

REFERENCE TITLE: **taxation; 2023-2024.**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1734

Introduced by
Senators Kavanagh: Hoffman (with permission of Committee on Rules)

AN ACT

AMENDING SECTION 43-1014, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1014, Arizona Revised Statutes, is amended to
3 read:

4 43-1014. Entity-level tax election; partnerships;
5 S corporations; rules

6 A. For taxable years beginning from and after December 31, 2021,
7 the partners or shareholders of a business that is treated as a
8 partnership or S corporation for federal income tax purposes may consent
9 to be taxed at the entity level at a tax rate that is the same as the tax
10 rate prescribed by section 43-1011 applicable to the entire portion of its
11 taxable income that is attributable to its resident partners or
12 shareholders and the portion of its taxable income derived from sources
13 within this state that is attributable to its nonresident partners or
14 shareholders for that taxable year. The election under this subsection
15 must be made on or before the due date or extended due date of the
16 business's return under this title.

17 B. If the election is made under subsection A of this section, all
18 of the following apply:

19 1. The taxable income of the partnership or S corporation is as
20 follows:

21 (a) For a partnership:

22 (i) FOR TAXABLE YEARS THROUGH DECEMBER 31, 2022, the Arizona
23 taxable income determined under chapter 14 of this title.

24 (ii) FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2022,
25 THE ARIZONA TAXABLE INCOME DETERMINED UNDER CHAPTER 14 OF THIS TITLE,
26 INCLUDING THE ITEMS THAT REQUIRE SEPARATE COMPUTATION UNDER SECTION
27 43-1412, PARAGRAPHS 1 THROUGH 16.

28 (b) For an S corporation, the total of all distributive income
29 passed through to the shareholders under section 43-1126, subsection B.

30 2. If the partnership or S corporation does not pay the amount owed
31 to the department as a result of the election under this section, the
32 department may collect the amount from the partners or shareholders based
33 on the proportionate share of income that is attributable to each partner
34 or shareholder for Arizona tax purposes.

35 3. The partnership or S corporation shall pay estimated tax
36 pursuant to section 43-581 as necessary.

37 C. The election under subsection A of this section does not apply
38 to the following:

39 1. Partners or shareholders that are not individuals, estates or
40 trusts. The portion of the taxable income attributable to a partner or
41 shareholder that is not an individual, estate or trust is not included in
42 the entity-level tax under subsection A of this section.

43 2. Partners or shareholders who are individuals, estates or trusts
44 and who opt out of the election pursuant to subsection D of this section.
45 The portion of the taxable income attributable to a partner or shareholder

1 who is an individual, estate or trust and who opts out of the election
 2 pursuant to subsection D of this section is not included in the
 3 entity-level tax under subsection A of this section.

4 D. A partnership or S corporation that intends to make the election
 5 under subsection A of this section shall notify all partners or
 6 shareholders who are individuals, estates or trusts of the intent to make
 7 the election and that each partner or shareholder who is an individual,
 8 estate or trust has the right to opt out of the election. The notice
 9 shall allow each partner or shareholder who is an individual, estate or
 10 trust at least sixty days after receiving the notice to notify the
 11 partnership or S corporation that the partner or shareholder who is an
 12 individual, estate or trust is exercising the partner's or shareholder's
 13 right to opt out of the election. If the partner or shareholder who is an
 14 individual, estate or trust does not respond within the sixty-day period
 15 or waives the right to opt out, the partner or shareholder will be
 16 included in the election.

17 E. The department shall adopt rules and prescribe forms and
 18 procedures as necessary to administer this section.

19 Sec. 2. Individual income tax subtraction; adoption expenses;
 20 taxable years 2023, 2024 and 2025; amount;
 21 retroactivity; delayed repeal

22 A. Notwithstanding any other law, for taxable years beginning from
 23 and after December 31, 2022 through December 31, 2025, the subtraction
 24 amount allowed under section 43-1022, paragraph 12, Arizona Revised
 25 Statutes, is the amount of unreimbursed medical and hospital costs,
 26 adoption counseling, legal and agency fees and other nonrecurring costs of
 27 adoption not to exceed \$40,000. For a married couple filing separate
 28 returns, the subtraction may be taken by either taxpayer or may be divided
 29 between them, but the total subtractions allowed to each spouse may not
 30 exceed \$40,000. The subtraction may be taken for the costs that are
 31 described in this subsection and that are incurred in prior years, but the
 32 subtraction may be taken only in the year during which the final adoption
 33 order is granted.

34 B. This section applies retroactively to taxable years beginning
 35 from and after December 31, 2022.

36 C. This section is repealed from and after December 31, 2029.

37 Sec. 3. Individual income tax general welfare rebate;
 38 eligibility; claim application; subtraction from
 39 Arizona gross income; appeal; report; legislative
 40 findings; delayed repeal; definitions

41 A. The department of revenue shall issue a onetime individual
 42 income tax general welfare rebate to an Arizona taxpayer who filed a
 43 full-year resident tax return for taxable year 2021, claimed a dependent
 44 tax credit under section 43-1073.01, Arizona Revised Statutes, on the
 45 return and who meets one of the following qualifications:

1 1. Had a tax liability of at least \$1 on the filed full-year
2 resident tax return for taxable year 2021.

3 2. If the taxpayer does not meet the tax liability requirement for
4 taxable year 2021, filed a full-year resident tax return for taxable year
5 2020 under the identical filing status used on the taxpayer's taxable year
6 2021 full-year resident tax return and had a tax liability of at least \$1
7 on the full-year resident tax return for taxable year 2020.

8 3. If the taxpayer does not meet the tax liability requirement for
9 taxable years 2021 or 2020, filed a full-year resident tax return for
10 taxable year 2019 under the identical filing status used on the taxpayer's
11 full-year resident tax returns for taxable years 2020 and 2021 and had a
12 tax liability of at least \$1 on the full-year resident tax return for
13 taxable year 2019.

14 B. If the taxpayer does not meet any of the requirements in
15 subsection A of this section, the department of revenue shall conclude
16 that the taxpayer does not meet the criteria to be issued a rebate under
17 this section.

18 C. One rebate will be issued for each full-year resident tax return
19 for taxable year 2021 that qualifies under subsection A of this section.
20 The primary taxpayer's taxpayer identification number as reported on the
21 taxpayer's full-year resident tax return for taxable year 2021 shall be
22 used as needed in subsection A of this section for matching and
23 verification purposes.

24 D. The department of revenue shall issue to a qualifying taxpayer a
25 rebate of \$250 for each dependent tax credit claimed on the taxpayer's
26 full-year resident tax return for taxable year 2021 who was under
27 seventeen years of age at the end of taxable year 2021 and \$100 for each
28 dependent who was at least seventeen years of age at the end of taxable
29 year 2021.

30 E. The department of revenue shall issue a rebate for a maximum of
31 three dependents for a qualifying taxpayer under this section. For a
32 taxpayer who claimed more than three dependents on the taxpayer's
33 full-year resident tax return for taxable year 2021, the rebate will be
34 calculated by first counting the dependents who were under seventeen years
35 of age at the end of taxable year 2021 and then, if additional dependents
36 may be claimed to meet the maximum number, the dependents who were at
37 least seventeen years of age at the end of taxable year 2021.

38 F. If a qualifying taxpayer is deceased, the taxpayer's surviving
39 spouse, personal representative or executor or another official
40 representative of the estate designated pursuant to applicable state law
41 may receive the rebate for the deceased taxpayer.

42 G. The department of revenue shall pay all rebates issued pursuant
43 to this section on or before November 15, 2023. The department shall
44 attempt to pay a qualifying taxpayer's rebate by electronic funds transfer
45 using the routing and account information provided by the taxpayer on the

1 taxpayer's full-year resident tax return for taxable year 2021 or more
2 recent routing and account information provided by the taxpayer. If such
3 attempt fails, or if the taxpayer did not provide such routing and account
4 information, the department shall issue the rebate check by mail to the
5 most recent home address provided by the taxpayer.

6 H. A taxpayer who does not receive the rebate issued pursuant to
7 this section on or before November 15, 2024 may claim the rebate by filing
8 a claim application online in the form and manner prescribed by the
9 department of revenue. The claim application must include the claimant's
10 name, address, taxpayer identification number and individual income tax
11 filing status. The department shall review each claim application and
12 verify the information provided. The department may request that a
13 claimant provide evidence to verify the claimant's eligibility for the
14 rebate.

15 I. In computing Arizona adjusted gross income, any rebate received
16 by a taxpayer pursuant to this section and required to be included in
17 Arizona gross income under the internal revenue code shall be subtracted
18 from the taxpayer's Arizona gross income.

19 J. Notwithstanding any other administrative proceedings established
20 by law or by rule, all appealable agency actions as defined in section
21 41-1092, Arizona Revised Statutes, and contested cases as defined in
22 section 41-1001, Arizona Revised Statutes, relating to a rebate issued
23 pursuant to this section are governed by title 41, chapter 6, article 10,
24 Arizona Revised Statutes.

25 K. On or before February 15, 2025, the director of the department
26 of revenue shall report the following information to the president of the
27 senate, the speaker of the house of representatives and the director of
28 the joint legislative budget committee:

- 29 1. The total dollar amount of rebates paid under this section.
- 30 2. The administrative costs associated with the department's
31 program for issuing the rebates under this section.
- 32 3. The total number of tax rebates issued.

33 L. The legislature finds that:

- 34 1. Inflation is at a forty-year high, putting gas, groceries and
35 other necessities out of reach for many Arizonans.
- 36 2. Responsible budgeting has allowed this state to take action to
37 mitigate the harmful impacts of inflation by returning a portion of
38 the surplus to this state's taxpayers with dependents.

39 M. This section is repealed from and after December 31, 2029.

40 N. For the purposes of this section:

- 41 1. "Arizona small business taxable income" has the same meaning
42 prescribed in section 43-1701, Arizona Revised Statutes.

- 43 2. "Arizona small business tax liability" means an Arizona small
44 business taxpayer's Arizona small business taxable income multiplied by
45 the Arizona small business' applicable tax rate as prescribed by section

1 43-1711, Arizona Revised Statutes, plus any amount of recaptured Arizona
2 small business income tax credits, minus any nonrefundable and refundable
3 Arizona small business income tax credits claimed by the Arizona small
4 business taxpayer under title 43, chapter 17, article 5, Arizona Revised
5 Statutes.

6 3. "Taxable income" has the same meaning prescribed in section
7 43-1001, Arizona Revised Statutes.

8 4. "Tax liability" means the taxpayer's taxable income multiplied
9 by the taxpayer's applicable tax rate as prescribed in section 43-1011,
10 Arizona Revised Statutes, plus any amount of recaptured income tax credits
11 and the taxpayer's Arizona small business tax liability, if any, minus the
12 sum of nonrefundable and refundable income tax credits claimed by the
13 taxpayer under title 43, chapter 10, article 5, Arizona Revised Statutes.

14 Sec. 4. Legislative intent

15 The legislature intends:

16 1. That in fiscal year 2023-2024 the fee prescribed in section
17 42-5041, subsection B, Arizona Revised Statutes, be assessed and collected
18 pursuant to the following guidelines:

19 (a) The total amount of fees for all counties, cities, towns,
20 councils of governments and regional transportation authorities may not
21 exceed \$6,597,200 in fiscal year 2023-2024.

22 (b) The share of fees assessed to all counties pursuant to
23 subdivision (a) of this paragraph shall be in proportion to the aggregate
24 amount of monies distributed to counties for the fiscal year two years
25 preceding the current fiscal year pursuant to sections 42-5029, 42-6103,
26 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111 and
27 42-6112, Arizona Revised Statutes, as a percentage of aggregate
28 distributions to all counties, cities, towns, councils of governments and
29 regional transportation authorities located in a county with a population
30 of more than eight hundred thousand persons for the fiscal year two years
31 preceding the current fiscal year pursuant to sections 42-5029, 42-6001,
32 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109,
33 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised
34 Statutes.

35 (c) The share of fees assessed to all cities and towns pursuant to
36 subdivision (a) of this paragraph shall be in proportion to the aggregate
37 amount of monies distributed to cities and towns for the fiscal year two
38 years preceding the current fiscal year pursuant to sections 42-5029,
39 42-6001 and 43-206, Arizona Revised Statutes, as a percentage of aggregate
40 distributions to all counties, cities, towns, councils of governments and
41 regional transportation authorities located in a county with a population
42 of more than eight hundred thousand persons for the fiscal year two years
43 preceding the current fiscal year pursuant to sections 42-5029, 42-6001,
44 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109,

1 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised
2 Statutes.

3 (d) The share of fees assessed to all councils of governments
4 pursuant to subdivision (a) of this paragraph shall be in proportion to
5 the aggregate amount of monies distributed to all councils of governments
6 for the fiscal year two years preceding the current fiscal year pursuant
7 to section 42-6105, Arizona Revised Statutes, as a percentage of aggregate
8 distributions to all counties, cities, towns, councils of governments and
9 regional transportation authorities located in a county with a population
10 of more than eight hundred thousand persons for the fiscal year two years
11 preceding the current fiscal year pursuant to sections 42-5029, 42-6001,
12 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109,
13 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised
14 Statutes.

15 (e) The share of fees assessed to all regional transportation
16 authorities located in a county with a population of more than eight
17 hundred thousand persons pursuant to subdivision (a) of this paragraph
18 shall be in proportion to the aggregate amount of monies distributed to
19 all regional transportation authorities located in a county with a
20 population of more than eight hundred thousand persons for the fiscal year
21 two years preceding the current fiscal year pursuant to section 42-6106,
22 Arizona Revised Statutes, as a percentage of aggregate distributions to
23 all counties, cities, towns, councils of governments and regional
24 transportation authorities located in a county with a population of more
25 than eight hundred thousand persons for the fiscal year two years
26 preceding the current fiscal year pursuant to sections 42-5029, 42-6001,
27 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109,
28 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised
29 Statutes.

30 (f) Except as provided by sections 42-5033 and 42-5033.01, Arizona
31 Revised Statutes, the population of a county as determined by the most
32 recent United States decennial census plus any revision to the decennial
33 census certified by the United States census bureau shall be used as the
34 basis for apportioning monies pursuant to subdivision (b) of this
35 paragraph.

36 (g) Except as provided by sections 42-5033 and 42-5033.01, Arizona
37 Revised Statutes, the population of a city or town as determined by the
38 most recent United States decennial census plus any revision to the
39 decennial census certified by the United States census bureau shall be
40 used as the basis for apportioning monies pursuant to subdivision (c) of
41 this paragraph.

42 2. That in fiscal year 2023-2024 the transfer prescribed in section
43 42-5041, subsection E, Arizona Revised Statutes, not exceed \$800,000.

44 3. That in fiscal year 2023-2024 the transfer prescribed in section
45 42-5041, subsection F, Arizona Revised Statutes, not exceed \$178,100.