

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1499

AN ACT

AMENDING SECTION 43-222, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 12, SECTION 1, CHAPTER 264, SECTION 1, CHAPTER 316, SECTION 2 AND CHAPTER 317, SECTION 10; REPEALING SECTION 43-222, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 292, SECTION 1; AMENDING SECTION 43-1121, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 317, SECTION 13; REPEALING SECTION 43-1121, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 292, SECTION 4; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1183; RELATING TO CORPORATE INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-222, Arizona Revised Statutes, as amended by
3 Laws 2005, chapter 12, section 1, chapter 264, section 1, chapter 316,
4 section 2 and chapter 317, section 10, is amended to read:

5 43-222. Income tax credit review schedule

6 Each year the joint legislative income tax credit review committee
7 shall review the following income tax credits:

8 1. In 2005, sections 43-1087, 43-1088 and 43-1175.

9 2. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
10 43-1090, 43-1176 and 43-1181.

11 3. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
12 43-1166, 43-1167 and 43-1169.

13 4. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
14 43-1178.

15 5. In 2009, sections 43-1076, 43-1081.01, 43-1083, 43-1084, 43-1162
16 and 43-1170.01.

17 6. In 2010, sections 43-1075, ~~and 43-1163.~~

18 ~~7. In 2010, sections~~ 43-1079.01, ~~and 43-1090.01,~~ 43-1163, 43-1167.01
19 ~~AND 43-1182.~~

20 ~~8. 7.~~ In 2011, ~~section~~ SECTIONS 43-1074.02 ~~AND 43-1183.~~

21 Sec. 2. Repeal

22 Section 43-222, Arizona Revised Statutes, as amended by Laws 2005,
23 chapter 292, section 1, is repealed.

24 Sec. 3. Section 43-1121, Arizona Revised Statutes, as amended by Laws
25 2005, chapter 317, section 13, is amended to read:

26 43-1121. Additions to Arizona gross income: corporations

27 In computing Arizona taxable income for a corporation, the following
28 amounts shall be added to Arizona gross income:

29 1. The amounts computed pursuant to section 43-1021, paragraphs 3
30 through 9, 12, 26 and 27.

31 2. The amount of dividend income received from corporations and
32 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal
33 revenue code.

34 3. Taxes which are based on income paid to states, local governments
35 or foreign governments and which were deducted in computing federal taxable
36 income.

37 4. Expenses and interest relating to tax-exempt income on indebtedness
38 incurred or continued to purchase or carry obligations the interest on which
39 is wholly exempt from the tax imposed by this title. Financial institutions,
40 as defined in section 6-101, shall be governed by section 43-961,
41 paragraph 2.

42 5. Commissions, rentals and other amounts paid or accrued to a
43 domestic international sales corporation controlled by the payor corporation
44 if the domestic international sales corporation is not required to report its
45 taxable income to this state because its income is not derived from or

1 attributable to sources within this state. If the domestic international
2 sales corporation is subject to article 4 of this chapter, the department
3 shall prescribe by rule the method of determining the portion of the
4 commissions, rentals and other amounts which are paid or accrued to the
5 controlled domestic international sales corporation and which shall be
6 deducted by the payor. "Control" for purposes of this paragraph means direct
7 or indirect ownership or control of fifty per cent or more of the voting
8 stock of the domestic international sales corporation by the payor
9 corporation.

10 6. Federal income tax refunds received during the taxable year to the
11 extent they were deducted in arriving at Arizona taxable income in a previous
12 year.

13 7. The amount of net operating loss taken pursuant to section 172 of
14 the internal revenue code.

15 8. The amount of exploration expenses determined pursuant to section
16 617 of the internal revenue code to the extent that they exceed seventy-five
17 thousand dollars and to the extent that the election is made to defer those
18 expenses not in excess of seventy-five thousand dollars.

19 9. Amortization of costs incurred to install pollution control devices
20 and deducted pursuant to the internal revenue code or the amount of deduction
21 for depreciation taken pursuant to the internal revenue code on pollution
22 control devices for which an election is made pursuant to section 43-1129.

23 10. The amount of depreciation or amortization of costs of child care
24 facilities deducted pursuant to section 167 or 188 of the internal revenue
25 code for which an election is made to amortize pursuant to section 43-1130.

26 11. Arizona state income tax refunds received, to the extent the amount
27 of the refunds is not already included in Arizona gross income, if a tax
28 benefit was derived by deduction of this amount in a prior year.

29 12. The amount paid as taxes on property in this state by a qualified
30 defense contractor with respect to which a credit is claimed under section
31 43-1166.

32 13. The loss of an insurance company that is exempt under section
33 43-1201 to the extent that it is included in computing Arizona gross income
34 on a consolidated return pursuant to section 43-947.

35 14. The amount by which the depreciation or amortization computed under
36 the internal revenue code with respect to property for which a credit was
37 taken under section 43-1169 exceeds the amount of depreciation or
38 amortization computed pursuant to the internal revenue code on the Arizona
39 adjusted basis of the property.

40 15. The amount by which the adjusted basis computed under the internal
41 revenue code with respect to property for which a credit was claimed under
42 section 43-1169 and which is sold or otherwise disposed of during the taxable
43 year exceeds the adjusted basis of the property computed under section
44 43-1169.

1 16. The amount by which the depreciation or amortization computed under
2 the internal revenue code with respect to property for which a credit was
3 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
4 depreciation or amortization computed pursuant to the internal revenue code
5 on the Arizona adjusted basis of the property.

6 17. The amount by which the adjusted basis computed under the internal
7 revenue code with respect to property for which a credit was claimed under
8 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed
9 of during the taxable year exceeds the adjusted basis of the property
10 computed under section 43-1170 or 43-1170.01, as applicable.

11 18. The deduction referred to in section 1341(a)(4) of the internal
12 revenue code for restoration of a substantial amount held under a claim of
13 right.

14 19. The amount by which a capital loss carryover allowable pursuant to
15 section 1341(b)(5) of the internal revenue code exceeds the capital loss
16 carryover allowable pursuant to section 43-1130.01, subsection F.

17 20. Any amount deducted in computing Arizona taxable income as expenses
18 for installing solar stub outs or electric vehicle recharge outlets in this
19 state with respect to which a credit is claimed pursuant to section 43-1176.

20 21. Any wage expenses deducted pursuant to the internal revenue code
21 for which a credit is claimed under section 43-1175 and representing net
22 increases in qualified employment positions for employment of temporary
23 assistance for needy families recipients.

24 22. Any amount of expenses that were deducted pursuant to the internal
25 revenue code and for which a credit is claimed under section 43-1178.

26 23. Any amount deducted for conveying ownership or development rights
27 of property to an agricultural preservation district under section 48-5702
28 for which a credit is claimed under section 43-1180.

29 24. The amount of any deduction that is claimed in computing Arizona
30 gross income and that represents a donation of a school site for which a
31 credit is claimed under section 43-1181.

32 25. The amount of any deductions that are claimed in computing federal
33 taxable income representing expenses for which a credit is claimed under
34 section 43-1163.

35 26. ANY AMOUNT DEDUCTED IN COMPUTING ARIZONA TAXABLE INCOME AS EXPENSES
36 FOR INSTALLING WATER CONSERVATION SYSTEM PLUMBING STUB OUTS IN THIS STATE
37 WITH RESPECT TO WHICH A CREDIT IS CLAIMED PURSUANT TO SECTION 43-1182.

38 27. ANY AMOUNT DEDUCTED PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE
39 CODE REPRESENTING CONTRIBUTIONS TO A SCHOOL TUITION ORGANIZATION FOR WHICH A
40 CREDIT IS CLAIMED UNDER SECTION 43-1183.

41 Sec. 4. Repeal

42 Section 43-1121, Arizona Revised Statutes, as amended by Laws 2005,
43 chapter 292, section 4, is repealed.

1 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE
2 YEARS' INCOME TAX LIABILITY.

3 G. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
4 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
5 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
6 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
7 ALLOWED A SOLE OWNER.

8 H. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION
9 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX
10 PURPOSES.

11 I. THE TAX CREDIT IS NOT ALLOWED IF THE TAXPAYER DESIGNATES THE
12 TAXPAYER'S CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT
13 BENEFIT OF ANY SPECIFIC STUDENT.

14 J. A SCHOOL TUITION ORGANIZATION THAT RECEIVES CONTRIBUTIONS UNDER
15 THIS SECTION SHALL USE AT LEAST NINETY PER CENT OF THOSE CONTRIBUTIONS TO
16 PROVIDE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS ONLY TO CHILDREN WHOSE
17 FAMILY INCOME DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PER CENT OF THE INCOME
18 LIMIT REQUIRED TO QUALIFY A CHILD FOR REDUCED PRICE LUNCHESES UNDER THE
19 NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE
20 SECTIONS 1751 THROUGH 1785) AND WHO EITHER:

21 1. ATTENDED A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL AS A FULL-TIME
22 STUDENT AS DEFINED IN SECTION 15-901 FOR AT LEAST THE FIRST ONE HUNDRED DAYS
23 OF THE PRIOR FISCAL YEAR AND TRANSFERRED FROM A GOVERNMENTAL PRIMARY OR
24 SECONDARY SCHOOL TO A QUALIFIED SCHOOL.

25 2. ENROLL IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM.

26 3. RECEIVED AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER
27 PARAGRAPH 1 OR 2 OF THIS SUBSECTION IF THE CHILDREN CONTINUE TO ATTEND A
28 QUALIFIED SCHOOL IN A SUBSEQUENT YEAR.

29 K. IN 2006, A SCHOOL TUITION ORGANIZATION SHALL NOT ISSUE AN
30 EDUCATIONAL SCHOLARSHIP OR A TUITION GRANT IN AN AMOUNT THAT EXCEEDS FOUR
31 THOUSAND TWO HUNDRED DOLLARS FOR STUDENTS IN A KINDERGARTEN PROGRAM OR GRADES
32 ONE THROUGH EIGHT OR FIVE THOUSAND FIVE HUNDRED DOLLARS FOR STUDENTS IN
33 GRADES NINE THROUGH TWELVE. IN EACH YEAR AFTER 2006, THE LIMITATION AMOUNT
34 FOR A SCHOLARSHIP OR A GRANT UNDER THIS SUBSECTION SHALL BE INCREASED BY ONE
35 HUNDRED DOLLARS.

36 L. A CHILD IS STILL ELIGIBLE TO RECEIVE AN EDUCATIONAL SCHOLARSHIP OR
37 TUITION GRANT UNDER SUBSECTION J OF THIS SECTION IF THE CHILD MEETS THE
38 CRITERIA TO RECEIVE A REDUCED PRICE LUNCH BUT DOES NOT ACTUALLY CLAIM THAT
39 BENEFIT.

40 M. THE SCHOOL TUITION ORGANIZATION SHALL REQUIRE THAT THE CHILDREN USE
41 THE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS ON A FULL-TIME BASIS. IF A
42 CHILD LEAVES THE QUALIFIED SCHOOL BEFORE COMPLETING AN ENTIRE SCHOOL YEAR,
43 THE QUALIFIED SCHOOL SHALL REFUND A PRORATED AMOUNT OF THE EDUCATIONAL
44 SCHOLARSHIP OR TUITION GRANT TO THE SCHOOL TUITION ORGANIZATION THAT ISSUED
45 THE EDUCATIONAL SCHOLARSHIP OR TUITION GRANT TO THE CHILD. ANY REFUNDS

1 RECEIVED BY THE SCHOOL TUITION ORGANIZATION UNDER THIS SUBSECTION SHALL BE
2 ALLOCATED FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO QUALIFIED
3 CHILDREN IN THE FOLLOWING YEAR.

4 N. CHILDREN WHO RECEIVE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS
5 UNDER THIS SECTION SHALL BE ALLOWED TO ATTEND ANY QUALIFIED SCHOOL OF THEIR
6 PARENTS' CHOICE.

7 O. A SCHOOL TUITION ORGANIZATION THAT RECEIVES A VOLUNTARY CASH
8 CONTRIBUTION PURSUANT TO SUBSECTION A OF THIS SECTION SHALL REPORT TO THE
9 DEPARTMENT, IN A FORM PRESCRIBED BY THE DEPARTMENT, BY JUNE 30 OF EACH YEAR
10 THE FOLLOWING INFORMATION:

11 1. THE NAME, ADDRESS AND CONTACT NAME OF THE SCHOOL TUITION
12 ORGANIZATION.

13 2. THE TOTAL NUMBER OF CONTRIBUTIONS RECEIVED DURING THE PREVIOUS
14 CALENDAR YEAR.

15 3. THE TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS RECEIVED DURING THE
16 PREVIOUS CALENDAR YEAR.

17 4. THE TOTAL NUMBER OF CHILDREN AWARDED EDUCATIONAL SCHOLARSHIPS OR
18 TUITION GRANTS DURING THE PREVIOUS CALENDAR YEAR.

19 5. THE TOTAL DOLLAR AMOUNT OF EDUCATIONAL SCHOLARSHIPS AND TUITION
20 GRANTS AWARDED DURING THE PREVIOUS CALENDAR YEAR.

21 6. FOR EACH SCHOOL TO WHICH EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS
22 WERE AWARDED:

23 (a) THE NAME AND ADDRESS OF THE SCHOOL.

24 (b) THE NUMBER OF EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS AWARDED
25 DURING THE PREVIOUS CALENDAR YEAR.

26 (c) THE TOTAL DOLLAR AMOUNT OF EDUCATIONAL SCHOLARSHIPS AND TUITION
27 GRANTS AWARDED DURING THE PREVIOUS CALENDAR YEAR.

28 7. VERIFICATION THAT AN INDEPENDENT REVIEW OF FINANCIAL STATEMENTS
29 ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES WAS COMPLETED BY A
30 CERTIFIED PUBLIC ACCOUNTANT FOR THE PREVIOUS CALENDAR YEAR.

31 P. THE DEPARTMENT SHALL ADOPT RULES NECESSARY FOR THE ADMINISTRATION
32 OF THIS SECTION.

33 Q. FOR THE PURPOSES OF THIS SECTION:

34 1. "QUALIFIED SCHOOL" MEANS A NONGOVERNMENTAL PRIMARY SCHOOL OR
35 SECONDARY SCHOOL:

36 (a) THAT IS LOCATED IN THIS STATE, THAT DOES NOT DISCRIMINATE ON THE
37 BASIS OF RACE, COLOR, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN AND THAT
38 SATISFIES THE REQUIREMENTS PRESCRIBED BY LAW FOR PRIVATE SCHOOLS IN THIS
39 STATE ON JANUARY 1, 2005.

40 (b) THAT ANNUALLY ADMINISTERS AND MAKES AVAILABLE TO THE PUBLIC THE
41 AGGREGATE TEST SCORES OF ITS STUDENTS ON A NATIONALLY STANDARDIZED
42 NORM-REFERENCED ACHIEVEMENT TEST, PREFERABLY THE ARIZONA INSTRUMENT TO
43 MEASURE STANDARDS TEST ADMINISTERED PURSUANT TO SECTION 15-741.

44 (c) THAT REQUIRES ALL TEACHING STAFF AND ANY PERSONNEL THAT HAVE
45 UNSUPERVISED CONTACT WITH STUDENTS TO BE FINGERPRINTED.

1 2. "SCHOOL TUITION ORGANIZATION" MEANS A CHARITABLE ORGANIZATION IN
2 THIS STATE THAT BOTH:

3 (a) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(c)(3) OF THE
4 INTERNAL REVENUE CODE AND THAT ALLOCATES NINETY PER CENT OF ITS ANNUAL
5 REVENUE FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO CHILDREN TO ALLOW
6 THEM TO ATTEND ANY QUALIFIED SCHOOL OF THEIR PARENTS' CHOICE.

7 (b) PROVIDES EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO STUDENTS
8 WITHOUT LIMITING AVAILABILITY TO ONLY STUDENTS OF ONE SCHOOL.

9 Sec. 6. Purpose

10 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
11 enacts section 43-1183, Arizona Revised Statutes, as added by this act, to
12 encourage businesses to direct a portion of their taxes by contributing to
13 school tuition organizations in order to improve education by raising tuition
14 scholarships for children in this state.