

REFERENCE TITLE: income tax; subtraction; school tuition

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **SB 1039**

Introduced by  
Senator Rogers

### **AN ACT**

AMENDING SECTION 43-1022, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 196, SECTION 14, CHAPTER 395, SECTION 1 AND CHAPTER 412, SECTION 16; AMENDING SECTION 43-1022, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 436, SECTION 6; AMENDING TITLE 43, CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1026; 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, as amended by  
3 Laws 2021, chapter 196, section 14, chapter 395, section 1 and chapter  
4 412, section 16, is amended to read:

5 43-1022. Subtractions from Arizona gross income

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

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

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

11 (a) The United States government service retirement and disability  
12 fund, the United States foreign service retirement and disability system  
13 and any other retirement system or plan established by federal law, except  
14 retired or retainer pay of the uniformed services of the United States  
15 that qualifies for a subtraction under paragraph 26 of this section.

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

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

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

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

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

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

38 8. The portion of any wages or salaries paid or incurred by the  
39 taxpayer for the taxable year that is equal to the amount of the federal  
40 work opportunity credit, the empowerment zone employment credit, the  
41 credit for employer paid social security taxes on employee cash tips and  
42 the Indian employment credit that the taxpayer received under sections  
43 45A, 45B, 51(a) and 1396 of the internal revenue code.

9. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a 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 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. 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.

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

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

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

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

29 18. With respect to property that is sold or otherwise disposed of  
30 during the taxable year by a taxpayer that complied with section 43-1021,  
31 paragraph 11 with respect to that property, the amount of depreciation  
32 that has been allowed pursuant to section 167(a) of the internal revenue  
33 code to the extent that the amount has not already reduced Arizona taxable  
34 income in the current or prior taxable years.

35 19. The amount contributed during the taxable year to college  
36 savings plans established pursuant to section 529 of the internal revenue  
37 code on behalf of the designated beneficiary to the extent that the  
38 contributions were not deducted in computing federal adjusted gross  
39 income. The amount subtracted may not exceed:

40 (a) \$2,000 per beneficiary for a single individual or a head of  
41 household.

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

1 them, but the total subtractions allowed both husband and wife may not  
2 exceed \$4,000 per beneficiary.

3 20. 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 21. 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 22. 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 23. 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 24. 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 25. 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

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

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

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

26. Benefits, annuities and pensions received as retired or retainer pay of the uniformed services of the United States in amounts as follows:

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

(b) For taxable years beginning from and after December 31, 2018 through December 31, 2020, an amount totaling not more than \$3,500.

(c) For taxable years beginning from and after December 31, 2020, the full amount received.

27. For taxable years beginning from and after December 31, 2020, the amount contributed during the taxable year to an achieving a better life experience account established pursuant to section 529A 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 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 them, but the total subtractions allowed both husband and wife may not exceed \$4,000 per beneficiary.

28. THE AMOUNT ALLOWED UNDER SECTION 43-1026 FOR TUITION EXPENSES THAT ARE PAID BY THE TAXPAYER FOR A QUALIFIED STUDENT TO ATTEND AN QUALIFIED SCHOOL.

Sec. 2. Section 43-1022, Arizona Revised Statutes, as amended by Laws 2021, chapter 436, section 6, is amended to read:

43-1022. Subtractions from Arizona gross income

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

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

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

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

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

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

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

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

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

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

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

9. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a 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 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.

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

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

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

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

24 20. The amount contributed during the taxable year to college  
25 savings plans established pursuant to section 529 of the internal revenue  
26 code to the extent that the contributions were not deducted in computing  
27 federal adjusted gross income. The amount subtracted shall not exceed:

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

29 (b) \$4,000 for a married couple filing a joint return. In the case  
30 of a husband and wife who file separate returns, the subtraction may be  
31 taken by either taxpayer or may be divided between them, but the total  
32 subtractions allowed both husband and wife shall not exceed \$4,000.

33 21. The portion of the net operating loss carryforward that would  
34 have been allowed as a deduction in the current year pursuant to section  
35 172 of the internal revenue code if the election described in section  
36 172(b)(1)(H) of the internal revenue code had not been made in the year of  
37 the loss that exceeds the actual net operating loss carryforward that was  
38 deducted in arriving at federal adjusted gross income. This subtraction  
39 only applies to taxpayers who made an election under section 172(b)(1)(H)  
40 of the internal revenue code as amended by section 1211 of the American  
41 recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by  
42 section 13 of the worker, homeownership, and business assistance act of  
43 2009 (P.L. 111-92).

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

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

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

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

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

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

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

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

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

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

27. Benefits, annuities and pensions received as retired or retainer pay of the uniformed services of the United States in amounts as follows:

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

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

28. For taxable years beginning from and after December 31, 2020, Arizona small business adjusted gross income, but only if an individual taxpayer has elected to separately report and pay tax on the taxpayer's Arizona small business adjusted gross income on the Arizona small business income tax return.

29. THE AMOUNT ALLOWED UNDER SECTION 43-1026 FOR TUITION EXPENSES THAT ARE PAID BY THE TAXPAYER FOR A QUALIFIED STUDENT TO ATTEND AN QUALIFIED SCHOOL.

Sec. 3. Title 43, chapter 10, article 3, Arizona Revised Statutes, is amended by adding section 43-1026, to read:

43-1026. Subtraction for qualified school tuition expenses; definitions

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2022, IN COMPUTING ARIZONA ADJUSTED GROSS INCOME, A TAXPAYER MAY SUBTRACT FROM ARIZONA GROSS INCOME AN AMOUNT EQUAL TO THE ACTUAL AMOUNT OF TUITION EXPENSES PAID FOR A QUALIFIED STUDENT TO ATTEND A QUALIFIED SCHOOL, UP TO \$10,000 PER QUALIFIED STUDENT.

B. A SUBTRACTION IS NOT ALLOWED UNDER THIS SECTION FOR AN AMOUNT PAID FOR TUITION EXPENSES IF EITHER OF THE FOLLOWING APPLIES:

1. THE PAYMENT IS WITHDRAWN FROM A COLLEGE SAVINGS PLAN ESTABLISHED PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE AND THE QUALIFIED STUDENT IS THE BENEFICIARY OF THE PLAN.

2. THE PAYMENT IS WITHDRAWN FROM AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT ESTABLISHED PURSUANT TO TITLE 15, CHAPTER 19.

C. FOR THE PURPOSES OF THIS SECTION:

1. "QUALIFIED SCHOOL" MEANS A NONGOVERNMENTAL PRIMARY OR SECONDARY SCHOOL IN THIS STATE.

2. "QUALIFIED STUDENT" MEANS AN INDIVIDUAL WHO IS THE TAXPAYER'S DEPENDENT AND WHO IS ENROLLED AT A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM OR ANY OF GRADES ONE THROUGH TWELVE.

3. "TUITION EXPENSES" MEANS ANY AMOUNT PAID BY THE TAXPAYER DURING THE TAXABLE YEAR FOR A QUALIFIED STUDENT TO ATTEND A QUALIFIED SCHOOL.

Sec. 4. Conditional enactment; applicability

Section 43-1022, Arizona Revised Statutes, as amended by Laws 2021, chapter 436, section 6 and this act, is effective and applies to taxable years beginning from and after December 31, 2022 only if Laws 2021, chapter 436, the subject of referendum petition R-06-2021, is approved by a vote of the people at the next general election or fails to be referred to the voters at the next general election.