

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

SENATE BILL 1142

AN ACT

AMENDING SECTIONS 43-222 AND 43-1021, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1075; AMENDING SECTION 43-1121, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1163; 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 43-222, Arizona Revised Statutes, is amended to
3 read:

4 43-222. Income tax credit review schedule

5 The joint legislative income tax credit review committee shall
6 review the following income tax credits:

7 1. For years ending in 0 and 5, sections 43-1079.01, 43-1087,
8 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

9 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,
10 43-1075, 43-1083, 43-1083.02, 43-1163, 43-1164.03 and 43-1183.

11 3. For years ending in 2 and 7, sections 43-1073, 43-1085, 43-1086,
12 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164 and 43-1169.

13 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081,
14 43-1168, 43-1170 and 43-1178.

15 5. For years ending in 4 and 9, sections 43-1073.01, 43-1076,
16 43-1081.01, 43-1083.03, 43-1084, 43-1164.04, 43-1164.05, and 43-1184.

17 Sec. 2. Section 43-1021, Arizona Revised Statutes, is amended to
18 read:

19 43-1021. Addition to Arizona gross income

20 In computing Arizona adjusted gross income, the following amounts
21 shall be added to Arizona gross income:

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

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

29 3. 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 the state of Arizona, reduced, for
32 taxable years beginning from and after December 31, 1996, by the amount of
33 any interest on indebtedness and other related expenses that were incurred
34 or continued to purchase or carry those obligations and that are not
35 otherwise deducted or subtracted in arriving at Arizona gross income.

36 4. 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 5. 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 6. Any amount of agricultural water conservation expenses that were
44 deducted pursuant to the internal revenue code for which a credit is
45 claimed under section 43-1084.

1 7. The amount by which the depreciation or amortization computed
2 under the internal revenue code with respect to property for which a
3 credit was taken under either section 43-1081 or 43-1081.01 exceeds the
4 amount of depreciation or amortization computed pursuant to the internal
5 revenue code on the Arizona adjusted basis of the property.

6 8. The amount by which the adjusted basis computed under the
7 internal revenue code with respect to property for which a credit was
8 claimed under section 43-1074.02, 43-1081 or 43-1081.01 and that is sold
9 or otherwise disposed of during the taxable year exceeds the adjusted
10 basis of the property computed under section 43-1074.02, 43-1081 or
11 43-1081.01, as applicable.

12 9. The deduction referred to in section 1341(a)(4) of the internal
13 revenue code for restoration of a substantial amount held under a claim of
14 right.

15 10. The amount by which a net operating loss carryover or capital
16 loss carryover allowable pursuant to section 1341(b)(5) of the internal
17 revenue code exceeds the net operating loss carryover or capital loss
18 carryover allowable pursuant to section 43-1029, subsection F.

19 11. Any wage expenses deducted pursuant to the internal revenue
20 code for which a credit is claimed under section 43-1087 and representing
21 net increases in qualified employment positions for employment of
22 temporary assistance for needy families recipients.

23 12. The amount of any depreciation allowance allowed pursuant to
24 section 167(a) of the internal revenue code to the extent not previously
25 added.

26 13. The amount of a nonqualified withdrawal, as defined in section
27 15-1871, from a college savings plan established pursuant to section 529
28 of the internal revenue code that is made to a distributee to the extent
29 the amount is not included in computing federal adjusted gross income,
30 except that the amount added under this paragraph shall not exceed the
31 difference between the amount subtracted under section 43-1022 in prior
32 taxable years and the amount added under this section in any prior taxable
33 years.

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

43 15. For taxable years beginning from and after December 31, 2017,
44 the amount of any net capital loss included in Arizona gross income for
45 the taxable year that is derived from the exchange of one kind of legal

1 tender for another kind of legal tender. For the purposes of this
2 paragraph:

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

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

7 16. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021,
8 ANY WAGE EXPENSES DEDUCTED PURSUANT TO THE INTERNAL REVENUE CODE FOR WHICH
9 A CREDIT IS CLAIMED UNDER SECTION 43-1075.

10 Sec. 3. Title 43, chapter 10, article 5, Arizona Revised Statutes,
11 is amended by adding section 43-1075, to read:

12 43-1075. Credit for employing individuals with serious mental
13 illness

14 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021, A
15 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR A TAXPAYER
16 WHO EMPLOYS AT LEAST ONE INDIVIDUAL WHO IS SERIOUSLY MENTALLY ILL AS
17 DEFINED IN SECTION 36-550.

18 B. THE AMOUNT OF THE CREDIT IS \$2 FOR EACH HOUR WORKED BY AN
19 EMPLOYEE DESCRIBED IN SUBSECTION A OF THIS SECTION DURING THE CALENDAR
20 YEAR, NOT TO EXCEED \$20,000 PER TAXPAYER.

21 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION:

22 1. THE TAXPAYER MUST BE AN EMPLOYER THAT IS NOT A REGIONAL
23 BEHAVIORAL HEALTH AUTHORITY OR SERVICE PROVIDER THAT CONTRACTS WITH THE
24 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM OR A REGIONAL BEHAVIORAL
25 HEALTH AUTHORITY.

26 2. EACH EMPLOYEE WITH RESPECT TO WHOM A CREDIT IS CLAIMED MUST
27 RESIDE IN THIS STATE AT THE TIME THE EMPLOYEE IS HIRED AND BE SERIOUSLY
28 MENTALLY ILL AS DEFINED IN SECTION 36-550.

29 3. THE EMPLOYEE WITH RESPECT TO WHOM A CREDIT IS CLAIMED MUST NOT
30 HAVE BEEN EMPLOYED WITHIN THE SIX MONTHS BEFORE THE DATE OF HIRE.

31 D. CREDITS ARE ALLOWED UNDER THIS SECTION ON A FIRST-COME,
32 FIRST-SERVED BASIS. THE DEPARTMENT MAY NOT AUTHORIZE TAX CREDITS UNDER
33 THIS SECTION AND SECTION 43-1163 THAT EXCEED IN THE AGGREGATE A TOTAL OF
34 \$1,000,000 FOR ANY CALENDAR YEAR.

35 E. THE CREDIT ALLOWED IN THIS SECTION IS IN LIEU OF ANY WAGE
36 EXPENSE DEDUCTION TAKEN FOR STATE INCOME TAX PURPOSES.

37 F. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE
38 UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE
39 UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED
40 TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE
41 CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

42 G. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
43 SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE
44 INTERNAL REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE
45 CREDIT ALLOWED UNDER THIS SECTION BASED ON OWNERSHIP INTEREST. THE TOTAL

1 OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT
2 WOULD HAVE BEEN ALLOWED A SOLE OWNER OF THE BUSINESS.

3 H. THE DEPARTMENT MAY ADOPT RULES NECESSARY TO ADMINISTER THIS
4 SECTION.

5 Sec. 4. Section 43-1121, Arizona Revised Statutes, is amended to
6 read:

7 43-1121. Additions to Arizona gross income; corporations

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

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

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

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

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

27 5. The amount of dividend income received from corporations and
28 allowed as a deduction pursuant to sections 243, 245, 245A and
29 250(a)(1)(B) of the internal revenue code.

30 6. Taxes that are based on income paid to states, local governments
31 or foreign governments and that were deducted in computing federal taxable
32 income.

33 7. Expenses and interest relating to tax-exempt income on
34 indebtedness incurred or continued to purchase or carry obligations the
35 interest on which is wholly exempt from the tax imposed by this title.
36 Financial institutions, as defined in section 6-101, shall be governed by
37 section 43-961, paragraph 2.

38 8. Commissions, rentals and other amounts paid or accrued to a
39 domestic international sales corporation controlled by the payor
40 corporation if the domestic international sales corporation is not
41 required to report its taxable income to this state because its income is
42 not derived from or attributable to sources within this state. If the
43 domestic international sales corporation is subject to article 4 of this
44 chapter, the department shall prescribe by rule the method of determining
45 the portion of the commissions, rentals and other amounts that are paid or

1 accrued to the controlled domestic international sales corporation and
2 that shall be deducted by the payor. For the purposes of this paragraph,
3 "control" means direct or indirect ownership or control of fifty percent
4 or more of the voting stock of the domestic international sales
5 corporation by the payor corporation.

6 9. The amount of net operating loss taken pursuant to section 172
7 of the internal revenue code.

8 10. The amount of exploration expenses determined pursuant to
9 section 617 of the internal revenue code to the extent that they exceed
10 \$75,000 and to the extent that the election is made to defer those
11 expenses not in excess of \$75,000.

12 11. Amortization of costs incurred to install pollution control
13 devices and deducted pursuant to the internal revenue code or the amount
14 of deduction for depreciation taken pursuant to the internal revenue code
15 on pollution control devices for which an election is made pursuant to
16 section 43-1129.

17 12. The amount of depreciation or amortization of costs of child
18 care facilities deducted pursuant to section 167 or 188 of the internal
19 revenue code for which an election is made to amortize pursuant to section
20 43-1130.

21 13. The loss of an insurance company that is exempt under section
22 43-1201 to the extent that it is included in computing Arizona gross
23 income on a consolidated return pursuant to section 43-947.

24 14. The amount by which the depreciation or amortization computed
25 under the internal revenue code with respect to property for which a
26 credit was taken under section 43-1169 exceeds the amount of depreciation
27 or amortization computed pursuant to the internal revenue code on the
28 Arizona adjusted basis of the property.

29 15. The amount by which the adjusted basis computed under the
30 internal revenue code with respect to property for which a credit was
31 claimed under section 43-1169 and that is sold or otherwise disposed of
32 during the taxable year exceeds the adjusted basis of the property
33 computed under section 43-1169.

34 16. The amount by which the depreciation or amortization computed
35 under the internal revenue code with respect to property for which a
36 credit was taken under section 43-1170 exceeds the amount of depreciation
37 or amortization computed pursuant to the internal revenue code on the
38 Arizona adjusted basis of the property.

39 17. The amount by which the adjusted basis computed under the
40 internal revenue code with respect to property for which a credit was
41 claimed under section 43-1170 and that is sold or otherwise disposed of
42 during the taxable year exceeds the adjusted basis of the property
43 computed under section 43-1170.

1 18. The deduction referred to in section 1341(a)(4) of the internal
2 revenue code for restoration of a substantial amount held under a claim of
3 right.

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

7 20. Any wage expenses deducted pursuant to the internal revenue
8 code for which a credit is claimed under section 43-1175 and representing
9 net increases in qualified employment positions for employment of
10 temporary assistance for needy families recipients.

11 21. Any amount of expenses that were deducted pursuant to the
12 internal revenue code and for which a credit is claimed under section
13 43-1178.

14 22. Any amount deducted pursuant to section 170 of the internal
15 revenue code representing contributions to a school tuition organization
16 for which a credit is claimed under section 43-1183 or 43-1184.

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

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

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

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

35 25. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021,
36 ANY WAGE EXPENSES DEDUCTED PURSUANT TO THE INTERNAL REVENUE CODE FOR WHICH
37 A CREDIT IS CLAIMED UNDER SECTION 43-1163.

38 Sec. 5. Title 43, chapter 11, article 6, Arizona Revised Statutes,
39 is amended by adding section 43-1163, to read:

40 43-1163. Credit for employing individuals with serious mental
41 illness

42 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021, A
43 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR A TAXPAYER
44 THAT EMPLOYS AT LEAST ONE INDIVIDUAL WHO IS SERIOUSLY MENTALLY ILL AS
45 DEFINED IN SECTION 36-550.

1 B. THE AMOUNT OF THE CREDIT IS \$2 FOR EACH HOUR WORKED BY AN
2 EMPLOYEE DESCRIBED IN SUBSECTION A OF THIS SECTION DURING THE CALENDAR
3 YEAR, NOT TO EXCEED \$20,000 PER TAXPAYER.

4 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION:

5 1. THE TAXPAYER MUST BE AN EMPLOYER THAT IS NOT A REGIONAL
6 BEHAVIORAL HEALTH AUTHORITY OR SERVICE PROVIDER THAT CONTRACTS WITH THE
7 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM OR A REGIONAL BEHAVIORAL
8 HEALTH AUTHORITY.

9 2. EACH EMPLOYEE WITH RESPECT TO WHOM A CREDIT IS CLAIMED MUST
10 RESIDE IN THIS STATE AT THE TIME THE EMPLOYEE IS HIRED AND BE SERIOUSLY
11 MENTALLY ILL AS DEFINED IN SECTION 36-550.

12 3. THE EMPLOYEE WITH RESPECT TO WHOM A CREDIT IS CLAIMED MUST NOT
13 HAVE BEEN EMPLOYED WITHIN THE SIX MONTHS BEFORE THE DATE OF HIRE.

14 D. CREDITS ARE ALLOWED UNDER THIS SECTION ON A FIRST-COME,
15 FIRST-SERVED BASIS. THE DEPARTMENT MAY NOT AUTHORIZE TAX CREDITS UNDER
16 THIS SECTION AND SECTION 43-1075 THAT EXCEED IN THE AGGREGATE A TOTAL OF
17 \$1,000,000 FOR ANY CALENDAR YEAR.

18 E. THE CREDIT ALLOWED IN THIS SECTION IS IN LIEU OF ANY WAGE
19 EXPENSE DEDUCTION TAKEN FOR STATE INCOME TAX PURPOSES.

20 F. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE
21 UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE
22 UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED
23 TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE
24 CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

25 G. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
26 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
27 UNDER THIS SECTION BASED ON OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
28 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
29 ALLOWED A SOLE OWNER OF THE BUSINESS.

30 H. THE DEPARTMENT MAY ADOPT RULES NECESSARY TO ADMINISTER THIS
31 SECTION.

32 Sec. 6. Purpose

33 Pursuant to section 43-223, Arizona Revised Statutes, the
34 legislature enacts sections 43-1075 and 43-1163, Arizona Revised Statutes,
35 as added by this act, to encourage taxpayers in this state to employ
36 individuals who are seriously mentally ill.