

REFERENCE TITLE: taxes; 529 contributions; ABLE contributions.

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

# **SB 1844**

Introduced by  
Senator Livingston (with permission of Committee on Rules)

AN ACT

AMENDING SECTION 43-1022, ARIZONA REVISED STATUTES; RELATING TO INDIVIDUAL  
INCOME TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1022, Arizona Revised Statutes, is amended to  
3 read:

4 43-1022. Subtractions from Arizona gross income

5 In computing Arizona adjusted gross income, the following amounts  
6 shall be subtracted from Arizona gross income:

7 1. The amount of exemptions allowed by section 43-1023.

8 2. Benefits, annuities and pensions in an amount totaling not more  
9 than \$2,500 received from one or more of the following:

10 (a) The United States government service retirement and disability  
11 fund, the United States foreign service retirement and disability system  
12 and any other retirement system or plan established by federal law, except  
13 retired or retainer pay of the uniformed services of the United States  
14 that qualifies for a subtraction under paragraph 27 of this section.

15 (b) The Arizona state retirement system, the corrections officer  
16 retirement plan, the public safety personnel retirement system, the  
17 elected officials' retirement plan, an optional retirement program  
18 established by the Arizona board of regents under section 15-1628, an  
19 optional retirement program established by a community college district  
20 board under section 15-1451 or a retirement plan established for employees  
21 of a county, city or town in this state.

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

25 4. Interest income received on obligations of the United States,  
26 minus any interest on indebtedness, or other related expenses, and  
27 deducted in arriving at Arizona gross income, that were incurred or  
28 continued to purchase or carry such obligations.

29 5. The excess of a partner's share of income required to be  
30 included under section 702(a)(8) of the internal revenue code over the  
31 income required to be included under chapter 14, article 2 of this title.

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

35 7. The amount allowed by section 43-1025 for contributions during  
36 the taxable year of agricultural crops to charitable organizations.

37 8. The portion of any wages or salaries paid or incurred by the  
38 taxpayer for the taxable year that is equal to the amount of the federal  
39 work opportunity credit, the empowerment zone employment credit, the  
40 credit for employer paid social security taxes on employee cash tips and  
41 the Indian employment credit that the taxpayer received under sections  
42 45A, 45B, 51(a) and 1396 of the internal revenue code.

43 9. The amount of exploration expenses that is determined pursuant  
44 to section 617 of the internal revenue code, that has been deferred in a  
45 taxable year ending before January 1, 1990 and for which a subtraction has

not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

10. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

11. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

12. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed \$3,000. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife ~~shall~~ MAY not exceed \$3,000. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

13. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

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

15. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

16. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

17. The amount authorized by section 43-1030 relating to holocaust survivors.

18. For property placed in service:

(a) In taxable years beginning before December 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

(b) In taxable years beginning from and after December 31, 2012 through December 31, 2013, an amount determined in the year the asset was placed in service based on the calculation in subdivision (a) of this paragraph. In the first taxable year beginning from and after December 31, 2013, the taxpayer may elect to subtract the amount necessary to make the depreciation claimed to date for the purposes of this title the same as it would have been if subdivision (c) of this paragraph had applied for the entire time the asset was in service. Subdivision (c) of this paragraph applies for the remainder of the asset's life. If the taxpayer does not make the election under this subdivision, subdivision (a) of this paragraph applies for the remainder of the asset's life.

(c) In taxable years beginning from and after December 31, 2013 through December 31, 2015, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(d) In taxable years beginning from and after December 31, 2015 through December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been fifty-five percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(e) In taxable years beginning from and after December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been the full amount allowed pursuant to section 168(k) of the internal revenue code.

19. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 12 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

20. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code **ON BEHALF OF THE DESIGNATED BENEFICIARY** to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted ~~shall~~ **MAY** not exceed:

(a) \$2,000 **PER BENEFICIARY** for a single individual or a head of household.

(b) \$4,000 **PER BENEFICIARY** for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between

1 them, but the total subtractions allowed both husband and wife ~~shall~~ MAY  
2 not exceed \$4,000 PER BENEFICIARY.

3 21. The portion of the net operating loss carryforward that would  
4 have been allowed as a deduction in the current year pursuant to section  
5 172 of the internal revenue code if the election described in section  
6 172(b)(1)(H) of the internal revenue code had not been made in the year of  
7 the loss that exceeds the actual net operating loss carryforward that was  
8 deducted in arriving at federal adjusted gross income. This subtraction  
9 only applies to taxpayers who made an election under section 172(b)(1)(H)  
10 of the internal revenue code as amended by section 1211 of the American  
11 recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by  
12 section 13 of the worker, homeownership, and business assistance act of  
13 2009 (P.L. 111-92).

14 22. For taxable years beginning from and after December 31, 2013,  
15 the amount of any net capital gain included in federal adjusted gross  
16 income for the taxable year derived from investment in a qualified small  
17 business as determined by the Arizona commerce authority pursuant to  
18 section 41-1518.

19 23. An amount of any net long-term capital gain included in federal  
20 adjusted gross income for the taxable year that is derived from an  
21 investment in an asset acquired after December 31, 2011, as follows:

22 (a) For taxable years beginning from and after December 31, 2012  
23 through December 31, 2013, ten percent of the net long-term capital gain  
24 included in federal adjusted gross income.

25 (b) For taxable years beginning from and after December 31, 2013  
26 through December 31, 2014, twenty percent of the net long-term capital  
27 gain included in federal adjusted gross income.

28 (c) For taxable years beginning from and after December 31, 2014,  
29 twenty-five percent of the net long-term capital gain included in federal  
30 adjusted gross income. For the purposes of this paragraph, a transferee  
31 that receives an asset by gift or at the death of a transferor is  
32 considered to have acquired the asset when the asset was acquired by the  
33 transferor. If the date an asset is acquired cannot be verified, a  
34 subtraction under this paragraph is not allowed.

35 24. If an individual is not claiming itemized deductions pursuant  
36 to section 43-1042, the amount of premium costs for long-term care  
37 insurance, as defined in section 20-1691.

38 25. The amount of eligible access expenditures paid or incurred  
39 during the taxable year to comply with the requirements of the Americans  
40 with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9,  
41 article 8 as provided by section 43-1024.

42 26. For taxable years beginning from and after December 31, 2017,  
43 the amount of any net capital gain included in Arizona gross income for  
44 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 27. Benefits, annuities and pensions received as retired or  
8 retainer pay of the uniformed services of the United States in amounts as  
9 follows:

10 (a) For taxable years through December 31, 2018, an amount totaling  
11 not more than \$2,500.

12 (b) For taxable years beginning from and after December 31, 2018,  
13 an amount totaling not more than \$3,500.

14 28. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2020,  
15 THE AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR TO AN ACHIEVING A BETTER  
16 LIFE EXPERIENCE ACCOUNT ESTABLISHED PURSUANT TO SECTION 529A OF THE  
17 INTERNAL REVENUE CODE ON BEHALF OF THE DESIGNATED BENEFICIARY TO THE  
18 EXTENT THAT THE CONTRIBUTIONS WERE NOT DEDUCTED IN COMPUTING FEDERAL  
19 ADJUSTED GROSS INCOME. THE AMOUNT SUBTRACTED MAY NOT EXCEED:

20 (a) \$2,000 PER BENEFICIARY FOR A SINGLE INDIVIDUAL OR A HEAD OF  
21 HOUSEHOLD.

22 (b) \$4,000 PER BENEFICIARY FOR A MARRIED COUPLE FILING A JOINT  
23 RETURN. IN THE CASE OF A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS, THE  
24 SUBTRACTION MAY BE TAKEN BY EITHER TAXPAYER OR MAY BE DIVIDED BETWEEN  
25 THEM, BUT THE TOTAL SUBTRACTIONS ALLOWED BOTH HUSBAND AND WIFE MAY NOT  
26 EXCEED \$4,000 PER BENEFICIARY.

27 Sec. 2. Retroactivity

28 This act applies retroactively to taxable years beginning from and  
29 after December 31, 2020.