Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 334

SENATE BILL 1529

AN ACT

AMENDING SECTIONS 42-1001, 43-105, 43-1041, 43-1088, 43-1089 AND 43-1089.01, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 42-1001, Arizona Revised Statutes, is amended to read:

42-1001. Definitions

In this title, unless the context otherwise requires:

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

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

3. "Department" means the department of revenue.

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

5. "Internal revenue code" means the United States internal revenue code of 1986, as amended and in effect as of January 1, ~~2004~~ 2005, including those provisions that became effective during ~~2003~~ 2004 with the specific adoption of their retroactive effective dates but excluding all changes to the code enacted after January 1, ~~2004~~ 2005.

Sec. 2. Section 43-105, Arizona Revised Statutes, is amended to read:

43-105. Internal revenue code; definition; application

A. FOR PURPOSES OF COMPUTING INCOME TAX PURSUANT TO THIS TITLE, FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2004 THROUGH DECEMBER 31, 2005, "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED, IN EFFECT ON JANUARY 1, 2005, INCLUDING THOSE PROVISIONS THAT BECAME EFFECTIVE DURING 2004 WITH THE SPECIFIC ADOPTION OF ALL FEDERAL RETROACTIVE EFFECTIVE DATES, BUT EXCLUDING ANY CHANGE TO THE CODE ENACTED AFTER JANUARY 1, 2005.

~~A.~~ B. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2003 through December 31, 2004, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2004, including those provisions that became effective during 2003 with the specific adoption of all federal retroactive effective dates~~, but excluding any change to the code enacted after January 1, 2004~~ AND INCLUDING THOSE PROVISIONS OF THE WORKING FAMILIES TAX RELIEF ACT OF 2004 (P.L. 108-311) AND THE AMERICAN JOBS CREATION ACT OF 2004 (P.L. 108-357) THAT ARE RETROACTIVELY EFFECTIVE DURING TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2003 THROUGH DECEMBER 31, 2004.

~~B.~~ C. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2002 through December 31, 2003, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2003, including those provisions that became effective during 2002 with the specific adoption of all federal retroactive effective dates and including those provisions of THE WORKING FAMILIES TAX RELIEF ACT OF 2004 (P.L. 108-311), THE AMERICAN JOBS CREATION ACT OF 2004 (P.L. 108-357), the jobs and growth tax relief reconciliation act of 2003 (P.L. 108-27), the military family tax relief act of 2003 (P.L. 108-121) and the medicare prescription drug, improvement, and

modernization act of 2003 (P.L. 108-173) that are retroactively effective during taxable years beginning from and after December 31, 2002 through December 31, 2003.

~~C.~~ D. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2001 through December 31, 2002, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on March 9, 2002, including those provisions that became effective during 2001 with the specific adoption of all federal retroactive effective dates and including those provisions of THE WORKING FAMILIES TAX RELIEF ACT OF 2004 (P.L. 108-311), THE AMERICAN JOBS CREATION ACT OF 2004 (P.L. 108-357), the jobs and growth tax relief reconciliation act of 2003 (P.L. 108-27) and the military family tax relief act of 2003 (P.L. 108-121) that are retroactively effective during taxable years beginning from and after December 31, 2001 through December 31, 2002.

~~D.~~ E. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2000 through December 31, 2001, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2001, including those provisions that became effective during 2000 with the specific adoption of all federal retroactive effective dates and including those provisions of THE WORKING FAMILIES TAX RELIEF ACT OF 2004 (P.L. 108-311), THE AMERICAN JOBS CREATION ACT OF 2004 (P.L. 108-357), the economic growth and tax relief reconciliation act of 2001 (P.L. 107-16), the job creation and worker assistance act of 2002 (P.L. 107-147) and the military family tax relief act of 2003 (P.L. 108-121) that are retroactively effective during taxable years beginning from and after December 31, 2000 through December 31, 2001.

~~E.~~ F. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 1999 through December 31, 2000, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2000, including those provisions that became effective during 1999 with the specific adoption of all federal retroactive effective dates and including those provisions of the community renewal tax relief act of 2000 (P.L. 106-554), the installment tax correction act of 2000 (P.L. 106-573), FSC repeal and extraterritorial income exclusion act of 2000 (P.L. 106-519), the trade and development act of 2000 (P.L. 106-200), the economic growth and tax relief reconciliation act of 2001 (P.L. 107-16), the job creation and worker assistance act of 2002 (P.L. 107-147) and the military family tax relief act of 2003 (P.L. 108-121) that are retroactively effective during taxable years beginning from and after December 31, 1999 through December 31, 2000.

~~F.~~ G. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 1998 through December 31, 1999, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 1999, including those provisions that became effective during 1998 with the specific adoption of

all federal retroactive effective dates and including those provisions of the miscellaneous trade and technical corrections act of 1999 (P.L. 106-36), the ticket to work and work incentives improvement act of 1999 (P.L. 106-170), the community renewal tax relief act of 2000 (P.L. 106-554), the installment tax correction act of 2000 (P.L. 106-573) and the military family tax relief act of 2003 (P.L. 108-121) that are retroactively effective during taxable years beginning from and after December 31, 1998 through December 31, 1999.

~~G.~~ H. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 1997 through December 31, 1998, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 1998, including those provisions that became effective during 1997 with the specific adoption of all federal retroactive effective dates and including those provisions of the IRS restructuring and reform act of 1998 (P.L. 105-206), the tax and trade relief extension act of 1998 (P.L. 105-277), the surface transportation revenue act of 1998 (P.L. 105-178), the miscellaneous trade and technical corrections act of 1999 (P.L. 106-36) and the military family tax relief act of 2003 (P.L. 108-121) that are retroactively effective during the taxable years beginning from and after December 31, 1997 through December 31, 1998.

~~H.~~ I. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 1996 through December 31, 1997, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 1997, including those provisions that became effective during 1996 with the specific adoption of all federal retroactive effective dates and including the provisions of the taxpayer relief act of 1997 (P.L. 105-34), the IRS restructuring and reform act of 1998 (P.L. 105-206), the tax and trade relief extension act of 1998 (P.L. 105-277) and the military family tax relief act of 2003 (P.L. 108-121) that are retroactively effective during taxable years beginning from and after December 31, 1996 through December 31, 1997.

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

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

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

Sec. 3. Section 43-1041, Arizona Revised Statutes, is amended to read:

43-1041. Optional standard deduction

A. A taxpayer may elect to take a standard deduction as follows:

1. In the case of a single person or a married person filing separately, the standard deduction shall be four thousand fifty dollars, SUBJECT TO SUBSECTION G OF THIS SECTION.

2. In the case of a married couple filing a joint return or a single person who is a head of a household, the standard deduction shall be eight thousand one hundred dollars, SUBJECT TO SUBSECTION G OF THIS SECTION.

B. The standard deduction provided for in subsection A of this section shall be in lieu of all itemized deductions allowed by section 43-1042 which are to be subtracted from Arizona adjusted gross income in computing taxable income, but not in lieu of the personal exemption allowed by section 43-1043.

C. The standard deduction shall be allowed if the taxpayer so elects, and the department shall by rule prescribe the manner of signifying such election in the return.

D. In the case of a husband and wife, the standard deduction provided for in subsection A of this section shall not be allowed to either if the taxable income of one of the spouses is determined without regard to the standard deduction.

E. The standard deduction provided for by subsection A of this section shall not be allowed in the case of a taxable year of less than twelve months on account of a change in the accounting period.

F. Under rules adopted by the department, a change of an election to take, or not to take, the standard deduction for any taxable year may be made after the filing of the return for such year. If the spouse of the taxpayer filed a separate return for any taxable year corresponding, for the purposes of subsection D of this section, to the taxable year of the taxpayer, the change shall not be allowed unless, in accordance with such rules, both paragraphs 1 and 2 of this subsection apply:

1. The spouse makes a change of election with respect to the standard deduction for the taxable year covered in such separate return consistent with the change of election sought by the taxpayer.

2. The taxpayer and spouse consent in writing to the assessment, within such period as may be agreed upon with the department, of any deficiency, to the extent attributable to such change of election, even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

G. FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY 1, THE DEPARTMENT SHALL ADJUST THE DOLLAR AMOUNTS PRESCRIBED BY SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION ACCORDING TO THE AVERAGE ANNUAL CHANGE IN THE METROPOLITAN PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS. THE REVISED DOLLAR AMOUNTS SHALL BE RAISED TO THE NEAREST WHOLE DOLLAR. THE DESIGNATED DOLLAR AMOUNTS SHALL NOT BE REVISED BELOW THE AMOUNTS ALLOWED BY THE STANDARD DEDUCTION IN THE PRIOR TAXABLE YEAR.

Sec. 4. Section 43-1088, Arizona Revised Statutes, is amended to read:

43-1088. <u>Credit for contribution to charitable organization that provides assistance to the working poor; definitions</u>

A. For taxable years beginning from and after December 31, 1997, a credit is allowed against the taxes imposed by this title for voluntary cash contributions made by the taxpayer during the taxable year to a qualifying charitable organization as determined pursuant to subsection ~~E~~ F of this section, but not exceeding:

1. Two hundred dollars in any taxable year FOR A SINGLE INDIVIDUAL OR A HEAD OF HOUSEHOLD.

2. ~~The two hundred dollar limitation applies to taxpayers who elect to file a joint return for the taxable year.~~ THREE HUNDRED DOLLARS IN TAXABLE YEAR 2005 FOR A MARRIED COUPLE FILING A JOINT RETURN.

3. FOUR HUNDRED DOLLARS IN TAXABLE YEAR 2006 AND ANY SUBSEQUENT YEAR FOR A MARRIED COUPLE FILING A JOINT RETURN.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

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

~~C.~~ D. The credit allowed by this section is in lieu of a deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

~~D.~~ E. Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department of revenue on forms provided by the department.

~~E.~~ F. The credit under this section applies only to contributions to qualifying charitable organizations that exceed the total amount deducted pursuant to section 170 of the internal revenue code in the taxpayer's baseline year. The taxpayer's baseline year is:

1. The 1996 taxable year if the taxpayer deducted charitable contributions pursuant to section 170 of the internal revenue code in the 1996 taxable year.

2. If the taxpayer did not deduct charitable contributions pursuant to section 170 of the internal revenue code in the 1996 taxable year, the taxpayer's baseline year is the first taxable year after 1996 that the taxpayer deducted charitable contributions pursuant to section 170 of the internal revenue code.

~~F.~~ G. A qualifying charitable organization shall provide the department of revenue with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section. The department shall compile and make available to the public a list of the qualifying organizations.

~~G.~~ H. For THE purposes of this section:

1. "Low income ~~individuals~~ RESIDENTS" means persons whose household income is less than one hundred fifty per cent of the federal poverty level.

2. "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under section 501(c)(3) of the internal revenue code or is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901. The organization must spend at least fifty per cent of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low income

residents of this state and their households. Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities shall designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis.

3. "Services" means cash assistance, medical care, child care, food, clothing, shelter, job placement and job training services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state.

Sec. 5. Section 43-1089, Arizona Revised Statutes, is amended to read:

43-1089. Credit for contributions to school tuition organization; definitions

A. A credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization, but not exceeding:

1. Five hundred dollars in any taxable year for a single individual or a head of household.

2. ~~Six hundred twenty-five~~ EIGHT HUNDRED TWENTY-FIVE dollars in ~~any~~ taxable year 2005 for a married couple filing a joint return.

3. ONE THOUSAND DOLLARS IN TAXABLE YEAR 2006 AND ANY SUBSEQUENT YEAR FOR A MARRIED COUPLE FILING A JOINT RETURN.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

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

~~C.~~ D. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

~~D.~~ E. The tax credit is not allowed if the taxpayer designates the taxpayer's ~~donation~~ CONTRIBUTION to the school tuition organization for the direct benefit of any dependent of the taxpayer.

~~E.~~ F. A school tuition organization that receives a voluntary cash contribution pursuant to subsection A shall report to the department, in a form prescribed by the department, by February 28 of each year the following information:

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

2. The total number of contributions received during the previous calendar year.

3. The total dollar amount of contributions received during the previous calendar year.

4. The total number of children awarded educational scholarships or tuition grants during the previous calendar year.

5. The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

6. For each school to which educational scholarships or tuition grants were awarded:

(a) The name and address of the school.

(b) The number of educational scholarships and tuition grants awarded during the previous calendar year.

(c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

~~F.~~ G. For the purposes of this section:

1. "Handicapped student" means a student who has any of the following conditions:

(a) Hearing impairment.

(b) Visual impairment.

(c) Preschool moderate delay.

(d) Preschool severe delay.

(e) Preschool speech or language delay.

2. "Qualified school" means a nongovernmental primary school or secondary school or a preschool for handicapped students that is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 1997.

3. "School tuition organization" means a charitable organization in this state that is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates at least ninety per cent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice. In addition, to qualify as a school tuition organization the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to only students of one school.

Sec. 6. Section 43-1089.01, Arizona Revised Statutes, is amended to read:

43-1089.01. <u>Tax credit; public school fees and contributions; definitions</u>

A. A credit is allowed against the taxes imposed by this title for the amount of any fees or cash contributions made by a taxpayer during the taxable year to a public school located in this state for the support of extracurricular activities or character education programs of the public school, but not exceeding:

1. Two hundred dollars for a single individual or a head of household.

2. ~~Two~~ THREE hundred ~~fifty~~ dollars IN TAXABLE YEAR 2005 for a married couple filing a joint return.

3. FOUR HUNDRED DOLLARS IN TAXABLE YEAR 2006 AND ANY SUBSEQUENT YEAR FOR A MARRIED COUPLE FILING A JOINT RETURN.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

~~B.~~ C. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

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

~~D.~~ E. The site council of the public school that receives contributions that are not designated for a specific purpose shall determine how the contributions are used at the school site. If a charter school does not have a site council, the principal, director or chief administrator of the charter school shall determine how the contributions that are not designated for a specific purpose are used at the school site.

~~E.~~ F. A public school that receives fees or a cash contribution pursuant to subsection A of this section shall report to the department, in a form prescribed by the department, by February 28 of each year the following information:

1. The total number of fee and cash contribution payments received during the previous calendar year.

2. The total dollar amount of fees and contributions received during the previous calendar year.

3. The total dollar amount of fees and contributions spent by the school during the previous calendar year, categorized by specific extracurricular activity or character education program.

4. The total number of children who participated in each extracurricular activity or character education program funded by the fees or contributions during the previous calendar year, categorized by specific extracurricular activity or character education program.

~~F.~~ G. For the purposes of this section:

1. "Character education programs" means a program described in section 15-719.

2. "Extracurricular activities" means school sponsored activities that require enrolled students to pay a fee in order to participate including fees for:

(a) Band uniforms.

(b) Equipment or uniforms for varsity athletic activities.

(c) Scientific laboratory materials.

1 (d) In-state or out-of-state trips that are solely for competitive
2 events. Extracurricular activities ~~does~~ DO not include any senior trips or
3 events that are recreational, amusement or tourist activities.
4 Sec. 7. Temporary tax deduction; Tsunami victims relief
5 For taxable years beginning from and after December 31, 2003 and before
6 December 31, 2004, Arizona will recognize the provisions of Public Law 109-1
7 concerning charitable cash contributions for relief of Indian ocean Tsunami
8 victims when determining allowable charitable contributions under section 170
9 of the internal revenue code.
10 Sec. 8. Retroactivity
11 Section 43-1041, Arizona Revised Statutes, as amended by this act,
12 applies retroactively to taxable years beginning from and after December 31,
13 2004.

APPROVED BY THE GOVERNOR MAY 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.

Passed the House May 6, 20 05,

by the following vote: 43 Ayes,

13 Nays, 4 Not Voting

Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate May 6, 20 05,

by the following vote: 22 Ayes,

7 Nays, 1 Not Voting

President of the Senate

Charmion Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

13th day of May, 20 05,

at 8:38 o'clock a M.

Jennifer Ybarra
Secretary to the Governor

Approved this 20 day of

May, 20 05,

at 9:50 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 20 05

at 3:04 o'clock P. M.

Janice K. Brewer
Secretary of State

S.B. 1529