

REFERENCE TITLE: **income tax; credits; subtractions**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2046

Introduced by
Representatives Salman: Dalessandro, Senator Mendez

AN ACT

AMENDING TITLE 43, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING SECTION 43-1022, ARIZONA REVISED STATUTES; RELATING TO THE TAXATION OF INCOME.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 43, chapter 6, Arizona Revised Statutes, is
3 amended by adding article 2, to read:

4 ARTICLE 2. CREDITS

5 43-631. Tax credits; sale or transfer prohibited

6 NOTWITHSTANDING ANY OTHER LAW, A TAXPAYER THAT IS ALLOWED A TAX
7 CREDIT UNDER TITLE 20, CHAPTER 2, ARTICLE 1, CHAPTER 10, ARTICLE 5 OF THIS
8 TITLE OR CHAPTER 11, ARTICLE 6 OF THIS TITLE MAY NOT SELL OR TRANSFER THE
9 TAX CREDIT TO ANOTHER TAXPAYER.

10 43-632. Income tax credits; refund prohibited

11 NOTWITHSTANDING ANY OTHER LAW, ANY INCOME TAX CREDIT ENACTED FROM
12 AND AFTER DECEMBER 31, 2022 IS NOT REFUNDABLE.

13 Sec. 2. Section 43-1022, Arizona Revised Statutes, is amended to
14 read:

15 43-1022. Subtractions from Arizona gross income

16 In computing Arizona adjusted gross income, the following amounts
17 shall be subtracted from Arizona gross income:

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

19 2. Benefits, annuities and pensions in an amount totaling not more
20 than \$2,500 received from one or more of the following:

21 (a) The United States government service retirement and disability
22 fund, the United States foreign service retirement and disability system
23 and any other retirement system or plan established by federal law, except
24 retired or retainer pay of the uniformed services of the United States
25 that qualifies for a subtraction under paragraph 26 of this section.

26 (b) The Arizona state retirement system, the corrections officer
27 retirement plan, the public safety personnel retirement system, the
28 elected officials' retirement plan, an optional retirement program
29 established by the Arizona board of regents under section 15-1628, an
30 optional retirement program established by a community college district
31 board under section 15-1451 or a retirement plan established for employees
32 of a county, city or town in this state.

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

36 4. Interest income received on obligations of the United States,
37 minus any interest on indebtedness, or other related expenses, and
38 deducted in arriving at Arizona gross income, that were incurred or
39 continued to purchase or carry such obligations.

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

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

1 7. The amount allowed by section 43-1025 for contributions during
2 the taxable year of agricultural crops to charitable organizations.

3 8. The portion of any wages or salaries paid or incurred by the
4 taxpayer for the taxable year that is equal to the amount of the federal
5 work opportunity credit, the empowerment zone employment credit, the
6 credit for employer paid social security taxes on employee cash tips and
7 the Indian employment credit that the taxpayer received under sections
8 45A, 45B, 51(a) and 1396 of the internal revenue code.

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

15 10. The amount included in federal adjusted gross income pursuant
16 to section 86 of the internal revenue code, relating to taxation of social
17 security and railroad retirement benefits.

18 11. To the extent not already excluded from Arizona gross income
19 under the internal revenue code, compensation received for active service
20 as a member of the reserves, the national guard or the armed forces of the
21 United States, including compensation for service in a combat zone as
22 determined under section 112 of the internal revenue code.

23 12. The amount of unreimbursed medical and hospital costs, adoption
24 counseling, legal and agency fees and other nonrecurring costs of adoption
25 not to exceed \$3,000. In the case of a husband and wife who file separate
26 returns, the subtraction may be taken by either taxpayer or may be divided
27 between them, but the total subtractions allowed both husband and wife may
28 not exceed \$3,000. The subtraction under this paragraph may be taken for
29 the costs that are described in this paragraph and that are incurred in
30 prior years, but the subtraction may be taken only in the year during
31 which the final adoption order is granted.

32 13. The amount authorized by section 43-1027 for the taxable year
33 relating to qualified wood stoves, wood fireplaces or gas fired
34 fireplaces.

35 14. The amount by which a net operating loss carryover or capital
36 loss carryover allowable pursuant to section 43-1029, subsection F exceeds
37 the net operating loss carryover or capital loss carryover allowable
38 pursuant to section 1341(b)(5) of the internal revenue code.

39 15. Any amount of qualified educational expenses that is
40 distributed from a qualified state tuition program determined pursuant to
41 section 529 of the internal revenue code and that is included in income in
42 computing federal adjusted gross income.

43 16. Any item of income resulting from an installment sale that has
44 been properly subjected to income tax in another state in a previous
45 taxable year and that is included in Arizona gross income in the current
46 taxable year.

1 17. For property placed in service:

2 (a) In taxable years beginning before December 31, 2012, an amount
3 equal to the depreciation allowable pursuant to section 167(a) of the
4 internal revenue code for the taxable year computed as if the election
5 described in section 168(k) of the internal revenue code had been made for
6 each applicable class of property in the year the property was placed in
7 service.

8 (b) In taxable years beginning from and after December 31, 2012
9 through December 31, 2013, an amount determined in the year the asset was
10 placed in service based on the calculation in subdivision (a) of this
11 paragraph. In the first taxable year beginning from and after
12 December 31, 2013, the taxpayer may elect to subtract the amount necessary
13 to make the depreciation claimed to date for the purposes of this title
14 the same as it would have been if subdivision (c) of this paragraph had
15 applied for the entire time the asset was in service. Subdivision (c) of
16 this paragraph applies for the remainder of the asset's life. If the
17 taxpayer does not make the election under this subdivision, subdivision
18 (a) of this paragraph applies for the remainder of the asset's life.

19 (c) In taxable years beginning from and after December 31, 2013
20 through December 31, 2015, an amount equal to the depreciation allowable
21 pursuant to section 167(a) of the internal revenue code for the taxable
22 year as computed as if the additional allowance for depreciation had been
23 ten percent of the amount allowed pursuant to section 168(k) of the
24 internal revenue code.

25 (d) In taxable years beginning from and after December 31, 2015
26 through December 31, 2016, an amount equal to the depreciation allowable
27 pursuant to section 167(a) of the internal revenue code for the taxable
28 year as computed as if the additional allowance for depreciation had been
29 fifty-five percent of the amount allowed pursuant to section 168(k) of the
30 internal revenue code.

31 (e) In taxable years beginning from and after December 31, 2016, an
32 amount equal to the depreciation allowable pursuant to section 167(a) of
33 the internal revenue code for the taxable year as computed as if the
34 additional allowance for depreciation had been the full amount allowed
35 pursuant to section 168(k) of the internal revenue code.

36 18. With respect to property that is sold or otherwise disposed of
37 during the taxable year by a taxpayer that complied with section 43-1021,
38 paragraph 11 with respect to that property, the amount of depreciation
39 that has been allowed pursuant to section 167(a) of the internal revenue
40 code to the extent that the amount has not already reduced Arizona taxable
41 income in the current or prior taxable years.

42 19. The amount contributed during the taxable year to college
43 savings plans established pursuant to section 529 of the internal revenue
44 code on behalf of the designated beneficiary to the extent that the
45 contributions were not deducted in computing federal adjusted gross
46 income. The amount subtracted may not exceed:

1 (a) \$2,000 per beneficiary for a single individual or a head of
2 household.

3 (b) \$4,000 per beneficiary for a married couple filing a joint
4 return. In the case of a husband and wife who file separate returns, the
5 subtraction may be taken by either taxpayer or may be divided between
6 them, but the total subtractions allowed both husband and wife may not
7 exceed \$4,000 per beneficiary.

8 20. The portion of the net operating loss carryforward that would
9 have been allowed as a deduction in the current year pursuant to section
10 172 of the internal revenue code if the election described in section
11 172(b)(1)(H) of the internal revenue code had not been made in the year of
12 the loss that exceeds the actual net operating loss carryforward that was
13 deducted in arriving at federal adjusted gross income. This subtraction
14 only applies to taxpayers who made an election under section 172(b)(1)(H)
15 of the internal revenue code as amended by section 1211 of the American
16 recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by
17 section 13 of the worker, homeownership, and business assistance act of
18 2009 (P.L. 111-92).

19 21. For taxable years beginning from and after December 31, 2013,
20 the amount of any net capital gain included in federal adjusted gross
21 income for the taxable year derived from investment in a qualified small
22 business as determined by the Arizona commerce authority pursuant to
23 section 41-1518.

24 22. An amount of any net long-term capital gain included in federal
25 adjusted gross income for the taxable year that is derived from an
26 investment in an asset acquired after December 31, 2011, as follows:

27 (a) For taxable years beginning from and after December 31, 2012
28 through December 31, 2013, ten percent of the net long-term capital gain
29 included in federal adjusted gross income.

30 (b) For taxable years beginning from and after December 31, 2013
31 through December 31, 2014, twenty percent of the net long-term capital
32 gain included in federal adjusted gross income.

33 (c) For taxable years beginning from and after December 31, 2014,
34 twenty-five percent of the net long-term capital gain included in federal
35 adjusted gross income, EXCEPT FOR ANY NET LONG-TERM CAPITAL GAIN INCLUDED
36 IN FEDERAL ADJUSTED GROSS INCOME FROM THE SALE OF A CHARTER SCHOOL AS
37 DEFINED IN SECTION 15-101. For the purposes of this paragraph, a
38 transferee that receives an asset by gift or at the death of a transferor
39 is considered to have acquired the asset when the asset was acquired by
40 the transferor. If the date an asset is acquired cannot be verified, a
41 subtraction under this paragraph is not allowed.

42 23. If an individual is not claiming itemized deductions pursuant
43 to section 43-1042, the amount of premium costs for long-term care
44 insurance, as defined in section 20-1691.

1 24. The amount of eligible access expenditures paid or incurred
2 during the taxable year to comply with the requirements of the Americans
3 with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9,
4 article 8 as provided by section 43-1024.

5 25. For taxable years beginning from and after December 31, 2017,
6 the amount of any net capital gain included in Arizona gross income for
7 the taxable year that is derived from the exchange of one kind of legal
8 tender for another kind of legal tender. For the purposes of this
9 paragraph:

10 (a) "Legal tender" means a medium of exchange, including specie,
11 that is authorized by the United States Constitution or Congress to pay
12 debts, public charges, taxes and dues.

13 (b) "Specie" means coins having precious metal content.

14 26. Benefits, annuities and pensions received as retired or
15 retainer pay of the uniformed services of the United States in amounts as
16 follows:

17 (a) For taxable years through December 31, 2018, an amount totaling
18 not more than \$2,500.

19 (b) For taxable years beginning from and after December 31, 2018
20 through December 31, 2020, an amount totaling not more than \$3,500.

21 (c) For taxable years beginning from and after December 31, 2020,
22 the full amount received.

23 27. For taxable years beginning from and after December 31, 2020,
24 the amount contributed during the taxable year to an achieving a better
25 life experience account established pursuant to section 529A of the
26 internal revenue code on behalf of the designated beneficiary to the
27 extent that the contributions were not deducted in computing federal
28 adjusted gross income. The amount subtracted may not exceed:

29 (a) \$2,000 per beneficiary for a single individual or a head of
30 household.

31 (b) \$4,000 per beneficiary for a married couple filing a joint
32 return. In the case of a husband and wife who file separate returns, the
33 subtraction may be taken by either taxpayer or may be divided between
34 them, but the total subtractions allowed both husband and wife may not
35 exceed \$4,000 per beneficiary.

36 28. For taxable years beginning from and after December 31, 2020,
37 Arizona small business adjusted gross income, but only if an individual
38 taxpayer has elected to separately report and pay tax on the taxpayer's
39 Arizona small business adjusted gross income on the Arizona small business
40 income tax return.

41 Sec. 3. Retroactivity

42 Section 43-1022, Arizona Revised Statutes, as amended by this act,
43 applies retroactively to taxable years beginning from and after December
44 31, 2021.