

REFERENCE TITLE: premium tax credit; STO contribution

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2288

Introduced by
Representatives Yarbrough, Biggs, Boone, Burges, Kavanagh, Mason, Murphy:
Antenori, Ash, Barto, Crandall, Crump, Goodale, Hendrix, Lesko, McComish,
McLain, Montenegro, Nichols, Pratt, Reagan, Seel, Stevens, Tobin

AN ACT

AMENDING SECTION 20-224, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-224.06; AMENDING SECTION 43-1183, ARIZONA REVISED STATUTES; RELATING TO 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 20-224, Arizona Revised Statutes, is amended to
3 read:

4 20-224. Premium tax

5 A. On or before March 1 of each year each authorized domestic insurer,
6 each other insurer and each formerly authorized insurer referred to in
7 section 20-206, subsection B, ~~shall~~ shall file with the director a report in a
8 form prescribed by the director showing total direct premium income including
9 policy membership and other fees and all other considerations for insurance
10 from all classes of business whether designated as a premium or otherwise
11 received by it during the preceding calendar year on account of policies and
12 contracts covering property, subjects or risks located, resident or to be
13 performed in this state, after deducting from such total direct premium
14 income applicable cancellations, returned premiums, the amount of reduction
15 in or refund of premiums allowed to industrial life policyholders for payment
16 of premiums direct to an office of the insurer and all policy dividends,
17 refunds, savings coupons and other similar returns paid or credited to
18 policyholders within this state and not reapplied as premiums for new,
19 additional or extended insurance. No deduction shall be made of the cash
20 surrender values of policies or contracts. Considerations received on
21 annuity contracts, as well as the unabsorbed portion of any premium deposit,
22 shall not be included in total direct premium income, and neither shall be
23 subject to tax. The report shall separately indicate the total direct
24 premium income received from fire insurance premiums on property located in
25 an incorporated city or town that procures the services of a private fire
26 company.

27 B. Coincident with the filing of such tax report each insurer shall
28 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a
29 tax of 2.0 per cent of such net premiums, except that the tax on fire
30 insurance premiums on property located in an incorporated city or town which
31 procures the services of a private fire company is .66 per cent, the tax on
32 all other fire insurance premiums is 2.2 per cent and the tax on health care
33 service and disability insurance premiums is as prescribed under sections
34 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to subsection E of
35 this section shall be deducted from the tax payable pursuant to this
36 subsection. Each insurer shall reflect the cost savings attributable to the
37 lower tax in fire insurance premiums charged on property located in an
38 incorporated city or town that procures the services of a private fire
39 company.

40 C. Eighty-five per cent of the tax paid ~~hereunder~~ **UNDER THIS SECTION**
41 by an insurer on account of premiums received for fire insurance shall be
42 separately specified in the report and shall be apportioned in the manner
43 provided by sections 9-951, 9-952 and 9-972, except that all of the tax so
44 allocated to a fund of a municipality which has no volunteer fire fighters or
45 pension obligations to volunteer fire fighters shall be appropriated to the

1 account of the municipality in the public safety personnel retirement system
2 and all of the tax so allocated to a fund of a municipality which has both
3 full-time paid fire fighters and volunteer fire fighters or pension
4 obligations to full-time paid fire fighters or volunteer fire fighters shall
5 be appropriated to the account of the municipality in the public safety
6 personnel retirement system where it shall be reallocated by actuarial
7 procedures proportionately to the municipality for the account of the
8 full-time paid fire fighters and to the municipality for the account of the
9 volunteer fire fighters. A full accounting of such reallocation shall be
10 forwarded to the municipality and both local boards.

11 D. This section shall not apply to title insurance, and such insurers
12 shall be taxed as provided in section 20-1566.

13 E. Any insurer which paid or is required to pay a tax of two thousand
14 dollars or more on net premiums received during the preceding calendar year,
15 pursuant to subsection B of this section and sections 20-224.01, 20-837,
16 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of
17 each month from March through August a report for that month, on a form
18 prescribed by the director, accompanied by a payment in an amount equal to
19 fifteen per cent of the amount paid or required to be paid during the
20 preceding calendar year pursuant to subsection B of this section and sections
21 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and
22 payable on or before the fifteenth day of each month and shall be made to the
23 director for deposit, pursuant to sections 35-146 and 35-147.

24 F. Except for the tax paid on fire insurance premiums pursuant to
25 subsections B and C of this section, an insurer may claim a premium tax
26 credit if the insurer qualifies for a credit pursuant to section 20-224.03,
27 ~~OR~~ 20-224.04 OR 20-224.06.

28 Sec. 2. Title 20, chapter 2, article 1, Arizona Revised Statutes, is
29 amended by adding section 20-224.06, to read:

30 20-224.06. Premium tax credit for contributions to school
31 tuition organization

32 A. A CREDIT IS ALLOWED AGAINST THE PREMIUM TAX LIABILITY INCURRED BY
33 AN INSURER PURSUANT TO SECTION 20-224, 20-837, 20-1010, 20-1060 OR 20-1097.07
34 FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE INSURER DURING THE
35 TAX YEAR TO A SCHOOL TUITION ORGANIZATION.

36 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE INSURER'S
37 CONTRIBUTIONS FOR THE TAX YEAR UNDER SUBSECTION A OF THIS SECTION THAT IS
38 PREAPPROVED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 43-1183,
39 SUBSECTION D.

40 C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER
41 REQUIREMENTS PRESCRIBED BY SECTION 43-1183 APPLY TO:

- 42 1. INSURERS THAT CLAIM A CREDIT UNDER THIS SECTION.
- 43 2. CLAIMS FOR CREDIT UNDER THIS SECTION.
- 44 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM
45 INSURERS FOR THE PURPOSES OF THIS SECTION.

1 4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY
2 INSURERS FOR THE PURPOSES OF THIS SECTION.

3 5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY
4 INSURERS FOR THE PURPOSES OF THIS SECTION.

5 D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE
6 INSURER'S STATE PREMIUM TAX LIABILITY, THE AMOUNT OF THE CLAIM NOT USED TO
7 OFFSET THE PREMIUM TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST
8 THE INSURER'S SUBSEQUENT YEARS' PREMIUM TAX LIABILITY FOR A PERIOD NOT TO
9 EXCEED FIVE TAXABLE YEARS.

10 E. A CREDIT IS NOT ALLOWED IF THE INSURER DESIGNATES THE CONTRIBUTION
11 FOR THE DIRECT BENEFIT OF ANY SPECIFIC STUDENT.

12 F. AN INSURER THAT CLAIMS A TAX CREDIT AGAINST STATE PREMIUM TAX
13 LIABILITY IS NOT REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX IMPOSED
14 PURSUANT TO SECTION 20-230 AS A RESULT OF CLAIMING THAT TAX CREDIT.

15 G. THE DEPARTMENT OF INSURANCE, WITH THE COOPERATION OF THE DEPARTMENT
16 OF REVENUE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES
17 NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.

18 Sec. 3. Section 43-1183, Arizona Revised Statutes, is amended to read:
19 43-1183. Credit for contributions to school tuition
20 organization; definitions

21 A. Beginning from and after June 30, 2006 ~~through June 30, 2011~~, a
22 credit is allowed against the taxes imposed by this title for the amount of
23 voluntary cash contributions made by the taxpayer during the taxable year to
24 a school tuition organization.

25 B. The amount of the credit is the total amount of the taxpayer's
26 contributions for the taxable year under subsection A of this section and is
27 preapproved by the department OF REVENUE pursuant to subsection D of this
28 section.

29 C. The department OF REVENUE:

30 1. Shall not allow tax credits under this section AND SECTION
31 20-224.06 that exceed in the aggregate, a combined total of ten million
32 dollars in any fiscal year. Beginning in fiscal year 2007-2008, the
33 aggregate DOLLAR amount of the tax credit cap from the previous fiscal year
34 shall be annually increased by twenty per cent.

35 2. Shall preapprove tax credits UNDER THIS SECTION AND SECTION
36 20-224.06 subject to subsection D of this section.

37 3. Shall allow the tax credits UNDER THIS SECTION AND SECTION
38 20-224.06 on a first come, first served basis.

39 D. For the purposes of subsection C, paragraph 2 of this section,
40 before making a contribution to a school tuition organization, the taxpayer
41 ~~shall~~ UNDER THIS TITLE OR TITLE 20 MUST notify the school tuition
42 organization of the total amount of contributions that the taxpayer intends
43 to make to the school tuition organization. Before accepting the
44 contribution, the school tuition organization shall request preapproval from
45 the department OF REVENUE for the taxpayer's intended contribution amount.

1 The department OF REVENUE shall preapprove or deny the requested amount
2 within twenty days after receiving the request from the school tuition
3 organization. If the department OF REVENUE preapproves the request, the
4 school tuition organization shall immediately notify the taxpayer, AND THE
5 DEPARTMENT OF INSURANCE IN THE CASE OF A CREDIT UNDER SECTION 20-224.06, that
6 the requested amount was preapproved by the department OF REVENUE. In order
7 to receive a tax credit under this subsection, the taxpayer shall make the
8 contribution to the school tuition organization within ten days after
9 receiving notice from the school tuition organization that the requested
10 amount was preapproved. If the school tuition organization does not receive
11 the preapproved contribution from the taxpayer within the required ten days,
12 the school tuition organization shall immediately notify the department OF
13 REVENUE, AND THE DEPARTMENT OF INSURANCE IN THE CASE OF A CREDIT UNDER
14 SECTION 20-224.06, and the department OF REVENUE shall no longer include this
15 preapproved contribution amount when calculating the limit prescribed in
16 subsection C, paragraph 1 of this section.

17 E. A school tuition organization that receives contributions under
18 this section OR SECTION 20-224.06 shall allow the department OF REVENUE to
19 verify that the educational scholarships and tuition grants that are issued
20 pursuant to this section are awarded to students who attend a qualified
21 school.

22 F. If the allowable tax credit exceeds the taxes otherwise due under
23 this title on the claimant's income, or if there are no taxes due under this
24 title, the taxpayer may carry the amount of the claim not used to offset the
25 taxes under this title forward for not more than five consecutive taxable
26 years' income tax liability.

27 G. Co-owners of a business, including corporate partners in a
28 partnership, may each claim only the pro rata share of the credit allowed
29 under this section based on the ownership interest. The total of the credits
30 allowed all such owners may not exceed the amount that would have been
31 allowed a sole owner.

32 H. The credit allowed by this section is in lieu of any deduction
33 pursuant to section 170 of the internal revenue code and taken for state tax
34 purposes.

35 I. The tax credit is not allowed if the taxpayer designates the
36 taxpayer's contribution to the school tuition organization for the direct
37 benefit of any specific student.

38 J. A school tuition organization that receives contributions under
39 this section OR SECTION 20-224.06 shall use at least ninety per cent of those
40 contributions to provide educational scholarships or tuition grants only to
41 children whose family income does not exceed one hundred eighty-five per cent
42 of the income limit required to qualify a child for reduced price lunches
43 under the national school lunch and child nutrition acts (42 United States
44 Code sections 1751 through 1785) and who either:

1 1. Attended a governmental primary or secondary school as a full-time
2 student as defined in section 15-901 for at least the first one hundred days
3 of the prior fiscal year and transferred from a governmental primary or
4 secondary school to a qualified school.

5 2. Enroll in a qualified school in a kindergarten program.

6 3. Received an educational scholarship or tuition grant under
7 paragraph 1 or 2 of this subsection if the children continue to attend a
8 qualified school in a subsequent year.

9 K. In 2006, a school tuition organization shall not issue an
10 educational scholarship or a tuition grant in an amount that exceeds four
11 thousand two hundred dollars for students in a kindergarten program or grades
12 one through eight or five thousand five hundred dollars for students in
13 grades nine through twelve. In each year after 2006, the limitation amount
14 for a scholarship or a grant under this subsection shall be increased by one
15 hundred dollars.

16 L. A child is still eligible to receive an educational scholarship or
17 tuition grant under subsection J of this section if the child meets the
18 criteria to receive a reduced price lunch but does not actually claim that
19 benefit.

20 M. The school tuition organization shall require that the children use
21 the educational scholarships or tuition grants on a full-time basis. If a
22 child leaves the qualified school before completing an entire school year,
23 the qualified school shall refund a prorated amount of the educational
24 scholarship or tuition grant to the school tuition organization that issued
25 the educational scholarship or tuition grant to the child. Any refunds
26 received by the school tuition organization under this subsection shall be
27 allocated for educational scholarships or tuition grants to qualified
28 children in the following year.

29 N. Children who receive educational scholarships or tuition grants
30 under this section shall be allowed to attend any qualified school of their
31 parents' choice.

32 O. A school tuition organization that receives a voluntary cash
33 contribution pursuant to ~~subsection A of~~ this section OR SECTION 20-224.06
34 shall report to the department OF REVENUE AND THE DEPARTMENT OF INSURANCE, in
35 a form prescribed by the department OF REVENUE, by June 30 of each year the
36 following information:

37 1. The name, address and contact name of the school tuition
38 organization.

39 2. The total number of contributions received during the previous
40 calendar year, IDENTIFIED FOR THE PURPOSES OF THIS SECTION OR SECTION
41 20-224.06.

42 3. The total dollar amount of contributions received during the
43 previous calendar year, IDENTIFIED FOR THE PURPOSES OF THIS SECTION OR
44 SECTION 20-224.06.

- 1 4. The total number of children awarded educational scholarships or
2 tuition grants during the previous calendar year.
- 3 5. The total dollar amount of educational scholarships and tuition
4 grants awarded during the previous calendar year.
- 5 6. For each school to which educational scholarships or tuition grants
6 were awarded:
- 7 (a) The name and address of the school.
- 8 (b) The number of educational scholarships and tuition grants awarded
9 during the previous calendar year.
- 10 (c) The total dollar amount of educational scholarships and tuition
11 grants awarded during the previous calendar year.
- 12 7. Verification that an independent review of financial statements
13 according to generally accepted accounting principles was completed by a
14 certified public accountant for the previous calendar year.
- 15 P. The department OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT
16 OF INSURANCE, shall adopt rules AND PUBLISH AND PRESCRIBE FORMS AND
17 PROCEDURES necessary for the administration of this section.
- 18 Q. For the purposes of this section:
- 19 1. "Qualified school" means a nongovernmental primary school or
20 secondary school:
- 21 (a) That is located in this state, that does not discriminate on the
22 basis of race, color, handicap, familial status or national origin and that
23 satisfies the requirements prescribed by law for private schools in this
24 state on January 1, 2005.
- 25 (b) That annually administers and makes available to the public the
26 aggregate test scores of its students on a nationally standardized
27 norm-referenced achievement test, preferably the Arizona instrument to
28 measure standards test administered pursuant to section 15-741.
- 29 (c) That requires all teaching staff and any personnel that have
30 unsupervised contact with students to be fingerprinted.
- 31 2. "School tuition organization" means a charitable organization in
32 this state that both:
- 33 (a) Is exempt from federal taxation under section 501(c)(3) of the
34 internal revenue code and that allocates ninety per cent of its annual
35 revenue for educational scholarships or tuition grants to children to allow
36 them to attend any qualified school of their parents' choice.
- 37 (b) Provides educational scholarships or tuition grants to students
38 without limiting availability to only students of one school.