

Senate Engrossed

STOs; aggregate cap increase

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

# SENATE BILL 1041

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 AND EACH FISCAL YEAR THEREAFTER, TO  
25 \$20,000,000.

26 2. Shall preapprove tax credits under this section and section  
27 20-224.07 subject to subsection D of this section.

28 3. Shall allow the tax credits under this section and section  
29 20-224.07 on a ~~first come, first served~~ FIRST-COME, FIRST-SERVED basis.

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

1 tuition organization does not receive the preapproved contribution from  
2 the taxpayer within the required twenty days, the school tuition  
3 organization shall immediately notify the department of revenue and the  
4 department shall no longer include this preapproved contribution amount  
5 when calculating the limit prescribed in subsection C, paragraph 1 of this  
6 section.

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

12 F. Co-owners of a business, including corporate partners in a  
13 partnership and stockholders of an S corporation as defined in section  
14 1361 of the internal revenue code, may each claim only the pro rata share  
15 of the credit allowed under this section based on the ownership interest.  
16 The total of the credits allowed all such owners may not exceed the amount  
17 that would have been allowed a sole owner.

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

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

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

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