

Senate Engrossed House Bill

tax credit; charitable organizations; adjustment

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 385

HOUSE BILL 2693

AN ACT

AMENDING SECTION 43-1088, ARIZONA REVISED STATUTES; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1088, Arizona Revised Statutes, is amended to
3 read:

4 43-1088. Credit for contribution to qualifying charitable
5 organizations; definitions

6 A. Except as provided in subsections B and C of this section, a
7 credit is allowed against the taxes imposed by this title for voluntary
8 cash contributions by the taxpayer or on the taxpayer's behalf pursuant to
9 section 43-401, subsection G during the taxable year to a qualifying
10 charitable organization, other than a qualifying foster care charitable
11 organization, not to exceed:

12 1. \$400 in any taxable year for a single individual or a head of
13 household.

14 2. \$800 in any taxable year for a married couple filing a joint
15 return.

16 B. A separate credit is allowed for voluntary cash contributions
17 during the taxable year to a qualifying foster care charitable
18 organization. A contribution to a qualifying foster care charitable
19 organization does not qualify for, and shall not be included in, any
20 credit amount under subsection A of this section. If the voluntary cash
21 contribution by the taxpayer or on the taxpayer's behalf pursuant to
22 section 43-401, subsection G is to a qualifying foster care charitable
23 organization, the credit shall not exceed:

24 1. \$500 in any taxable year for a single individual or a head of
25 household.

26 2. \$1,000 in any taxable year for a married couple filing a joint
27 return.

28 C. Subsections A and B of this section provide separate credits
29 against taxes imposed by this title depending on the recipients of the
30 contributions. A taxpayer, including a married couple filing a joint
31 return, in the same taxable year, may either or both:

32 1. Contribute to a qualifying charitable organization, other than a
33 qualifying foster care charitable organization, and claim a credit under
34 subsection A of this section.

35 2. Contribute to a qualifying foster care charitable organization
36 and claim a credit under subsection B of this section.

37 D. A husband and wife who file separate returns for a taxable year
38 in which they could have filed a joint return may each claim only one-half
39 of the tax credit that would have been allowed for a joint return.

40 E. For the purposes of this section, a contribution for which a
41 credit is claimed and that is made on or before the fifteenth day of the
42 fourth month following the close of the taxable year may be applied to
43 either the current or preceding taxable year and is considered to have
44 been made on the last day of that taxable year.

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

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

9 H. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2022,
10 THE DEPARTMENT SHALL ADJUST THE DOLLAR AMOUNTS PRESCRIBED IN SUBSECTION A,
11 PARAGRAPHS 1 AND 2 OF THIS SECTION AND SUBSECTION B, PARAGRAPHS 1 AND 2 OF
12 THIS SECTION ACCORDING TO THE AVERAGE ANNUAL CHANGE IN THE METROPOLITAN
13 PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF
14 LABOR, BUREAU OF LABOR STATISTICS. THE REVISED DOLLAR AMOUNTS SHALL BE
15 RAISED TO THE NEAREST WHOLE DOLLAR. THE DOLLAR AMOUNTS MAY NOT BE REVISED
16 BELOW THE AMOUNTS PRESCRIBED IN THE PRIOR TAXABLE YEAR.

17 ~~H.~~ I. Taxpayers taking a credit authorized by this section shall
18 provide the name of the qualifying charitable organization and the amount
19 of the contribution to the department of revenue on forms provided by the
20 department.

21 ~~I.~~ J. A qualifying charitable organization shall provide the
22 department of revenue with a written certification that it meets all
23 criteria to be considered a qualifying charitable organization. The
24 organization shall also notify the department of any changes that may
25 affect the qualifications under this section.

26 ~~J.~~ K. The charitable organization's written certification must be
27 signed by an officer of the organization under penalty of perjury. The
28 written certification must include the following:

29 1. Verification of the organization's status under section
30 501(c)(3) of the internal revenue code or verification that the
31 organization is a designated community action agency that receives
32 community services block grant program monies pursuant to 42 United States
33 Code section 9901.

34 2. Financial data indicating the organization's budget for the
35 organization's prior operating year and the amount of that budget spent on
36 services to residents of this state who either:

37 (a) Receive temporary assistance for needy families benefits.

38 (b) Are low-income residents.

39 (c) Are individuals who have a chronic illness or physical
40 disability.

41 3. A statement that the organization plans to continue spending at
42 least fifty percent of its budget on services to residents of this state
43 who receive temporary assistance for needy families benefits, who are
44 low-income residents or who are individuals who have a chronic illness or
45 physical disability.

1 4. A statement that the organization does not provide, pay for or
2 provide coverage of abortions and does not financially support any other
3 entity that provides, pays for or provides coverage of abortions.

4 ~~K.~~ L. The department shall review each written certification and
5 determine whether the organization meets all the criteria to be considered
6 a qualifying charitable organization and notify the organization of its
7 determination. The department may also periodically request
8 recertification from the organization. The department shall compile and
9 make available to the public a list of the qualifying charitable
10 organizations.

11 ~~L.~~ M. For the purposes of this section:

12 1. "Individuals who have a chronic illness or physical disability"
13 means individuals whose primary diagnosis is a severe physical condition
14 that may require ongoing medical or surgical intervention.

15 2. "Low-income residents" means persons whose household income is
16 less than one hundred fifty percent of the federal poverty level.

17 3. "Qualifying charitable organization" means a charitable
18 organization that is exempt from federal income taxation under section
19 501(c)(3) of the internal revenue code or is a designated community action
20 agency that receives community services block grant program monies
21 pursuant to 42 United States Code section 9901. The organization must
22 spend at least fifty percent of its budget on services to residents of
23 this state who receive temporary assistance for needy families benefits,
24 to low-income residents of this state and their households or to
25 individuals who have a chronic illness or physical disability and who are
26 residents of this state. Taxpayers choosing to make donations through an
27 umbrella charitable organization that collects donations on behalf of
28 member charities shall designate that the donation be directed to a member
29 charitable organization that would qualify under this section on a
30 stand-alone basis. Qualifying charitable organization does not include
31 any entity that provides, pays for or provides coverage of abortions or
32 that financially supports any other entity that provides, pays for or
33 provides coverage of abortions.

34 4. "Qualifying foster care charitable organization" means a
35 qualifying charitable organization THAT IS EXEMPT FROM FEDERAL INCOME
36 TAXATION UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE OR IS A
37 DESIGNATED COMMUNITY ACTION AGENCY THAT RECEIVES COMMUNITY SERVICES BLOCK
38 GRANT PROGRAM MONIES PURSUANT TO 42 UNITED STATES CODE SECTION 9901 AND
39 that each operating year provides services to at least two hundred
40 qualified individuals in this state and spends at least fifty percent of
41 its budget on services to qualified individuals in this state. ~~For the~~
42 ~~purposes of this paragraph,~~

43 5. "Qualified individual" means ANY OF THE FOLLOWING:

44 (a) A foster child as defined in section 8-501. ~~or~~

1 (b) A PERSON WHO IS PARTICIPATING IN AN INDEPENDENT LIVING PROGRAM
2 AS PRESCRIBED IN SECTION 8-521.

3 (c) A person ~~who is under twenty-one years of age and~~ who is
4 participating in a transitional independent living program as prescribed
5 by section 8-521.01.

6 (d) A PERSON WHO IS PARTICIPATING IN AN EXTENDED FOSTER CARE
7 PROGRAM AS PRESCRIBED IN SECTION 8-521.02.

8 (e) A PERSON WHO IS UNDER TWENTY-SEVEN YEARS OF AGE AND WHOSE
9 REASON FOR LEAVING FOSTER CARE IS ANY OF THE FOLLOWING:

10 (i) REACHING EIGHTEEN YEARS OF AGE.

11 (ii) ADOPTION OR LEGAL GUARDIANSHIP AFTER REACHING FIFTEEN YEARS
12 OF AGE.

13 (iii) REUNIFICATION AFTER REACHING FOURTEEN YEARS OF AGE.

14 ~~5.~~ 6. "Services" means:

15 (a) FOR A QUALIFYING CHARITABLE ORGANIZATION, cash assistance,
16 medical care, child care, food, clothing, shelter, job placement and job
17 training services or any other assistance that is reasonably necessary to
18 meet immediate basic needs and that is provided and used in this state.

19 (b) FOR A QUALIFYING FOSTER CARE CHARITABLE ORGANIZATION, CASH
20 ASSISTANCE, MEDICAL CARE, BEHAVIORAL HEALTH SERVICES, CHILD CARE, FOOD,
21 INCLUDING SNACKS AT THE QUALIFYING FOSTER CARE CHARITABLE ORGANIZATION'S
22 FOSTER YOUTH EVENT, CLOTHING, JOB PLACEMENT SERVICES, JOB TRAINING
23 SERVICES, CHARACTER EDUCATION PROGRAMS, WORKFORCE DEVELOPMENT PROGRAMS,
24 SECONDARY EDUCATION STUDENT RETENTION PROGRAMS, HOUSING OR FINANCIAL
25 LITERACY SERVICES OR ANY OTHER ASSISTANCE THAT IS REASONABLY NECESSARY TO
26 MEET BASIC NEEDS OR PROVIDE NORMALCY AND THAT IS PROVIDED AND USED IN THIS
27 STATE. FOR THE PURPOSES OF THIS SUBDIVISION:

28 (i) "BEHAVIORAL HEALTH SERVICES" HAS THE SAME MEANING PRESCRIBED IN
29 SECTION 36-401.

30 (ii) "CHARACTER EDUCATION PROGRAM" MEANS ANY PROGRAM DESCRIBED IN
31 SECTION 15-719, SUBSECTION B THAT IS OFFERED BY A QUALIFYING FOSTER CARE
32 CHARITABLE ORGANIZATION.

33 (iii) "JOB TRAINING SERVICES" HAS THE SAME MEANING AS VOCATIONAL
34 AND TECHNICAL PREPARATION AS DEFINED IN SECTION 15-781.

35 (iv) "NORMALCY" MEANS THE CONDITION OF EXPERIENCING A TYPICAL
36 CHILDHOOD BY PARTICIPATING IN ACTIVITIES THAT ARE AGE OR
37 DEVELOPMENTALLY-APPROPRIATE, AS DEFINED IN 42 UNITED STATES CODE
38 SECTION 675.

39 (v) "WORKFORCE DEVELOPMENT PROGRAM" MEANS ANY PROGRAM RECOGNIZED BY
40 THE WORKFORCE ARIZONA COUNCIL PURSUANT TO SECTION 41-5401.

41 Sec. 2. Retroactivity

42 This act applies retroactively to taxable years beginning from and
43 after December 31, 2021.

H.B. 2693

APPROVED BY THE GOVERNOR JULY 6, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 6, 2022.