

REFERENCE TITLE: **STO cap; general fund percentage**

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

HB 2766

Introduced by
Representatives Mathis: Abraham, Andrade, Butler, Cano, Hernandez M,
Liguori, Powers Hannley, Schwiebert, Solorio

AN ACT

**AMENDING SECTION 43-1183, ARIZONA REVISED STATUTES; RELATING TO CORPORATE
INCOME TAX CREDIT FOR CONTRIBUTIONS TO SCHOOL TUITION ORGANIZATIONS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1183, Arizona Revised Statutes, is amended to
3 read:

4 43-1183. Credit for contributions to school tuition
5 organization

6 A. Beginning from and after June 30, 2006, a credit is allowed
7 against the taxes imposed by this title for the amount of voluntary cash
8 contributions made by the taxpayer during the taxable year to a school
9 tuition organization that is certified pursuant to chapter 15 of this
10 title at the time of donation.

11 B. The amount of the credit is the total amount of the taxpayer's
12 contributions for the taxable year under subsection A of this section and
13 is preapproved by the department of revenue pursuant to subsection D of
14 this section.

15 C. The department of revenue:

16 1. ~~Strait~~ MAY not allow tax credits under this section and section
17 20-224.06 that exceed in the aggregate a combined total of \$10,000,000 in
18 any fiscal year. Beginning in fiscal year 2007-2008, the aggregate dollar
19 amount of the tax credit cap from the previous fiscal year shall be
20 annually increased by twenty percent. Beginning in fiscal year 2020-2021,
21 the aggregate dollar amount of the tax credit cap from the previous fiscal
22 year shall be increased as follows:

23 (a) For fiscal year 2020-2021, by fifteen percent.

24 (b) For fiscal year 2021-2022, by ten percent.

25 (c) EXCEPT AS PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION, for
26 fiscal year 2022-2023, by five percent.

27 (d) EXCEPT AS PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION, for
28 fiscal year 2023-2024 and each fiscal year thereafter, by the greater of:

29 (i) The percentage of the annual increase, if any, in the
30 metropolitan Phoenix consumer price index published by the United States
31 department of labor bureau of labor statistics.

32 (ii) Two percent.

33 2. MAY NOT INCREASE THE AGGREGATE DOLLAR AMOUNT OF THE TAX CREDIT
34 CAP AS DETERMINED IN PARAGRAPH 1, SUBDIVISIONS (c) AND (d) OF THIS
35 SUBSECTION IN ANY FISCAL YEAR TO AN AMOUNT THAT EXCEEDS ONE PERCENT OF THE
36 AMOUNT APPROPRIATED FOR ALL PURPOSES BY THE LEGISLATURE FROM THE STATE
37 GENERAL FUND IN THAT FISCAL YEAR.

38 ~~2-~~ 3. Shall preapprove tax credits under this section and section
39 20-224.06 subject to subsection D of this section.

40 ~~3-~~ 4. Shall allow the tax credits under this section and section
41 20-224.06 on a first-come, first-served basis.

42 D. For the purposes of subsection C, paragraph ~~2-~~ 3 of this
43 section, before making a contribution to a school tuition organization,
44 the taxpayer under this title or title 20 must notify the school tuition
45 organization of the total amount of contributions that the taxpayer
46 intends to make to the school tuition organization. Before accepting the

1 contribution, the school tuition organization shall request preapproval
2 from the department of revenue for the taxpayer's intended contribution
3 amount. The department of revenue shall preapprove or deny the requested
4 amount within twenty days after receiving the request from the school
5 tuition organization. If the department of revenue preapproves the
6 request, the school tuition organization shall immediately notify the
7 taxpayer, and the department of insurance and financial institutions in
8 the case of a credit under section 20-224.06, that the requested amount
9 was preapproved by the department of revenue. In order to receive a tax
10 credit under this subsection, the taxpayer shall make the contribution to
11 the school tuition organization within twenty days after receiving notice
12 from the school tuition organization that the requested amount was
13 preapproved. If the school tuition organization does not receive the
14 preapproved contribution from the taxpayer within the required twenty
15 days, the school tuition organization shall immediately notify the
16 department of revenue, and the department of insurance and financial
17 institutions in the case of a credit under section 20-224.06, and the
18 department of revenue shall no longer include this preapproved
19 contribution amount when calculating the limit prescribed in subsection C,
20 paragraph 1 of this section.

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

26 F. Co-owners of a business, including corporate partners in a
27 partnership and stockholders of an S corporation as defined in section
28 1361 of the internal revenue code, may each claim only the pro rata share
29 of the credit allowed under this section based on the ownership interest.
30 The total of the credits allowed all such owners may not exceed the amount
31 that would have been allowed a sole owner.

32 G. The credit allowed by this section is in lieu of any deduction
33 pursuant to section 170 of the internal revenue code and taken for state
34 tax purposes.

35 H. A taxpayer shall not claim a credit under this section and also
36 under section 43-1184 with respect to the same contribution.

37 I. The tax credit is not allowed if the taxpayer designates the
38 taxpayer's contribution to the school tuition organization for the direct
39 benefit of any specific student.

40 J. The department of revenue, with the cooperation of the
41 department of insurance and financial institutions, shall adopt rules and
42 publish and prescribe forms and procedures necessary for the
43 administration of this section.

44 Sec. 2. Retroactivity

45 This act applies retroactively to from and after June 30, 2022.