

Senate Engrossed

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 196

SENATE BILL 1389

AN ACT

AMENDING SECTIONS 42-1001, 42-1106, 43-105, 43-1021, 43-1022, 43-1121 AND 43-1122, 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 42-1001, Arizona Revised Statutes, is amended to
3 read:

4 42-1001. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Board" or "state board" means either the state board of tax
7 appeals or the state board of equalization, as applicable.

8 2. "Court" means the tax court or superior court, whichever is
9 applicable.

10 3. "Department" means the department of revenue.

11 4. "Director" means the director of the department.

12 5. "Internal revenue code" means the United States internal revenue
13 code of 1986, as amended and in effect as of January 1, 2003 2004, including
14 those provisions that became effective during 2002 2003 with the specific
15 adoption of their retroactive effective dates but excluding all changes to
16 the code enacted after January 1, 2003 2004.

17 Sec. 2. Section 42-1106, Arizona Revised Statutes, is amended to read:

18 42-1106. Time limitations for credit and refund claims

19 A. The period within which a claim for credit or refund may be filed,
20 or credit or refund may be allowed or made if no claim is filed, is the
21 period within which the department may make an assessment under section
22 42-1104.

23 B. If the total amount withheld under section 43-401 exceeds the
24 amount of the tax on the employee's entire taxable income as computed under
25 title 43, no refund, credit or offset may be made to the employee unless the
26 employee files a return, in respect of which the tax withheld might be
27 credited, within four years from the due date of the original return.

28 C. IF A REFUND OR CREDIT OF ANY OVERPAYMENT OF TAX RESULTING FROM THE
29 AMENDMENTS MADE TO SECTION 121(d)(9) OF THE INTERNAL REVENUE CODE BY THE
30 MILITARY FAMILY TAX RELIEF ACT OF 2003 (P.L. 108-121) IS PREVENTED BY THE
31 OPERATION OF ANY LAW OR RULE OF LAW, INCLUDING RES JUDICATA, AT ANY TIME
32 BEFORE THE CLOSE OF THE ONE YEAR PERIOD BEGINNING ON NOVEMBER 11, 2003, THE
33 REFUND OR CREDIT MAY NEVERTHELESS BE MADE OR ALLOWED IF THE CLAIM IS FILED
34 BEFORE THE CLOSE OF THIS PERIOD.

35 D. The failure to begin an action for refund or credit within the
36 time specified in this section is a bar against the recovery of taxes by the
37 taxpayer.

38 Sec. 3. Section 43-105, Arizona Revised Statutes, is amended to read:

39 43-105. Internal revenue code; definition; application

40 A. FOR PURPOSES OF COMPUTING INCOME TAX PURSUANT TO THIS TITLE, FOR
41 TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2003 THROUGH DECEMBER 31,
42 2004, "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTERNAL REVENUE CODE
43 OF 1986, AS AMENDED, IN EFFECT ON JANUARY 1, 2004, INCLUDING THOSE PROVISIONS
44 THAT BECAME EFFECTIVE DURING 2003 WITH THE SPECIFIC ADOPTION OF ALL FEDERAL

1 RETROACTIVE EFFECTIVE DATES, BUT EXCLUDING ANY CHANGE TO THE CODE ENACTED
2 AFTER JANUARY 1, 2004.

3 A. B. For purposes of computing income tax pursuant to this title,
4 for taxable years beginning from and after December 31, 2002 through December
5 31, 2003, "internal revenue code" means the United States internal revenue
6 code of 1986, as amended, in effect on January 1, 2003, including those
7 provisions that became effective during 2002 with the specific adoption of
8 all federal retroactive effective dates, ~~but excluding any change to the code~~
9 ~~enacted after January 1, 2003~~ AND INCLUDING THOSE PROVISIONS OF THE JOBS AND
10 GROWTH TAX RELIEF RECONCILIATION ACT OF 2003 (P.L. 108-27), THE MILITARY
11 FAMILY TAX RELIEF ACT OF 2003 (P.L. 108-121) AND THE MEDICARE PRESCRIPTION
12 DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003 (P.L. 108-173) THAT ARE
13 RETROACTIVELY EFFECTIVE DURING TAXABLE YEARS BEGINNING FROM AND AFTER
14 DECEMBER 31, 2002 THROUGH DECEMBER 31, 2003.

15 B. C. For purposes of computing income tax pursuant to this title,
16 for taxable years beginning from and after December 31, 2001 through December
17 31, 2002, "internal revenue code" means the United States internal revenue
18 code of 1986, as amended, in effect on March 9, 2002, including those
19 provisions that became effective during 2001 with the specific adoption of
20 all federal retroactive effective dates, ~~but excluding any change to the code~~
21 ~~enacted after March 9, 2002~~ AND INCLUDING THOSE PROVISIONS OF THE JOBS AND
22 GROWTH TAX RELIEF RECONCILIATION ACT OF 2003 (P.L. 108-27) AND THE MILITARY
23 FAMILY TAX RELIEF ACT OF 2003 (P.L. 108-121) THAT ARE RETROACTIVELY EFFECTIVE
24 DURING TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2001 THROUGH
25 DECEMBER 31, 2002.

26 C. D. For purposes of computing income tax pursuant to this title,
27 for taxable years beginning from and after December 31, 2000 through December
28 31, 2001, "internal revenue code" means the United States internal revenue
29 code of 1986, as amended, in effect on January 1, 2001, including those
30 provisions that became effective during 2000 with the specific adoption of
31 all federal retroactive effective dates and including those provisions of the
32 economic growth and tax relief reconciliation act of 2001 (P.L. 107-16), and
33 the job creation and worker assistance act of 2002 (P.L. 107-147) AND THE
34 MILITARY FAMILY TAX RELIEF ACT OF 2003 (P.L. 108-121) that are retroactively
35 effective during taxable years beginning from and after December 31, 2000
36 through December 31, 2001.

37 D. E. For purposes of computing income tax pursuant to this title,
38 for taxable years beginning from and after December 31, 1999 through December
39 31, 2000, "internal revenue code" means the United States internal revenue
40 code of 1986, as amended, in effect on January 1, 2000, including those
41 provisions that became effective during 1999 with the specific adoption of
42 all federal retroactive effective dates and including those provisions of the
43 community renewal tax relief act of 2000 (P.L. 106-554), the installment tax
44 correction act of 2000 (P.L. 106-573), FSC repeal and extraterritorial income
45 exclusion act of 2000 (P.L. 106-519), the trade and development act of 2000

1 (P.L. 106-200), the economic growth and tax relief reconciliation act of 2001
2 (P.L. 107-16), and the job creation and worker assistance act of 2002
3 (P.L. 107-147) AND THE MILITARY FAMILY TAX RELIEF ACT OF 2003 (P.L. 108-121)
4 that are retroactively effective during taxable years beginning from and
5 after December 31, 1999 through December 31, 2000.

6 ~~E.~~ F. For purposes of computing income tax pursuant to this title,
7 for taxable years beginning from and after December 31, 1998 through December
8 31, 1999, "internal revenue code" means the United States internal revenue
9 code of 1986, as amended, in effect on January 1, 1999, including those
10 provisions that became effective during 1998 with the specific adoption of
11 all federal retroactive effective dates and including those provisions of the
12 miscellaneous trade and technical corrections act of 1999 (P.L. 106-36), the
13 ticket to work and work incentives improvement act of 1999 (P.L. 106-170),
14 the community renewal tax relief act of 2000 (P.L. 106-554), and the
15 installment tax correction act of 2000 (P.L. 106-573) AND THE MILITARY FAMILY
16 TAX RELIEF ACT OF 2003 (P.L. 108-121) that are retroactively effective during
17 taxable years beginning from and after December 31, 1998 through December 31,
18 1999.

19 ~~F.~~ G. For purposes of computing income tax pursuant to this title,
20 for taxable years beginning from and after December 31, 1997 through December
21 31, 1998, "internal revenue code" means the United States internal revenue
22 code of 1986, as amended, in effect on January 1, 1998, including those
23 provisions that became effective during 1997 with the specific adoption of
24 all federal retroactive effective dates and including those provisions of the
25 IRS restructuring and reform act of 1998 (P.L. 105-206), the tax and trade
26 relief extension act of 1998 (P.L. 105-277), the surface transportation
27 revenue act of 1998 (P.L. 105-178), and the miscellaneous trade and technical
28 corrections act of 1999 (P.L. 106-36) AND THE MILITARY FAMILY TAX RELIEF ACT
29 OF 2003 (P.L. 108-121) that are retroactively effective during the taxable
30 years beginning from and after December 31, 1997 through December 31, 1998.

31 ~~G.~~ H. For purposes of computing income tax pursuant to this title,
32 for taxable years beginning from and after December 31, 1996 through December
33 31, 1997, "internal revenue code" means the United States internal revenue
34 code of 1986, as amended, in effect on January 1, 1997, including those
35 provisions that became effective during 1996 with the specific adoption of
36 all federal retroactive effective dates and including the provisions of the
37 taxpayer relief act of 1997 (P.L. 105-34), the IRS restructuring and reform
38 act of 1998 (P.L. 105-206), and the tax and trade relief extension act of
39 1998 (P.L. 105-277) AND THE MILITARY FAMILY TAX RELIEF ACT OF 2003
40 (P.L. 108-121) that are retroactively effective during taxable years
41 beginning from and after December 31, 1996 through December 31, 1997.

42 ~~H.~~ I. For purposes of computing income tax pursuant to this title,
43 for taxable years beginning from and after December 31, 1995 through December
44 31, 1996, "internal revenue code" means the United States internal revenue
45 code of 1986, as amended, in effect on January 1, 1996, including those

1 provisions that became effective during 1995 with the specific adoption of
2 their retroactive effective date and including those provisions of the small
3 business job protection act of 1996 (P.L. 104-188; 110 Stat. 1755), the
4 health insurance portability and accountability act of 1996 (P.L. 104-191;
5 110 Stat. 1936), the personal responsibility and work opportunity
6 reconciliation act of 1996 (P.L. 104-193; 110 Stat. 2105), the taxpayer
7 relief act of 1997 (P.L. 105-34), the IRS restructuring and reform act of
8 1998 (P.L. 105-206) and the tax and trade relief extension act of 1998
9 (P.L. 105-277) that are retroactively effective during taxable years
10 beginning from and after December 31, 1995 through December 31, 1996.

11 ~~I.~~ J. For purposes of computing income tax pursuant to this title,
12 for taxable years beginning from and after December 31, 1994 through December
13 31, 1995, "internal revenue code" means the United States internal revenue
14 code of 1986, as amended, in effect on January 1, 1995, including those
15 provisions that became effective during 1994 with the specific adoption of
16 their retroactive effective date and including those provisions of the small
17 business job protection act of 1996 (P.L. 104-188; 110 Stat. 1755), the
18 health insurance portability and accountability act of 1996 (P.L. 104-191;
19 110 Stat. 1936), the personal responsibility and work opportunity
20 reconciliation act of 1996 (P.L. 104-193; 110 Stat. 2105), the taxpayer
21 relief act of 1997 (P.L. 105-34), the IRS restructuring and reform act of
22 1998 (P.L. 105-206) and the tax and trade relief extension act of 1998
23 (P.L. 105-277) that are retroactively effective during taxable years
24 beginning from and after December 31, 1994 through December 31, 1995.

25 ~~J.~~ K. For purposes of computing income tax pursuant to this title,
26 for taxable years beginning from and after December 31, 1993 through December
27 31, 1994, "internal revenue code" means the United States internal revenue
28 code of 1986, as amended, in effect on January 1, 1994, including those
29 provisions that became effective during 1993 with the specific adoption of
30 their retroactive effective date and including those provisions of the small
31 business job protection act of 1996 (P.L. 104-188; 110 Stat. 1755), the
32 health insurance portability and accountability act of 1996 (P.L. 104-191;
33 110 Stat. 1936), the personal responsibility and work opportunity
34 reconciliation act of 1996 (P.L. 104-193; 110 Stat. 2105), the taxpayer
35 relief act of 1997 (P.L. 105-34), the IRS restructuring and reform act of
36 1998 (P.L. 105-206) and the tax and trade relief extension act of 1998
37 (P.L. 105-277) that are retroactively effective during taxable years
38 beginning from and after December 31, 1993 through December 31, 1994.

39 ~~K.~~ Except as provided in section 43-106, for purposes of computing
40 income tax pursuant to this title for taxable years beginning from and after
41 December 31, 1992 through December 31, 1993, "internal revenue code" means
42 the United States internal revenue code of 1986, as amended, in effect on
43 January 1, 1993, including those provisions that became effective during 1992
44 with the specific adoption of their retroactive effective date and including
45 those provisions of the small business job protection act of 1996 (P.L.

1 ~~104-188; 110 Stat. 1755), the health insurance portability and accountability~~
2 ~~act of 1996 (P.L. 104-191; 110 Stat. 1936), the personal responsibility and~~
3 ~~work opportunity reconciliation act of 1996 (P.L. 104-193; 110 Stat. 2105);~~
4 ~~the taxpayer relief act of 1997 (P.L. 105-34), the IRS restructuring and~~
5 ~~reform act of 1998 (P.L. 105-206) and the tax and trade relief extension act~~
6 ~~of 1998 (P.L. 105-277) that are retroactively effective during taxable years~~
7 ~~beginning from and after December 31, 1992 through December 31, 1993.~~

8 Sec. 4. Section 43-1021, Arizona Revised Statutes, is amended to read:

9 43-1021. Additions to Arizona gross income

10 In computing Arizona adjusted gross income, the following amounts shall
11 be added to Arizona gross income:

12 1. A beneficiary's share of the fiduciary adjustment to the extent
13 that the amount determined by section 43-1333 increases the beneficiary's
14 Arizona gross income.

15 2. An amount equal to the "ordinary income portion" of a lump sum
16 distribution that was excluded from federal adjusted gross income pursuant
17 to section 402(d) of the internal revenue code.

18 3. The amount of interest income received on obligations of any state,
19 territory or possession of the United States, or any political subdivision
20 thereof, located outside the state of Arizona, reduced, for tax years
21 beginning from and after December 31, 1996, by the amount of any interest on
22 indebtedness and other related expenses that were incurred or continued to
23 purchase or carry those obligations and that are not otherwise deducted or
24 subtracted in arriving at Arizona gross income.

25 4. Annuity income received during the taxable year to the extent that
26 the sum of the proceeds received from such annuity in all taxable years prior
27 to and including the current taxable year exceeds the total consideration and
28 premiums paid by the taxpayer. This paragraph applies only to those
29 annuities with respect to which the first payment was received prior to
30 December 31, 1978.

31 5. The excess of a partner's share of partnership taxable income
32 required to be included under chapter 14, article 2 of this title over the
33 income required to be reported under section 702(a)(8) of the internal
34 revenue code.

35 6. The excess of a partner's share of partnership losses determined
36 pursuant to section 702(a)(8) of the internal revenue code over the losses
37 allowable under chapter 14, article 2 of this title.

38 7. The amount by which the adjusted basis of property described in
39 this paragraph and computed pursuant to the internal revenue code exceeds the
40 adjusted basis of such property computed pursuant to this title and the
41 income tax act of 1954, as amended. This paragraph shall apply to all
42 property which is held for the production of income and which is sold or
43 otherwise disposed of during the taxable year, except depreciable property
44 used in a trade or business.

1 8. The amount of depreciation or amortization of costs of any capital
2 investment that is deducted pursuant to section 167 or 179 of the internal
3 revenue code by a qualified defense contractor with respect to which an
4 election is made to amortize pursuant to section 43-1024.

5 9. The amount of gain from the sale or other disposition of a capital
6 investment which a qualified defense contractor has elected to amortize
7 pursuant to section 43-1024.

8 10. The amount of depreciation or amortization of costs of child care
9 facilities deducted pursuant to section 167 or 188 of the internal revenue
10 code for which a credit is taken under section 43-1075, subsection A,
11 paragraph 1.

12 11. Amounts withdrawn from the Arizona state retirement system, the
13 corrections officer retirement plan, the public safety personnel retirement
14 system, the elected officials' retirement plan or a county or city retirement
15 plan by an employee upon termination of employment before retirement to the
16 extent they were deducted in arriving at Arizona taxable income in any year.

17 12. That portion of the net operating loss included in federal adjusted
18 gross income which has already been taken as a net operating loss for Arizona
19 purposes or which is separately taken as a subtraction under the special net
20 operating loss transition rule.

21 13. Any nonitemized amount deducted pursuant to section 170 of the
22 internal revenue code representing contributions to an educational
23 institution which denies admission, enrollment or board and room
24 accommodations on the basis of race, color or ethnic background except those
25 institutions primarily established for the education of American Indians.

26 14. The amount paid as taxes on property in this state with respect to
27 which a credit is claimed under section 43-1078.

28 15. Amounts withdrawn from a medical savings account by the individual
29 during the taxable year computed pursuant to section 220(f) of the internal
30 revenue code and not included in federal adjusted gross income.

31 16. Any amount of agricultural water conservation expenses that were
32 deducted pursuant to the internal revenue code for which a credit is claimed
33 under section 43-1084.

34 17. The amount by which the depreciation or amortization computed under
35 the internal revenue code with respect to property for which a credit was
36 taken under section 43-1080 exceeds the amount of depreciation or
37 amortization computed pursuant to the internal revenue code on the Arizona
38 adjusted basis of the property.

39 18. The amount by which the adjusted basis computed under the internal
40 revenue code with respect to property for which a credit was claimed under
41 section 43-1080 and which is sold or otherwise disposed of during the taxable
42 year exceeds the adjusted basis of the property computed under section
43 43-1080.

1 19. 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 43-1081 or 43-1081.01 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 20. 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 43-1081 or 43-1081.01 and which is sold or otherwise disposed
9 of during the taxable year exceeds the adjusted basis of the property
10 computed under section 43-1081 or 43-1081.01, as applicable.

11 21. 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 22. The amount by which a net operating loss carryover or capital loss
15 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
16 code exceeds the net operating loss carryover or capital loss carryover
17 allowable pursuant to section 43-1029, subsection F.

18 23. Any amount deducted pursuant to section 170 of the internal revenue
19 code representing contributions to a school tuition organization or a public
20 school for which a credit is claimed under section 43-1089 or 43-1089.01.

21 24. Any amount deducted in computing Arizona gross income as expenses
22 for installing solar stub outs or electric vehicle recharge outlets in this
23 state with respect to which a credit is claimed pursuant to section 43-1090.

24 25. Any wage expenses deducted pursuant to the internal revenue code
25 for which a credit is claimed under section 43-1087 and representing net
26 increases in qualified employment positions for employment of temporary
27 assistance for needy families recipients.

28 26. Any amount deducted for conveying ownership or development rights
29 of property to an agricultural preservation district under section 48-5702
30 for which a credit is claimed under section 43-1081.02.

31 27. The amount of any ~~special~~ depreciation allowance allowed pursuant
32 to section ~~168(k)~~ 167(a) of the internal revenue code TO THE EXTENT NOT
33 PREVIOUSLY ADDED.

34 28. WITH RESPECT TO PROPERTY FOR WHICH AN EXPENSE DEDUCTION WAS TAKEN
35 PURSUANT TO SECTION 179 OF THE INTERNAL REVENUE CODE, THE AMOUNT IN EXCESS
36 OF TWENTY-FIVE THOUSAND DOLLARS.

37 Sec. 5. Section 43-1022, Arizona Revised Statutes, is amended to read:
38 43-1022. Subtractions from Arizona gross income

39 In computing Arizona adjusted gross income, the following amounts shall
40 be subtracted from Arizona gross income:

41 1. The amount of exemptions allowed by section 43-1023.

42 2. Benefits, annuities and pensions in an amount totaling not more
43 than two thousand five hundred dollars received from one or more of the
44 following:

1 (a) The United States government service retirement and disability
2 fund, retired or retainer pay of the uniformed services of the United States,
3 the United States foreign service retirement and disability system and any
4 other retirement system or plan established by federal law.

5 (b) The Arizona state retirement system, the corrections officer
6 retirement plan, the public safety personnel retirement system, the elected
7 officials' retirement plan, an optional retirement program established by the
8 Arizona board of regents under section 15-1628, an optional retirement
9 program established by a community college district board under section
10 15-1451 or a retirement plan established for employees of a county, city or
11 town in this state.

12 3. A beneficiary's share of the fiduciary adjustment to the extent
13 that the amount determined by section 43-1333 decreases the beneficiary's
14 Arizona gross income.

15 4. The amount of any distributions from an individual retirement
16 account as provided for in section 408 of the internal revenue code or from
17 a qualified retirement plan of a self-employed individual as provided for in
18 section 401 of the internal revenue code to the extent that total adjustments
19 made pursuant to this paragraph in all tax years do not exceed the total of
20 all contributions made by the taxpayer to such plans prior to December 31,
21 1975, which were included in computing Arizona taxable income.

22 5. The amount of income on an installment receivable which is
23 recognized pursuant to the internal revenue code and which has already been
24 recognized on the death of the taxpayer for purposes of this title for tax
25 years ending before January 1, 1990.

26 6. Interest income received on obligations of the United States, less
27 any interest on indebtedness, or other related expenses, and deducted in
28 arriving at Arizona gross income, which were incurred or continued to
29 purchase or carry such obligations.

30 7. The amount of any income tax refunds which were received from
31 states other than Arizona and which were included as income in computing
32 federal adjusted gross income.

33 8. Annuity income included in federal adjusted gross income pursuant
34 to section 72 of the internal revenue code if the first payment with respect
35 to such annuity was received prior to December 31, 1978.

36 9. The excess of a partner's share of income required to be included
37 under section 702(a)(8) of the internal revenue code over the income required
38 to be included under chapter 14, article 2 of this title.

39 10. The excess of a partner's share of partnership losses determined
40 pursuant to chapter 14, article 2 of this title over the losses allowable
41 under section 702(a)(8) of the internal revenue code.

42 11. The amount by which the adjusted basis of property described in
43 this paragraph and computed pursuant to this title and the income tax act of
44 1954, as amended, exceeds the adjusted basis of such property computed
45 pursuant to the internal revenue code. This paragraph shall apply to all

1 property which is held for the production of income and which is sold or
2 otherwise disposed of during the taxable year other than depreciable property
3 used in a trade or business.

4 12. The amount allowed by section 43-1024 for amortization, by a
5 qualified defense contractor certified by the department of commerce under
6 section 41-1508, of a capital investment for private commercial activities.

7 13. The amount of gain included in federal adjusted gross income on the
8 sale or other disposition of a capital investment that a qualified defense
9 contractor has elected to amortize pursuant to section 43-1024.

10 14. The amount allowed by section 43-1025 for contributions during the
11 taxable year of agricultural crops to charitable organizations.

12 15. The portion of any wages or salaries paid or incurred by the
13 taxpayer for the taxable year that is equal to the amount of the federal work
14 opportunity credit, the empowerment zone employment credit, the credit for
15 employer paid social security taxes on employee cash tips and the Indian
16 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
17 and 1396 of the internal revenue code.

18 16. The amount of prizes or winnings less than five thousand dollars
19 in a single taxable year from any of the state lotteries established and
20 operated pursuant to title 5, chapter 5, article 1, except that all such
21 winnings before March 22, 1983, including periodic distributions from such
22 winnings made after March 22, 1983, may be subtracted.

23 17. The amount of exploration expenses that is determined pursuant to
24 section 617 of the internal revenue code, that has been deferred in a taxable
25 year ending before January 1, 1990 and for which a subtraction has not
26 previously been made. The subtraction shall be made on a ratable basis as
27 the units of produced ores or minerals discovered or explored as a result of
28 this exploration are sold.

29 18. The amount included in federal adjusted gross income pursuant to
30 section 86 of the internal revenue code, relating to taxation of social
31 security and railroad retirement benefits.

32 19. To the extent not already excluded from Arizona gross income under
33 section 112 of the internal revenue code, compensation received for active
34 service as a member of the armed forces of the United States for any month
35 during any part of which the member served in a combat zone as determined
36 under section 112 of the internal revenue code or in an area given the same
37 treatment as a combat zone for purposes of section 112 of the internal
38 revenue code.

39 20. The amount of unreimbursed medical and hospital costs, adoption
40 counseling, legal and agency fees and other nonrecurring costs of adoption
41 not to exceed three thousand dollars. In the case of a husband and wife who
42 file separate returns, the subtraction may be taken by either taxpayer or may
43 be divided between them, but the total subtractions allowed both husband and
44 wife shall not exceed three thousand dollars. The subtraction under this
45 paragraph may be taken for the costs that are described in this paragraph and

1 that are incurred in prior years, but the subtraction may be taken only in
2 the year during which the final adoption order is granted.

3 21. The amount authorized by section 43-1027 for the taxable year
4 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

5 22. With respect to a medical savings account established pursuant to
6 section 43-1028:

7 (a) An eligible individual may subtract:

8 (i) The amount of contributions made by the individual's employer
9 during the taxable year to the individual's medical savings account pursuant
10 to section 43-1028 to the extent that the employer contributions are included
11 in the individual's federal adjusted gross income.

12 (ii) The amount deposited by the individual in the account during the
13 taxable year to the extent that the individual's contributions are included
14 in the individual's federal adjusted gross income.

15 (b) The individual's employer may subtract the amount of contributions
16 made by the employer to a medical savings account established on the
17 individual's behalf to the extent that the contributions are not deductible
18 under the internal revenue code.

19 23. The amount by which a net operating loss carryover or capital loss
20 carryover allowable pursuant to section 43-1029, subsection F exceeds the net
21 operating loss carryover or capital loss carryover allowable pursuant to
22 section 1341(b)(5) of the internal revenue code.

23 24. Any amount of qualified educational expenses that is distributed
24 from a qualified state tuition program determined pursuant to section 529 of
25 the internal revenue code and that is included in income in computing federal
26 adjusted gross income.

27 25. Any item of income resulting from an installment sale that has been
28 properly subjected to income tax in another state in a previous taxable year
29 and that is included in Arizona gross income in the current taxable year.

30 26. The amount authorized by section 43-1030 relating to holocaust
31 survivors.

32 27. The amount authorized by section 43-1031 for constructing an energy
33 efficient residence.

34 ~~28. With respect to property for which the depreciation allowance~~
35 ~~pursuant to section 168(k) of the internal revenue code was added under~~
36 ~~section 43-1021, paragraph 27; An amount equal to three-sevenths of the~~
37 ~~amount of depreciation allowed ALLOWABLE pursuant to section 167(a) of the~~
38 ~~internal revenue code as FOR THE TAXABLE YEAR computed on the adjusted basis~~
39 ~~provided pursuant to section 168(k)(1)(B) of the internal revenue code AS IF~~
40 ~~THE ELECTION DESCRIBED IN SECTION 168(k)(2)(C)(iii) OF THE INTERNAL REVENUE~~
41 ~~CODE HAD BEEN MADE FOR EACH APPLICABLE CLASS OF PROPERTY IN THE YEAR THE~~
42 ~~PROPERTY WAS PLACED IN SERVICE.~~

43 29. With respect to property that is sold or otherwise disposed of
44 during the taxable year by a taxpayer that complied with section 43-1021,
45 paragraph 27 with respect to that property, the amount of depreciation that

1 ~~would have~~ HAS been allowed pursuant to section 167(a) of the internal
2 revenue code ~~computed without regard to section 168(k) of the internal~~
3 ~~revenue code~~ to the extent that the amount has not already reduced Arizona
4 taxable income in the current or prior taxable years.

5 30. WITH RESPECT TO PROPERTY FOR WHICH AN ADJUSTMENT WAS MADE UNDER
6 SECTION 43-1021, PARAGRAPH 28, AN AMOUNT EQUAL TO ONE-FIFTH OF THE AMOUNT OF
7 THE ADJUSTMENT PURSUANT TO SECTION 43-1021, PARAGRAPH 28 IN THE YEAR IN WHICH
8 THE AMOUNT WAS ADJUSTED UNDER SECTION 43-1021, PARAGRAPH 28 AND IN EACH OF
9 THE FOLLOWING FOUR YEARS.

10 Sec. 6. Section 43-1121, Arizona Revised Statutes, is amended to read:

11 43-1121. Additions to Arizona gross income; corporations

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

14 1. The amounts computed pursuant to section 43-1021, paragraphs 3
15 through 9, 13, and 27 AND 28.

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

19 3. Taxes which are based on income paid to states, local governments
20 or foreign governments and which were deducted in computing federal taxable
21 income.

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

27 5. Commissions, rentals and other amounts paid or accrued to a
28 domestic international sales corporation controlled by the payor corporation
29 if the domestic international sales corporation is not required to report its
30 taxable income to this state because its income is not derived from or
31 attributable to sources within this state. If the domestic international
32 sales corporation is subject to article 4 of this chapter, the department
33 shall prescribe by rule the method of determining the portion of the
34 commissions, rentals and other amounts which are paid or accrued to the
35 controlled domestic international sales corporation and which shall be
36 deducted by the payor. "Control" for purposes of this paragraph means direct
37 or indirect ownership or control of fifty per cent or more of the voting
38 stock of the domestic international sales corporation by the payor
39 corporation.

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

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

1 8. The amount of exploration expenses determined pursuant to section
2 617 of the internal revenue code to the extent that they exceed seventy-five
3 thousand dollars and to the extent that the election is made to defer those
4 expenses not in excess of seventy-five thousand dollars.

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

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

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

15 12. The amount paid as taxes on property in this state by a qualified
16 defense contractor with respect to which a credit is claimed under section
17 43-1166.

18 13. The loss of an insurance company that is exempt under section
19 43-1201 to the extent that it is included in computing Arizona gross income
20 on a consolidated return pursuant to section 43-947.

21 14. The amount by which the depreciation or amortization computed under
22 the internal revenue code with respect to property for which a credit was
23 taken under section 43-1169 exceeds the amount of depreciation or
24 amortization computed pursuant to the internal revenue code on the Arizona
25 adjusted basis of the property.

26 15. The amount by which the adjusted basis computed under the internal
27 revenue code with respect to property for which a credit was claimed under
28 section 43-1169 and which is sold or otherwise disposed of during the taxable
29 year exceeds the adjusted basis of the property computed under section
30 43-1169.

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

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

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

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

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

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

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

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

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

19 Sec. 7. Section 43-1122, Arizona Revised Statutes, is amended to read:

20 43-1122. Subtractions from Arizona gross income; corporations

21 In computing Arizona taxable income for a corporation, the following
22 amounts shall be subtracted from Arizona gross income:

23 1. The amounts computed pursuant to section 43-1022, paragraphs 8
24 through 15, 28, and 29 AND 30. For purposes of this paragraph "federal
25 adjusted gross income" as used in section 43-1022 means "federal taxable
26 income".

27 2. The amount of Arizona capital loss carryover as defined in section
28 43-1124 in an amount not to exceed one thousand dollars.

29 3. With respect to a financial institution as defined in section
30 6-101, expenses and interest relating to tax-exempt income disallowed
31 pursuant to section 265 of the internal revenue code.

32 4. Dividends received from another corporation owned or controlled
33 directly or indirectly by a recipient corporation. "Control" for purposes
34 of this paragraph means direct or indirect ownership or control of fifty per
35 cent or more of the voting stock of the payor corporation by the recipient
36 corporation. Dividends shall have the meaning provided in section 316 of the
37 internal revenue code. This subtraction shall apply without regard to the
38 provisions of section 43-961, paragraph 2 and article 4 of this chapter. A
39 corporation that has its commercial domicile, as defined in section 43-1131,
40 in this state may subtract the full amount of the dividends. A corporation
41 that does not have its commercial domicile in this state may subtract:

42 (a) For its taxable year beginning in 1990, an amount equal to
43 one-half of the dividends.

1 (b) For taxable years beginning in 1991 and thereafter, the full
2 amount of the dividends.

3 5. Interest income received on obligations of the United States.

4 6. The amount of dividend income from foreign corporations.

5 7. The amount of net operating loss allowed by section 43-1123.

6 8. The amount of any state income tax refunds received which were
7 included as income in computing federal taxable income.

8 9. The amount of expense recapture included in income pursuant to
9 section 617 of the internal revenue code for mine exploration expenses.

10 10. The amount of deferred exploration expenses allowed by section
11 43-1127.

12 11. The amount of exploration expenses related to the exploration of
13 oil, gas or geothermal resources, computed in the same manner and on the same
14 basis as a deduction for mine exploration pursuant to section 617 of the
15 internal revenue code. This computation is subject to the adjustments
16 contained in section 43-1121, paragraph 8 and paragraphs 9 and 10 of this
17 section relating to exploration expenses.

18 12. The amortization of pollution control devices allowed by section
19 43-1129.

20 13. The amount of amortization of the cost of child care facilities
21 pursuant to section 43-1130.

22 14. The amount of income from a domestic international sales
23 corporation required to be included in the income of its shareholders
24 pursuant to section 995 of the internal revenue code.

25 15. The income of an insurance company that is exempt under section
26 43-1201 to the extent that it is included in computing Arizona gross income
27 on a consolidated return pursuant to section 43-947.

28 16. The amount of contributions by the taxpayer during the taxable year
29 to medical savings accounts established on behalf of the taxpayer's employees
30 as provided by section 43-1028, to the extent that the contributions are not
31 deductible under the internal revenue code.

32 17. The amount by which a capital loss carryover allowable pursuant to
33 section 43-1130.01, subsection F exceeds the capital loss carryover allowable
34 pursuant to section 1341(b)(5) of the internal revenue code.

35 Sec. 8. Retroactivity

36 Sections 43-1021, 43-1022, 43-1121 and 43-1122, Arizona Revised
37 Statutes, as amended by this act, apply retroactively to taxable years
38 beginning from and after December 31, 1999.

39 Sec. 9. Retroactive recognition of change in depreciation
40 methods

41 A. With respect to tax returns for taxable periods ending before
42 December 31, 2003 that were prepared pursuant to sections 43-1021 and
43 43-1022, Arizona Revised Statutes, or sections 43-1121 and 43-1122, Arizona
44 Revised Statutes, before the retroactive amendments by this act, a taxpayer
45 may elect to recognize the entire cumulative effect of the retroactive change

1 of depreciation methods on the tax return for the first taxable year ending
2 on or after December 31, 2003 instead of retroactively recognizing those
3 changes on those prior returns.

4 B. To qualify for this election, all returns prepared pursuant to the
5 prior law must be filed by the due dates for those returns, including
6 extensions, or April 15, 2004, whichever is later.

7 C. Any adjustment computed under this election shall be treated as
8 either an addition to or a subtraction from Arizona gross income.

9 Sec. 10. Emergency

10 This act is an emergency measure that is necessary to preserve the
11 public peace, health or safety and is operative immediately as provided by
12 law.

APPROVED BY THE GOVERNOR MAY 5, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 5, 2004.

Passed the House April 28, 20 04

Passed the Senate March 23, 20 04

by the following vote: 52 Ayes,

by the following vote: 29 Ayes,

1 Nays, 7 Not Voting
With Emergency

0 Nays, 1 Not Voting
With Emergency

Jake Flake
Speaker of the House

Ken Blumenthal
President of the Senate

Norman L. Fyone
Chief Clerk of the House

Charmine Ballington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28th day of April, 2004

at 2:15 o'clock P. M.

Jennifer Gharra
Secretary to the Governor

Approved this 5 day of

May, 2004

at 10³⁰ o'clock A. M.

J. N. ...
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 5 day of May, 2004

at 11:35 o'clock A. M.

Janice K. Brewer
Secretary of State

S.B. 1389