

~~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

CHAPTER 369

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 gain
27 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.

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

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

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

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

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

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

B. FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

Sec. 3. Effective date

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

APPROVED BY THE GOVERNOR JULY 6, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 6, 2022.