

Conference Engrossed

~~technical correction; wage board; powers  
(now: taxation; subtraction; virtual currency)~~  
(now: taxation; virtual currency; non-fungible tokens)

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HOUSE BILL 2204

AN ACT

AMENDING SECTION 43-1022, ARIZONA REVISED STATUTES; AMENDING TITLE 43,  
CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION  
43-1028; RELATING TO TAXATION OF INDIVIDUAL INCOME.

(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 26 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

1 taxable year ending before January 1, 1990 and for which a subtraction has  
2 not previously been made. The subtraction shall be made on a ratable  
3 basis as the units of produced ores or minerals discovered or explored as  
4 a result of this exploration are sold.

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

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

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

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

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

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

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

37 17. For property placed in service:

38 (a) In taxable years beginning before December 31, 2012, an amount  
39 equal to the depreciation allowable pursuant to section 167(a) of the  
40 internal revenue code for the taxable year computed as if the election  
41 described in section 168(k) of the internal revenue code had been made for  
42 each applicable class of property in the year the property was placed in  
43 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

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 26. 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 through December 31, 2020, an amount totaling not more than \$3,500.

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

16 27. For taxable years beginning from and after December 31, 2020,  
17 the amount contributed during the taxable year to an achieving a better  
18 life experience account established pursuant to section 529A of the  
19 internal revenue code on behalf of the designated beneficiary to the  
20 extent that the contributions were not deducted in computing federal  
21 adjusted gross income. The amount subtracted may not exceed:

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

24 (b) \$4,000 per beneficiary for a married couple filing a joint  
25 return. In the case of a husband and wife who file separate returns, the  
26 subtraction may be taken by either taxpayer or may be divided between  
27 them, but the total subtractions allowed both husband and wife may not  
28 exceed \$4,000 per beneficiary.

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

34 29. TO THE EXTENT NOT ALREADY EXCLUDED FROM ARIZONA GROSS INCOME  
35 UNDER THE INTERNAL REVENUE CODE, THE VALUE OF VIRTUAL CURRENCY AND  
36 NON-FUNGIBLE TOKENS THE TAXPAYER RECEIVED PURSUANT TO AN AIRDROP AT THE  
37 TIME OF THE AIRDROP. THIS PARAGRAPH MAY NOT BE INTERPRETED AS PROVIDING A  
38 SUBTRACTION FOR ANY APPRECIATION IN VALUE THAT OCCURS FROM HOLDING THE  
39 VIRTUAL CURRENCY AFTER THE INITIAL RECEIPT OF THE AIRDROP. FOR THE  
40 PURPOSES OF THIS PARAGRAPH:

41 (a) "AIRDROP" MEANS THE RECEIPT OF VIRTUAL CURRENCY THROUGH A MEANS  
42 OF DISTRIBUTION OF VIRTUAL CURRENCY TO THE DISTRIBUTED LEDGER ADDRESSES OF  
43 MULTIPLE TAXPAYERS.

1 (b) "NON-FUNGIBLE TOKEN" HAS THE SAME MEANING PRESCRIBED IN SECTION  
2 43-1028.

3 (c) "VIRTUAL CURRENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION  
4 43-1028.

5 30. THE AMOUNT ALLOWED AS A SUBTRACTION BY SECTION 43-1028 FOR GAS  
6 FEES NOT ALREADY INCLUDED IN THE TAXPAYER'S VIRTUAL CURRENCY OR  
7 NON-FUNGIBLE TOKEN BASIS.

8 Sec. 2. Title 43, chapter 10, article 3, Arizona Revised Statutes,  
9 is amended by adding section 43-1028, to read:

10 43-1028. Sale of virtual currency or non-fungible tokens;  
11 calculation of gain or loss; gas fees;  
12 subtraction; definitions

13 A. IF A TAXPAYER HAS INCLUDED IN ARIZONA GROSS INCOME A GAIN OR  
14 LOSS ON THE SALE OF VIRTUAL CURRENCY OR A NON-FUNGIBLE TOKEN AND IN  
15 CALCULATING THE GAIN OR LOSS THE TAXPAYER DID NOT INCLUDE IN THE BASIS OF  
16 THE VIRTUAL CURRENCY OR NON-FUNGIBLE TOKEN ANY GAS FEES PAID ON THE  
17 PURCHASE OF THE VIRTUAL CURRENCY OR NON-FUNGIBLE TOKEN OR DID NOT  
18 OTHERWISE DEDUCT THESE GAS FEES IN DETERMINING ARIZONA GROSS INCOME, THE  
19 TAXPAYER MAY SUBTRACT THE AMOUNT OF THE GAS FEES FROM ARIZONA GROSS  
20 INCOME.

21 B. FOR THE PURPOSES OF THIS SECTION:

22 1. "FOREIGN CURRENCY" MEANS THE COIN AND PAPER MONEY OF A COUNTRY  
23 OTHER THAN THE UNITED STATES THAT IS DESIGNATED AS LEGAL TENDER,  
24 CIRCULATES AND IS CUSTOMARILY USED AND ACCEPTED AS A MEDIUM OF EXCHANGE IN  
25 THE COUNTRY OF ISSUANCE.

26 2. "GAS FEE" MEANS A FEE PAID TO THE OPERATOR OF A VIRTUAL NETWORK  
27 FOR THE USE OF THE NETWORK TO FACILITATE THE PURCHASE, SALE OR EXCHANGE OF  
28 VIRTUAL CURRENCY OR A NON-FUNGIBLE TOKEN.

29 3. "NON-FUNGIBLE TOKEN" MEANS A NON-FUNGIBLE CRYPTOGRAPHIC ASSET ON  
30 A BLOCKCHAIN THAT POSSESSES UNIQUE IDENTIFIERS OR OTHER METADATA THAT  
31 DISTINGUISHES THE ASSET FROM ANOTHER TOKEN OR ASSET IN A MANNER THAT MAKES  
32 THE ASSET IRREPLACEABLE AND NON-EXCHANGEABLE FOR A SIMILAR TOKEN OR ASSET.

33 4. "VIRTUAL CURRENCY" MEANS A DIGITAL REPRESENTATION OF VALUE THAT  
34 FUNCTIONS AS A MEDIUM OF EXCHANGE, A UNIT OF ACCOUNT AND A STORE OF VALUE  
35 OTHER THAN A REPRESENTATION OF THE UNITED STATES DOLLAR OR A FOREIGN  
36 CURRENCY.

37 Sec. 3. Effective date

38 This act is effective from and after December 31, 2022.