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

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

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

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

1. $400 in any taxable year for a single individual or a head of household.
2. $800 in any taxable year for a married couple filing a joint return.

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

1. $500 in any taxable year for a single individual or a head of household.
2. $1,000 in any taxable year for a married couple filing a joint return.

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

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

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

E. For the purposes of this section, a contribution for which a credit is claimed and that is made on or before the fifteenth day of the fourth month following the close of the taxable year may be applied to either the current or preceding taxable year and is considered to have been made on the last day of that taxable year.
F. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this title for not more than five consecutive taxable years' income tax liability.

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

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

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

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

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

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

2. Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:
   (a) Receive temporary assistance for needy families benefits.
   (b) Are low-income residents.
   (c) Are individuals who have a chronic illness or physical disability.

3. A statement that the organization plans to continue spending at least fifty percent of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low-income residents or who are individuals who have a chronic illness or physical disability.
4. A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions.

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

M. For the purposes of this section:

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

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

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

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

5. “Qualified individual” means ANY OF THE FOLLOWING:

(a) A foster child as defined in section 8-501.
(b) A PERSON WHO IS PARTICIPATING IN AN INDEPENDENT LIVING PROGRAM AS PRESCRIBED IN SECTION 8-521.

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

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

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

(i) REACHING EIGHTEEN YEARS OF AGE.

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

(iii) REUNIFICATION AFTER REACHING FOURTEEN YEARS OF AGE.

5. "Services" means:

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

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

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

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

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

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

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

Sec. 2. Retroactivity

This act applies retroactively to taxable years beginning from and after December 31, 2021.
H.B. 2693

APPROVED BY THE GOVERNOR JULY 6, 2022.