

REFERENCE TITLE: tax credit; employees; developmental disabilities

State of Arizona
House of Representatives
Forty-eighth Legislature
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2007

HB 2197

Introduced by
Representative Konopnicki

AN ACT

AMENDING SECTIONS 43-222 AND 43-1121, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1164; 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, is amended to
3 read:

4 43-222. Income tax credit review schedule

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

7 1. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
8 43-1090, 43-1176 and 43-1181.

9 2. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
10 43-1166, 43-1167 and 43-1169.

11 3. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
12 43-1178.

13 4. In 2009, sections 43-1076, 43-1081.01, 43-1084, 43-1162 and
14 43-1170.01.

15 5. In 2010, sections 43-1075, 43-1079.01, 43-1087, 43-1088,
16 43-1090.01, 43-1163, 43-1167.01, 43-1175 and 43-1182.

17 6. In 2011, sections 43-1074.02, 43-1083, 43-1085, ~~and~~ 43-1164 and
18 43-1183.

19 7. IN 2012, SECTION 43-1164.

20 Sec. 2. Section 43-1121, Arizona Revised Statutes, is amended to read:

21 43-1121. Additions to Arizona gross income; corporations

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

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

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

29 3. Taxes which are based on income paid to states, local governments
30 or foreign governments and which were deducted in computing federal taxable
31 income.

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

37 5. Commissions, rentals and other amounts paid or accrued to a
38 domestic international sales corporation controlled by the payor corporation
39 if the domestic international sales corporation is not required to report its
40 taxable income to this state because its income is not derived from or
41 attributable to sources within this state. If the domestic international
42 sales corporation is subject to article 4 of this chapter, the department
43 shall prescribe by rule the method of determining the portion of the
44 commissions, rentals and other amounts which are paid or accrued to the
45 controlled domestic international sales corporation and which shall be

1 deducted by the payor. "Control" for purposes of this paragraph means direct
2 or indirect ownership or control of fifty per cent or more of the voting
3 stock of the domestic international sales corporation by the payor
4 corporation.

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

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

10 8. The amount of exploration expenses determined pursuant to section
11 617 of the internal revenue code to the extent that they exceed seventy-five
12 thousand dollars and to the extent that the election is made to defer those
13 expenses not in excess of seventy-five thousand dollars.

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

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

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

24 12. The amount paid as taxes on property in this state by a qualified
25 defense contractor with respect to which a credit is claimed under section
26 43-1166.

27 13. The loss of an insurance company that is exempt under section
28 43-1201 to the extent that it is included in computing Arizona gross income
29 on a consolidated return pursuant to section 43-947.

30 14. The amount by which the depreciation or amortization computed under
31 the internal revenue code with respect to property for which a credit was
32 taken under section 43-1169 exceeds the amount of depreciation or
33 amortization computed pursuant to the internal revenue code on the Arizona
34 adjusted basis of the property.

35 15. The amount by which the adjusted basis computed under the internal
36 revenue code with respect to property for which a credit was claimed under
37 section 43-1169 and which is sold or otherwise disposed of during the taxable
38 year exceeds the adjusted basis of the property computed under section
39 43-1169.

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

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

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

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

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

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

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

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

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

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

30 26. Any amount deducted in computing Arizona taxable income as expenses
31 for installing water conservation system plumbing stub outs in this state
32 with respect to which a credit is claimed pursuant to section 43-1182.

33 27. Any amount deducted pursuant to section 170 of the internal revenue
34 code representing contributions to a school tuition organization for which a
35 credit is claimed under section 43-1183.

36 28. ANY WAGE EXPENSES DEDUCTED PURSUANT TO THE INTERNAL REVENUE CODE
37 FOR WHICH A CREDIT IS CLAIMED UNDER SECTION 43-1164 FOR EMPLOYING INDIVIDUALS
38 WITH DEVELOPMENTAL DISABILITIES.

39 Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
40 amended by adding section 43-1164, to read:

41 43-1164. Credit for employing individuals with developmental
42 disabilities

43 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2006
44 THROUGH DECEMBER 31, 2012, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
45 THIS TITLE FOR NET INCREASES IN QUALIFIED EMPLOYMENT POSITIONS BY THE

1 TAXPAYER OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES, AS DEFINED IN
2 SECTION 36-581, WHO ARE RESIDENTS OF THIS STATE. THE AMOUNT OF THE CREDIT IS
3 EQUAL TO THE SUM OF THE FOLLOWING:

4 1. ONE-THIRD OF THE TAXABLE WAGES PAID TO EACH EMPLOYEE IN A QUALIFIED
5 EMPLOYMENT POSITION, NOT TO EXCEED TWO THOUSAND DOLLARS PER QUALIFIED
6 EMPLOYMENT POSITION, IN THE FIRST YEAR OR PARTIAL YEAR OF EMPLOYMENT.

7 2. ONE-FOURTH OF THE TAXABLE WAGES PAID TO EACH EMPLOYEE IN A
8 QUALIFIED EMPLOYMENT POSITION, NOT TO EXCEED ONE THOUSAND FIVE HUNDRED
9 DOLLARS PER QUALIFIED EMPLOYMENT POSITION, IN THE SECOND YEAR OF CONTINUOUS
10 EMPLOYMENT.

11 B. THE CREDIT ALLOWED IN THIS SECTION IS IN LIEU OF ANY WAGE EXPENSE
12 DEDUCTION TAKEN FOR STATE INCOME TAX PURPOSES.

13 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION:

14 1. EACH EMPLOYEE WITH RESPECT TO WHOM A CREDIT IS CLAIMED MUST RESIDE
15 IN THIS STATE AT THE TIME THE EMPLOYEE IS HIRED AND MUST BE AN INDIVIDUAL
16 WITH A DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 36-581.

17 2. A QUALIFIED EMPLOYMENT POSITION MUST MEET ALL OF THE FOLLOWING
18 REQUIREMENTS:

19 (a) THE EMPLOYMENT MUST INCLUDE HEALTH INSURANCE COVERAGE FOR THE
20 EMPLOYEE IF THE EMPLOYER OFFERS THIS COVERAGE FOR EMPLOYEES WHO ARE NOT
21 INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.

22 (b) THE EMPLOYER MUST PAY COMPENSATION AT LEAST EQUAL TO THE MINIMUM
23 WAGE OR A WAGE COMPARABLE TO THAT PAID TO EMPLOYEES WHO ARE NOT INDIVIDUALS
24 WITH DEVELOPMENTAL DISABILITIES BASED ON THE EMPLOYEE'S TRAINING, SKILLS AND
25 JOB CLASSIFICATION.

26 (c) THE EMPLOYEE MUST HAVE BEEN EMPLOYED FOR AT LEAST NINETY DAYS
27 DURING THE FIRST TAXABLE YEAR. AN EMPLOYEE WHO IS HIRED DURING THE LAST
28 NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A NEW EMPLOYEE DURING THE
29 NEXT TAXABLE YEAR.

30 (d) THE EMPLOYEE WAS NOT EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS
31 BEFORE THE CURRENT DATE OF HIRE.

32 (e) THE EMPLOYEE POSITION IS NOT ELIGIBLE FOR ANY OTHER EMPLOYMENT
33 CREDIT PURSUANT TO THIS TITLE BASED ON WAGES PAID.

34 D. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER
35 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
36 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE
37 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE
38 YEARS' INCOME TAX LIABILITY.

39 E. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
40 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
41 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
42 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
43 ALLOWED A SOLE OWNER.

44 F. THE DEPARTMENT MAY ADOPT RULES NECESSARY FOR THE ADMINISTRATION OF
45 THIS SECTION.

1 Sec. 4. Purpose

2 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
3 enacts section 43-1164, Arizona Revised Statutes, as added by this act, to
4 encourage taxpayers in this state to employ persons with developmental
5 disabilities in integrated and competitive work environments.