

REFERENCE TITLE: tax credits; equity investments

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2524

Introduced by
Representative Crandall

AN ACT

AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1086; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1184; RELATING TO INDIVIDUAL AND 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, SECTIONS 43-1086 AND 43-1184.

20 Sec. 2. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
21 amended by adding section 43-1086, to read:

22 43-1086. Credit for equity investments; definitions

23 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2007
24 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
25 THIS TITLE FOR A TAXPAYER WHO HOLDS A QUALIFIED EQUITY INVESTMENT ON A CREDIT
26 ALLOWANCE DATE FOR THAT INVESTMENT DURING THE TAXABLE YEAR. THE AMOUNT OF
27 THE CREDIT IS EQUAL TO THE APPLICABLE PERCENTAGE OF THE QUALIFIED EQUITY
28 INVESTMENT THAT IS PAID BY THE TAXPAYER TO THE ISSUER OF THE QUALIFIED EQUITY
29 INVESTMENT.

30 B. BEGINNING FROM AND AFTER DECEMBER 31, 2007, THE DEPARTMENT SHALL
31 RECEIVE AND EVALUATE APPLICATIONS THAT ARE SUBMITTED BY TAXPAYERS TO RECEIVE
32 A CREDIT UNDER THIS SECTION. A TAXPAYER SHALL APPLY FOR THE CREDIT TO THE
33 DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT. THE APPLICATION SHALL BE
34 FILED WITH THE DEPARTMENT AND THE DEPARTMENT SHALL ISSUE A RECEIPT TO THE
35 APPLICANT. THE APPLICATION SHALL INCLUDE:

36 1. THE NAME, ADDRESS AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER
37 IDENTIFICATION NUMBER OF THE APPLICANT.

38 2. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

39 C. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION B OF
40 THIS SECTION AND CERTIFY TO THE TAXPAYER THE AMOUNT OF THE CREDIT THAT IS
41 AUTHORIZED. THE DEPARTMENT SHALL NOT CERTIFY TAX CREDITS UNDER THIS SECTION
42 AND SECTION 43-1184 THAT EXCEED A COMBINED TOTAL OF FIVE MILLION DOLLARS FOR
43 ANY CALENDAR YEAR. IF QUALIFYING APPLICATIONS EXCEED FIVE MILLION DOLLARS,
44 THE DEPARTMENT SHALL AUTHORIZE CREDITS IN THE ORDER OF THE DATE THAT THE
45 APPLICATIONS ARE RECEIVED BY THE DEPARTMENT. IF AN APPLICATION IS RECEIVED

1 THAT, IF AUTHORIZED, WOULD REQUIRE THE DEPARTMENT TO EXCEED THE FIVE MILLION
2 DOLLAR LIMIT, THE DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING
3 CREDIT AMOUNT THAT WOULD NOT EXCEED THE FIVE MILLION DOLLAR LIMIT. AFTER THE
4 DEPARTMENT AUTHORIZES FIVE MILLION DOLLARS IN TAX CREDITS, THE DEPARTMENT
5 SHALL DENY ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED. THE DEPARTMENT
6 SHALL NOT AUTHORIZE ANY ADDITIONAL TAX CREDITS THAT EXCEED THE FIVE MILLION
7 DOLLAR LIMIT EVEN IF THE AMOUNTS THAT HAVE BEEN CERTIFIED TO ANY TAXPAYER
8 WERE NOT CLAIMED OR A TAXPAYER OTHERWISE FAILS TO MEET THE REQUIREMENTS TO
9 CLAIM THE ADDITIONAL CREDIT.

10 D. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
11 SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL
12 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
13 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
14 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
15 ALLOWED A SOLE OWNER.

16 E. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER
17 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
18 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE
19 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE
20 YEARS' INCOME TAX LIABILITY.

21 F. IF A TAXPAYER HAS CLAIMED A FEDERAL TAX CREDIT FOR THE SAME
22 QUALIFIED EQUITY INVESTMENT FOR WHICH A CREDIT IS ALSO CLAIMED UNDER THIS
23 SECTION AND A PORTION OF THAT FEDERAL TAX CREDIT IS RECAPTURED PURSUANT TO
24 SECTION 45D OF THE INTERNAL REVENUE CODE, THE DEPARTMENT SHALL RECAPTURE A
25 PORTION OF THE CREDIT THAT IS AUTHORIZED UNDER THIS SECTION. THE AMOUNT OF
26 THE RECAPTURE UNDER THIS SUBSECTION SHALL BE EQUAL TO THE PERCENTAGE OF THE
27 FEDERAL TAX CREDIT THAT IS RECAPTURED PURSUANT TO SECTION 45D OF THE INTERNAL
28 REVENUE CODE.

29 G. FOR THE PURPOSES OF THIS SECTION:

30 1. "APPLICABLE PERCENTAGE" MEANS EITHER:

31 (a) ONE PER CENT FOR THE FIRST THREE CREDIT ALLOWANCE DATES.

32 (b) TWO PER CENT FOR ANY CREDIT ALLOWANCE DATE AFTER THE FIRST THREE
33 CREDIT ALLOWANCE DATES.

34 2. "CREDIT ALLOWANCE DATE" MEANS EITHER:

35 (a) THE INITIAL DATE THAT A QUALIFIED EQUITY INVESTMENT IS MADE.

36 (b) ANY OF THE SIX SUBSEQUENT ANNIVERSARY DATES AFTER THE INITIAL DATE
37 THAT A QUALIFIED EQUITY INVESTMENT IS MADE.

38 3. "QUALIFIED EQUITY INVESTMENT" HAS THE SAME MEANING PRESCRIBED BY
39 SECTION 45D OF THE INTERNAL REVENUE CODE.

40 Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
41 amended by adding section 43-1184, to read:

42 43-1184. Credit for equity investments; definitions

43 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2007
44 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
45 THIS TITLE FOR A TAXPAYER WHO HOLDS A QUALIFIED EQUITY INVESTMENT ON A CREDIT

1 ALLOWANCE DATE FOR THAT INVESTMENT DURING THE TAXABLE YEAR. THE AMOUNT OF
2 THE CREDIT IS EQUAL TO THE APPLICABLE PERCENTAGE OF THE QUALIFIED EQUITY
3 INVESTMENT THAT IS PAID BY THE TAXPAYER TO THE ISSUER OF THE QUALIFIED EQUITY
4 INVESTMENT.

5 B. BEGINNING FROM AND AFTER DECEMBER 31, 2007, THE DEPARTMENT SHALL
6 RECEIVE AND EVALUATE APPLICATIONS THAT ARE SUBMITTED BY TAXPAYERS TO RECEIVE
7 A CREDIT UNDER THIS SECTION. A TAXPAYER SHALL APPLY FOR THE CREDIT TO THE
8 DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT. THE APPLICATION SHALL BE
9 FILED WITH THE DEPARTMENT AND THE DEPARTMENT SHALL ISSUE A RECEIPT TO THE
10 APPLICANT. THE APPLICATION SHALL INCLUDE:

11 1. THE NAME, ADDRESS AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER
12 IDENTIFICATION NUMBER OF THE APPLICANT.

13 2. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

14 C. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION B OF
15 THIS SECTION AND CERTIFY TO THE TAXPAYER THE AMOUNT OF THE CREDIT THAT IS
16 AUTHORIZED. THE DEPARTMENT SHALL NOT CERTIFY TAX CREDITS UNDER THIS SECTION
17 AND SECTION 43-1086 THAT EXCEED A COMBINED TOTAL OF FIVE MILLION DOLLARS FOR
18 ANY CALENDAR YEAR. IF QUALIFYING APPLICATIONS EXCEED FIVE MILLION DOLLARS,
19 THE DEPARTMENT SHALL AUTHORIZE CREDITS IN THE ORDER OF THE DATE THAT THE
20 APPLICATIONS ARE RECEIVED BY THE DEPARTMENT. IF AN APPLICATION IS RECEIVED
21 THAT, IF AUTHORIZED, WOULD REQUIRE THE DEPARTMENT TO EXCEED THE FIVE MILLION
22 DOLLAR LIMIT, THE DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING
23 CREDIT AMOUNT THAT WOULD NOT EXCEED THE FIVE MILLION DOLLAR LIMIT. AFTER THE
24 DEPARTMENT AUTHORIZES FIVE MILLION DOLLARS IN TAX CREDITS, THE DEPARTMENT
25 SHALL DENY ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED. THE DEPARTMENT
26 SHALL NOT AUTHORIZE ANY ADDITIONAL TAX CREDITS THAT EXCEED THE FIVE MILLION
27 DOLLAR LIMIT EVEN IF THE AMOUNTS THAT HAVE BEEN CERTIFIED TO ANY TAXPAYER
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29 CLAIM THE ADDITIONAL CREDIT.

30 D. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
31 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
32 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
33 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
34 ALLOWED A SOLE OWNER.

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

40 F. IF A TAXPAYER HAS CLAIMED A FEDERAL TAX CREDIT FOR THE SAME
41 QUALIFIED EQUITY INVESTMENT FOR WHICH A CREDIT IS ALSO CLAIMED UNDER THIS
42 SECTION AND A PORTION OF THAT FEDERAL TAX CREDIT IS RECAPTURED PURSUANT TO
43 SECTION 45D OF THE INTERNAL REVENUE CODE, THE DEPARTMENT SHALL RECAPTURE A
44 PORTION OF THE CREDIT THAT IS AUTHORIZED UNDER THIS SECTION. THE AMOUNT OF
45 THE RECAPTURE UNDER THIS SUBSECTION SHALL BE EQUAL TO THE PERCENTAGE OF THE

1 FEDERAL TAX CREDIT THAT IS RECAPTURED PURSUANT TO SECTION 45D OF THE INTERNAL
2 REVENUE CODE.

3 G. FOR THE PURPOSES OF THIS SECTION:

4 1. "APPLICABLE PERCENTAGE" MEANS EITHER:

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7 CREDIT ALLOWANCE DATES.

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10 (b) ANY OF THE SIX SUBSEQUENT ANNIVERSARY DATES AFTER THE INITIAL DATE
11 THAT A QUALIFIED EQUITY INVESTMENT IS MADE.

12 3. "QUALIFIED EQUITY INVESTMENT" HAS THE SAME MEANING PRESCRIBED BY
13 SECTION 45D OF THE INTERNAL REVENUE CODE.

14 Sec. 4. Purpose

15 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
16 enacts sections 43-1086 and 43-1184, Arizona Revised Statutes, as added by
17 this act, to encourage taxpayers to make equity investments that benefit low
18 income communities in this state.