

REFERENCE TITLE: STOs; aggregate cap increase

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1041

Introduced by
Senators Livingston: Gowan, Leach

AN ACT

AMENDING SECTION 43-1184, ARIZONA REVISED STATUTES; RELATING TO SCHOOL
TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1184, Arizona Revised Statutes, is amended to
3 read:

4 43-1184. Credit for contributions to school tuition
5 organization; displaced students; students with
6 disabilities

7 A. Beginning from and after June 30, 2009, a credit is allowed
8 against the taxes imposed by this title for the amount of voluntary cash
9 contributions made by the taxpayer during the taxable year to a school
10 tuition organization that is certified pursuant to chapter 15 of this
11 title at the time of donation.

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

16 C. The department of revenue:

17 1. Shall not allow tax credits under this section and section
18 20-224.07 that exceed in the aggregate a combined total of ~~five million~~
19 ~~dollars~~ \$5,000,000 in any fiscal year. BEGINNING IN FISCAL YEAR 2021-2022,
20 THE AGGREGATE DOLLAR AMOUNT OF THE TAX CREDIT CAP FROM THE PREVIOUS FISCAL
21 YEAR SHALL INCREASE AS FOLLOWS:

22 (a) FOR FISCAL YEAR 2021-2022, TO \$10,000,000.

23 (b) FOR FISCAL YEAR 2022-2023, TO \$15,000,000.

24 (c) FOR FISCAL YEAR 2023-2024, TO \$20,000,000.

25 (d) FOR FISCAL YEAR 2024-2025 AND EACH FISCAL YEAR THEREAFTER, BY
26 THE GREATER OF:

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

30 (ii) TWO PERCENT.

31 2. Shall preapprove tax credits under this section and section
32 20-224.07 subject to subsection D of this section.

33 3. Shall allow the tax credits under this section and section
34 20-224.07 on a ~~first come, first served~~ FIRST-COME, FIRST-SERVED basis.

35 D. For the purposes of subsection C, paragraph 2 of this section,
36 before making a contribution to a school tuition organization, the
37 taxpayer under this title or title 20 must notify the school tuition
38 organization of the total amount of contributions that the taxpayer
39 intends to make to the school tuition organization. Before accepting the
40 contribution, the school tuition organization shall request preapproval
41 from the department of revenue for the taxpayer's intended contribution
42 amount. The department of revenue shall preapprove or deny the requested
43 amount within twenty days after receiving the request from the school
44 tuition organization. If the department of revenue preapproves the
45 request, the school tuition organization shall immediately notify the

1 taxpayer that the requested amount was preapproved by the department of
2 revenue. In order to receive a tax credit under this subsection, the
3 taxpayer shall make the contribution to the school tuition organization
4 within twenty days after receiving notice from the school tuition
5 organization that the requested amount was preapproved. If the school
6 tuition organization does not receive the preapproved contribution from
7 the taxpayer within the required twenty days, the school tuition
8 organization shall immediately notify the department of revenue and the
9 department shall no longer include this preapproved contribution amount
10 when calculating the limit prescribed in subsection C, paragraph 1 of this
11 section.

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

17 F. Co-owners of a business, including corporate partners in a
18 partnership and stockholders of an S corporation as defined in section
19 1361 of the internal revenue code, may each claim only the pro rata share
20 of the credit allowed under this section based on the ownership interest.
21 The total of the credits allowed all such owners may not exceed the amount
22 that would have been allowed a sole owner.

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

26 H. A taxpayer shall not claim a credit under this section and also
27 under section 43-1183 with respect to the same contribution.

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

31 J. The department of revenue shall adopt rules necessary ~~for the~~
32 ~~administration of~~ TO ADMINISTER this section.