

REFERENCE TITLE: tax credit; foster care organizations

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# SB 1116

Introduced by  
Senator Livingston

AN ACT

AMENDING SECTION 43-1088, ARIZONA REVISED STATUTES; RELATING TO INDIVIDUAL INCOME TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1088, Arizona Revised Statutes, is amended to  
3 read:

4 43-1088. Credit for contribution to qualifying charitable  
5 organizations; definitions

6 A. Except as provided in subsections B and C of this section, a  
7 credit is allowed against the taxes imposed by this title for voluntary  
8 cash contributions by the taxpayer or on the taxpayer's behalf pursuant to  
9 section 43-401, subsection G during the taxable year to a qualifying  
10 charitable organization, other than a qualifying foster care charitable  
11 organization, not to exceed:

12 1. \$400 in any taxable year for a single individual or a head of  
13 household.

14 2. \$800 in any taxable year for a married couple filing a joint  
15 return.

16 B. A separate credit is allowed for voluntary cash contributions  
17 during the taxable year to a qualifying foster care charitable  
18 organization. A contribution to a qualifying foster care charitable  
19 organization does not qualify for, and shall not be included in, any  
20 credit amount under subsection A of this section. If the voluntary cash  
21 contribution by the taxpayer or on the taxpayer's behalf pursuant to  
22 section 43-401, subsection G is to a qualifying foster care charitable  
23 organization, the credit shall not exceed:

24 1. \$500 in any taxable year for a single individual or a head of  
25 household.

26 2. \$1,000 in any taxable year for a married couple filing a joint  
27 return.

28 C. Subsections A and B of this section provide separate credits  
29 against taxes imposed by this title depending on the recipients of the  
30 contributions. A taxpayer, including a married couple filing a joint  
31 return, in the same taxable year, may either or both:

32 1. Contribute to a qualifying charitable organization, other than a  
33 qualifying foster care charitable organization, and claim a credit under  
34 subsection A of this section.

35 2. Contribute to a qualifying foster care charitable organization  
36 and claim a credit under subsection B of this section.

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

40 E. For the purposes of this section, a contribution for which a  
41 credit is claimed and that is made on or before the fifteenth day of the  
42 fourth month following the close of the taxable year may be applied to  
43 either the current or preceding taxable year and is considered to have  
44 been made on the last day of that taxable year.

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

6 G. The credit allowed by this section is in lieu of a deduction  
7 pursuant to section 170 of the internal revenue code and taken for state  
8 tax purposes.

9 H. Taxpayers taking a credit authorized by this section shall  
10 provide the name of the qualifying charitable organization and the amount  
11 of the contribution to the department of revenue on forms provided by the  
12 department.

13 I. A qualifying charitable organization shall provide the  
14 department of revenue with a written certification that it meets all  
15 criteria to be considered a qualifying charitable organization. The  
16 organization shall also notify the department of any changes that may  
17 affect the qualifications under this section.

18 J. The charitable organization's written certification must be  
19 signed by an officer of the organization under penalty of perjury. The  
20 written certification must include the following:

21 1. Verification of the organization's status under section  
22 501(c)(3) of the internal revenue code or verification that the  
23 organization is a designated community action agency that receives  
24 community services block grant program monies pursuant to 42 United States  
25 Code section 9901.

26 2. Financial data indicating the organization's budget for the  
27 organization's prior operating year and the amount of that budget spent on  
28 services to residents of this state who either:

29 (a) Receive temporary assistance for needy families benefits.

30 (b) Are low-income residents.

31 (c) Are individuals who have a chronic illness or physical  
32 disability.

33 3. A statement that the organization plans to continue spending at  
34 least fifty percent of its budget on services to residents of this state  
35 who receive temporary assistance for needy families benefits, who are  
36 low-income residents or who are individuals who have a chronic illness or  
37 physical disability.

38 4. A statement that the organization does not provide, pay for or  
39 provide coverage of abortions and does not financially support any other  
40 entity that provides, pays for or provides coverage of abortions.

41 K. The department shall review each written certification and  
42 determine whether the organization meets all the criteria to be considered  
43 a qualifying charitable organization and notify the organization of its  
44 determination. The department may also periodically request  
45 recertification from the organization. The department shall compile and

1 make available to the public a list of the qualifying charitable  
2 organizations.

3 L. For the purposes of this section:

4 1. "Individuals who have a chronic illness or physical disability"  
5 means individuals whose primary diagnosis is a severe physical condition  
6 that may require ongoing medical or surgical intervention.

7 2. "Low-income residents" means persons whose household income is  
8 less than one hundred fifty percent of the federal poverty level.

9 3. "Qualifying charitable organization" means a charitable  
10 organization that is exempt from federal income taxation under section  
11 501(c)(3) of the internal revenue code or is a designated community action  
12 agency that receives community services block grant program monies  
13 pursuant to 42 United States Code section 9901. The organization must  
14 spend at least fifty percent of its budget on services to residents of  
15 this state who receive temporary assistance for needy families benefits,  
16 to low-income residents of this state and their households or to  
17 individuals who have a chronic illness or physical disability and who are  
18 residents of this state. Taxpayers choosing to make donations through an  
19 umbrella charitable organization that collects donations on behalf of  
20 member charities shall designate that the donation be directed to a member  
21 charitable organization that would qualify under this section on a  
22 stand-alone basis. Qualifying charitable organization does not include  
23 any entity that provides, pays for or provides coverage of abortions or  
24 that financially supports any other entity that provides, pays for or  
25 provides coverage of abortions.

26 4. "Qualifying foster care charitable organization" means a  
27 qualifying charitable organization that each operating year DOES ALL OF  
28 THE FOLLOWING:

29 (a) Provides services to at least two hundred qualified individuals  
30 in this state. ~~and~~

31 (b) Spends at least fifty percent of its budget on services to  
32 qualified individuals in this state OR IS CERTIFIED AS A QUALIFYING  
33 CHARITABLE ORGANIZATION. ~~For the purposes of this paragraph,~~

34 5. "Qualified individual" means ANY OF THE FOLLOWING:

35 (a) A foster child as defined in section 8-501. ~~or~~

36 (b) A PERSON WHO IS PARTICIPATING IN AN INDEPENDENT LIVING PROGRAM  
37 AS PRESCRIBED BY SECTION 8-521.

38 (c) A person ~~who is under twenty-one years of age and~~ who is  
39 participating in a transitional independent living program as prescribed  
40 by section 8-521.01.

41 (d) A PERSON WHO IS PARTICIPATING IN AN EXTENDED FOSTER CARE  
42 PROGRAM AS PRESCRIBED BY SECTION 8-521.02.

43 (e) A PERSON WHO IS UNDER TWENTY-SEVEN YEARS OF AGE AND WHOSE  
44 REASON FOR LEAVING FOSTER CARE IS ANY OF THE FOLLOWING:

45 (i) REACHING EIGHTEEN YEARS OF AGE.

1 (ii) ADOPTION OR LEGAL GUARDIANSHIP AFTER REACHING SIXTEEN YEARS OF  
2 AGE.

3 (iii) REUNIFICATION AT FOURTEEN YEARS OF AGE OR FIFTEEN YEARS OF  
4 AGE.

5 ~~5.~~ 6. "Services" means cash assistance, medical care, child care,  
6 food, clothing, shelter, job placement and job training services or any  
7 other assistance that is reasonably necessary to meet immediate basic  
8 needs and that is provided and used in this state.

9 Sec. 2. Retroactivity

10 This act applies retroactively to taxable years beginning from and  
11 after December 31, 2021.