

House Engrossed Senate Bill

**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

CHAPTER 65

## **SENATE BILL 1168**

AN ACT

AMENDING SECTIONS 42-1001 AND 43-105, 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, ~~2012~~ 3, 2013,  
14 including those provisions that became effective during ~~2011~~ 2012 with the  
15 specific adoption of their retroactive effective dates but excluding all  
16 changes to the code enacted after January 1, ~~2012~~ 3, 2013.

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

18 43-105. Internal revenue code; definition; application

19 A. FOR THE PURPOSES OF COMPUTING INCOME TAX PURSUANT TO THIS TITLE,  
20 FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2012, "INTERNAL  
21 REVENUE CODE" MEANS THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS  
22 AMENDED, IN EFFECT ON JANUARY 3, 2013, INCLUDING THOSE PROVISIONS THAT BECAME  
23 EFFECTIVE DURING 2012 WITH THE SPECIFIC ADOPTION OF ALL FEDERAL RETROACTIVE  
24 EFFECTIVE DATES, BUT EXCLUDING ANY CHANGE TO THE CODE ENACTED AFTER JANUARY  
25 3, 2013.

26 ~~A.~~ B. For the purposes of computing income tax pursuant to this  
27 title, for taxable years beginning from and after December 31, 2011 THROUGH  
28 DECEMBER 31, 2012, "internal revenue code" means the United States internal  
29 revenue code of 1986, as amended, in effect on January 1, 2012, including  
30 those provisions that became effective during 2011 with the specific adoption  
31 of all federal retroactive effective dates, ~~but excluding any change to the~~  
32 ~~code enacted after January 1, 2012~~ AND INCLUDING THOSE PROVISIONS OF THE FAA  
33 MODERNIZATION AND REFORM ACT (P.L. 112-95), THE MOVING AHEAD FOR PROGRESS IN  
34 THE 21<sup>ST</sup> CENTURY ACT (P.L. 112-141) AND THE AMERICAN TAXPAYER RELIEF ACT OF  
35 2012 (P.L. 112-240) THAT ARE RETROACTIVELY EFFECTIVE DURING TAXABLE YEARS  
36 BEGINNING FROM AND AFTER DECEMBER 31, 2011 THROUGH DECEMBER 31, 2012.

37 ~~B.~~ C. For the purposes of computing income tax pursuant to this  
38 title, for taxable years beginning from and after December 31, 2010 through  
39 December 31, 2011, "internal revenue code" means the United States internal  
40 revenue code of 1986, as amended, in effect on January 1, 2011, including  
41 those provisions that became effective during 2010 with the specific adoption  
42 of all federal retroactive effective dates, and including those provisions of  
43 Public Law 112-40, THE MOVING AHEAD FOR PROGRESS IN THE 21<sup>ST</sup> CENTURY ACT (P.L.  
44 112-141) AND THE AMERICAN TAXPAYER RELIEF ACT OF 2012 (P.L. 112-240) that are

1 retroactively effective during taxable years beginning from and after  
2 December 31, 2010 through December 31, 2011.

3 ~~E~~. D. For the purposes of computing income tax pursuant to this  
4 title, for taxable years beginning from and after December 31, 2009 through  
5 December 31, 2010, "internal revenue code" means the United States internal  
6 revenue code of 1986, as amended, in effect on January 1, 2010, including  
7 those provisions that became effective during 2009 with the specific adoption  
8 of all federal retroactive effective dates, and including those provisions of  
9 the temporary extension act of 2010 (P.L. 111-144), the hiring incentives to  
10 restore employment act (P.L. 111-147), the patient protection and affordable  
11 care act (P.L. 111-148), the health care and education reconciliation act of  
12 2010 (P.L. 111-152), the preservation of access to care for medicare  
13 beneficiaries and pension relief act of 2010 (P.L. 111-192), the Dodd-Frank  
14 wall street reform and consumer protection act (P.L. 111-203), the small  
15 business jobs act of 2010 (P.L. 111-240), the claims resolution act of 2010  
16 (P.L. 111-291), the tax relief, unemployment insurance reauthorization, and  
17 job creation act of 2010 (P.L. 111-312) and the regulated investment company  
18 modernization act of 2010 (P.L. 111-325) that are retroactively effective  
19 during taxable years beginning from and after December 31, 2009 through  
20 December 31, 2010.

21 ~~D~~. E. For purposes of computing income tax pursuant to this title,  
22 for taxable years beginning from and after December 31, 2008 through December  
23 31, 2009, "internal revenue code" means the United States internal revenue  
24 code of 1986, as amended, in effect on January 1, 2009, including those  
25 provisions that became effective during 2008 with the specific adoption of  
26 all federal retroactive effective dates, and including those provisions of  
27 the American recovery and reinvestment act of 2009 (P.L. 111-5) except  
28 section 1211, the consumer assistance to recycle and save act of 2009  
29 (P.L. 111-32), the worker, homeownership, and business assistance act of 2009  
30 (P.L. 111-92) except section 13, the hiring incentives to restore employment  
31 act (P.L. 111-147), the patient protection and affordable care act (P.L.  
32 111-148), the preservation of access to care for medicare beneficiaries and  
33 pension relief act of 2010 (P.L. 111-192), the small business jobs act of  
34 2010 (P.L. 111-240) and the tax relief, unemployment insurance  
35 reauthorization, and job creation act of 2010 (P.L. 111-312), that are  
36 retroactively effective during taxable years beginning from and after  
37 December 31, 2008 through December 31, 2009.

38 ~~E~~. F. For purposes of computing income tax pursuant to this title,  
39 for taxable years beginning from and after December 31, 2007 through December  
40 31, 2008, "internal revenue code" means the United States internal revenue  
41 code of 1986, as amended, in effect on January 1, 2008, including those  
42 provisions that became effective during 2007 with the specific adoption of  
43 all federal retroactive effective dates and including those provisions of the  
44 economic stimulus act of 2008 (P.L. 110-185), the heroes earnings assistance  
45 and relief tax act of 2008 (P.L. 110-245), the heartland, habitat, harvest

1 and horticulture act of 2008 (P.L. 110-246), the housing assistance tax act  
2 of 2008 (P.L. 110-289), the emergency economic stabilization act of 2008  
3 (P.L. 110-343), the worker, retiree, and employer recovery act of 2008  
4 (P.L. 110-458), the American recovery and reinvestment act of 2009  
5 (P.L. 111-5) except section 1211 and the worker, homeownership, and business  
6 assistance act of 2009 (P.L. 111-92) except section 13 that are retroactively  
7 effective during taxable years beginning from and after December 31, 2007  
8 through December 31, 2008.

9 ~~F.~~ G. For purposes of computing income tax pursuant to this title,  
10 for taxable years beginning from and after December 31, 2006 through December  
11 31, 2007, "internal revenue code" means the United States internal revenue  
12 code of 1986, as amended, in effect on January 1, 2007, including those  
13 provisions that became effective during 2006 with the specific adoption of  
14 all federal retroactive effective dates and including those provisions of the  
15 small business and work opportunity tax act of 2007 (P.L. 110-28), the energy  
16 independence and security act of 2007 (P.L. 110-140), Public Law 110-141, the  
17 mortgage forgiveness debt relief act of 2007 (P.L. 110-142), the tax  
18 technical corrections act of 2007 (P.L. 110-172), the economic stimulus act  
19 of 2008 (P.L. 110-185), the heroes earnings assistance and relief tax act of  
20 2008 (P.L. 110-245), the heartland, habitat, harvest and horticulture act of  
21 2008 (P.L. 110-246), the housing assistance tax act of 2008 (P.L. 110-289),  
22 the emergency economic stabilization act of 2008 (P.L. 110-343) and the  
23 worker, retiree, and employer recovery act of 2008 (P.L. 110-458) that are  
24 retroactively effective during taxable years beginning from and after  
25 December 31, 2006 through December 31, 2007.

26 ~~G.~~ H. For purposes of computing income tax pursuant to this title,  
27 for taxable years beginning from and after December 31, 2005 through December  
28 31, 2006, "internal revenue code" means the United States internal revenue  
29 code of 1986, as amended, in effect on January 1, 2006, including those  
30 provisions that became effective during 2005 with the specific adoption of  
31 all federal retroactive effective dates and including those provisions of the  
32 tax increase prevention and reconciliation act of 2005 (P.L. 109-222), the  
33 pension protection act of 2006 (P.L. 109-280), the tax relief and health care  
34 act of 2006 (P.L. 109-432), the small business and work opportunity tax act  
35 of 2007 (P.L. 110-28), the mortgage forgiveness debt relief act of 2007  
36 (P.L. 110-142), the tax technical corrections act of 2007 (P.L. 110-172), the  
37 heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246) and  
38 the housing assistance tax act of 2008 (P.L. 110-289) that are retroactively  
39 effective during taxable years beginning from and after December 31, 2005  
40 through December 31, 2006.

41 ~~H.~~ I. For purposes of computing income tax pursuant to this title,  
42 for taxable years beginning from and after December 31, 2004 through December  
43 31, 2005, "internal revenue code" means the United States internal revenue  
44 code of 1986, as amended, in effect on January 1, 2005, including those  
45 provisions that became effective during 2004 with the specific adoption of

1 all federal retroactive effective dates and including those provisions of the  
2 Katrina emergency tax relief act of 2005 (P.L. 109-73), the energy tax  
3 incentives act of 2005 (title XIII of the energy policy act of 2005  
4 (P.L. 109-58)), the gulf opportunity zone act of 2005 (P.L. 109-135), the tax  
5 technical corrections act of 2007 (P.L. 110-172), the heartland, habitat,  
6 harvest and horticulture act of 2008 (P.L. 110-246) and the housing  
7 assistance tax act of 2008 (P.L. 110-289) that are retroactively effective  
8 during taxable years beginning from and after December 31, 2004 through  
9 December 31, 2005.

10 ~~I.~~ J. For purposes of computing income tax pursuant to this title,  
11 for taxable years beginning from and after December 31, 2003 through December  
12 31, 2004, "internal revenue code" means the United States internal revenue  
13 code of 1986, as amended, in effect on January 1, 2004, including those  
14 provisions that became effective during 2003 with the specific adoption of  
15 all federal retroactive effective dates and including those provisions of the  
16 working families tax relief act of 2004 (P.L. 108-311), the American jobs  
17 creation act of 2004 (P.L. 108-357), the Katrina emergency tax relief act of  
18 2005 (P.L. 109-73), the energy tax incentives act of 2005 (title XIII of the  
19 energy policy act of 2005 (P.L. 109-58)), the gulf opportunity zone act of  
20 2005 (P.L. 109-135), the tax technical corrections act of 2007 (P.L. 110-172)  
21 and the heartland, habitat, harvest and horticulture act of 2008  
22 (P.L. 110-246) that are retroactively effective during taxable years  
23 beginning from and after December 31, 2003 through December 31, 2004.

24 ~~J.~~ K. For purposes of computing income tax pursuant to this title,  
25 for taxable years beginning from and after December 31, 2002 through December  
26 31, 2003, "internal revenue code" means the United States internal revenue  
27 code of 1986, as amended, in effect on January 1, 2003, including those  
28 provisions that became effective during 2002 with the specific adoption of  
29 all federal retroactive effective dates and including those provisions of the  
30 working families tax relief act of 2004 (P.L. 108-311), the American jobs  
31 creation act of 2004 (P.L. 108-357), the jobs and growth tax relief  
32 reconciliation act of 2003 (P.L. 108-27), the military family tax relief act  
33 of 2003 (P.L. 108-121), the medicare prescription drug, improvement, and  
34 modernization act of 2003 (P.L. 108-173), the tax technical corrections act  
35 of 2007 (P.L. 110-172) and the heartland, habitat, harvest and horticulture  
36 act of 2008 (P.L. 110-246) that are retroactively effective during taxable  
37 years beginning from and after December 31, 2002 through December 31, 2003.

38 ~~K.~~ For purposes of computing income tax pursuant to this title, for  
39 taxable years beginning from and after December 31, 2001 through December 31,  
40 2002, "internal revenue code" means the United States internal revenue code  
41 of 1986, as amended, in effect on March 9, 2002, including those provisions  
42 that became effective during 2001 with the specific adoption of all federal  
43 retroactive effective dates and including those provisions of the working  
44 families tax relief act of 2004 (P.L. 108-311), the American jobs creation  
45 act of 2004 (P.L. 108-357), the jobs and growth tax relief reconciliation act

1 of 2003 (P.L. 108-27), the military family tax relief act of 2003  
2 (P.L. 108-121), the tax technical corrections act of 2007 (P.L. 110-172) and  
3 the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246)  
4 that are retroactively effective during taxable years beginning from and  
5 after December 31, 2001 through December 31, 2002.

6       Sec. 3. Credit in lieu of conforming to retroactive provision  
7                                   of Public Law 112-95, section 1106

8       A. Arizona does not conform to the retroactive provision of Public Law  
9 112-95, section 1106 for taxable years beginning from and after December 31,  
10 2001 through December 31, 2011.

11       B. For the taxable year beginning from and after December 31, 2012  
12 through December 31, 2013, any taxpayer that would have received a refund of  
13 Arizona income tax if Arizona had conformed to the retroactive provision  
14 described in subsection A of this section is allowed a credit against the  
15 taxes imposed by title 43, Arizona Revised Statutes.

16       C. The credit provided under subsection B of this section is equal to  
17 the reduction in Arizona income tax that would have occurred if Arizona had  
18 conformed to the retroactive provision of Public Law 112-95, section 1106 for  
19 taxable years beginning from and after December 31, 2001 through December 31,  
20 2011.

21       D. If the allowable tax credit determined under subsection C of this  
22 section exceeds the income tax otherwise due on the taxpayer's income  
23 pursuant to title 43, Arizona Revised Statutes, or if there is no income tax  
24 due on taxpayer's income, the amount of the credit not used as an offset  
25 against the taxpayer's income taxes shall be paid to the taxpayer in the same  
26 manner as a refund pursuant to section 42-1118, Arizona Revised Statutes.  
27 Refunds made pursuant to this subsection are subject to setoff pursuant to  
28 section 42-1122, Arizona Revised Statutes. If the department of revenue  
29 determines that a refund is incorrect or invalid, the excess refund may be  
30 treated as a tax deficiency pursuant to section 42-1108, Arizona Revised  
31 Statutes.

32       E. A credit shall not be allowed pursuant to this section if the  
33 credit is not claimed with the taxpayer's original timely filed, including  
34 extensions, individual income tax return for the taxable year.

APPROVED BY THE GOVERNOR APRIL 5, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2013.

Passed the House March 20, 2013,

Passed the Senate February 18, 2013,

by the following vote: 58 Ayes,

by the following vote: 30 Ayes,

0 Nays, 2 Not Voting

0 Nays, 0 Not Voting



Speaker of the House



President of the Senate



Chief Clerk of the House



Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of~~

~~\_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Governor of Arizona~~

S.B. 1168

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary of State~~

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 3, 20 13

by the following vote: 38 Ayes,

0 Nays, 2 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

3 day of April, 20 13

at 12:05 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 5<sup>th</sup> day of

April

at 12:44 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 5<sup>th</sup> day of April, 20 13

at 5:00 o'clock P M.

[Signature]  
Secretary of State