in an appraisal
20 as defined in section 32-3601 that is conducted by an independent party
21 and that is paid for by the donee.

22 D. If the property is donated by co-owners, including **INDIVIDUAL**
23 partners in a partnership ~~and shareholders of an S corporation, as defined~~
24 ~~in section 1361 of the internal revenue code~~, each donor may claim only
25 the pro rata share of the allowable credit under this section based on the
26 ownership interest. If the property is donated by a husband and wife who
27 file separate returns for a taxable year in which they could have filed a
28 joint return, they may determine between them the share of the credit each
29 will claim. The total of the credits allowed all co-owner donors may not
30 exceed the allowable credit.

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

36 F. The credit under this section is in lieu of any deduction
37 pursuant to section 170 of the internal revenue code taken for state tax
38 purposes.

39 G. On written request by the donee, the donor shall disclose in
40 writing to the donee the amount of the credit allowed pursuant to this
41 section with respect to the property received by the donee.

42 H. A school district or charter school may refuse the donation of
43 any property for purposes of this section.

44 I. If the donee is a school district:

1 1. The district shall notify the school facilities board
2 established by section 15-2001 and furnish the board with any information
3 the board requests regarding the donation. A school district shall not
4 accept a donation pursuant to this section unless the school facilities
5 board has reviewed the proposed donation and has issued a written
6 determination that the real property and improvements are suitable as a
7 school site or as a school. The school facilities board shall issue a
8 determination that the real property and improvements are not suitable as
9 a school site or as a school if the expenses that would be necessary to
10 make the property suitable as a school site or as a school exceed the
11 value of the proposed donation.

12 2. The district may sell any donated property pursuant to section
13 15-342, but the proceeds from the sale shall only be used for capital
14 projects. The school facilities board shall withhold an amount that
15 corresponds to the amount of the proceeds from any monies that would
16 otherwise be due the school district from the school facilities board
17 pursuant to section 15-2041.

18 J. If the donee is a charter school:

19 1. The charter school shall:

20 (a) Immediately notify the sponsor of the charter school by
21 certified mail and shall furnish the sponsor with any information
22 requested by the sponsor regarding the donation during the ten year period
23 after the conveyance is recorded.

24 (b) Notify the sponsor by certified mail, and the sponsor shall
25 notify the state treasurer, in the event of the charter school's financial
26 failure or if the charter school:

27 (i) Fails to establish a charter school on the property within
28 forty-eight months after the conveyance is recorded.

29 (ii) Fails to provide instruction to pupils on the property within
30 forty-eight months after the conveyance is recorded.

31 (iii) Establishes a charter school on the property but subsequently
32 ceases to operate the charter school on the property for twenty-four
33 consecutive months or fails to provide instruction to pupils on the
34 property for twenty-four consecutive months.

35 2. The charter school, or a successor in interest, shall pay to the
36 state treasurer the amount of the credit allowed under this section, or if
37 that amount is unknown, the amount of the allowable credit under this
38 section, if any of the circumstances listed in paragraph 1, subdivision
39 (b) of this subsection occurs. If the amount is not paid within one year
40 after the treasurer receives notice under paragraph 1, subdivision (b) of
41 this subsection, a penalty and interest shall be added, determined
42 pursuant to title 42, chapter 1, article 3.

43 3. A tax credit under this section constitutes a lien on the
44 property, which the donor must record along with the title to the property
45 to qualify for the credit. The amount of the lien is the amount of the

1 allowable credit under this section, adjusted according to the average
2 change in the GDP price deflator, as defined in section 41-563, for each
3 calendar year since the donation, but not exceeding twelve and one-half
4 ~~per cent~~ PERCENT more than the allowable credit. The lien is subordinate
5 to any liens securing the financing of the school construction. The lien
6 is extinguished on the earliest of the following:

7 (a) Ten years after the lien is recorded. After that date, the
8 charter school, or a successor in interest, may request the state
9 treasurer to release the lien.

10 (b) On payment to the state treasurer by the donee charter school,
11 or by a successor in interest, of the amount of the allowable credit under
12 this section, either voluntarily or as required by paragraph 2 of this
13 subsection. After the required amount is paid, the charter school or
14 successor in interest may request the state treasurer to release the lien.

15 (c) On conveyance of fee simple title to the property to a school
16 district.

17 (d) On enforcement and satisfaction of the lien pursuant to
18 paragraph 4 of this subsection.

19 4. The state treasurer shall enforce the lien by foreclosure within
20 one year after receiving notice of any of the circumstances described in
21 paragraph 1, subdivision (b) of this subsection.

22 5. Subject to paragraphs 3 and 4 of this subsection, the charter
23 school may sell any donated property.

24 Sec. 23. Section 43-1121, Arizona Revised Statutes, is amended to
25 read:

26 43-1121. Additions to Arizona gross income; corporations

27 In computing Arizona taxable income for a corporation, the following
28 amounts shall be added to Arizona gross income:

29 1. The amount of interest income received on obligations of any
30 state, territory or possession of the United States, or any political
31 subdivision thereof, located outside this state, reduced, for taxable
32 years beginning from and after December 31, 1996, by the amount of any
33 interest on indebtedness and other related expenses that were incurred or
34 continued to purchase or carry those obligations and that are not
35 otherwise deducted or subtracted in arriving at Arizona gross income.

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

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

43 4. The amount of any depreciation allowance allowed pursuant to
44 section 167(a) of the internal revenue code to the extent not previously
45 added.

1 ~~5. The amount of discharge of indebtedness income that is deferred~~
2 ~~and excluded from the computation of federal taxable income in the current~~
3 ~~taxable year pursuant to section 108(i) of the internal revenue code as~~
4 ~~added by section 1231 of the American recovery and reinvestment act of~~
5 ~~2009 (P.L. 111-5).~~

6 ~~6. The amount of any previously deferred original issue discount~~
7 ~~that was deducted in computing federal taxable income in the current year~~
8 ~~pursuant to section 108(i) of the internal revenue code as added by~~
9 ~~section 1231 of the American recovery and reinvestment act of 2009~~
10 ~~(P.L. 111-5), to the extent that the amount was previously subtracted from~~
11 ~~Arizona gross income pursuant to section 43-1122, paragraph 6.~~

12 ~~7.~~ 5. The amount of dividend income received from corporations and
13 allowed as a deduction pursuant to sections 243, 245, 245A and
14 250(a)(1)(B) of the internal revenue code.

15 ~~8.~~ 6. Taxes that are based on income paid to states, local
16 governments or foreign governments and that were deducted in computing
17 federal taxable income.

18 ~~9.~~ 7. Expenses and interest relating to tax-exempt income on
19 indebtedness incurred or continued to purchase or carry obligations the
20 interest on which is wholly exempt from the tax imposed by this title.
21 Financial institutions, as defined in section 6-101, shall be governed by
22 section 43-961, paragraph 2.

23 ~~10.~~ 8. Commissions, rentals and other amounts paid or accrued to a
24 domestic international sales corporation controlled by the payor
25 corporation if the domestic international sales corporation is not
26 required to report its taxable income to this state because its income is
27 not derived from or attributable to sources within this state. If the
28 domestic international sales corporation is subject to article 4 of this
29 chapter, the department shall prescribe by rule the method of determining
30 the portion of the commissions, rentals and other amounts that are paid or
31 accrued to the controlled domestic international sales corporation and
32 that shall be deducted by the payor. For the purposes of this paragraph,
33 "control" means direct or indirect ownership or control of fifty percent
34 or more of the voting stock of the domestic international sales
35 corporation by the payor corporation.

36 ~~11.~~ 9. The amount of net operating loss taken pursuant to section
37 172 of the internal revenue code.

38 ~~12.~~ 10. The amount of exploration expenses determined pursuant to
39 section 617 of the internal revenue code to the extent that they exceed
40 \$75,000 and to the extent that the election is made to defer those
41 expenses not in excess of \$75,000.

42 ~~13.~~ 11. Amortization of costs incurred to install pollution
43 control devices and deducted pursuant to the internal revenue code or the
44 amount of deduction for depreciation taken pursuant to the internal

1 revenue code on pollution control devices for which an election is made
 2 pursuant to section 43-1129.

3 ~~14.~~ 12. The amount of depreciation or amortization of costs of
 4 child care facilities deducted pursuant to section 167 or 188 of the
 5 internal revenue code for which an election is made to amortize pursuant
 6 to section 43-1130.

7 ~~15.~~ 13. The loss of an insurance company that is exempt under
 8 section 43-1201 to the extent that it is included in computing Arizona
 9 gross income on a consolidated return pursuant to section 43-947.

10 ~~16.~~ 14. The amount by which the depreciation or amortization
 11 computed under the internal revenue code with respect to property for
 12 which a credit was taken under section 43-1169 exceeds the amount of
 13 depreciation or amortization computed pursuant to the internal revenue
 14 code on the Arizona adjusted basis of the property.

15 ~~17.~~ 15. The amount by which the adjusted basis computed under the
 16 internal revenue code with respect to property for which a credit was
 17 claimed under section 43-1169 and that is sold or otherwise disposed of
 18 during the taxable year exceeds the adjusted basis of the property
 19 computed under section 43-1169.

20 ~~18.~~ 16. The amount by which the depreciation or amortization
 21 computed under the internal revenue code with respect to property for
 22 which a credit was taken under ~~either~~ section 43-1170 ~~or 43-1170.01~~
 23 exceeds the amount of depreciation or amortization computed pursuant to
 24 the internal revenue code on the Arizona adjusted basis of the property.

25 ~~19.~~ 17. The amount by which the adjusted basis computed under the
 26 internal revenue code with respect to property for which a credit was
 27 claimed under ~~either~~ section 43-1170 ~~or 43-1170.01~~ and that is sold or
 28 otherwise disposed of during the taxable year exceeds the adjusted basis
 29 of the property computed under section 43-1170 ~~or 43-1170.01, as~~
 30 ~~applicable.~~

31 ~~20.~~ 18. The deduction referred to in section 1341(a)(4) of the
 32 internal revenue code for restoration of a substantial amount held under a
 33 claim of right.

34 ~~21.~~ 19. The amount by which a capital loss carryover allowable
 35 pursuant to section 1341(b)(5) of the internal revenue code exceeds the
 36 capital loss carryover allowable pursuant to section 43-1130.01,
 37 subsection F.

38 ~~22.~~ 20. Any wage expenses deducted pursuant to the internal
 39 revenue code for which a credit is claimed under section 43-1175 and
 40 representing net increases in qualified employment positions for
 41 employment of temporary assistance for needy families recipients.

42 ~~23.~~ 21. Any amount of expenses that were deducted pursuant to the
 43 internal revenue code and for which a credit is claimed under section
 44 43-1178.

1 ~~24. The amount of any deduction that is claimed in computing~~
2 ~~Arizona gross income and that represents a donation of a school site for~~
3 ~~which a credit is claimed under section 43-1181.~~

4 ~~25.~~ 22. Any amount deducted pursuant to section 170 of the
5 internal revenue code representing contributions to a school tuition
6 organization for which a credit is claimed under section 43-1183 or
7 43-1184.

8 ~~26.~~ 23. If a subtraction is or has been taken by the taxpayer
9 under section 43-1124, in the current or a prior taxable year for the full
10 amount of eligible access expenditures paid or incurred to comply with the
11 requirements of the Americans with disabilities act of 1990 (P.L. 101-336)
12 or title 41, chapter 9, article 8, any amount of eligible access
13 expenditures that is recognized under the internal revenue code, including
14 any amount that is amortized according to federal amortization schedules,
15 and that is included in computing Arizona taxable income for the current
16 taxable year.

17 ~~27.~~ 24. For taxable years beginning from and after December 31,
18 2017, the amount of any net capital loss included in Arizona gross income
19 for the taxable year that is derived from the exchange of one kind of
20 legal tender for another kind of legal tender. For the purposes of this
21 paragraph:

22 (a) "Legal tender" means a medium of exchange, including specie,
23 that is authorized by the United States Constitution or Congress to pay
24 debts, public charges, taxes and dues.

25 (b) "Specie" means coins having precious metal content.

26 Sec. 24. Section 43-1122, Arizona Revised Statutes, is amended to
27 read:

28 43-1122. Subtractions from Arizona gross income; corporations

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

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

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

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

39 4. The portion of any wages or salaries paid or incurred by the
40 taxpayer for the taxable year that is equal to the amount of the federal
41 work opportunity credit, the empowerment zone employment credit, the
42 credit for employer paid social security taxes on employee cash tips and
43 the Indian employment credit that the taxpayer received under sections
44 45A, 45B, 51(a) and 1396 of the internal revenue code.

1 5. With respect to property that is sold or otherwise disposed of
2 during the taxable year by a taxpayer that complied with section 43-1121,
3 paragraph 4 with respect to that property, the amount of depreciation that
4 has been allowed pursuant to section 167(a) of the internal revenue code
5 to the extent that the amount has not already reduced Arizona taxable
6 income in the current taxable year or prior taxable years.

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

12 ~~7. The amount of previously deferred discharge of indebtedness~~
13 ~~income that is included in the computation of federal taxable income in~~
14 ~~the current taxable year pursuant to section 108(i) of the internal~~
15 ~~revenue code as added by section 1231 of the American recovery and~~
16 ~~reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was~~
17 ~~previously added to Arizona gross income pursuant to section 43-1121,~~
18 ~~paragraph 5.~~

19 ~~8.~~ 6. With respect to a financial institution as defined in
20 section 6-101, expenses and interest relating to tax-exempt income
21 disallowed pursuant to section 265 of the internal revenue code.

22 ~~9.~~ 7. Dividends received from another corporation owned or
23 controlled directly or indirectly by a recipient corporation. For the
24 purposes of this paragraph, "control" means direct or indirect ownership
25 or control of fifty percent or more of the voting stock of the payor
26 corporation by the recipient corporation. Dividends shall have the
27 meaning provided in section 316 of the internal revenue code. This
28 subtraction shall apply without regard to section 43-961, paragraph 2 and
29 article 4 of this chapter.

30 ~~10.~~ 8. Interest income received on obligations of the United
31 States.

32 ~~11.~~ 9. The amount of dividend income from foreign corporations.
33 For the purposes of this paragraph, gross up income as described in
34 section 78 of the internal revenue code, global intangible low-taxed
35 income as defined in section 951A of the internal revenue code and subpart
36 F income as defined in section 952 of the internal revenue code shall be
37 considered foreign dividends.

38 ~~12.~~ 10. The amount of net operating loss allowed by section
39 43-1123.

40 ~~13.~~ 11. The amount of any state income tax refunds received that
41 were included as income in computing federal taxable income.

42 ~~14.~~ 12. The amount of expense recapture included in income
43 pursuant to section 617 of the internal revenue code for mine exploration
44 expenses.

1 ~~15.~~ 13. The amount of deferred exploration expenses allowed by
2 section 43-1127.

3 ~~16.~~ 14. The amount of exploration expenses related to the
4 exploration of oil, gas or geothermal resources, computed in the same
5 manner and on the same basis as a deduction for mine exploration pursuant
6 to section 617 of the internal revenue code. This computation is subject
7 to the adjustments contained in section 43-1121, paragraph ~~12~~ 10 and
8 paragraphs ~~14~~ 12 and ~~15~~ 13 of this section relating to exploration
9 expenses.

10 ~~17.~~ 15. The amortization of pollution control devices allowed by
11 section 43-1129.

12 ~~18.~~ 16. The amount of amortization of the cost of child care
13 facilities pursuant to section 43-1130.

14 ~~19.~~ 17. The amount of income from a domestic international sales
15 corporation required to be included in the income of its shareholders
16 pursuant to section 995 of the internal revenue code.

17 ~~20.~~ 18. The income of an insurance company that is exempt under
18 section 43-1201 to the extent that it is included in computing Arizona
19 gross income on a consolidated return pursuant to section 43-947.

20 ~~21.~~ 19. The amount by which a capital loss carryover allowable
21 pursuant to section 43-1130.01, subsection F exceeds the capital loss
22 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
23 code.

24 ~~22.~~ 20. An amount equal to the depreciation allowable pursuant to
25 section 167(a) of the internal revenue code for the taxable year computed
26 as if the election described in section 168(k)(7) of the internal revenue
27 code had been made for each applicable class of property in the year the
28 property was placed in service.

29 ~~23.~~ 21. The amount of eligible access expenditures paid or
30 incurred during the taxable year to comply with the requirements of the
31 Americans with disabilities act of 1990 (P.L. 101-336) or title 41,
32 chapter 9, article 8 as provided by section 43-1124.

33 ~~24.~~ 22. For taxable years beginning from and after December 31,
34 2017, the amount of any net capital gain included in Arizona gross income
35 for the taxable year that is derived from the exchange of one kind of
36 legal tender for another kind of legal tender. For the purposes of this
37 paragraph:

38 (a) "Legal tender" means a medium of exchange, including specie,
39 that is authorized by the United States Constitution or Congress to pay
40 debts, public charges, taxes and dues.

41 (b) "Specie" means coins having precious metal content.

42 Sec. 25. Section 43-1123, Arizona Revised Statutes, is amended to
43 read:

44 43-1123. Net operating loss; definition

45 A. For the purposes of this section, "net operating loss" means:

1 1. In the case of a taxpayer who has a net operating loss for the
2 taxable year within the meaning of section 172(c) of the internal revenue
3 code, the amount of the net operating loss increased by the subtractions
4 specified in section 43-1122, except the subtraction allowed in section
5 43-1122, paragraph ~~12~~ 10, and reduced by the additions specified in
6 section 43-1121.

7 2. In the case of a taxpayer not described in paragraph 1 of this
8 subsection, any excess of the subtractions specified in section 43-1122,
9 except the subtraction allowed in section 43-1122, paragraph ~~12~~ 10, over
10 the sum of the Arizona gross income plus the additions specified in
11 section 43-1121.

12 B. If for any taxable year the taxpayer has a net operating loss:

13 1. Such net operating loss shall be a net operating loss carryover
14 for:

15 (a) Each of the five succeeding taxable years for net operating
16 losses arising in taxable periods through December 31, 2011.

17 (b) Each of the twenty succeeding taxable years for net operating
18 losses arising in taxable periods beginning from and after December 31,
19 2011.

20 2. The carryover in the case of each such succeeding taxable year,
21 other than the first succeeding taxable year, shall be the excess, if any,
22 of the amount of such net operating loss over the sum of the taxable
23 income for each of the intervening years computed by determining the net
24 operating loss subtraction for each intervening taxable year, without
25 regard to such net operating loss or to the net operating loss for any
26 succeeding taxable year.

27 C. The amount of the net operating loss subtraction shall be the
28 aggregate of the net operating loss carryovers to the taxable year.

29 Sec. 26. Section 43-1124, Arizona Revised Statutes, is amended to
30 read:

31 43-1124. Americans with disabilities act access expenditures

32 A. For taxable years beginning from and after December 31, 2017, in
33 computing Arizona taxable income, a subtraction is allowed under section
34 43-1122, paragraph ~~23~~ 21 for eligible business access expenditures paid or
35 incurred by the taxpayer during the taxable year in order to comply with
36 the requirements of the Americans with disabilities act of 1990
37 (P.L. 101-336) or title 41, chapter 9, article 8 by retrofitting developed
38 real property that was originally placed in service at least ten years
39 before the current taxable year.

40 B. For the purposes of this section, eligible business access
41 expenditures include reasonable and necessary amounts paid or incurred to:

42 1. Remove any barriers that prevent a business from being
43 accessible to or usable by individuals with disabilities.

44 2. Provide qualified interpreters or other methods of making audio
45 materials available to hearing-impaired individuals.

1 3. Provide qualified readers, taped texts and other effective
2 methods of making visually delivered materials available to individuals
3 with visual impairments.

4 4. Acquire or modify equipment or devices for individuals with
5 disabilities.

6 5. Provide other similar services, modifications, materials or
7 equipment.

8 C. A taxpayer that has been cited for noncompliance with the
9 Americans with disabilities act of 1990 or title 41, chapter 9, article 8
10 by either federal or state enforcement officials is ineligible for a
11 subtraction under this section for any expenditure required to cure the
12 cited violation.

13 Sec. 27. Section 43-1127, Arizona Revised Statutes, is amended to
14 read:

15 43-1127. Deferred exploration expenses

16 The amount of exploration expenses added to Arizona gross income
17 pursuant to section 43-1121, paragraph ~~12~~ 10 may be subtracted on a
18 ratable basis as the units of produced ores or minerals discovered or
19 explored by reason of such expenditures are sold. An election made for
20 any taxable year shall be binding for that year.

21 Sec. 28. Section 43-1130.01, Arizona Revised Statutes, is amended
22 to read:

23 43-1130.01. Restoration of a substantial amount held under
24 claim of right; computation of tax

25 A. This section applies if:

26 1. An item of income was included in gross income for a prior
27 taxable year or years because it appeared that the taxpayer had an
28 unrestricted right to the item.

29 2. A deduction would be allowable under the internal revenue code
30 or this title for the taxable year, without application of section
31 1341(b)(3) of the internal revenue code or section 43-1121, paragraph
32 ~~20~~ 18, because after the close of the prior taxable year or years it was
33 established that the taxpayer did not have an unrestricted right to all or
34 part of the item.

35 3. The amount of the deduction exceeds ~~three thousand~~
36 ~~dollars~~ \$3,000.

37 B. If all of the conditions in subsection A of this section apply,
38 the tax imposed by this chapter for the taxable year is an amount equal to
39 the tax for the taxable year computed without the deduction, minus the
40 decrease in tax under this chapter for the prior taxable year or years
41 that would result solely from excluding the item or portion of the item
42 from gross income for the prior taxable year or years.

43 C. If the decrease in tax exceeds the tax imposed by this chapter
44 for the taxable year, computed without the deduction, the excess is
45 considered to be a payment of tax on the last day prescribed by law for

1 the payment of tax for the taxable year and shall be refunded or credited
2 in the same manner as if it were an overpayment for the taxable year.

3 D. Subsection B of this section does not apply to any deduction
4 that is allowable with respect to an item that was included in gross
5 income by reason of the sale or other disposition of stock in trade of the
6 taxpayer, or other property of a kind that would properly have been
7 included in the inventory of the taxpayer on hand at the close of the
8 prior taxable year, or property that is held by the taxpayer primarily for
9 sale to customers in the ordinary course of the taxpayer's trade or
10 business. This subsection does not apply if the deduction arises out of
11 refunds or repayments with respect to rates made by a regulated public
12 utility that is listed in section 7701(a)(33)(A) through (H) of the
13 internal revenue code, if the refunds or repayments are:

14 1. Required to be made by the government, political subdivision,
15 agency or instrumentality referred to in that section.

16 2. Required to be made by an order of a court.

17 3. Made in settlement of litigation or under threat or imminence of
18 litigation.

19 E. If the exclusion under subsection B of this section results in:

20 1. A net operating loss for the prior taxable year or years for
21 purposes of computing the decrease in tax for the prior year or years
22 under subsection B of this section:

23 (a) The loss shall be carried over under this chapter to the same
24 extent and in the same manner as provided under section 43-1123, and under
25 prior law.

26 (b) A carryover beyond the taxable year may not be taken into
27 account.

28 2. A capital loss for the prior taxable year or years, for purposes
29 of computing the decrease in tax for the prior taxable year or years under
30 subsection B of this section:

31 (a) The loss shall be:

32 (i) Carried over under this chapter to the same extent and in the
33 same manner as was provided under prior law for taxable years beginning on
34 or before December 31, 1987.

35 (ii) Carried back and carried over to the same extent and in the
36 same manner as provided under section 1212 of the internal revenue code
37 for taxable years beginning from and after December 31, 1987.

38 (b) A carryover beyond the taxable year may not be taken into
39 account.

40 F. In computing Arizona taxable income for taxable years subsequent
41 to the current taxable year, the net operating loss or capital loss
42 determined in subsection E of this section shall be taken into account to
43 the same extent and in the same manner as a net operating loss or capital
44 loss sustained for prior taxable years.

1 Sec. 29. Repeal
2 Section 43-1162, Arizona Revised Statutes, is repealed.
3 Sec. 30. Section 43-1169, Arizona Revised Statutes, is amended to
4 read:
5 43-1169. Credit for construction costs of qualified
6 environmental technology facility
7 A. A credit is allowed against the taxes imposed by this title for
8 expenses incurred in constructing a qualified environmental technology
9 manufacturing, producing or processing facility as described in section
10 41-1514.02. The amount of the credit is equal to ten ~~per cent~~ PERCENT of
11 the amount spent during the taxable year to construct the facility,
12 including land acquisition, improvements, building improvements, machinery
13 and equipment, but not exceeding seventy-five ~~per cent~~ PERCENT of the tax
14 liability under this title for the taxable year determined without
15 applying the credit.
16 B. Amounts qualifying for the credit under this section must be
17 includible in the taxpayer's adjusted basis for the facility. The
18 adjusted basis of any asset with respect to which the taxpayer has claimed
19 a credit shall be reduced by the amount of credit claimed with respect to
20 that asset. This credit does not affect the deductibility for
21 depreciation or amortization of the remaining adjusted basis of the asset.
22 C. A taxpayer may claim a credit under this section with respect to
23 new qualifying construction within ten years after the start of the
24 facility's initial construction, but a credit is not allowed under this
25 section for any amount spent more than ten years after the start of the
26 facility's initial construction.
27 D. A taxpayer qualifies for the credit under this section if the
28 taxpayer owns the facility or leases the facility or any component of the
29 facility for a term of five or more years.
30 E. If the allowable tax credit exceeds seventy-five ~~per cent~~
31 PERCENT of the taxes otherwise due under this title on the claimant's
32 income, or if there are no taxes due under this title, the amount of the
33 claim not used to offset taxes under this title may be carried forward for
34 not more than fifteen taxable years as a credit against subsequent years'
35 income tax liability.
36 F. Co-owners of a business, including CORPORATE partners in a
37 partnership, may each claim only the pro rata share of the credit allowed
38 under this section based on the ownership interest. The total of the
39 credits allowed all such owners may not exceed the amount that would have
40 been allowed for a sole owner of the business.
41 G. If either of the following circumstances occurs with respect to
42 a qualified environmental technology manufacturing, producing or
43 processing facility, the tax imposed by this title for the taxable year in
44 which the circumstance occurs shall be increased by the full amount of all

1 credits previously allowed under this section with respect to that
2 facility:

3 1. The taxpayer abandons construction before the facility is placed
4 in service.

5 2. Before the facility is placed in service, the taxpayer changes
6 plans in such a manner as to no longer qualify as an environmental
7 technology manufacturing, producing or processing facility under section
8 41-1514.02.

9 H. If, within five years after being placed in service, an
10 operating environmental technology manufacturing, producing or processing
11 facility with respect to which a credit has been allowed under this
12 section ceases for any reason to operate as an environmental technology
13 manufacturing, producing or processing facility as described in section
14 41-1514.02, the tax imposed by this title for the taxable year shall be
15 increased by an amount determined by multiplying the full amount of all
16 credits previously allowed under this section with respect to that
17 facility by a percentage determined as follows:

18 1. If the facility was placed in service less than one year before
19 ceasing to operate as an environmental technology manufacturing, producing
20 or processing facility, one hundred ~~per cent~~ PERCENT.

21 2. If the facility was placed in service at least one year but not
22 more than two years before ceasing to operate as an environmental
23 technology manufacturing, producing or processing facility, eighty ~~per~~
24 ~~cent~~ PERCENT.

25 3. If the facility was placed in service at least two years but
26 less than three years before ceasing to operate as an environmental
27 technology manufacturing, producing or processing facility, sixty ~~per~~
28 ~~cent~~ PERCENT.

29 4. If the facility was placed in service at least three years but
30 less than four years before ceasing to operate as an environmental
31 technology manufacturing, producing or processing facility, forty ~~per~~
32 ~~cent~~ PERCENT.

33 5. If the facility was placed in service at least four years but
34 less than five years before ceasing to operate as an environmental
35 technology manufacturing, producing or processing facility, twenty ~~per~~
36 ~~cent~~ PERCENT.

37 I. The department by rule shall prescribe ~~record-keeping~~
38 RECORDKEEPING requirements for taxpayers who claim a credit under this
39 section.

40 Sec. 31. Repeal

41 Sections 43-1170.01 and 43-1181, Arizona Revised Statutes, are
42 repealed.

1 Sec. 32. Laws 2019, chapter 273, section 36 is amended to read:

2 Sec. 36. Retroactivity

3 A. Sections 42-1001 and 43-105, Arizona Revised Statutes, as
4 amended by ~~this act~~ LAWS 2019, CHAPTER 273, apply retroactively to taxable
5 years beginning from and after December 31, 2017.

6 B. Sections 42-1108, 43-222, 43-323, 43-945, 43-1001, 43-1011,
7 43-1021, 43-1022, 43-1023, 43-1024, 43-1041, 43-1072.02, 43-1073,
8 43-1095, ~~AND 43-1098, 43-1121 and 43-1122~~, Arizona Revised Statutes, as
9 amended by ~~this act~~ LAWS 2019, CHAPTER 273, section 43-1073.01, Arizona
10 Revised Statutes, as added by ~~this act~~ LAWS 2019, CHAPTER 273, and section
11 43-1043, Arizona Revised Statutes, as repealed by ~~this act~~ LAWS 2019,
12 CHAPTER 273, apply retroactively to taxable years beginning from and after
13 December 31, 2018.

14 C. SECTIONS 43-1121 AND 43-1122, ARIZONA REVISED STATUTES, AS
15 AMENDED BY LAWS 2019, CHAPTER 273, APPLY RETROACTIVELY TO TAXABLE YEARS
16 BEGINNING FROM AND AFTER DECEMBER 31, 2017.

17 Sec. 33. Retroactivity

18 Sections 43-301, 43-1076, 43-1081.01, 43-1089.02 and 43-1169,
19 Arizona Revised Statutes, as amended by this act, and sections 43-1080,
20 43-1170.01 and 43-1181, Arizona Revised Statutes, as repealed by this act,
21 apply retroactively to taxable years beginning from and after December 31,
22 2019.