

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

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2115

Introduced by
Representatives Salman: Stahl Hamilton

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, 2023 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

1 taxable year and that is included in Arizona gross income in the current
2 taxable year.

3 17. For property placed in service:

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

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

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

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

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

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

44 19. The amount contributed during the taxable year to college
45 savings plans established pursuant to section 529 of the internal revenue

1 code on behalf of the designated beneficiary to the extent that the
2 contributions were not deducted in computing federal adjusted gross
3 income. The amount subtracted may not exceed:

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

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

11 20. The portion of the net operating loss carryforward that would
12 have been allowed as a deduction in the current year pursuant to section
13 172 of the internal revenue code if the election described in section
14 172(b)(1)(H) of the internal revenue code had not been made in the year of
15 the loss that exceeds the actual net operating loss carryforward that was
16 deducted in arriving at federal adjusted gross income. This subtraction
17 only applies to taxpayers who made an election under section 172(b)(1)(H)
18 of the internal revenue code as amended by section 1211 of the American
19 recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by
20 section 13 of the worker, homeownership, and business assistance act of
21 2009 (P.L. 111-92).

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

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

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

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

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

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

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

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

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

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

17 26. Benefits, annuities and pensions received as retired or
18 retainer pay of the uniformed services of the United States in amounts as
19 follows:

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

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

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

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

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

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

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

1 29. To the extent not already excluded from Arizona gross income
2 under the internal revenue code, the value of virtual currency and
3 non-fungible tokens the taxpayer received pursuant to an airdrop at the
4 time of the airdrop. This paragraph may not be interpreted as providing a
5 subtraction for any appreciation in value that occurs from holding the
6 virtual currency after the initial receipt of the airdrop. For the
7 purposes of this paragraph:

8 (a) "Airdrop" means the receipt of virtual currency through a means
9 of distribution of virtual currency to the distributed ledger addresses of
10 multiple taxpayers.

11 (b) "Non-fungible token" has the same meaning prescribed in section
12 43-1028.

13 (c) "Virtual currency" has the same meaning prescribed in section
14 43-1028.

15 30. The amount allowed as a subtraction by section 43-1028 for gas
16 fees not already included in the taxpayer's virtual currency or
17 non-fungible token basis.

18 Sec. 3. Retroactivity

19 Section 43-1022, Arizona Revised Statutes, as amended by this act,
20 applies retroactively to taxable years beginning from and after December
21 31, 2022.