REFERENCE TITLE: tax credit review committee recommendations

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HB 2160

Introduced by
Representatives Murphy, Farley: Biggs, Lesko, Reagan, Yarbrough

AN ACT

REPEALING SECTIONS 43-1081.01, 43-1084 AND 43-1170.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-1516, 43-222, 43-1021, 43-1022, 43-1029, 43-1076, 43-1121 AND 43-1162, ARIZONA REVISED STATUTES; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Repeal

Sections 43-1081.01, 43-1084 and 43-1170.01, Arizona Revised Statutes, are repealed.

Sec. 2. Section 41-1516, Arizona Revised Statutes, is amended to read:

41-1516. Healthy forest enterprise incentives; definitions

A. The department of commerce shall:

1. Implement a program to encourage counties, cities and towns to provide local incentives to economic enterprises that promote forest health in this state.

2. Identify and certify to the department of revenue the names of and relevant information relating to qualified businesses for the purposes of available state tax incentives for economic enterprises that promote forest health in this state.

B. To qualify for state tax incentives pursuant to this section, a business:

1. Must be primarily engaged in a qualifying project. The business shall submit to the department of commerce evidence that it is engaged in a qualifying project as follows:

(a) The business operation must enhance or sustain forest health, sustain or recover watershed or improve public safety.

(b) If the qualifying forest product is on federal land, the business shall submit a letter from the federal agency administering the land, or official records or documents produced in connection with the project, stating that the business is primarily engaged in the business of harvesting or initial processing of qualifying forest products for commercial use as follows:

(i) At least seventy per cent of the harvested or processed products, measured by weight, must be qualifying forest products.

(ii) At least seventy-five per cent of the qualifying forest products, measured by weight, must be harvested from sources in this state.

(c) If the qualifying forest product is not on federal land, the business shall submit a letter from the state forester stating that the business is primarily engaged in the business of harvesting or initial processing of qualifying forest products for commercial use as follows:

(i) At least seventy per cent of the harvested or processed products must be qualifying forest products.

(ii) At least seventy-five per cent of the harvested or processed products must be from areas in this state.

(d) If the business is engaged in transporting qualifying forest products, it must submit a letter from the state forester or United States forest service, or official records or documents produced in connection with the project, stating that all of the qualifying forest products it transports are harvested from areas in this state. In addition, the business must submit evidence to the department of commerce that at least seventy-five per cent of the mileage traveled by its units each year are for transporting qualifying forest products from or to qualifying projects described in subdivision (b) or (c) of this paragraph, unless a lower mileage is due to forest closures or weather conditions that are beyond the control of the business.

2. Must employ at least three permanent full-time employees.

3. Must agree to~~:~~

~~(a)~~ furnish to the department of commerce information relating to the amount of state tax benefits that the business receives each year.

~~(b) The disclosure of the amount of state tax benefits received each year in composite form, without specific identification of the taxpayer.~~

4. Must enter into a memorandum of understanding with the department of commerce containing:

(a) Employment goals. Each year the business must report in writing to the department of commerce its performance in achieving the goals.

(b) A commitment to continue in business and use the qualifying equipment primarily on qualifying projects in this state as described in paragraph 1 of this subsection, other than for reasons beyond the control of the business. The department of commerce shall consult with the department of revenue in designing the memorandum of understanding to incorporate the legal qualifications for the available tax incentives and shall include the requirement that any qualifying equipment that is purchased or leased free of transaction privilege or use tax must continue to be used in this state for the term of the memorandum of understanding or the duration of its operational life, whichever is shorter.

(c) Provisions considered necessary by the department of commerce to ensure the competency and responsibility of businesses that qualify under this section, including registration or other accreditation with trade and professional organizations and compliance with best management and operational practices used by governmental agencies in awarding forestry contracts.

(d) The authorization for the department of commerce to terminate, adjust or recapture all or part of the tax benefits provided to the business on noncompliance with the law, noncompliance with the terms of the memorandum or violation of the terms of any contracts with the federal or state government relating to the qualifying project. The department of commerce shall notify the department of revenue of the conditions of noncompliance. The department of revenue may also terminate the certification if it obtains information indicating a failure to qualify and comply. The department of revenue may require the business to file appropriate amended tax returns or to file appropriate use tax returns reflecting the recapture of the direct or indirect tax benefits.

5. Must submit a copy of the certification to the department of revenue for approval before using the certification for purposes of any tax incentive. The department of revenue shall review and approve the

certification in a timely manner if the business is in good standing with the department and is not delinquent in the payment of any tax collected by the department. A failure to approve or deny the certification within sixty days after the date the business submits it to the department constitutes approval of the certification.

C. For the purposes of section 42-5075, subsection B, paragraph 19, the department of commerce shall certify prime contractors that contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business for purposes of a qualifying project described in subsection B, paragraph 1 of this section.

D. To obtain and maintain certification under this section, a business must:

1. Apply to the department of commerce.

2. Submit and retain copies of all required information, including information relating to the actual or projected number of employees in this state.

3. Allow inspections and audits to verify the qualification and accuracy of information submitted to the department of commerce.

E. Certification under this section is valid for twelve calendar months from the date of issuance. A business must apply for recertification at least thirty days before the current certification expires. The application for recertification shall be in a form prescribed by the department of commerce and shall confirm that the business is continuing in a qualifying project and is in compliance with all requirements prescribed for certification.

F. Within sixty days after receiving a complete and correct application and all required information as prescribed by this section, the department of commerce shall grant or deny certification and give written notice by certified mail to the applicant. The applicant is certified as a qualified business on the date the notice of certification is delivered to the applicant. A failure to respond within sixty days after receiving a complete and correct application constitutes approval of the application.

G. The certification shall state an effective date with respect to each authorized tax incentive which, in each case, must be at the start of a taxable year or taxable period.

H. On or before March 1 of each year, each qualifying business shall make a report to the department of commerce on all business activity in the preceding calendar year. Business information contained in the reports is confidential and shall not be disclosed to the public except as provided by this section and except that a copy of the report shall be transmitted to the department of revenue. The report shall be in a form prescribed by the department of commerce and include:

1. Information prescribed by the department of commerce with respect to both qualifying projects and other projects and business activity that do not qualify for purposes of this section.

2. Employment information necessary to confirm eligibility for income tax credits as prescribed by sections 43-1076 and 43-1162.

3. THE QUANTITY, MEASURED BY WEIGHT, OF QUALIFYING FOREST PRODUCTS HARVESTED, TRANSPORTED OR PROCESSED.

I. ON OR BEFORE MAY 1 OF EACH YEAR, THE DEPARTMENT OF COMMERCE SHALL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE:

1. THE QUANTITY, MEASURED BY WEIGHT, OF QUALIFYING FOREST PRODUCTS REPORTED BY HARVESTERS, BY TRANSPORTERS AND BY PROCESSORS IN THE PRECEDING CALENDAR YEAR.

2. THE NUMBER OF NEW FULL-TIME EMPLOYEES HIRED IN QUALIFIED EMPLOYMENT POSITIONS IN THIS STATE IN THE PRECEDING CALENDAR YEAR AND REPORTED FOR TAX CREDIT PURPOSES.

3. THE TOTAL NUMBER OF ALL FULL-TIME EMPLOYEES EMPLOYED IN QUALIFIED EMPLOYMENT POSITIONS IN THIS STATE IN THE PRECEDING CALENDAR YEAR AND REPORTED FOR TAX CREDIT PURPOSES.

~~I.~~ J. For purposes of administering and ensuring compliance with this section, agents of the department of commerce may enter, and a qualified business shall allow access to, a qualifying project site at reasonable times and on reasonable notice to:

1. Inspect the facilities at the site.

2. Obtain factual data and records pertinent to and required by law to be kept for purposes of tax incentives.

3. Otherwise ascertain compliance with law and the terms of the memorandum of understanding.

~~J.~~ K. The department of commerce shall revoke the business' certification and notify the department of revenue and county assessor if either:

1. Within thirty days after a formal request from the department of commerce or the department of revenue the business fails or refuses to provide the information or access for inspections required by this section.

2. The business no longer meets the terms and conditions required for qualification for the applicable tax incentives.

~~K.~~ L. For the purposes of this section:

1. "Forest health" means the degree to which the integrity of the forest is sustained, including reducing the risk of catastrophic wildfire and destructive insect infestation, benefiting wildland habitats, watersheds and communities.

2. "Harvesting" means all operations relating to felling or otherwise removing trees and other forest plant growth and preparing them for transport for subsequent processing.

3. "Initial processing" means:

(a) The first change, after harvest, in the physical structure of qualifying forest products removed from a qualifying project into a marketable commercial product or component of a product that has commercial value to a consumer or purchaser and that is ready to be used with or without further altering its form.

(b) Burning qualifying forest products in the process of commercial electrical generation or commercial thermal energy production for heating or cooling, regardless of the physical structure of the forest product before burning.

4. "Qualifying equipment" means equipment used directly in the harvesting or initial processing of qualifying forest products removed from a qualifying project. Qualifying equipment does not include self-propelled vehicles required to be licensed by this state, but may include other licensed vehicles as provided by this paragraph. Qualifying equipment includes:

(a) Forest thinning and residue removal equipment, including mulching and masticating equipment, feller-bunchers, skidders, log loaders, portable chippers and grinders, slash bundlers, delimbers, log trailers, chip trailers and other trailers that are uniquely designed for handling forest products and that are licensed for operation on public highways.

(b) Forest residue receiving and handling equipment, including truck dumpers, log unloaders, scales, log decking facilities and equipment and chip pile facilities.

(c) Sorting and processing equipment, including portable and stationary log loaders, front end loaders, fork lifts and cranes, chippers and grinders, screens, decks and debarkers, saws and sawmill equipment, firewood processing, wood residue baling and bagging equipment, kilns, planing and molding equipment and laminating and joining equipment.

(d) Forest waste and residue disposal and processing equipment, including:

(i) Processing and sizing equipment, hogs, chippers, screens, pelletizers and wood splitters.

(ii) Transporting and handling equipment, including loaders, conveyors, blowers, receiving hoppers, truck dumpers and dozers.

(iii) Waste use equipment, including fuel feed, storage bins, boilers and combustors.

(iv) Waste project use equipment, including generators, switchgear and substations and on-site distribution systems.

(v) Generated waste disposal equipment, including ash silos and wastewater treatment and disposal equipment.

(vi) Shop and maintenance equipment and major spares having a value of more than five thousand dollars each.

5. "Qualifying forest products" means dead standing and fallen timber, and forest thinnings associated with the harvest of small diameter timber, slash, wood chips, peelings, brush and other woody vegetation, removed from federal, state and other public forest land and from private forest land.

6. "Qualifying project" means harvesting, transporting or the initial processing of qualifying forest products as required for certification pursuant to this section.

Sec. 3. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule

The joint legislative income tax credit review committee shall review the following income tax credits:

1. For years ending in 0 and 5, sections 43-1075, 43-1075.01, 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01, 43-1175 and 43-1182.

2. For years ending in 1 and 6, sections 43-1074.02, 43-1083, 43-1085, 43-1164 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1167, 43-1169, 43-1176 and 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

5. For years ending in 4 and 9, sections 43-1076, ~~43-1081.01,~~ 43-1083.01, ~~43-1084,~~ 43-1162, 43-1164.01 and ~~43-1170.01~~ 43-1184.

Sec. 4. Section 43-1021, Arizona Revised Statutes, is amended to read:

43-1021. Additions to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.

2. An amount equal to the "ordinary income portion" of a lump sum distribution that was excluded from federal adjusted gross income pursuant to section 402(d) of the internal revenue code.

3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for tax years beginning from and after December 31, 1996, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.

4. Annuity income received during the taxable year to the extent that the sum of the proceeds received from such annuity in all taxable years prior to and including the current taxable year exceeds the total consideration and premiums paid by the taxpayer. This paragraph applies only to those annuities with respect to which the first payment was received prior to December 31, 1978.

5. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the

income required to be reported under section 702(a)(8) of the internal revenue code.

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

7. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to the internal revenue code exceeds the adjusted basis of such property computed pursuant to this title and the income tax act of 1954, as amended. This paragraph shall apply to all property which is held for the production of income and which is sold or otherwise disposed of during the taxable year, except depreciable property used in a trade or business.

8. The amount of depreciation or amortization of costs of any capital investment that is deducted pursuant to section 167 or 179 of the internal revenue code by a qualified defense contractor with respect to which an election is made to amortize pursuant to section 43-1024.

9. The amount of gain from the sale or other disposition of a capital investment which a qualified defense contractor has elected to amortize pursuant to section 43-1024.

10. Amounts withdrawn from the Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan or a county or city retirement plan by an employee upon termination of employment before retirement to the extent they were deducted in arriving at Arizona taxable income in any year.

11. That portion of the net operating loss included in federal adjusted gross income which has already been taken as a net operating loss for Arizona purposes or which is separately taken as a subtraction under the special net operating loss transition rule.

12. Any nonitemized amount deducted pursuant to section 170 of the internal revenue code representing contributions to an educational institution which denies admission, enrollment or board and room accommodations on the basis of race, color or ethnic background except those institutions primarily established for the education of American Indians.

13. The amount paid as taxes on property in this state with respect to which a credit is claimed under section 43-1078.

14. Amounts withdrawn from a medical savings account by the individual during the taxable year computed pursuant to section 220(f) of the internal revenue code and not included in federal adjusted gross income.

~~15. Any amount of agricultural water conservation expenses that were deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1084.~~

~~16.~~ 15. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1080 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

~~17.~~ 16. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1080 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1080.

~~18.~~ 17. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under ~~either~~ section 43-1081 ~~or 43-1081.01~~ exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

~~19.~~ 18. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1074.02~~,~~ OR 43-1081 ~~or 43-1081.01~~ and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1074.02~~,~~ OR 43-1081 ~~or 43-1081.01~~, as applicable.

~~20.~~ 19. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

~~21.~~ 20. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F.

~~22.~~ 21. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization or a public school for which a credit is claimed under section 43-1089 or 43-1089.01.

~~23.~~ 22. Any amount deducted in computing Arizona gross income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1090.

~~24.~~ 23. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1087 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

~~25.~~ 24. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1081.02.

~~26.~~ 25. The amount of any depreciation allowance allowed pursuant to section 167(a) of the internal revenue code to the extent not previously added.

~~27.~~ 26. With respect to property for which an expense deduction was taken pursuant to section 179 of the internal revenue code, the amount in excess of twenty-five thousand dollars.

~~28.~~ 27. The amount of any deductions that are claimed in computing federal adjusted gross income representing expenses for which a credit is claimed under either section 43-1075 or 43-1075.01 or both.

~~29.~~ 28. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1090.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

~~30.~~ 29. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1090.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1090.01.

~~31.~~ 30. The amount of a nonqualified withdrawal, as defined in section 15-1871, from a college savings plan established pursuant to section 529 of the internal revenue code that is made to a distributee to the extent the amount is not included in computing federal adjusted gross income, except that the amount added under this paragraph shall not exceed the difference between the amount subtracted under section 43-1022 in prior taxable years and the amount added under THIS section ~~43-1021~~ in any prior taxable years.

Sec. 5. Section 43-1022, Arizona Revised Statutes, is amended to read:

43-1022. Subtractions from Arizona gross income

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

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

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.

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

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

4. The amount of any distributions from an individual retirement account as provided for in section 408 of the internal revenue code or from a qualified retirement plan of a self-employed individual as provided for in section 401 of the internal revenue code to the extent that total adjustments made pursuant to this paragraph in all tax years do not exceed the total of all contributions made by the taxpayer to such plans prior to December 31, 1975, which were included in computing Arizona taxable income.

5. The amount of income on an installment receivable which is recognized pursuant to the internal revenue code and which has already been recognized on the death of the taxpayer for purposes of this title for tax years ending before January 1, 1990.

6. Interest income received on obligations of the United States, less any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, which were incurred or continued to purchase or carry such obligations.

7. The amount of any income tax refunds which were received from states other than Arizona and which were included as income in computing federal adjusted gross income.

8. Annuity income included in federal adjusted gross income pursuant to section 72 of the internal revenue code if the first payment with respect to such annuity was received prior to December 31, 1978.

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

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

11. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to this title and the income tax act of 1954, as amended, exceeds the adjusted basis of such property computed pursuant to the internal revenue code. This paragraph shall apply to all property which is held for the production of income and which is sold or otherwise disposed of during the taxable year other than depreciable property used in a trade or business.

12. The amount allowed by section 43-1024 for amortization, by a qualified defense contractor certified by the department of commerce under section 41-1508, of a capital investment for private commercial activities.

13. The amount of gain included in federal adjusted gross income on the sale or other disposition of a capital investment that a qualified defense contractor has elected to amortize pursuant to section 43-1024.

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

15. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for

employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

16. The amount of prizes or winnings less than five thousand dollars in a single taxable year from any of the state lotteries established and operated pursuant to title 5, chapter 5, article 1, except that all such winnings before March 22, 1983, including periodic distributions from such winnings made after March 22, 1983, may be subtracted.

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

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

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

20. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed three thousand dollars. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed three thousand dollars. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

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

22. With respect to a medical savings account established pursuant to section 43-1028:

(a) An eligible individual may subtract:

(i) The amount of contributions made by the individual's employer during the taxable year to the individual's medical savings account pursuant to section 43-1028 to the extent that the employer contributions are included in the individual's federal adjusted gross income.

(ii) The amount deposited by the individual in the account during the taxable year to the extent that the individual's contributions are included in the individual's federal adjusted gross income.

(b) The individual's employer may subtract the amount of contributions made by the employer to a medical savings account established on the individual's behalf to the extent that the contributions are not deductible under the internal revenue code.

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

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

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

26. The amount authorized by section 43-1030 relating to holocaust survivors.

27. The amount authorized by section 43-1031 for constructing an energy efficient residence.

28. An amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

29. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph ~~26~~ 25 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

30. With respect to property for which an adjustment was made under section 43-1021, paragraph ~~27~~ 26, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1021, paragraph ~~27~~ 26 in the year in which the amount was adjusted under section 43-1021, paragraph ~~27~~ 26 and in each of the following four years.

31. For taxable years beginning from and after December 31, 2007 through December 31, 2012, the amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) Seven hundred fifty dollars for a single individual or a head of household.

(b) One thousand five hundred dollars for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed one thousand five hundred dollars.

32. To the extent not already excluded from Arizona gross income under the internal revenue code, the amount authorized by section 43-1032 for displaced pupils choice grants.

Sec. 6. Section 43-1029, Arizona Revised Statutes, is amended to read:

43-1029. Restoration of a substantial amount held under claim of right; computation of tax

A. This section applies if:

1. An item of income was included in gross income for a prior taxable year or years because it appeared that the taxpayer had an unrestricted right to the item.

2. A deduction would be allowable under the internal revenue code or this title for the taxable year, without application of section 1341(b)(3) of the internal revenue code or section 43-1021, paragraph ~~20~~ 19, because after the close of the prior taxable year or years it was established that the taxpayer did not have an unrestricted right to all or part of the item.

3. The amount of the deduction exceeds three thousand dollars.

B. If all of the conditions in subsection A of this section apply, the tax imposed by this chapter for the taxable year is an amount equal to the tax for the taxable year computed without the deduction, minus the decrease in tax under this chapter for the prior taxable year or years that would result solely from excluding the item or portion of the item from gross income for the prior taxable year or years.

C. If the decrease in tax exceeds the tax imposed by this chapter for the taxable year, computed without the deduction, the excess is considered to be a payment of tax on the last day prescribed by law for the payment of tax for the taxable year and shall be refunded or credited in the same manner as if it were an overpayment for the taxable year.

D. Subsection B of this section does not apply to any deduction that is allowable with respect to an item that was included in gross income by reason of the sale or other disposition of stock in trade of the taxpayer, or other property of a kind that would properly have been included in the inventory of the taxpayer on hand at the close of the prior taxable year, or property that is held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business. This subsection does not apply if the deduction arises out of refunds or repayments with respect to rates made by a regulated public utility that is listed in section 7701(a)(33)(A) through (H) of the internal revenue code, if the refunds or repayments are:

1. Required to be made by the government, political subdivision, agency or instrumentality referred to in that section.

2. Required to be made by an order of a court.

3. Made in settlement of litigation or under threat or imminence of litigation.

E. If the exclusion under subsection B of this section results in:

1. A net operating loss for the prior taxable year or years for purposes of computing the decrease in tax for the prior year or years under subsection B of this section:

(a) The loss shall be:

(i) Carried over under this chapter to the same extent and in the same manner as was provided under prior law for taxable years beginning on or before December 31, 1989.

(ii) Carried back and carried over to the same extent and in the same manner as provided under section 172 of the internal revenue code for taxable years beginning from and after December 31, 1989.

(b) No carryover beyond the taxable year may be taken into account.

2. A capital loss for the prior taxable year or years, for purposes of computing the decrease in tax for the prior taxable year or years under subsection B of this section:

(a) The loss shall be carried back and carried over to the same extent and in the same manner as is provided under section 1212 of the internal revenue code.

(b) No carryover beyond the taxable year may be taken into account.

F. In computing Arizona taxable income for taxable years subsequent to the current taxable year, the net operating loss or capital loss determined in subsection E of this section shall be taken into account to the same extent and in the same manner as a net operating loss or capital loss sustained for prior taxable years.

Sec. 7. Section 43-1076, Arizona Revised Statutes, is amended to read:

43-1076. Credit for employment by a healthy forest enterprise

A. For taxable years beginning from and after December 31, 2004 through December 31, 2014, a credit is allowed against the taxes imposed by this title for net increases in qualified employment positions by a qualified business that is certified by the department of commerce as a healthy forest enterprise pursuant to section 41-1516.

B. Subject to subsection E of this section, the amount of the credit is equal to:

1. One-fourth of the taxable wages paid to an employee in a qualified employment position, not to exceed five hundred dollars per qualified employment position, in the first year or partial year of employment.

2. One-third of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand dollars per qualified employment position, in the second year of continuous employment.

3. One-half of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand five hundred dollars per qualified employment position, in the third year of continuous employment.

C. To qualify for a credit under this section:

1. The business must employ at least three new full-time employees in qualified employment positions in the first taxable year in which the credit is claimed.

2. All of the employees with respect to whom a credit is claimed must reside in this state on the date of hire.

3. A qualified employment position must meet all of the following requirements:

(a) The position must be full-time employment for a minimum of one thousand five hundred fifty hours per year, unless a shorter period of employment is due to forest closures or weather conditions beyond the taxpayer's control.

(b) The job duties must primarily involve or directly support the harvesting, transporting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516 into a product having commercial value.

(c) The employer must pay compensation at least equal to the wage offer by county as computed annually by the department of economic security research administration division.

(d) The employee must have been employed for at least ninety days during the first taxable year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. A qualified employment position that is filled during the last ninety days of the taxable year is considered to be a new qualified employment position for the next taxable year.

(e) The employee has not been previously employed by the taxpayer within twelve months before the current date of hire.

4. The employer shall provide health insurance coverage for employees as follows:

(a) The employer shall pay:

(i) At least twenty-five per cent of the premium or membership cost of the insurance program in the third year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least twenty-five per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(ii) At least forty per cent of the premium or membership cost in the fourth year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least forty per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(iii) At least fifty per cent of the premium or membership cost of the insurance program in the fifth and each subsequent year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least fifty per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(b) An employer shall not reduce the amount of health insurance coverage provided to employees before certification by the department of commerce.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was allowed and claimed by the taxpayer on the original first and second year tax returns.

E. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created during the taxable year or the difference between the average number of full-time employees in the current taxable year and the average number of full-time employees during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed two hundred qualified employment positions per taxpayer each year.

F. A TAXPAYER MUST CLAIM A CREDIT UNDER THIS SECTION ON A FORM PRESCRIBED BY THE DEPARTMENT. THE FORM SHALL INCLUDE A WRITTEN AGREEMENT TO THE DISCLOSURE OF TAXPAYER INFORMATION TO THE JOINT LEGISLATIVE BUDGET COMMITTEE SOLELY FOR THE PURPOSES OF COMPILING STATISTICAL INFORMATION RELATING TO THE CREDIT.

~~F.~~ G. A taxpayer who claims a credit under section 43-1074, 43-1077 or 43-1079 may not claim a credit under this section with respect to the same employees.

~~G.~~ H. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes may be carried forward as a tax credit against subsequent years' income tax liability for the period not to exceed five taxable years, provided the business maintains its certification under section 41-1516.

~~H.~~ I. Co-owners of a business, including partners in a partnership and shareholders of an S corporation as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

~~I.~~ J. If a qualified business changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for one or more qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a business that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets the other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

~~J.~~ K. If, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1516 other than for reasons beyond the control of the business as determined by the department of commerce, the credits allowed the business pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits under this subsection is computed by increasing the amount of taxes imposed in the year following the year in which the qualification of the business was terminated or revoked by an amount determined by multiplying the full amount of all credits previously allowed under this section by a percentage determined as follows:

1. If the initial credit under this section was allowed for the taxable year immediately preceding the taxable year in which the certification of qualification of a business is terminated or revoked, one hundred per cent.

2. If the initial credit under this section was allowed two taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, eighty per cent.

3. If the initial credit under this section was allowed three taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, sixty per cent.

4. If the initial credit under this section was allowed four taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, forty per cent.

5. If the initial credit under this section was allowed five taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, twenty per cent.

Sec. 8. Section 43-1121, Arizona Revised Statutes, is amended to read:

43-1121. Additions to Arizona gross income; corporations

In computing Arizona taxable income for a corporation, the following amounts shall be added to Arizona gross income:

1. The amounts computed pursuant to section 43-1021, paragraphs 3 through 9, 12, ~~26~~ 25 and ~~27~~ 26.

2. The amount of dividend income received from corporations and allowed as a deduction pursuant to sections 243, 244 and 245 of the internal revenue code.

3. Taxes ~~which~~ THAT are based on income paid to states, local governments or foreign governments and ~~which~~ THAT were deducted in computing federal taxable income.

4. Expenses and interest relating to tax-exempt income on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the tax imposed by this title. Financial institutions, as defined in section 6-101, shall be governed by section 43-961, paragraph 2.

5. Commissions, rentals and other amounts paid or accrued to a domestic international sales corporation controlled by the payor corporation if the domestic international sales corporation is not required to report its taxable income to this state because its income is not derived from or attributable to sources within this state. If the domestic international sales corporation is subject to article 4 of this chapter, the department shall prescribe by rule the method of determining the portion of the commissions, rentals and other amounts which are paid or accrued to the controlled domestic international sales corporation and which shall be deducted by the payor. ~~"Control"~~ For THE purposes of this paragraph, "CONTROL" means direct or indirect ownership or control of fifty per cent or more of the voting stock of the domestic international sales corporation by the payor corporation.

6. Federal income tax refunds received during the taxable year to the extent they were deducted in arriving at Arizona taxable income in a previous year.

7. The amount of net operating loss taken pursuant to section 172 of the internal revenue code.

8. The amount of exploration expenses determined pursuant to section 617 of the internal revenue code to the extent that they exceed seventy-five thousand dollars and to the extent that the election is made to defer those expenses not in excess of seventy-five thousand dollars.

9. Amortization of costs incurred to install pollution control devices and deducted pursuant to the internal revenue code or the amount of deduction for depreciation taken pursuant to the internal revenue code on pollution control devices for which an election is made pursuant to section 43-1129.

10. The amount of depreciation or amortization of costs of child care facilities deducted pursuant to section 167 or 188 of the internal revenue code for which an election is made to amortize pursuant to section 43-1130.

11. Arizona state income tax refunds received, to the extent the amount of the refunds is not already included in Arizona gross income, if a tax benefit was derived by deduction of this amount in a prior year.

12. The amount paid as taxes on property in this state by a qualified defense contractor with respect to which a credit is claimed under section 43-1166.

13. The loss of an insurance company that is exempt under section 43-1201 to the extent that it is included in computing Arizona gross income on a consolidated return pursuant to section 43-947.

14. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was

taken under section 43-1169 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

15. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1169 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1169.

16. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under ~~either~~ section 43-1170 ~~or 43-1170.01~~ exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

17. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under ~~either~~ section 43-1170 ~~or 43-1170.01~~ and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1170 ~~or 43-1170.01, as applicable~~.

18. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

19. The amount by which a capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the capital loss carryover allowable pursuant to section 43-1130.01, subsection F.

20. Any amount deducted in computing Arizona taxable income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1176.

21. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1175 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

22. Any amount of expenses that were deducted pursuant to the internal revenue code and for which a credit is claimed under section 43-1178.

23. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1180.

24. The amount of any deduction that is claimed in computing Arizona gross income and that represents a donation of a school site for which a credit is claimed under section 43-1181.

25. The amount of any deductions that are claimed in computing federal taxable income representing expenses for which a credit is claimed under either section 43-1163 or 43-1163.01 or both.

26. Any amount deducted in computing Arizona taxable income as expenses for installing water conservation system plumbing stub outs in this state with respect to which a credit is claimed pursuant to section 43-1182.

27. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization for which a credit is claimed under section 43-1183 or 43-1184.

Sec. 9. Section 43-1162, Arizona Revised Statutes, is amended to read:

43-1162. Credit for employment by a healthy forest enterprise

A. For taxable years beginning from and after December 31, 2004 through December 31, 2014, a credit is allowed against the taxes imposed by this title for net increases in qualified employment positions by a qualified business that is certified by the department of commerce as a healthy forest enterprise pursuant to section 41-1516.

B. Subject to subsection E of this section, the amount of the credit is equal to:

1. One-fourth of the taxable wages paid to an employee in a qualified employment position, not to exceed five hundred dollars per qualified employment position, in the first year or partial year of employment.

2. One-third of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand dollars per qualified employment position, in the second year of continuous employment.

3. One-half of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand five hundred dollars per qualified employment position, in the third year of continuous employment.

C. To qualify for a credit under this section:

1. The business must employ at least three new full-time employees in qualified employment positions in the first taxable year in which the credit is claimed.

2. All of the employees with respect to whom a credit is claimed must reside in this state on the date of hire.

3. A qualified employment position must meet all of the following requirements:

(a) The position must be full-time employment for a minimum of one thousand five hundred fifty hours per year, unless a shorter period of employment is due to forest closures or weather conditions beyond the taxpayer's control.

(b) The job duties must primarily involve or directly support the harvesting, transporting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516 into a product having commercial value.

(c) The employer must pay compensation at least equal to the wage offer by county as computed annually by the department of economic security research administration division.

(d) The employee must have been employed for at least ninety days during the first taxable year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. A qualified employment position that is filled during the last ninety days of the taxable year is considered to be a new qualified employment position for the next taxable year.

(e) The employee has not been previously employed by the taxpayer within twelve months before the current date of hire.

4. The employer shall provide health insurance coverage for employees as follows:

(a) The employer shall pay:

(i) At least twenty-five per cent of the premium or membership cost of the insurance program in the third year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least twenty-five per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(ii) At least forty per cent of the premium or membership cost in the fourth year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least forty per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(iii) At least fifty per cent of the premium or membership cost of the insurance program in the fifth and each subsequent year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least fifty per cent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(b) An employer shall not reduce the amount of health insurance coverage provided to employees before certification by the department of commerce.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was allowed and claimed by the taxpayer on the original first and second year tax returns.

E. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created during the taxable year or the difference between the average number of full-time employees in the current taxable year and the average number of full-time employees during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed two hundred qualified employment positions per taxpayer each year.

F. A TAXPAYER MUST CLAIM A CREDIT UNDER THIS SECTION ON A FORM PRESCRIBED BY THE DEPARTMENT. THE FORM SHALL INCLUDE A WRITTEN AGREEMENT TO THE DISCLOSURE OF TAXPAYER INFORMATION TO THE JOINT LEGISLATIVE BUDGET COMMITTEE SOLELY FOR THE PURPOSES OF COMPILING STATISTICAL INFORMATION RELATING TO THE CREDIT.

~~F.~~ G. A taxpayer who claims a credit under section 43-1161, 43-1165 or 43-1167 may not claim a credit under this section with respect to the same employees.

~~G.~~ H. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes may be carried forward as a tax credit against subsequent years' income tax liability for the period not to exceed five taxable years, provided the business maintains its certification under section 41-1516.

~~H.~~ I. Co-owners of a business, including partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

~~I.~~ J. If a qualified business changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for one or more qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a business that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets the other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

~~J.~~ K. If, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1516 other than for reasons beyond the control of the business as determined by the department of commerce, the credits allowed the business pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits under this subsection is computed by increasing the amount of taxes imposed in the year following the year in which the qualification of the business was terminated or revoked by an amount determined by multiplying the full amount of all credits previously allowed under this section by a percentage determined as follows:

1. If the initial credit under this section was allowed for the taxable year immediately preceding the taxable year in which the certification of qualification of a business is terminated or revoked, one hundred per cent.

2. If the initial credit under this section was allowed two taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, eighty per cent.

3. If the initial credit under this section was allowed three taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, sixty per cent.

4. If the initial credit under this section was allowed four taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, forty per cent.

5. If the initial credit under this section was allowed five taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, twenty per cent.

Sec. 10. Effective date

This act is effective and applies to taxable years beginning from and after December 31, 2010.